



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

December 3, 2019
(House Rules)

STATEMENT OF ADMINISTRATION POLICY

H.R. 4 – Voting Rights Advancement Act of 2019

(Rep. Sewell, D-AL, and 229 cosponsors)

The Administration opposes passage of H.R. 4, the Voting Rights Advancement Act of 2019. H.R. 4 would amend the Voting Rights Act (VRA) of 1965 by imposing a new coverage formula and transparency obligations on States and local jurisdictions regarding their elections. These amendments raise serious policy concerns because the Federal Government would be granted excessive control over State and local election practices. Additionally, the Supreme Court has already held similar restrictions imposed by Congress on States and localities to be unconstitutional.

No individual should be denied or deterred from exercising his or her right to vote. Federal law protects against voting discrimination, allows judicial review of State and local voting laws, and establishes preclearance requirements. H.R. 4 would overreach by giving the Federal Government too much authority over an even greater number of voting practices and decisions made by States and local governments without justifying the current needs for such policies.

Section 3 of H.R. 4 would amend the VRA by setting forth a new coverage formula that subjects certain States and local subdivisions to Federal preclearance requirements before undertaking certain election activities. For example, the coverage formula would place restrictions on States with “15 or more voting rights violations [that] occurred in . . . the previous 25 calendar years.” Once a State or locality is covered by the formula, it would need permission from the Attorney General or Federal courts before conducting certain election activities prescribed by the bill.

In striking down the VRA’s prior coverage formula, the Supreme Court held that although “[o]ur country has changed, and while any racial discrimination in voting is too much, Congress must ensure that the legislation it passes to remedy that problem speaks to current conditions.” *Shelby County v. Holder*, 570 U.S. 529, 557 (2013). Accordingly, the coverage formula set forth in section 3 of H.R. 4 that “imposes substantial federalism costs” on States must therefore be tailored to “current needs.” *Id.* at 540, 553 (internal quotation marks omitted). Instead, section 3 continues to permit reliance on potentially decades-old data—incidents dating as far back as 25 years—as a justification for imposing a preclearance requirement.

Additionally, section 4 of H.R. 4 would create a new “Practice-Based Preclearance” standard, which would automatically subject certain election laws to Federal preclearance, thereby raising significant policy concerns. This section would, among other things, prejudice Federal law

against State and local voter integrity efforts, such as voter ID laws, and even impose requirements on routine administrative actions that include changing voting locations.

Finally, H.R. 4 would amend the VRA by imposing additional transparency requirements regarding certain election activities in Federal, State, and local jurisdictions. Section 5 of H.R. 4 raises constitutional concerns because its broad language would interfere with State and local elections beyond the powers afforded by the Elections Clause. Specifically, section 5 would require notice of demographic information related to “any change in the constituency that will participate in an election for Federal, State, or local office.” This broad language would impose notice requirements on States that make redistricting changes despite no Federal election involvement. By doing so, H.R. 4 would impermissibly grant Congress authority beyond what is authorized by the Elections Clause, and therefore section 5 would likely be found unconstitutional.

In sum, several provisions of H.R. 4 violate principles of federalism and exceed the powers granted to Congress by the Constitution, and these provisions would likely be found unlawful if challenged. Accordingly, the Administration opposes H.R. 4.

If H.R. 4 were presented to the President, his advisors would recommend that he veto it.

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