

21102660D

**HOUSE BILL NO. 1883**

Offered January 13, 2021

Prefiled January 8, 2021

A *BILL to amend the Code of Virginia by adding a section numbered 24.2-304.1:1, relating to elections; preclearance of certain covered practices required.*

Patrons—VanValkenburg, Kory and Lopez

Referred to Committee on Privileges and Elections

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding a section numbered 24.2-304.1:1 as follows:**

**§ 24.2-304.1:1. Preclearance of certain covered practices.**

A. For the purposes of this section:

"Certification of no objection" means a certification issued by the Attorney General that there is no objection to the enactment or administration of a covered practice by a covered jurisdiction because the covered practice neither has the purpose or effect of denying or abridging the right to vote on account of race or color or membership in a language minority group nor will result in the retrogression in the position of members of a racial or ethnic group with respect to their effective exercise of the electoral franchise.

"Covered jurisdiction" means any county or city that is determined pursuant to subsection E to have a voting age population that contains two or more racial or ethnic groups, each constituting at least 20 percent of its voting age population. "Covered jurisdiction" excludes any county or city that, on or after January 1, 2008, was exempt from the preclearance requirements of § 5 of the Voting Rights Act of 1965, as amended, pursuant to a declaratory jurisdiction issued by the United States District Court for the District of Columbia under § 4 of that Act.

"Covered practice" means:

1. Any change to the method of election of members of a governing body or an elected school board by adding seats elected at large or by converting one or more seats elected from a single-member district to one or more at-large seats or seats from a multi-member district;

2. Any change, or series of changes within a 12-month period, to the boundaries of the covered jurisdiction that reduces by more than five percentage points the proportion of the jurisdiction's voting age population that is composed of members of a single racial or language minority group, as determined by the most recent American Community Survey data;

3. Any change to the boundaries of election districts or wards in the covered jurisdiction;

4. Any change that restricts the ability of any person to provide interpreter services to voters in any language other than English or which limits or impairs the creation or distribution of voting materials in any language other than English; or

5. Any change that reduces the number of or consolidates or relocates polling places in the covered jurisdiction, except where permitted by law in the event of an emergency.

"Language minority group" means persons who speak one or more languages other than English at home, as determined by the most recent American Community Survey data.

"Racial minority group" means persons who are Black or African American, American Indian or Alaska Native, Asian, Native Hawaiian or Other Pacific Islander, or of Spanish heritage.

"Voting age population" means the resident population of persons who are age 18 or older, as determined by the most recent American Community Survey data.

B. Prior to enacting or seeking to administer any voting qualification or prerequisite to voting, or any standard, practice, or procedure with respect to voting, that is a covered practice, the governing body of a covered jurisdiction shall either (i) institute an action in the Circuit Court of the City of Richmond for a declaratory judgment that the covered practice neither has the purpose or effect of denying or abridging the right to vote on account of race or color or membership in a language minority group nor will result in the retrogression in the position of members of a racial or ethnic group with respect to their effective exercise of the electoral franchise or (ii) submit such covered practice to the Office of the Attorney General for issuance of a certification of no objection.

The Attorney General, or any qualified voter whose opportunity to vote is affected by a covered practice that has been enacted or administered by a covered jurisdiction, may institute an action in the Circuit Court of the City of Richmond to compel the governing body of such jurisdiction to institute an action for a declaratory judgment or to seek issuance of a certification of no objection pursuant to this subsection.

INTRODUCED

HB1883

59 C. No qualification, prerequisite, standard, practice, or procedure that is a covered practice shall be  
60 given effect until the Circuit Court of the City of Richmond has entered such judgment or the Attorney  
61 General has issued such certification. A certification of no objection shall be deemed to have been  
62 issued if the Attorney General does not interpose an objection within 60 days of the governing body's  
63 submission, or if, upon good cause shown and to facilitate an expedited approval within 60 days of the  
64 governing body's submission, the Attorney General has affirmatively indicated that no such objection  
65 will be made.

66 Neither an affirmative indication by the Attorney General that no objection will be made, nor the  
67 Attorney General's failure to object, nor a declaratory judgment entered by the Circuit Court of the City  
68 of Richmond pursuant to this section shall bar a subsequent action to enjoin enforcement of such  
69 qualification, prerequisite, standard, practice, or procedure. In the event that the Attorney General  
70 affirmatively indicates that no objection will be made within the 60-day period following the receipt of  
71 the governing body's submission, the Attorney General may reserve the right to reexamine the  
72 submission if additional information that would otherwise require objection in accordance with this  
73 section comes to his attention during the remainder of the 60-day period.

74 D. In the event that the Attorney General objects to a covered practice submitted by a covered  
75 jurisdiction, the governing body of such jurisdiction may file an appeal in the Circuit Court of the City  
76 of Richmond.

77 In the event that the Attorney General issues a certification of no objection to a covered practice  
78 submitted by a covered jurisdiction, any qualified voter whose opportunity to vote is affected by the  
79 covered practice that has been enacted or administered by a covered jurisdiction may file an action in  
80 the Circuit Court of the City of Richmond to appeal the Attorney General's issuance of a certification of  
81 no objection.

82 In any action filed pursuant to this subsection, the Circuit Court of the City of Richmond shall enjoin  
83 the enactment or administration of the covered practice that is the subject of the action, unless it  
84 determines that the covered practice neither has the purpose or effect of denying or abridging the right  
85 to vote on account of race or color or membership in a language minority group nor will result in the  
86 retrogression in the position of members of a racial or ethnic group with respect to their effective  
87 exercise of the electoral franchise.

88 E. Each year, not later than six months after the annual release of American Community Survey  
89 data, the Attorney General shall utilize such data to determine which counties and cities in the  
90 Commonwealth have a voting age population that contains two or more racial or ethnic groups each  
91 constituting at least 20 percent of the voting age population of the county or city and are therefore  
92 subject to the requirements of this section. All agencies of the Commonwealth shall provide assistance to  
93 the Attorney General in making this determination, upon request.

94 The Attorney General shall publish the list of these counties and cities on a website established and  
95 maintained for this purpose. A determination made pursuant to this subsection shall be effective upon  
96 publication.

97 F. The Attorney General, or any qualified voter in a county or city not subject to the provisions of  
98 this section, may institute an action in the Circuit Court of the City of Richmond or a judgment by the  
99 court that such county or city has enacted or administered a voting qualification or prerequisite to  
100 voting, or any standard, practice, or procedure with respect to voting, that would otherwise be a  
101 covered practice, and such voting qualification or prerequisite, or standard, practice, or procedure, has  
102 the purpose or effect of denying or abridging the right to vote on account of race or color or  
103 membership in a language minority group or resulting in the retrogression in the position of members of  
104 a racial or ethnic group with respect to their effective exercise of the electoral franchise. If the court  
105 enters such judgment, the county or city shall not be excluded from the provisions of this section.

106 2. That the provisions of this act shall become effective on January 1, 2022, except that no locality  
107 determined to be a covered jurisdiction under the provisions of this act shall be required to  
108 comply with the provisions of subsection B of § 24.2-304.1:1 of the Code of Virginia, as created by  
109 this act, for any change made to the boundaries of elections districts or wards until July 1, 2022.