

IWF, IWLC, and IWV Strongly Oppose H.R. 4

August 19, 2021

Dear Members of Congress,

Independent Women's Forum, Independent Women's Voice, and Independent Women's Law Center urge you to reject the proposed "John R. Lewis Voting Rights Advancement Act of 2021" (H.R. 4) as it is an unconstitutional federal takeover of elections that threatens to dilute the votes of American citizens. Although this bill is named after a great civil rights hero, it dilutes the votes of minority citizens and fails to strengthen America's already robust voting protections.

The current bill is riddled with problems. Below are a few examples:

H.R. 4 Unconstitutionally Imposes Federal Control in Every Jurisdiction in the Country

The federal government plays an important role in enforcing voting rights. At the same time, however, to deter corruption and fraud, American elections are administered locally. Only in extreme circumstances may the federal government constitutionally intrude upon this local control.

Congress passed the Voting Rights Act (VRA) of 1965 in response to a national emergency: the widespread and deliberate disfranchisement of black citizens in the Jim Crow South. While Section 2 of the VRA is permanent and prohibits discriminatory practices in every jurisdiction in the land, Section 5, requiring jurisdictions with a history of intentional voting discrimination to seek federal approval ("pre-clearance") of any election-related change, was intended to be temporary.

The Supreme Court has held that pre-clearance is only constitutional if used as a temporary remedy for intentional discrimination. In other words, ***the federal government lacks the constitutional power to micromanage local election procedures in jurisdictions with no recent history of voting discrimination.*** Yet, this is exactly what H.R. 4 aims to do.

- a. H.R. 4 requires that every jurisdiction in the entire country seek federal approval before enacting certain procedures, including those that would strengthen voter ID requirements. This will make it particularly difficult for states to enact laws that protect voters from vote dilution and identity theft.
- b. H.R. 4 also requires certain jurisdiction to submit completely to federal authority for the next ten years if they have failed to comply with any federal voting rights law (even those that don't prohibit intentional discrimination) and even where those failures took place more than two decades ago.

Where the original pre-clearance formula was carefully calibrated to cover southern jurisdictions that used tests purposely to deny ballots to black citizens, H.R. 4 unconstitutionally widens the pre-clearance net to cover jurisdictions without a recent history of intentional discrimination against minority voters.

H.R. 4 Rewrites Section 2 to Prevent Consideration of Certain Circumstances

Currently, courts decide whether voting discrimination has occurred by examining the “totality of the circumstances.” H.R. 4 rewrites the criteria for finding Section 2 violations by preventing courts from considering certain mitigating factors, such as: (a) whether the voting reform has been used in a nondiscriminatory manner for a long period of time; (b) whether the practice is used in other states; (c) whether instituting the practice leaves other available means of voting in place; or (d) whether the practice prevents criminal activity.

H.R. 4 Incentivizes New Costly Taxpayer-Funded Litigation and Bureaucratic Reviews

The Section 2 provisions and the new pre-clearance formula would impose tremendous financial burdens on the American people by unnecessarily increasing the size and involvement of the Federal government in reviewing voting changes, even in instances where the voting change is not discriminatory. States also would need to divert taxpayer-funded resources to litigation, such as to compel DOJ to grant preclearance due to bureaucratic delays, and defend against specious Section 2 lawsuits by activist groups.

H.R. 4 Prevents States from Instituting Election Administration Reforms That Benefit Minority Citizens

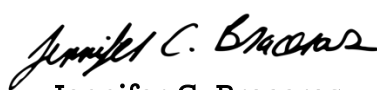
H.R. 4 unnecessarily delays and prevents jurisdictions from ensuring election integrity and preventing vote dilution as limits even those reforms that do not result in a single case of disfranchisement.

For all of the foregoing reasons, and because this bill does not, as its name suggests, prevent intentional discrimination against minority voters, we strongly urge all Members of Congress to reject H.R. 4.

Respectfully,



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