

**SENATE, No. 2352**

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**STATE OF NEW JERSEY**

**221st LEGISLATURE**

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INTRODUCED JANUARY 29, 2024

**Sponsored by:**

**Senator SHIRLEY K. TURNER**

**District 15 (Hunterdon and Mercer)**

**Senator JOSEPH P. CRYAN**

**District 20 (Union)**

**Co-Sponsored by:**

**Senators McKnight and Zwicker**

**SYNOPSIS**

Establishes “John R. Lewis Voting Rights Act of New Jersey.”

**CURRENT VERSION OF TEXT**

As introduced.



(Sponsorship Updated As Of: 3/7/2024)

1 AN ACT establishing the “John R. Lewis Voting Rights Act of New  
2 Jersey” and supplementing Title 19 of the Revised Statutes.

3  
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
5 *of New Jersey:*

6  
7 1. This act shall be known and may be cited as the “John R.  
8 Lewis Voting Rights Act of New Jersey.”

9  
10 2. a. In recognition of the protections for the right to vote  
11 provided by the Constitution of the United States, the Constitution  
12 of the State of New Jersey, and under the laws of New Jersey, and  
13 in conjunction with the constitutional guarantees of equal  
14 protection, freedom of expression, and freedom of association under  
15 the law and against the denial or abridgement of the voting rights of  
16 members of a race, color, or language-minority group, it is the  
17 public policy of the State of New Jersey to:

18 (1) encourage participation in the elective franchise by all  
19 eligible voters to the maximum extent; and

20 (2) ensure that eligible voters who are members of racial, color,  
21 and language-minority groups shall have an equal opportunity to  
22 participate in the political processes of the State of New Jersey, and  
23 especially to exercise the elective franchise.

24 b. In further recognition of the protections for the right to vote  
25 provided by the Constitution of the State of New Jersey, all statutes,  
26 rules, and regulations, including all local laws or ordinances related  
27 to the elective franchise shall be construed liberally in favor of:

28 (1) protecting the right of voters to have their ballot cast and  
29 counted;

30 (2) ensuring that eligible voters are not impaired in registering  
31 to vote; and

32 (3) ensuring voters of race, color, and language-minority groups  
33 have equitable access to fully participate in the electoral process in  
34 registering to vote and voting.

35 c. The authority to prescribe or maintain voting or elections  
36 policies and practices shall not be so exercised as to unnecessarily  
37 deny or abridge the right to vote. Policies and practices that burden  
38 the right to vote shall be narrowly tailored to promote a compelling  
39 policy justification that shall be supported by substantial evidence.

40  
41 3. As used in this act, P.L. , c. (C. )(pending before the  
42 Legislature as this bill):

43 “Deceptive or fraudulent device, contrivance, or communication”  
44 means one that contains false information pertaining to:

45 (1) the time, place, and manner of any election;

46 (2) the qualifications or restrictions on voter eligibility for such  
47 election; or

1 (3) a statement of endorsement by any specifically named  
2 person, political party, or organization.

3 “Division on Civil Rights” means the Division on Civil Rights in  
4 the New Jersey Department of Law and Public Safety.

5 “Federal voting rights act” means the federal Voting Rights Act  
6 of 1965, 52 U.S.C. s.10301 et seq., as amended.

7 “Government enforcement action” means a denial of  
8 administrative or judicial preclearance by the State or federal  
9 government, pending litigation filed by a federal or State entity, a  
10 final judgment or adjudication, a consent decree, or similar formal  
11 action.

12 “Language minorities” or “language-minority group” means  
13 persons who are American Indian, Asian American, Alaskan  
14 Natives or of Spanish heritage.

15 “Political subdivision” means a geographic area of representation  
16 created for the provision of government services, including, but not  
17 limited to, a county, city, town, village, borough, school district, or  
18 any other district organized pursuant to State or local law.

19 “Preclearance” means the process of obtaining prior approval  
20 from the Division on Civil Rights or a court of this State of any  
21 changes related to election procedures in a political subdivision.

22 “Protected class” means a class of eligible voters who are  
23 members of a race, color, or language-minority group.

24 “Racially polarized voting” means voting in which there is a  
25 divergence in the candidate, political preferences, or electoral  
26 choice of members in a protected class from the candidates, or  
27 electoral choice of the rest of the electorate.

28 “State voting rights act” means the “John R. Lewis Voting  
29 Rights Act of New Jersey” established pursuant to  
30 P.L. , c. (C. )(pending before the Legislature as this bill).

31

32 4. No voting qualification, prerequisite to voting, law,  
33 ordinance, standard, practice, procedure, regulation, or policy shall  
34 be enacted or implemented by any county board of elections or  
35 political subdivision in a manner that results in a denial or  
36 abridgement of the right of members of a protected class to vote.

37 A violation of this section shall be established upon a showing  
38 that, based on the totality of the circumstances, members of a  
39 protected class have less opportunity than the rest of the electorate  
40 to elect candidates of their choice or influence the outcome of  
41 elections.

42

43 5. a. No county board of elections or political subdivision shall  
44 use any method of election, having the effect of impairing the  
45 ability of members of a protected class to elect candidates of their  
46 choice or influence the outcome of elections, as a result of vote  
47 dilution.

1       b. A violation of this section shall be established upon a  
2 showing that during the conduct of an election in a political  
3 subdivision:

4       (1) (a) voting patterns of members of the protected class within  
5 the political subdivision are racially polarized; or

6       (b) under the totality of the circumstances, the ability of  
7 members of the protected class to elect candidates of their choice or  
8 influence the outcome of elections is impaired; or

9       (2) the candidates or electoral choices preferred by members of  
10 the protected class would usually be defeated, and either:

11       (a) voting patterns of members of the protected class within the  
12 political subdivision are racially polarized; or

13       (b) under the totality of the circumstances, the ability of  
14 members of the protected class to elect candidates of their choice or  
15 influence the outcome of elections is impaired.

16       c. For the purposes of demonstrating that a violation of this  
17 section has occurred, evidence shall be weighed and considered as  
18 follows:

19       (1) elections conducted prior to the filing of an action pursuant  
20 to this act are more probative than elections conducted after the  
21 filing of the action;

22       (2) evidence concerning elections for members of the governing  
23 body of the political subdivision are more probative than evidence  
24 concerning other elections;

25       (3) statistical evidence is more probative than non-statistical  
26 evidence;

27       (4) where there is evidence that more than one protected class of  
28 eligible voters are politically cohesive in the political subdivision,  
29 members of each of those protected classes may be combined;

30       (5) evidence concerning the intent on the part of the voters,  
31 elected officials, or the political subdivision to discriminate against  
32 a protected class shall be not required;

33       (6) evidence that voting patterns and election outcomes could be  
34 explained by factors other than racially polarized voting, including,  
35 but not limited to, partisanship, shall not be considered;

36       (7) evidence that sub-groups within a protected class have  
37 different voting patterns shall not be considered;

38       (8) evidence concerning whether members of a protected class  
39 are geographically compact or concentrated shall not be considered,  
40 but may be a factor in determining an appropriate remedy; and

41       (9) evidence concerning projected changes in population or  
42 demographics shall not be considered, but may be a factor, in  
43 determining an appropriate remedy.

44

45       6. a. In determining whether, under the totality of the  
46 circumstances, a violation of sections 4 and 5 of this act,  
47 P.L. , c. (C. and C. )(pending before the Legislature as

1 this bill), has occurred, factors that may be considered shall include,  
2 but not be limited to:

3 (1) the history of discrimination in or affecting the political  
4 subdivision;

5 (2) the extent to which members of the protected class have  
6 been elected to office in the political subdivision;

7 (3) the use of any voting qualification, prerequisite to voting,  
8 law, ordinance, standard, practice, procedure, regulation, or policy  
9 that may enhance the dilutive effects of the election scheme;

10 (4) denying eligible voters or candidates who are members of  
11 the protected class to processes determining which groups of  
12 candidates receive access to the ballot, financial support, or other  
13 support in a given election;

14 (5) the extent to which members of the protected class  
15 contribute to political campaigns at lower rates;

16 (6) the extent to which members of a protected class in the State  
17 or political subdivision vote at lower rates than other members of  
18 the electorate;

19 (7) the extent to which members of the protected class are  
20 disadvantaged in areas including, but not limited to, education,  
21 employment, health, public safety, housing, land use, or  
22 environmental protection;

23 (8) the extent to which members of the protected class are  
24 disadvantaged in other areas which may hinder their ability to  
25 participate effectively in the political process;

26 (9) the use of overt or subtle racial appeals in political  
27 campaigns;

28 (10) a significant lack of responsiveness on the part of elected  
29 officials to the particularized needs of members of the protected  
30 class; and

31 (11) whether the political subdivision has a compelling policy  
32 justification that is substantiated and supported by evidence for  
33 adopting or maintaining a particular process of the election or the  
34 voting qualification, prerequisite to voting, law, ordinance,  
35 standard, practice, procedure, regulation, or policy.

36 b. Nothing in this section shall preclude any additional factors  
37 from being considered, nor shall any specified number of factors be  
38 required in establishing that such a violation has occurred.

39

40 7. a. Upon a finding of a violation of any provision of this act, a  
41 court of this State shall implement appropriate remedies to ensure  
42 that voters of race, color, and language-minority groups have  
43 equitable access to fully participate in the electoral process, which  
44 may include, but shall not be limited to:

45 (1) alternative processes to conduct an election;

46 (2) new or revised apportionment or redistricting plans;

47 (3) elimination of staggered elections so that all members of the  
48 governing body are elected on the same date;

- 1 (4) reasonably increasing the size of the governing body;
- 2 (5) moving the date of an election, if consistent with federal and
- 3 State law, to be concurrent with the primary or general election
- 4 dates for State, county, or local public office;
- 5 (6) transferring authority for conducting the political
- 6 subdivision's elections to the county board of elections for the
- 7 county in which the political subdivision is located;
- 8 (7) additional voting hours or days;
- 9 (8) additional polling locations;
- 10 (9) additional means of voting such as voting by mail;
- 11 (10) ordering of special elections;
- 12 (11) requiring expanded opportunities for voter registration;
- 13 (12) requiring additional voter education;
- 14 (13) modifying the election calendar;
- 15 (14) the restoration or addition of persons to registration lists; or
- 16 (15) retaining jurisdiction for such period of time on a given
- 17 matter as a court of this State may deem appropriate, during which
- 18 no apportionment or redistricting plan shall be enforced unless and
- 19 until a court of this State finds that such plan does not have the
- 20 purpose of diluting the right to vote on the basis of protected class
- 21 membership, or in contravention of the voting guarantees set forth
- 22 in this act, except that the court's finding shall not bar a subsequent
- 23 action to enjoin enforcement of such apportionment or redistricting
- 24 plan.
- 25 b. A court of this State shall consider proposed remedies by
- 26 any parties and interested non-parties, but shall not provide
- 27 deference or priority to a proposed remedy offered by the political
- 28 subdivision. The court shall have the power to require a political
- 29 subdivision to implement remedies that are inconsistent with any
- 30 other provision of law where such inconsistent provision of law
- 31 would preclude the court from ordering an otherwise appropriate
- 32 remedy in such matter.
- 33
- 34 8. a. The governing body of a political subdivision with the
- 35 authority under this act and all applicable State and local laws to
- 36 conduct an election, or enact and implement a new apportionment
- 37 or redistricting plan, shall undertake each of the steps enumerated in
- 38 this section concerning draft apportionment or redistricting plans
- 39 and, if applicable, NJVRA notification letters, as defined in section
- 40 9 of P.L. , c. (C. )(pending before the Legislature as this
- 41 bill), or the filing of a claim pursuant to this act or the federal
- 42 voting rights act.
- 43 b. Before drawing a draft apportionment or redistricting plan or
- 44 plans of the proposed boundaries of the districts, the political
- 45 subdivision shall hold at least three public hearings, at which the
- 46 public is invited to provide input regarding the composition of the
- 47 districts. Before these public hearings, the political subdivision
- 48 may conduct outreach to the public, including to non-English-



1 speaking communities, to explain the apportionment or redistricting  
2 process and to encourage public participation.

3 c. After all draft apportionment or redistricting plans are drawn,  
4 the political subdivision shall publish and make available for  
5 release at least one draft apportionment or redistricting plan and, if  
6 members of the governing body of the political subdivision would  
7 be elected in their districts at different times to provide for  
8 staggered terms of office, the potential sequence of such elections.  
9 The political subdivision shall also hold at least two additional  
10 hearings, at which the public shall be invited to provide input  
11 regarding the content of the draft apportionment or redistricting  
12 plan or plans and the proposed sequence of elections, if applicable.  
13 The draft apportionment or redistricting plan or plans shall be  
14 published at least seven days before consideration at a hearing. If  
15 the draft apportionment or redistricting plan or plans are revised at  
16 or following a hearing, the revised versions shall be published and  
17 made available to the public for at least seven days before being  
18 adopted.

19 d. In determining the final sequence of the district elections  
20 conducted in a political subdivision in which members of the  
21 governing body will be elected at different times to provide for  
22 staggered terms of office, the governing body shall give special  
23 consideration to the purposes of this act, and it shall take into  
24 account the preferences expressed by members of the districts.

25  
26 9. a. Before commencing a judicial action against a political  
27 subdivision under this section, a prospective plaintiff shall send by  
28 certified mail a written notice to the clerk of the political  
29 subdivision, or, if the political subdivision does not have a clerk,  
30 the governing body of the political subdivision, against which the  
31 action would be brought, asserting that the political subdivision  
32 may be in violation of this act. This written notice shall be referred  
33 to as a "NJVRA notification letter" in this act. For actions against a  
34 school district, the prospective plaintiff shall also send by certified  
35 mail a copy of the NJVRA notification letter to the Commissioner  
36 of Education.

37 b. A prospective plaintiff shall not commence a judicial action  
38 against a political subdivision under this section within 50 days of  
39 sending to the political subdivision a NJVRA notification letter.

40 c. Before receiving a NJVRA notification letter, or within 50  
41 days of mailing of a NJVRA notification letter, the governing body  
42 of a political subdivision may pass a resolution affirming:

43 (1) the political subdivision's intention to enact and implement a  
44 remedy for a potential violation of this act;

45 (2) specific steps the political subdivision will undertake to  
46 facilitate approval and implementation of such a remedy; and

47 (3) a schedule for enacting and implementing such a remedy.

1       Such a resolution shall be referred to as a “NJVRA resolution” in  
2 this act. If a political subdivision passes a NJVRA resolution, such  
3 political subdivision shall have 90 days after such passage to enact  
4 and implement such remedy, during which a prospective plaintiff  
5 shall not commence an action to enforce this section against the  
6 political subdivision. For actions against a school district, the  
7 Commissioner of Education may order the enactment of a NJVRA  
8 resolution.

9       d. If the governing body of a political subdivision lacks the  
10 authority under this act or applicable State law or local laws to  
11 enact or implement a remedy identified in a NJVRA resolution, or  
12 fails to enact or implement a remedy identified in a NJVRA  
13 resolution, within 90 days after the passage of the NJVRA  
14 resolution, or if the political subdivision is a covered entity as  
15 defined under subsection c. of section 11 of this act,  
16 P.L. , c. (C. )(pending before the Legislature as this bill),  
17 the governing body of the political subdivision shall undertake the  
18 steps enumerated in the following provisions:

19       (1) the governing body of the political subdivision may approve  
20 a proposed remedy that complies with this act and submit such a  
21 proposed remedy to the Division on Civil Rights. Such a  
22 submission shall be referred to as a “NJVRA proposal” in this act;

23       (2) prior to passing a NJVRA proposal, the political subdivision  
24 shall hold at least one public hearing, at which the public shall be  
25 invited to provide input regarding the NJVRA proposal. Before this  
26 hearing, the political subdivision may conduct outreach to the  
27 public, including to non-English-speaking communities, to  
28 encourage public participation;

29       (3) within 45 days of receipt of a NJVRA proposal, the Division  
30 on Civil Rights shall grant or deny approval of the NJVRA  
31 proposal; and

32       (4) the Division on Civil Rights shall only grant approval to the  
33 NJVRA proposal if it concludes that:

34       (a) the political subdivision may be in violation of this act;

35       (b) the NJVRA proposal would remedy any potential violation  
36 of this act;

37       (c) the NJVRA proposal is unlikely to violate the United States  
38 Constitution, New Jersey Constitution, or any federal or State law;

39       (d) the NJVRA proposal would not diminish the ability of  
40 protected class members to participate in the political process and to  
41 elect their preferred candidates to office; and

42       (e) implementation of the NJVRA proposal is feasible;

43       (5) if the Division on Civil Rights grants approval, the NJVRA  
44 proposal shall be enacted and implemented immediately,  
45 notwithstanding any other law, rule, or regulation to the contrary;

46       (6) if the political subdivision is a covered entity as defined  
47 under subsection c. of section 11 of this act, the political  
48 subdivision shall not be required to obtain preclearance for the



1 NJVRA proposal pursuant to such section upon approval of the  
2 NJVRA proposal by the Division on Civil Rights;

3 (7) if the Division on Civil Rights denies approval, the NJVRA  
4 proposal shall not be enacted or implemented, and the Division on  
5 Civil Rights shall explain the basis for such denial and may, in its  
6 discretion, make recommendations for an alternative remedy for  
7 which it would grant approval; and

8 (8) if the Division on Civil Rights does not respond, the NJVRA  
9 proposal shall not be enacted or implemented.

10 e. A political subdivision that has passed a NJVRA resolution  
11 may enter into an agreement with the prospective plaintiff providing  
12 that such prospective plaintiff shall not commence an action  
13 pursuant to this section against the political subdivision for an  
14 additional 90 days. Such agreement shall include a requirement that  
15 either the political subdivision shall enact and implement a remedy  
16 that complies with this act or the political subdivision shall pass a  
17 NJVRA proposal and submit it to the Division on Civil Rights.

18 f. If, pursuant to a process commenced by a NJVRA  
19 notification letter, a political subdivision enacts or implements a  
20 remedy or the Division on Civil Rights grants approval to a NJVRA  
21 proposal, a prospective plaintiff who sent the NJVRA notification  
22 letter may, within 30 days of the enactment or implementation of  
23 the remedy or approval of the NJVRA proposal, demand  
24 reimbursement for the cost of the work product generated to support  
25 the NJVRA notification letter. A prospective plaintiff shall make  
26 the demand in writing and shall substantiate the demand with  
27 financial documentation, such as a detailed invoice for demography  
28 services or for the analysis of voting patterns in the political  
29 subdivision. A political subdivision may request additional  
30 documentation if the provided documentation is insufficient to  
31 corroborate the claimed costs. A political subdivision shall  
32 reimburse a prospective plaintiff for reasonable costs claimed, or in  
33 an amount to which the parties mutually agree. The cumulative  
34 amount of reimbursements to all prospective plaintiffs, except for  
35 actions brought by the Attorney General, shall not exceed \$43,000,  
36 as adjusted annually to the consumer price index for all urban  
37 consumers, United States city average, as published by the United  
38 States Department of Labor. To the extent a prospective plaintiff  
39 who sent the NJVRA notification letter and a political subdivision  
40 are unable to come to a mutual agreement, either party may file a  
41 declaratory judgment action to obtain a clarification of rights.

42 g. Notwithstanding the provisions of this section, in the event  
43 that the first day for designating petitions for a political  
44 subdivision's next regular election to select members of its  
45 governing board has begun or is scheduled to begin within 30 days,  
46 or in the event that a political subdivision is scheduled to conduct  
47 any election within 120 days, a plaintiff alleging any violation of  
48 this act may commence a judicial action against a political

1 subdivision under this section, provided that the relief sought by  
2 such a plaintiff includes preliminary relief for that election. Prior to  
3 or concurrent with commencing such a judicial action, any such  
4 plaintiff shall also submit a NJVRA notification letter to the  
5 political subdivision. In the event that a judicial action commenced  
6 under this section is withdrawn or dismissed for mootness because  
7 the political subdivision has enacted or implemented a remedy or  
8 the Division on Civil Rights has granted approval of a NJVRA  
9 proposal pursuant to a process commenced by a NJVRA  
10 notification letter, any such plaintiff may only demand  
11 reimbursement pursuant to this section.

12 h. Members of different protected classes may file an action  
13 jointly pursuant to this act in the event that they demonstrate that  
14 the combined voting preferences of the multiple protected classes  
15 are polarized against the rest of the electorate.  
16

17 10. a. A county board of elections or a political subdivision that  
18 administers elections shall provide language-related assistance in  
19 voting and elections to a language-minority group in a political  
20 subdivision if, based on data from the United States Census Bureau  
21 American Community Survey, or data of comparable quality  
22 collected by a public office, that:

23 (1) more than two percent, but in no instance fewer than 300  
24 individuals, of the citizens of voting age of a political subdivision  
25 are members of a single language-minority group and are limited  
26 English proficient; or

27 (2) more than 4,000 of the citizens of voting age of such  
28 political subdivision are members of a single language-minority  
29 group and are limited English proficient.

30 b. A county board of elections or political subdivision required  
31 to provide language assistance to a particular language-minority  
32 group pursuant to this section shall provide voting materials in the  
33 covered language of an equal quality of the corresponding English  
34 language materials, including registration or voting notices, forms,  
35 instructions, assistance, or other materials or information relating to  
36 the electoral process, including ballots. Any registration or voting  
37 notices, forms, instructions, assistance, or other materials or  
38 information relating to the electoral process, including ballots, in a  
39 covered political subdivision, shall be provided in the language of  
40 the applicable language-minority group as well as in the English  
41 language, provided that where the language of the applicable  
42 language-minority group is historically oral or unwritten, the county  
43 board of elections or political subdivision shall only be required to  
44 furnish oral instructions, assistance, or other information relating to  
45 registration and voting.

46 c. A county board of elections or political subdivision subject to  
47 the requirements of this section which seeks to provide English-  
48 only materials may file an action against the State for a declaratory

1 judgment permitting such provision. A court of this State shall  
2 grant the requested relief if it finds that the determination was  
3 unreasonable or an abuse of discretion.

4  
5 11. a. To ensure that the right to vote is not denied or abridged  
6 on account of race, color, or language-minority group, the  
7 enactment or implementation of a covered policy by a covered  
8 entity, as defined in this section, shall be subject to preclearance by  
9 the Division on Civil Rights or by a designated court as set forth in  
10 this section.

11 b. A “covered policy” shall include any new or modified voting  
12 qualification, prerequisite to voting, law, ordinance, standard,  
13 practice, procedure, regulation, or policy concerning any of the  
14 following topics:

- 15 (1) method of election;
- 16 (2) form of government;
- 17 (3) annexation of a political subdivision;
- 18 (4) incorporation of a political subdivision;
- 19 (5) consolidation or division of political subdivisions;
- 20 (6) removal of voters from enrollment lists or other list  
21 maintenance activities;
- 22 (7) number, location, or hours of any election day or early  
23 voting poll site;
- 24 (8) dates of elections and the election calendar, except with  
25 respect to special elections;
- 26 (9) registration of voters;
- 27 (10) assignment of election districts to election day or early  
28 voting poll sites;
- 29 (11) location of ballot drop boxes;
- 30 (12) assistance offered to members of a language-minority  
31 group; and
- 32 (13) any additional topics designated by the Attorney General  
33 pursuant to a rule promulgated under the “Administrative Procedure  
34 Act,” P.L.1968, c.140 (C.52:14B-1 et seq.), upon a determination  
35 by the Division on Civil Rights that a new or modified voting  
36 qualification, prerequisite to voting, law, ordinance, standard,  
37 practice, procedure, regulation, or policy concerning such topics  
38 may have the effect of denying or abridging the right to vote on  
39 account of race, color, or language-minority group.

40 c. A “covered entity” shall include:

- 41 (1) any political subdivision which, within the previous 25  
42 years, has become subject to a court order or government  
43 enforcement action based upon a finding of any violation of this act,  
44 the federal voting rights act, the 15th amendment to the United  
45 States Constitution, or a voting-related violation of the 14th  
46 amendment to the United States Constitution;
- 47 (2) any political subdivision which, within the previous 25  
48 years, has become subject to at least three court orders or

1 government enforcement actions based upon a finding of any  
2 violation of any State or federal civil rights law or the 14th  
3 amendment to the United States Constitution concerning  
4 discrimination against members of a protected class;

5 (3) any county in which, based on data provided by the Division  
6 of Criminal Justice in the New Jersey Department of Law and  
7 Public Safety, the combined crime and criminal offense arrest rate  
8 of members of any protected class consisting of at least 10,000  
9 citizens of voting age or whose members comprise at least 10  
10 percent of the citizen voting age population of the county, exceeds  
11 the proportion that the protected class constitutes of the citizen  
12 voting age population of the county as a whole by at least 20  
13 percent at any point within the previous 10 years; or

14 (4) any political subdivision in which, based on data made  
15 available by the United States Census, the dissimilarity index of any  
16 protected class consisting of at least 25,000 citizens of voting age or  
17 whose members comprise at least 10 percent of the citizen voting  
18 age population of the political subdivision, is in excess of 50 with  
19 respect to non-Hispanic white citizens of voting age within the  
20 political subdivision at any point within the previous 10 years.

21 If any covered entity is a political subdivision in which a county  
22 board of elections has been established, that county board of  
23 elections shall also be deemed a covered entity. If any political  
24 subdivision in which a county board of elections has been  
25 established contains a covered entity fully within its borders, that  
26 political subdivision and that county board of elections shall both be  
27 deemed a covered entity.

28  
29 12. a. A covered entity may obtain preclearance for a covered  
30 policy from the Division on Civil Rights pursuant to the following  
31 process:

32 (1) The covered entity shall submit the covered policy in writing  
33 to the Division on Civil Rights. If the covered entity is a county  
34 board of elections, it shall contemporaneously provide a copy of the  
35 covered policy to the Secretary of State.

36 (2) Upon submission of a covered policy for preclearance, as  
37 soon as practicable but no later than within 10 days, the Division on  
38 Civil Rights shall publish the submission on its website.

39 (3) After publication of a submission, there shall be an  
40 opportunity for members of the public to comment on the  
41 submission to the Division on Civil Rights within the time periods  
42 set forth in this section. To facilitate public comment, the Division  
43 on Civil Rights shall provide an opportunity for members of the  
44 public to sign up to receive notifications or alerts regarding  
45 submission of a covered policy for preclearance.

46 (4) Upon submission of a covered policy for preclearance, the  
47 Division on Civil Rights shall review the covered policy, and any  
48 public comment, and shall, within the time periods set forth in this

1 section, provide a report and determination as to whether, under this  
2 act, preclearance should be granted or denied to the covered policy.  
3 Such time period shall run concurrent with the time periods for  
4 public comment. The Division on Civil Rights shall not make such  
5 determination until the period for public comment is closed. The  
6 Division on Civil Rights may request additional information from a  
7 covered entity at any time during its review to aid in developing its  
8 report and recommendation. The failure to timely comply with  
9 reasonable requests for more information may be grounds for the  
10 denial of preclearance. The Division on Civil Rights reports and  
11 determination shall be posted on its website.

12 (5) In any determination as to preclearance, the Division on  
13 Civil Rights shall identify in writing whether it is approving or  
14 rejecting the covered policy; provided, however, that the Division  
15 on Civil Rights may, in its discretion, designate preclearance as  
16 “preliminary” in which case the Division on Civil Rights may deny  
17 preclearance within 60 days following the receipt of submission of  
18 the covered policy. The Division on Civil Rights shall grant  
19 preclearance only if it determines that the covered policy will not  
20 diminish the ability of protected class members to participate in the  
21 political process and to elect their preferred candidates to office. If  
22 the Division on Civil Rights grants preclearance, the covered entity  
23 may enact or implement the covered policy immediately.

24 (6) If the Division on Civil Rights denies preclearance, the  
25 division shall interpose objections explaining its basis and the  
26 covered policy shall not be enacted or implemented.

27 (7) If the Division on Civil Rights fails to respond within the  
28 required time frame as established in this section, the covered  
29 policy shall be deemed precleared and the covered entity may enact  
30 or implement such covered policy.

31 (8) The time periods for public comment, the Division on Civil  
32 Rights review, and the determination of the Division on Civil  
33 Rights to grant or deny preclearance on submission shall be as  
34 follows:

35 (a) For any covered policy concerning the designation or  
36 selection of polling locations, the assignment of election districts to  
37 a polling location, or the location of ballot drop boxes, whether for  
38 election day or the early voting period, the period for public  
39 comment shall be five business days. The Division on Civil Rights  
40 shall review the covered policy, including any public comment, and  
41 make a determination to deny or grant preclearance for such  
42 covered policy within 15 days following the receipt of such covered  
43 policy.

44 (b) Upon a showing of good cause, the Division on Civil Rights  
45 may receive an extension of up to 21 days to make a determination  
46 pursuant to this paragraph.

47 (c) For any other covered policy, the period for public comment  
48 shall be 10 business days. The Division on Civil Rights shall



1 review the covered policy, including any public comment, within 55  
2 days following the receipt of such covered policy and make a  
3 determination to deny or grant preclearance for such covered  
4 policy. The Division on Civil Rights may invoke up to two  
5 extensions of 90 days each.

6 (9) The Attorney General is hereby authorized to promulgate  
7 rules for an expedited, emergency preclearance process in the event  
8 of a covered policy occurring during or imminently preceding an  
9 election during a state of emergency, public health emergency, or  
10 state of local disaster, or other exigent circumstances. Any  
11 preclearance granted under this provision shall be designated  
12 "preliminary" and the Division on Civil Rights may deny  
13 preclearance within 60 days following receipt of the covered policy.

14 (10) Appeal of any denial by the Division on Civil Rights may  
15 be heard in a Superior Court of New Jersey and taken according to  
16 the ordinary rules of appellate procedure. Due to the frequency and  
17 urgency of elections, actions brought pursuant to this section shall  
18 be subject to expedited pretrial and trial proceedings and receive an  
19 automatic calendar preference on appeal.

20 b. If any covered entity enacts or implements a covered policy  
21 without seeking preclearance pursuant to this section, or enacts or  
22 implements a covered policy notwithstanding the denial of  
23 preclearance, either the Division on Civil Rights or any other party  
24 with standing to bring an action under this act may bring an action  
25 to enjoin the covered policy and to seek sanctions against the  
26 political subdivision and officials in violation.

27 c. The Attorney General, in accordance with the "Administrative  
28 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt  
29 such rules and regulations as the commissioner deems necessary to  
30 effectuate the provisions of this act.

31  
32 13. a. (1) No person, whether acting under color of law or  
33 otherwise, may engage in acts of intimidation, deception, or  
34 obstruction that affects the right of voters to access the elective  
35 franchise.

36 (2) A violation of paragraph (1) this section shall be established  
37 if:

38 (a) a person uses or threatens to use any force, violence,  
39 restraint, abduction or duress, or inflicts or threatens to inflict any  
40 injury, damage, harm or loss, or in any other manner practices  
41 intimidation that causes or will reasonably have the effect of  
42 causing any person to vote or refrain from voting in general or for  
43 or against any particular person or for or against any public  
44 question submitted to voters at such election; to place or refrain  
45 from placing their name upon a registry of voters; or to request or  
46 refrain from requesting a mail-in ballot;

47 (b) a person knowingly uses any deceptive or fraudulent device,  
48 contrivance or communication, that impedes, prevents or otherwise



1 interferes with the free exercise of the elective franchise by any  
2 person, or that causes or will reasonably have the effect of causing  
3 any person to vote or refrain from voting in general or for or against  
4 any particular person or for or against any public question  
5 submitted to voters at such election; to place or refrain from placing  
6 their name upon a registry of voters; or to request or refrain from  
7 requesting a mail-in ballot; or

8 (c) a person obstructs, impedes, or otherwise interferes with  
9 access to any polling place, ballot drop box, or elections office, or  
10 obstructs, impedes, or otherwise interferes with any voter in any  
11 manner that causes or will reasonably have the effect of causing any  
12 delay in voting or the voting process, including the canvassing and  
13 tabulation of ballots.

14  
15 14. a. Any aggrieved persons or organization whose membership  
16 includes aggrieved persons or members of a protected class,  
17 organization whose mission, in whole or in part, is to ensure voting  
18 access and such mission would be hindered by a violation of this  
19 act, or the Attorney General may file an action pursuant to this act  
20 in the a Superior Court of the county in which the alleged violation  
21 of this act occurred.

22 b. Upon a finding of a violation of any provision of this act, the  
23 court shall implement appropriate remedies that are tailored to  
24 remedy the violation, including, but not limited to, providing for  
25 additional time to cast a ballot that may be counted in the election at  
26 issue. Any party who shall violate any of the provisions of this act  
27 or who shall aid the violation of any of said provisions shall be  
28 liable to any prevailing plaintiff party for damages, including  
29 nominal damages for any violation, and compensatory or punitive  
30 damages for any intentional violation.

31  
32 15. a. In any action or investigation to enforce any provision of  
33 this act, the Attorney General shall have the authority to take proof  
34 and determine relevant facts and to issue subpoenas in accordance  
35 with the civil and criminal laws of this State.

36 b. Given the frequency of elections, the severe consequences  
37 and irreparable harm of holding elections under unlawful  
38 conditions, and the expenditure to defend potentially unlawful  
39 conditions that benefit incumbent officials, actions brought pursuant  
40 to this act shall be subject to expedited pretrial and trial proceedings  
41 and receive an automatic calendar preference. In any action  
42 alleging a violation of this section in which a plaintiff party seeks  
43 preliminary relief with respect to an upcoming election, the court  
44 shall grant relief if it determines that:

45 (1) plaintiffs are more likely than not to succeed on the merits;  
46 and

47 (2) it is possible to implement an appropriate remedy that would  
48 resolve the alleged violation in the upcoming election.

1 c. In any action to enforce any provision of this act, the court  
2 shall allow the prevailing plaintiff party, other than the State or  
3 political subdivision thereof, a reasonable attorneys' fee, litigation  
4 expenses including, but not limited to, expert witness fees and  
5 expenses as part of the costs. A plaintiff will be deemed to have  
6 prevailed when, as a result of litigation, the defendant party yields  
7 much or all of the relief sought in the suit. Prevailing defendant  
8 parties shall not recover any costs, unless the court finds the action  
9 to be frivolous, unreasonable, or without foundation.

10  
11 16. The provisions of this act shall apply to all elections for any  
12 elected public office or electoral choice within the State or any  
13 political subdivision. To ensure voters of race, color, and language-  
14 minority groups have equitable access to fully participate in the  
15 electoral process, the provisions of this act shall apply  
16 notwithstanding any other provision of law, rule, or regulation to  
17 the contrary.

18  
19 17. The provisions of this act, P.L. , c. (C. )(pending  
20 before the Legislature as this bill), shall be severable and if any  
21 section, subsection, paragraph, subparagraph, sentence, or other  
22 portion of this act is for any reason held or declared by any court of  
23 competent jurisdiction to be unconstitutional or preempted by  
24 federal law, or the applicability of that portion to any person or  
25 facility is held invalid, the remainder of this act shall not thereby be  
26 deemed to be unconstitutional, preempted, or invalid.

27  
28 18. This act shall take effect on the first day of the 18th month  
29 next following the date of enactment, except that the Attorney  
30 General may take any anticipatory action in advance thereof as shall  
31 be necessary for the implementation of this act.

## 32 33 34 STATEMENT

35  
36 This bill establishes the “John R. Lewis Voting Rights Act of New  
37 Jersey” and is modeled after the “John R. Lewis Voting Rights Act of  
38 New York.”

39 Under the bill, all statutes, rules, and regulations, in this State  
40 including all local laws or ordinances related to the elective franchise  
41 must be construed liberally in favor of:

42 (1) protecting the right of voters to have their ballot cast and  
43 counted;

44 (2) ensuring that eligible voters are not impaired in registering to  
45 vote; and

46 (3) ensuring voters of race, color, and language-minority groups  
47 have equitable access to fully participate in the electoral process in  
48 registering to vote and voting.

1       The bill prohibits the authority to prescribe or maintain voting or  
2 elections policies and practices to be so exercised as to unnecessarily  
3 deny or abridge the right to vote. The bill also prohibits a county  
4 board of elections or political subdivision from using a method of  
5 election that has the effect of impairing the ability of members of a  
6 protected class to elect candidates of their choice or influence the  
7 outcome of elections, as a result of vote dilution. The bill requires any  
8 policy and practice that burdens the right to vote must be narrowly  
9 tailored to promote a compelling policy justification that must be  
10 supported by substantial evidence. The bill provides factors for  
11 determining if a violation of the bill has occurred, including if a  
12 voter's right to vote has been violated or if the voter has experienced  
13 vote dilution.

14       Under the bill, if a violation of the provision of the bill occurs, the  
15 bill provides a remedy process, including for apportionment and  
16 redistricting maps. The bill provides that after a New Jersey Voting  
17 Rights Act notification letter is mailed from a prospective plaintiff to a  
18 political subdivision the political submission may pass a New Jersey  
19 Voting Rights Act resolution reaffirming: (1) the political  
20 subdivision's intention to enact and implement a remedy for a potential  
21 violation of the bill; (2) specific steps the political subdivision will  
22 undertake to facilitate approval and implementation of such a remedy;  
23 and (3) a schedule for enacting and implementing such a remedy.

24       The bill provides that if the governing body of a political  
25 subdivision lacks the authority under this act or applicable State law or  
26 local laws to enact or implement a remedy identified in the resolution,  
27 or fails to enact or implement a remedy identified in the resolution,  
28 within 90 days after the passage of the resolution, or if the political  
29 subdivision is a covered entity as defined by the bill, the governing  
30 body of the political subdivision must coordinate with the Division on  
31 Civil Rights in the New Jersey Department of Law and Public Safety  
32 to resolve the violation, including reaffirming that any proposal is  
33 unlikely to violate the United States Constitution, New Jersey  
34 Constitution, or any federal or State law, would not diminish the  
35 ability of protected class members to participate in the political process  
36 and to elect their preferred candidates to office; and is feasible to  
37 implement.

38       Under the bill, the Attorney General and the Division on Civil  
39 Rights are provided with certain preclearance powers. The bill  
40 provides that if certain political subdivisions that have been the subject  
41 to court order or government enforcement action based on violations  
42 of the bill; the federal Voting Rights Act of 1965, as amended; the  
43 15th amendment to the United States Constitution, or a voting-related  
44 violation of the 14th amendment to the United States Constitution,  
45 may be subject to preclearance, which is the process of obtaining prior  
46 approval from the Division on Civil Rights or a court of this State for  
47 any changes related to election procedures in that political subdivision.

1 The bill provides assistance to language-minority groups. Under  
2 the bill, a county board of elections or a political subdivision that  
3 administers elections must provide language-related assistance in  
4 voting and elections to a language-minority group in a political  
5 subdivision if, based on data from the United States Census Bureau  
6 American Community Survey, or data of comparable quality collected  
7 by a public office, that:

8 (1) more than two percent, but in no instance fewer than 300  
9 individuals, of the citizens of voting age of a political subdivision are  
10 members of a single language-minority group and are limited English  
11 proficient; or

12 (2) more than 4,000 of the citizens of voting age of such political  
13 subdivision are members of a single language-minority group and are  
14 limited English proficient.

15 The bill further provides that a county board of elections or political  
16 subdivision required to provide language assistance to a particular  
17 language-minority group pursuant to this section must provide voting  
18 materials in the covered language of an equal quality of the  
19 corresponding English language materials, including registration or  
20 voting notices, forms, instructions, assistance, or other materials or  
21 information relating to the electoral process, including ballots.

22 Under the bill, any aggrieved persons or organization whose  
23 membership includes aggrieved persons or members of a protected  
24 class, organization whose mission, in whole or in part, is to ensure  
25 voting access and such mission would be hindered by a violation of  
26 this bill, or the Attorney General may file an action pursuant to the bill  
27 in court. The bill provides that any action or investigation to enforce  
28 any provision of this bill, the Attorney General would have the  
29 authority to take proof and determine relevant facts and to issue  
30 subpoenas in accordance with the civil and criminal laws of this State.

31 The bill also contains a severability provision. If any section,  
32 subsection, paragraph, subparagraph, sentence, or other portion of the  
33 bill is for any reason held or declared by any court of competent  
34 jurisdiction to be unconstitutional or preempted by federal law, or the  
35 applicability of that portion to any person or facility is held invalid, the  
36 remainder of the bill would not thereby be deemed to be  
37 unconstitutional, preempted, or invalid.

38 The purpose of this bill is to:

39 (1) encourage participation in the elective franchise by all eligible  
40 voters to the maximum extent;

41 (2) ensure that eligible voters who are members of racial, ethnic,  
42 and language minority groups have an equal opportunity to participate  
43 in the political processes of this State and exercise the elective  
44 franchise;

45 (3) improve the quality and availability of demographic and  
46 election data; and

47 (4) protect eligible voters against intimidation and deceptive  
48 practices.

- 1       This bill would take effect on the first day of the 18th month
- 2       next following the date of enactment, except that the Attorney
- 3       General may take any anticipatory action in advance thereof.

WITHDRAWN