



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB3173

by Rep. Mike Fortner

SYNOPSIS AS INTRODUCED:

10 ILCS 120/5-1.5 new
10 ILCS 120/5-2 new
10 ILCS 120/5-3 new
10 ILCS 120/5-4 new
10 ILCS 120/5-6 new
10 ILCS 120/5-7 new
10 ILCS 120/5-8 new
10 ILCS 120/5-11 new
10 ILCS 120/5-5 rep.

Amends the Voting Rights Act of 2011. Makes changes to the requirements of redistricting. Creates new violations under the Act and remedies for those violations. Repeals current provisions relating to redistricting.

LRB099 09582 MGM 29791 b

1 AN ACT concerning elections.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Voting Rights Act of 2011 is
5 amended by adding Sections 5-1.5, 5-2, 5-3, 5-4, 5-6, 5-7, 5-8,
6 and 5-11 as follows:

7 (10 ILCS 120/5-1.5 new)

8 Sec. 5-1.5. Findings and intent. The General Assembly finds
9 and hereby declares that the purpose of this Act is to address
10 ongoing vote dilution and discrimination in voting as matters
11 of statewide concern in order to enforce the fundamental rights
12 guaranteed by Sections 1 and 2 of Article I, and Section 1 of
13 Article III of the Illinois Constitution. This amendatory Act
14 of the 99th General Assembly is enacted to implement the
15 guarantees of Sections 1 and 2 of Article I, and of Section 1
16 of Article III of the Illinois Constitution.

17 (10 ILCS 120/5-2 new)

18 Sec. 5-2. Definitions. As used in this Act:

19 (a) "District-based elections" means a method of electing
20 members to the governing body of a political subdivision in
21 which the candidate must reside within an election district
22 that is a divisible part of the political subdivision and is

1 elected only by voters residing within that election district.

2 (b) "At-large method of election" means any of the
3 following methods of electing members to the governing body of
4 a political subdivision:

5 (1) One in which the voters of the entire jurisdiction
6 elect the members to the governing body.

7 (2) One in which the candidates are required to reside
8 within given areas of the jurisdiction and the voters of
9 the entire jurisdiction elect the members to the governing
10 body.

11 (3) One which combines at-large elections with
12 district-based elections.

13 (c) "Political subdivision" means a geographic area of
14 representation created for the provision of government
15 services, including, but not limited to, a county, a city, a
16 school district, a community college district, or other
17 district organized pursuant to State law.

18 (d) "Protected group" and "protected class" under this Act
19 shall both mean a class of voters who are members of a race,
20 color, or language minority group, as this class is referenced
21 and defined in the federal Voting Rights Act (42 U.S.C. Sec.
22 1973 et seq.).

23 (e) "Racially-polarized voting" means voting in which
24 there is a difference, as defined in case law regarding
25 enforcement of the federal Voting Rights Act (42 U.S.C. Sec.
26 1973 et seq.), in the choice of candidates or other electoral

1 choices that are preferred by voters in a protected class, and
2 in the choice of candidates and electoral choices that are
3 preferred by voters in the rest of the electorate. The
4 methodologies for estimating group voting behavior as approved
5 in applicable federal cases to enforce the federal Voting
6 Rights Act (42 U.S.C. Sec. 1973 et seq.) to establish
7 racially-polarized voting may be used for purposes of this
8 Section to prove that elections are characterized by
9 racially-polarized voting.

10 (f) To "influence the outcome of an election" means that a
11 protected class votes as a cohesive bloc and is sufficiently
12 large that a candidate cannot win an election without its
13 support.

14 (g) "Community of interest" means a community with common
15 needs, views, and characteristics. A community of interest can
16 be identified if it shares 2 or more of the following
17 characteristics:

18 (1) Socio-economic levels.

19 (2) Educational backgrounds.

20 (3) Housing patterns and living conditions (urban,
21 suburban, rural).

22 (4) Culture.

23 (5) Language.

24 (6) Employment and economic patterns.

25 (7) Historic communities and neighborhoods.

1 (10 ILCS 120/5-3 new)

2 Sec. 5-3. Redistricting. Neither an at-large method of
3 election nor a single-member, district-based method of
4 election may be imposed or applied in a manner that impairs the
5 ability of a protected class to elect candidates of its choice
6 or its ability to influence the outcome of an election, as a
7 result of the dilution or the abridgment of the rights of
8 voters who are members of a protected group or class, as
9 defined under Section 5-2 of this Act. In creating a
10 redistricting plan, political subdivisions shall strive to the
11 extent possible to create electoral districts that preserve
12 communities of interest so long as preserving such communities
13 does not infringe on the rights of protected classes under the
14 federal Voting Rights Act (42 U.S.C. Sec. 1973 et seq.) and
15 under this Act.

16 (10 ILCS 120/5-4 new)

17 Sec. 5-4. Violations.

18 (a) A violation of Section 5-3 is established if it is
19 shown that racially-polarized voting occurs in elections for
20 members of the governing body of the political subdivision or
21 in elections incorporating other electoral choices by the
22 voters of the political subdivision. Elections conducted prior
23 to the filing of an action for a violation of Section 5-3 and
24 this Section are more probative to establish the existence of
25 racially-polarized voting than elections conducted after the

1 filing of the action.

2 (b) The occurrence of racially-polarized voting shall be
3 determined from examining results of elections in which at
4 least one candidate is a member of a protected class or
5 elections involving ballot measures, or other electoral
6 choices that affect the rights and privileges of members of a
7 protected class. One circumstance that may be considered in
8 determining a violation of Section 5-3 and this Section is the
9 extent to which candidates who are members of a protected class
10 and who are preferred by voters of the protected class, as
11 determined by an analysis of voting behavior, have been elected
12 to the governing body of a political subdivision that is the
13 subject of an action based on Section 5-3 and this Section. In
14 multi-seat at-large election districts, where the number of
15 candidates who are members of a protected class is fewer than
16 the number of seats available, the relative group-wide support
17 received by candidates from members of a protected class shall
18 be the basis for the racial polarization analysis.

19 (c) The fact that members of a protected class are not
20 geographically compact or concentrated may not preclude a
21 finding of racially-polarized voting, or a violation of Section
22 5-3 and this Section, but may be a factor in determining an
23 appropriate remedy.

24 (d) Proof of intent on the part of the voters or elected
25 officials to discriminate against a protected class is not
26 required.

1 (e) Other factors such as the history of discrimination,
2 the use of electoral devices or other voting practices or
3 procedures that may enhance the dilutive effects of at-large
4 elections, denial of access to those processes determining
5 which groups of candidates will receive financial or other
6 support in a given election, the extent to which members of a
7 protected class bear the effects of past discrimination in
8 areas such as education, employment, and health, which hinder
9 their ability to participate effectively in the political
10 process, and the use of overt or subtle racial appeals in
11 political campaigns are probative, but not necessary factors to
12 establish a violation of Section 5-3 and this Section.

13 (10 ILCS 120/5-6 new)

14 Sec. 5-6. Standing. An action under Sections 5-3 and 5-4
15 may be filed by any voter who is a member of a protected group
16 or class and who resides in the political subdivision where a
17 violation of those Sections is alleged in a State circuit court
18 of the county in which the electoral district or the political
19 subdivision is located.

20 (10 ILCS 120/5-7 new)

21 Sec. 5-7. Remedies for violations of 5-3 and 5-4.

22 (a) Upon a determination that there is a violation of
23 Sections 5-3 and 5-4, the court shall implement an appropriate
24 remedy or remedies. Any remedial order shall involve the

1 implementation of a lawful single-member district-based
2 election system that includes:

3 (1) constitutional and effective districts in which
4 the minority group demonstrating a violation of Sections
5 5-3 and 5-4, has the opportunity to elect candidates of its
6 choice;

7 (2) if no additional such constitutional and effective
8 district is possible, constitutional districts in which a
9 coalition of groups, including the minority group
10 demonstrating a violation of Sections 5-3 and 5-4, has the
11 opportunity to elect candidates of choice;

12 (3) if no additional such constitutional district is
13 possible, constitutional districts in which the minority
14 group demonstrating a violation of Sections 5-3 and 5-4 is
15 able to exercise significant influence over election
16 outcomes; or

17 (4) if no additional such constitutional district is
18 possible, alternative election systems such as cumulative
19 voting, and rank-choice voting.

20 (b) Other remedies that may be implemented in addition to
21 those provided under paragraph (a) of this Section may include
22 an increase in the number of elected seats available; an
23 injunction of upcoming elections; and movement of elections to
24 take place on statewide election dates in accordance with
25 Section 2A of the Election Code.

26 (c) The court shall implement every possible additional

1 remedy to which the protected group demonstrating a violation
2 is entitled under this Act.

3 (d) Any and all remedies implemented by the court must be
4 tailored to address the violation demonstrated, and shall be
5 guided by several factors, including, but not limited to:

6 (1) The views as to the efficacy of the protected group
7 demonstrating a violation.

8 (2) Whether the protected group is concentrated within
9 a geographic area.

10 (3) Keeping a protected group that is geographically
11 compact as intact as possible.

12 (4) Any remedy implemented does not infringe on the
13 rights of the protected group demonstrating the violation
14 or the rights of other protected groups under this Act or
15 under the federal Voting Rights Act (42 U.S.C. Sec. 1973 et
16 seq.).

17 (10 ILCS 120/5-8 new)

18 Sec. 5-8. Recovery of attorney's fees. In any action to
19 enforce Sections 5-3 and 5-4 the court shall allow the
20 prevailing party, other than the State or political subdivision
21 thereof, to recover reasonable attorney's fees and litigation
22 expenses including, but not limited to, expert witness fees and
23 expenses as part of the costs. Prevailing defendant parties
24 shall not recover any costs, unless the court finds the action
25 to be frivolous and wholly without merit.

1 (10 ILCS 120/5-11 new)

2 Sec. 5-11. Nothing in this Act shall be construed, applied,
3 or implemented in a way that conflicts with the United States
4 Constitution or the Illinois Constitution. If any part of this
5 Act or its application to any person or circumstance is held to
6 be invalid by any court of competent jurisdiction, the
7 remainder of this Act or the application of that same part to
8 other persons or circumstances shall not be affected.

9 (10 ILCS 120/5-5 rep.)

10 Section 10. The Illinois Voting Rights Act of 2011 is
11 amended by repealing Section 5-5.