



Sen. Iris Y. Martinez

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1 AMENDMENT TO SENATE BILL 223

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 223 by replacing  
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the Local  
5 Government Voting Rights Act.

6 Section 5. Findings and policy. The General Assembly finds  
7 and hereby declares that the purpose of this Act is to address  
8 ongoing vote dilution and discrimination in voting as matters  
9 of statewide concern, in order to enforce the fundamental  
10 rights guaranteed by Sections 1 and 2 of Article I and Sections  
11 1 and 8 of Article III of the Illinois Constitution.

12 Section 10. Definitions. As used in this Act:

13 "At-large method of election" means any of the following  
14 methods of electing members to the governing body of a  
15 political subdivision:

1           (1) one in which the voters of the entire jurisdiction  
2           elect candidates to the governing body, including, but not  
3           limited to, alternative vote arrangements, transferable  
4           voting, ranked-choice voting, or preferential voting;

5           (2) one in which candidates are required to reside  
6           within particular areas of the jurisdiction and the voters  
7           of the entire jurisdiction elect candidates to the  
8           governing body; or

9           (3) one which combines at-large elections with a  
10          district-based method of election.

11          "District-based method of election" means a method of  
12          electing members to the governing body of a political  
13          subdivision in which the candidate must reside within an  
14          election district that is a divisible part of the political  
15          subdivision and is elected only by voters residing within that  
16          election district.

17          "Political subdivision" means a geographic area of  
18          representation created for the provision of government  
19          services, including, but not limited to a county, township,  
20          city, municipality, school district, community college  
21          district, special district, or other district organized  
22          pursuant to State law.

23          "Protected group" and "protected class" under this Act  
24          shall mean a group or class of voters who are members of a  
25          race, color, or language minority group, as referenced and  
26          defined in the federal Voting Rights Act (52 U.S.C. 10301 et

1 seq.).

2 "Racially-polarized voting" means voting in which there is  
3 a difference, as defined in case law regarding enforcement of  
4 the federal Voting Rights Act (52 U.S.C. 10301 et seq.), in the  
5 choice of candidates or other electoral choices that are  
6 preferred by voters in a protected class, and in the choice of  
7 candidates and electoral choices that are preferred by voters  
8 in the rest of the electorate. The methodologies for estimating  
9 group voting behavior as approved in applicable federal cases  
10 to enforce the federal Voting Rights Act to establish  
11 racially-polarized voting, as well as other valid  
12 methodologies admissible pursuant to Illinois Rule of Evidence  
13 702, may be used for purposes of this Section to prove that  
14 elections are characterized by racially-polarized voting.

15 Section 15. Vote dilution and discrimination. Neither an  
16 at-large method of election nor a district-based method of  
17 election may be imposed or applied in a manner that impairs the  
18 ability of a protected group or class to elect candidates of  
19 its choice as a result of the dilution or the abridgment of the  
20 rights of voters who are members of a protected group or class.

21 Section 20. Violations.

22 (a) To establish a violation of Section 15 of this Act, a  
23 plaintiff or plaintiffs must show that racially-polarized  
24 voting occurs in elections for members of the governing body of

1 the political subdivision or in elections incorporating other  
2 electoral choices by the voters of the political subdivision.

3 (b) The occurrence of racially-polarized voting shall be  
4 determined from examining results of elections in which at  
5 least one candidate is a member of the protected class or the  
6 preferred candidate of the protected class involved in the  
7 challenge, or elections involving ballot measures or other  
8 electoral choices. In multi-seat at-large election districts,  
9 where the number of candidates who are members of the protected  
10 class or preferred candidates of the protected class involved  
11 in the challenge is fewer than the number of seats available,  
12 the relative group-wide support received by candidates from  
13 members of the protected class shall be the basis for the  
14 racial polarization analysis. Elections conducted prior to the  
15 filing of an action for a violation of Section 15 of this Act  
16 are more probative to establish the existence of  
17 racially-polarized voting than elections conducted after the  
18 filing of the action.

19 (c) Other factors such as the history of discrimination,  
20 the use of electoral devices or other voting practices or  
21 procedures that may enhance the dilutive effects of at-large  
22 elections, denial of access to those processes determining  
23 which groups of candidates will receive financial or other  
24 support in a given election, the extent to which members of a  
25 protected class bear the effects of past discrimination in  
26 areas such as education, employment, and health, which hinder

1 their ability to participate effectively in the political  
2 process, and the use of overt or subtle racial appeals in  
3 political campaigns are probative, but not necessary, factors  
4 to establish a violation of Section 15 of this Act.

5 (d) The fact that members of a protected class are not  
6 geographically compact or concentrated shall not preclude a  
7 finding of racially-polarized voting, or a violation of Section  
8 15 of this Act, but may be a factor in determining an  
9 appropriate remedy.

10 (e) Proof of intent on the part of the voters or elected  
11 officials to discriminate against a protected class is not  
12 required.

13 (f) The fact that a single-member district-based method of  
14 election election was imposed on the political subdivision as a  
15 result of a prior action under this Act shall not be a defense  
16 to a violation of Section 15 of this Act, except that if a  
17 court orders a political subdivision to adopt, and subsequently  
18 approves, a single-member district-based method of election as  
19 a result of an action under this Act, there shall be a  
20 rebuttable presumption that the election system does not  
21 violate Section 15 of this Act. The presumption shall apply  
22 only to the exact single-member district-based method of  
23 election that was approved by the court and shall not apply if  
24 the boundaries of the single-member districts of the political  
25 subdivision are subsequently adjusted for any reason.

1           Section 25. Standing. Any eligible voter who is a member of  
2 a protected class and who resides in a political subdivision  
3 where a violation of Section 15 of this Act is alleged may file  
4 an action for a violation of that Section in the circuit court  
5 of any county in which the political subdivision is located.

6           Section 30. Notice. Prior to filing an action pursuant to  
7 this Act, a prospective plaintiff shall first notify the  
8 political subdivision's principal executive officer, in  
9 writing, that the prospective plaintiff intends to challenge  
10 the political subdivision's electoral system under this Act.

11          Section 35. Remedies.

12           (a) Upon a determination that there is a violation of  
13 Section 15 of this Act, the circuit court shall implement  
14 appropriate remedies that are tailored to remedy the violation,  
15 based on submissions by the plaintiff or plaintiffs.

16           (b) Notwithstanding any State law to the contrary, upon  
17 finding a violation of Section 15 of this Act, the court may  
18 order the political subdivision to adopt, alter, or repeal its  
19 forms of government or manner of electing the members of its  
20 governing body in order to remedy the violation.

21           (c) To the extent possible, the court shall give preference  
22 to the implementation of an effective district-based method of  
23 election that provides the protected class the opportunity to  
24 elect candidates of its choice from single member districts.

1 Single-member districts under this subsection (c) shall be  
2 drawn in a manner consistent with the following:

3 (1) district boundaries may not be drawn or maintained  
4 in a manner that denies an equal opportunity of a protected  
5 class to elect candidates of its choice or an equal  
6 opportunity to influence the outcome of an election;

7 (2) each district shall be as nearly equal in  
8 population as practicable to each and every other such  
9 district comprising the political subdivision;

10 (3) each district shall consist of a geographically  
11 contiguous area; and

12 (4) each district shall be reasonably compact.

13 (d) If the implementation of effective single-member  
14 districts under subsection (c) of this Section is not possible  
15 or will not provide an appropriate remedy, the court may order  
16 additional remedies, including, but not limited to, any of the  
17 following:

18 (1) implementing an alternative election system, such  
19 as cumulative voting and ranked-choice voting;

20 (2) approving a single-member district-based method of  
21 election that provides the protected class the opportunity  
22 to join in a coalition of 2 or more protected classes to  
23 elect candidates of their choice if there is demonstrated  
24 political cohesion among the protected classes;

25 (3) incrementally increasing the size of the governing  
26 body;

1           (4) requiring elections of the governing body to be  
2 held on the same day as a statewide election in accordance  
3 with Article 2A of the Election Code; or

4           (5) issuing an injunction to delay an election.

5           Section 40. Fees.

6           (a) In any action to enforce Section 15 of this Act, the  
7 circuit court shall allow the prevailing party to collect from  
8 the defendant reasonable attorney's fees and litigation  
9 expenses including, but not limited to, expert witness fees and  
10 expenses as part of the costs. A prevailing defendant party  
11 shall not recover any costs or attorney's fees, unless the  
12 court finds the action to be frivolous, unreasonable, or  
13 groundless.

14           (b) If, in response to a notice from a prospective  
15 plaintiff or plaintiffs as described in Section 30 of this Act,  
16 a political subdivision changes its method of election in a  
17 manner that might have been ordered had litigation been filed,  
18 or adopts an ordinance or resolution establishing a specific  
19 plan to effect the transition and an estimated time frame for  
20 doing so, then the prospective plaintiff or plaintiffs who sent  
21 the notice may demand reimbursement for the fees and costs to  
22 support the notice. Within 45 days of receiving the demand for  
23 reimbursement, the political subdivision shall reimburse the  
24 prospective plaintiff or plaintiffs for reasonable costs  
25 claimed.



1           Section 45. Conflict of Laws. Nothing in this Act shall be  
2 construed, applied, or implemented in a way that conflicts with  
3 the United States Constitution, the federal Voting Rights Act  
4 (52 U.S.C. 10301 et seq.), or the Illinois Constitution.

5           Section 97. Severability. The provisions of this Act are  
6 severable under Section 1.31 of the Statute on Statutes."