(c) "Great Lakes State" defined

As used in this section, the term ''Great Lakes State'' means each of the States of Illinois, Indiana, Michigan, Minnesota, Ohio, Pennsylvania, New York, and Wisconsin.

(d) Approval by Governors for diversion of water

No water shall be diverted from any portion of the Great Lakes within the United States, or from any tributary within the United States of any of the Great Lakes, for use outside the Great Lakes basin unless such diversion is approved by the Governor of each of the Great Lake[1] States.

(e) Approval of Governors for diversion studies

No Federal agency may undertake any study, or expend any Federal funds to contract for any study, of the feasibility of diverting water from any portion of the Great Lakes within the United States, or from any tributary within the United States of any of the Great Lakes, for use outside the Great Lakes basin, unless such study or expenditure is approved by the Governor of each of the Great Lakes States. The prohibition of the preceding sentence shall not apply to any study or data collection effort performed by the Corps of Engineers or other Federal agency under the direction of the International Joint Commission in accordance with the Boundary Waters Treaty of 1909.

(f) Previously authorized diversions

This section shall not apply to any diversion of water from any of the Great Lakes which is authorized on November 17, 1986.

(Pub. L. 99–662, title XI, § 1109, Nov. 17, 1986, 100 Stat. 4230.)

CODIFICATION

Section was enacted as part of the Water Resources Development Act of 1986, and not as part of the Water Resources Planning Act which comprises this chapter.

GREAT LAKES CONSUMPTIVE USE STUDY

Pub. L. 100–4, title V, § 521, Feb. 4, 1987, 101 Stat. 88, provided that in recognition of the serious impacts on the Great Lakes environment that could occur as a result of increased consumption of Great Lakes water, including loss of wetlands and reduction of fish spawning and habitat areas, as well as serious economic losses to vital Great Lakes industries, the Secretary of the Army in cooperation with the Administrator, other interested departments, agencies, and instrumentalities of the United States, and the eight Great Lakes States, was authorized to conduct a study of the effects of Great Lakes water consumption on economic growth and environmental quality in the Great Lakes region and of control measures that could be implemented to reduce the quantity of water consumed, and further provided an appropriation of $750,000 for fiscal years beginning after Sept. 30, 1986, to carry out such study.

Similar provisions were contained in Pub. L. 99–662, title XI, § 1147, Nov. 17, 1986, 100 Stat. 4253.

MEASUREMENTS OF LAKE MICHIGAN DIVERSIONS

Section 1142 of Pub. L. 99–662 provided that:

''(a) Beginning October 1, 1987, the Secretary, in cooperation with the State of Illinois, shall carry out measurements and make necessary computations required by the decree of the United States Supreme Court (388 U.S. 426) relating to the diversion of water from Lake Michigan and shall coordinate the results with downstate interests. The measurements and computations shall consist of all flow measurements, gauge records, hydraulic and hydrologic computations, including periodic field investigations and measuring device calibrations, necessary to compute the amount of water diverted from Lake Michigan by the State of Illinois and its municipalities, political subdivisions, agencies, and instrumentalities, not including water diverted or used by Federal installations.

''(b) There are authorized to be appropriated $250,000 per fiscal year for each fiscal year beginning after September 30, 1986, to carry out this section, including those funds necessary to maintain the measurements and computations, as well as necessary capital construction costs associated with the installation of new flow measurement devices or structures declared necessary and appropriate by the Secretary.''

[1] So in original. Probably should be ''Lakes''.

CHAPTER 20—ELECTIVE FRANCHISE

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SUBCHAPTER I—GENERALLY

§ 1971. Voting rights

(a) Race, color, or previous condition not to affect right to vote; uniform standards for voting qualifications; errors or omissions from papers; literacy tests; agreements between Attorney General and State or local authorities; definitions

(1) All citizens of the United States who are otherwise qualified by law to vote at any election by the people in any State, Territory, district, county, city, parish, township, school district, municipality, or other territorial subdivision, shall be entitled and allowed to vote at all such elections, without distinction of race, color, or previous condition of servitude; any constitution, law, custom, usage, or regulation of any State or Territory, or by or under its authority, to the contrary notwithstanding.

(2) No person acting under color of law shall—

(A) in determining whether any individual is qualified under State law or laws to vote in any election, apply any standard, practice, or procedure different from the standards, practices, or procedures applied under such law or laws to other individuals within the same county, parish, or similar political subdivision who have been found by State officials to be qualified to vote;

(B) deny the right of any individual to vote in any election because of an error or omission on any record or paper relating to any application, registration, or other act requisite to voting, if such error or omission is not material in determining whether such individual is qualified under State law to vote in such election; or

(C) employ any literacy test as a qualification for voting in any election unless (i) such test is administered to each individual and is conducted wholly in writing, and (ii) a certified copy of the test and of the answers given by the individual is furnished to him within twenty-five days of the submission of his request made within the period of time during which records and papers are required to be retained and preserved pursuant to title III of the Civil Rights Act of 1960 [42 U.S.C. 1974 et seq.]: *Provided, however*, That the Attorney General may enter into agreements with appropriate State or local authorities that preparation, conduct, and maintenance of such tests in accordance with the provisions of applicable State or local law, including such special provisions as are necessary in the preparation, conduct, and maintenance of such tests for persons who are blind or otherwise physically handicapped, meet the purposes of this subparagraph and constitute compliance therewith.

(3) For purposes of this subsection—

(A) the term ''vote'' shall have the same meaning as in subsection (e) of this section;

(B) the phrase ''literacy test'' includes any test of the ability to read, write, understand, or interpret any matter.

(b) Intimidation, threats, or coercion

No person, whether acting under color of law or otherwise, shall intimidate, threaten, coerce, or attempt to intimidate, threaten, or coerce any other person for the purpose of interfering with the right of such other person to vote or to vote as he may choose, or of causing such other person to vote for, or not to vote for, any candidate for the office of President, Vice President, presidential elector, Member of the Senate, or Member of the House of Representatives, Delegates or Commissioners from the Territories or possessions, at any general, special, or primary election held solely or in part for the purpose of selecting or electing any such candidate.

(c) Preventive relief; injunction; rebuttable literacy presumption; liability of United States for costs; State as party defendant

Whenever any person has engaged or there are reasonable grounds to believe that any person is about to engage in any act or practice which would deprive any other person of any right or privilege secured by subsection (a) or (b) of this section, the Attorney General may institute for the United States, or in the name of the United States, a civil action or other proper proceeding for preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order. If in any such proceeding literacy is a relevant fact there shall be a rebuttable presumption that any person who has not been adjudged an incompetent and who has completed the sixth grade in a public school in, or a private school accredited by, any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico where in-

struction is carried on predominantly in the English language, possesses sufficient literacy, comprehension, and intelligence to vote in any election. In any proceeding hereunder the United States shall be liable for costs the same as a private person. Whenever, in a proceeding instituted under this subsection any official of a State or subdivision thereof is alleged to have committed any act or practice constituting a deprivation of any right or privilege secured by subsection (a) of this section, the act or practice shall also be deemed that of the State and the State may be joined as a party defendant and, if, prior to the institution of such proceeding, such official has resigned or has been relieved of his office and no successor has assumed such office, the proceeding may be instituted against the State.

(d) Jurisdiction; exhaustion of other remedies

The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this section and shall exercise the same without regard to whether the party aggrieved shall have exhausted any administrative or other remedies that may be provided by law.

(e) Order qualifying person to vote; application; hearing; voting referees; transmittal of report and order; certificate of qualification; definitions

In any proceeding instituted pursuant to subsection (c) of this section in the event the court finds that any person has been deprived on account of race or color of any right or privilege secured by subsection (a) of this section, the court shall upon request of the Attorney General and after each party has been given notice and the opportunity to be heard make a finding whether such deprivation was or is pursuant to a pattern or practice. If the court finds such pattern or practice, any person of such race or color resident within the affected area shall, for one year and thereafter until the court subsequently finds that such pattern or practice has ceased, be entitled, upon his application therefor, to an order declaring him qualified to vote, upon proof that at any election or elections (1) he is qualified under State law to vote, and (2) he has since such finding by the court been (a) deprived of or denied under color of law the opportunity to register to vote or otherwise to qualify to vote, or (b) found not qualified to vote by any person acting under color of law. Such order shall be effective as to any election held within the longest period for which such applicant could have been registered or otherwise qualified under State law at which the applicant's qualifications would under State law entitle him to vote.

Notwithstanding any inconsistent provision of State law or the action of any State officer or court, an applicant so declared qualified to vote shall be permitted to vote in any such election. The Attorney General shall cause to be transmitted certified copies of such order to the appropriate election officers. The refusal by any such officer with notice of such order to permit any person so declared qualified to vote to vote at an appropriate election shall constitute contempt of court.

An application for an order pursuant to this subsection shall be heard within ten days, and the execution of any order disposing of such application shall not be stayed if the effect of such stay would be to delay the effectiveness of the order beyond the date of any election at which the applicant would otherwise be enabled to vote.

The court may appoint one or more persons who are qualified voters in the judicial district, to be known as voting referees, who shall subscribe to the oath of office required by section 3331 of title 5, to serve for such period as the court shall determine, to receive such applications and to take evidence and report to the court findings as to whether or not at any election or elections (1) any such applicant is qualified under State law to vote, and (2) he has since the finding by the court heretofore specified been (a) deprived of or denied under color of law the opportunity to register to vote or otherwise to qualify to vote, or (b) found not qualified to vote by any person acting under color of law. In a proceeding before a voting referee, the applicant shall be heard ex parte at such times and places as the court shall direct. His statement under oath shall be prima facie evidence as to his age, residence, and his prior efforts to register or otherwise qualify to vote. Where proof of literacy or an understanding of other subjects is required by valid provisions of State law, the answer of the applicant, if written, shall be included in such report to the court; if oral, it shall be taken down stenographically and a transcription included in such report to the court.

Upon receipt of such report, the court shall cause the Attorney General to transmit a copy thereof to the State attorney general and to each party to such proceeding together with an order to show cause within ten days, or such shorter time as the court may fix, why an order of the court should not be entered in accordance with such report. Upon the expiration of such period, such order shall be entered unless prior to that time there has been filed with the court and served upon all parties a statement of exceptions to such report. Exceptions as to matters of fact shall be considered only if supported by a duly verified copy of a public record or by affidavit of persons having personal knowledge of such facts or by statements or matters contained in such report; those relating to matters of law shall be supported by an appropriate memorandum of law. The issues of fact and law raised by such exceptions shall be determined by the court or, if the due and speedy administration of justice requires, they may be referred to the voting referee to determine in accordance with procedures prescribed by the court. A hearing as to an issue of fact shall be held only in the event that the proof in support of the exception disclose the existence of a genuine issue of material fact. The applicant's literacy and understanding of other subjects shall be determined solely on the basis of answers included in the report of the voting referee.

The court, or at its direction the voting referee, shall issue to each applicant so declared qualified a certificate identifying the holder thereof as a person so qualified.

Any voting referee appointed by the court pursuant to this subsection shall to the extent not

inconsistent herewith have all the powers conferred upon a master by rule 53(c) of the Federal Rules of Civil Procedure. The compensation to be allowed to any persons appointed by the court pursuant to this subsection shall be fixed by the court and shall be payable by the United States.

Applications pursuant to this subsection shall be determined expeditiously. In the case of any application filed twenty or more days prior to an election which is undetermined by the time of such election, the court shall issue an order authorizing the applicant to vote provisionally: *Provided, however*, That such applicant shall be qualified to vote under State law. In the case of an application filed within twenty days prior to an election, the court, in its discretion, may make such an order. In either case the order shall make appropriate provision for the impounding of the applicant's ballot pending determination of the application. The court may take any other action, and may authorize such referee or such other person as it may designate to take any other action, appropriate or necessary to carry out the provisions of this subsection and to enforce its decrees. This subsection shall in no way be construed as a limitation upon the existing powers of the court.

When used in the subsection, the word ''vote'' includes all action necessary to make a vote effective including, but not limited to, registration or other action required by State law prerequisite to voting, casting a ballot, and having such ballot counted and included in the appropriate totals of votes cast with respect to candidates for public office and propositions for which votes are received in an election; the words ''affected area'' shall mean any subdivision of the State in which the laws of the State relating to voting are or have been to any extent administered by a person found in the proceeding to have violated subsection (a) of this section; and the words ''qualified under State law'' shall mean qualified according to the laws, customs, or usages of the State, and shall not, in any event, imply qualifications more stringent than those used by the persons found in the proceeding to have violated subsection (a) in qualifying persons other than those of the race or color against which the pattern or practice of discrimination was found to exist.

(f) Contempt; assignment of counsel; witnesses

Any person cited for an alleged contempt under this Act shall be allowed to make his full defense by counsel learned in the law; and the court before which he is cited or tried, or some judge thereof, shall immediately, upon his request, assign to him such counsel, not exceeding two, as he may desire, who shall have free access to him at all reasonable hours. He shall be allowed, in his defense to make any proof that he can produce by lawful witnesses, and shall have the like process of the court to compel his witnesses to appear at his trial or hearing, as is usually granted to compel witnesses to appear on behalf of the prosecution. If such person shall be found by the court to be financially unable to provide for such counsel, it shall be the duty of the court to provide such counsel.

(g) Three-judge district court: hearing, determination, expedition of action, review by Supreme Court; single-judge district court: hearing, determination, expedition of action

In any proceeding instituted by the United States in any district court of the United States under this section in which the Attorney General requests a finding of a pattern or practice of discrimination pursuant to subsection (e) of this section the Attorney General, at the time he files the complaint, or any defendant in the proceeding, within twenty days after service upon him of the complaint, may file with the clerk of such court a request that a court of three judges be convened to hear and determine the entire case. A copy of the request for a three-judge court shall be immediately furnished by such clerk to the chief judge of the circuit (or in his absence, the presiding circuit judge of the circuit) in which the case is pending. Upon receipt of the copy of such request it shall be the duty of the chief judge of the circuit or the presiding circuit judge, as the case may be, to designate immediately three judges in such circuit, of whom at least one shall be a circuit judge and another of whom shall be a district judge of the court in which the proceeding was instituted, to hear and determine such case, and it shall be the duty of the judges so designated to assign the case for hearing at the earliest practicable date, to participate in the hearing and determination thereof, and to cause the case to be in every way expedited. An appeal from the final judgment of such court will lie to the Supreme Court.

In any proceeding brought under subsection (c) of this section to enforce subsection (b) of this section, or in the event neither the Attorney General nor any defendant files a request for a three-judge court in any proceeding authorized by this subsection, it shall be the duty of the chief judge of the district (or in his absence, the acting chief judge) in which the case is pending immediately to designate a judge in such district to hear and determine the case. In the event that no judge in the district is available to hear and determine the case, the chief judge of the district, or the acting chief judge, as the case may be, shall certify this fact to the chief judge of the circuit (or, in his absence, the acting chief judge) who shall then designate a district or circuit judge of the circuit to hear and determine the case.

It shall be the duty of the judge designated pursuant to this section to assign the case for hearing at the earliest practicable date and to cause the case to be in every way expedited.

(R.S. § 2004; Sept. 9, 1957, Pub. L. 85–315, pt. IV, § 131, 71 Stat. 637; May 6, 1960, Pub. L. 86–449, title VI, § 601, 74 Stat. 90; July 2, 1964, Pub. L. 88–352, title I, § 101, 78 Stat. 241; Aug. 6, 1965, Pub. L. 89–110, § 15, 79 Stat. 445.)

REFERENCES IN TEXT

The Civil Rights Act of 1960, referred to in subsec. (a)(2)(C), is Pub. L. 86–449, May 6, 1960, 74 Stat. 86, as amended. Title III of the Civil Rights Act of 1960 is classified generally to subchapter II (§ 1974 et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title note below and Tables.

Rule 53(c) of the Federal Rules of Civil Procedure, referred to in subsec. (e), is set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

This Act, referred to in subsec. (f), is Pub. L. 85–315, Sept. 9, 1957, 71 Stat. 634, as amended, which enacted sections 1975 to 1975e and 1995 of this title and section 295–1 of former Title 5, Executive Departments and Government Officers and Employees, amended this section and sections 1343 and 1861 of Title 28, repealed section 1993 of this title, and enacted provisions set out as a note under section 1975 of this title.

CODIFICATION

R.S. § 2004 derived from act May 31, 1870, ch. 114, § 1, 16 Stat. 140.

In subsec. (e), ''section 3331 of title 5'' was substituted for ''Revised Statutes, section 1757 (5 U.S.C. 16)'' on authority of Pub. L. 89–554, § 7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

Section was formerly classified to section 31 of Title 8, Aliens and Nationality.

AMENDMENTS

1965—Subsecs. (a), (c). Pub. L. 89–110, § 15(a), struck out ''Federal'' before ''election'' wherever appearing.

Subsecs. (f) to (h). Pub. L. 89–110, § 15(b), redesignated subsecs. (g) and (h) as (f) and (g), respectively, and repealed former subsec. (f) which defined ''Federal elections''.

1964—Subsec. (a). Pub. L. 88–352, § 101(a), designated existing provisions as par. (1) and added pars. (2) and (3).

Subsec. (c). Pub. L. 88–352, § 101(b), provided for a rebuttable literacy presumption when a person has not been adjudged an incompetent and has completed the sixth grade of his schooling.

Subsecs. (f), (g). Pub. L. 88–352, § 101(c), added subsec. (f) and redesignated former subsec. (f) as (g).

Subsec. (h). Pub. L. 88–352, § 101(d), added subsec. (h).

1960—Subsec. (c). Pub. L. 86–449, § 601(b), permitted the State to be joined as a party defendant in cases where officials of a State or subdivision thereof are alleged to have committed acts or practices constituting a deprivation of any rights or privileges secured by subsection (a) of this section, and authorized commencement of the proceeding against the State where an official has resigned or has been relieved of his office and no successor has assumed such office.

Subsecs. (e), (f). Pub. L. 86–449, § 601(a), added subsec. (e) and redesignated former subsec. (e) as (f).

1957—Pub. L. 85–315, § 131, substituted ''Voting rights'' for ''Race, color, or previous condition not to affect right to vote'' in section catchline, designated existing provisions as subsec. (a), and added subsecs. (b) to (e).

SHORT TITLE OF 1992 AMENDMENT

Pub. L. 102–344, § 1, Aug. 26, 1992, 106 Stat. 921, provided that: ''This Act [amending section 1973aa–1a of this title] may be cited as the 'Voting Rights Language Assistance Act of 1992'.''

SHORT TITLE

Pub. L. 99–410, § 1, Aug. 28, 1986, 100 Stat. 924, provided that: ''This Act [enacting subchapter I–G of this chapter, sections 608 and 609 of Title 18, Crimes and Criminal Procedure, and section 3406 of Title 39, Postal Service, amending sections 2401, 3627, and 3684 of Title 39, repealing subchapters I–D and I–E of this chapter, and enacting provisions set out as notes under section 1973ff of this title] may be cited as the 'Uniformed and Overseas Citizens Absentee Voting Act'.''

Pub. L. 98–435, § 1, Sept. 28, 1984, 98 Stat. 1678, provided that: ''This Act [enacting subchapter I–F of this chapter] may be cited as the 'Voting Accessibility for the Elderly and Handicapped Act'.''

Pub. L. 97–205, § 1, June 29, 1982, 96 Stat. 131, provided: ''That this Act [enacting section 1973aa–6 of this title, amending sections 1973, 1973b, and 1973aa–1a of this title, and enacting provisions set out as notes under sections 1973, 1973b, 1973aa–1a and 1973aa–6 of this title] may be cited as the 'Voting Rights Act Amendments of 1982'.''

Pub. L. 94–203, § 1, Jan. 2, 1976, 89 Stat. 1142, which provided that Pub. L. 94–203, which enacted subchapter I–E of this chapter, was to be cited as ''Overseas Citizens Voting Rights Act of 1975'', was repealed by Pub. L. 99–410, title II, § 203, Aug. 28, 1986, 100 Stat. 930.

Pub. L. 91–285, § 1, June 22, 1970, 84 Stat. 314, provided: ''That this Act [designating existing provisions of Pub. L. 89–110 as subchapter I–A, enacting subchapters I–B and I–C of this chapter, and amending sections 1973b and 1973c of this title] may be cited as the 'Voting Rights Act Amendments of 1970'.''

Section 1 of Pub. L. 89–110 provided that: ''This Act [enacting subchapters I–A, I–B, and I–C of this chapter and amending this section] shall be known as the 'Voting Rights Act of 1965'.''

Section 1 of Pub. L. 86–449 provided that: ''This Act [enacting subchapter II of this chapter and sections 837, 1074, and 1509 of Title 18, Crimes and Criminal Procedure, and amending this section and sections 241 and 640 of Title 20, Education] may be cited as the 'Civil Rights Act of 1960'.''

Section 161 of Pub. L. 85–315 provided that: ''This Act [enacting former chapter 20A of this title and section 1995 of this title and section 295–1 of former Title 5, Executive Departments and Government Officers and Employees, amending this section and sections 1343 and 1861 of Title 28, Judiciary and Judicial Procedure, and repealing section 1993 of this title] may be cited as the 'Civil Rights Act of 1957'.''

Act Aug. 9, 1955, ch. 656, § 1, 69 Stat. 584, which provided that such Act, which enacted subchapter I–D of this chapter and repealed sections 301 to 303, 321 to 331, 341, and 351 to 355 of Title 50, War and National Defense, was to be cited as ''The Federal Voting Assistance Act of 1955'', was repealed by Pub. L. 99–410, title II, § 203, Aug. 28, 1986, 100 Stat. 930.

SEPARABILITY

Section 701 of Pub. L. 86–449 provided that: ''If any provisions of this Act [see Short Title note above] is held invalid, the remainder of this Act shall not be affected thereby.''

VOTER REGISTRATION DRIVES

Pub. L. 98–473, title I, § 101(j), Oct. 12, 1984, 98 Stat. 1963, provided that: ''It is the sense of the Congress that—

''(1) voter registration drives should be encouraged by governmental entities at all levels; and

''(2) voter registration drives conducted by State governments on a nonpartisan basis do not violate the provisions of the Intergovernmental Personnel Act (42 U.S.C. 4728, 4763).''

§ 1972. Interference with freedom of elections

No officer of the Army, Navy, or Air Force of the United States shall prescribe or fix, or attempt to prescribe or fix, by proclamation, order, or otherwise, the qualifications of voters in any State, or in any manner interfere with the freedom of any election in any State, or with the exercise of the free right of suffrage in any State.

(R.S. § 2003.)

CODIFICATION

R.S. § 2003 derived from act Feb. 25, 1865, ch. 52, § 1, 13 Stat. 437.

Air Force inserted to conform to section 207(a), (f) of act July 26, 1947, ch. 343, title II, 61 Stat. 502, which established a separate Department of the Air Force, and Secretary of Defense Transfer Order No. 40 [App. A(10)], July 22, 1949, which transferred certain functions to the Air Force. Section 207(a), (f) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted ''Title 10, Armed Forces'', which in sections 8010 to 8013 con-

tinued Department of the Air Force under administrative supervision of Secretary of the Air Force.

Section was formerly classified to section 32 of Title 8, Aliens and Nationality.

SUBCHAPTER I–A—ENFORCEMENT OF VOTING RIGHTS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1973b, 1973aa–4, 1973ee–5, 1973gg–6, 1973gg–9 of this title; title 28 section 1869.

§ 1973. Denial or abridgement of right to vote on account of race or color through voting qualifications or prerequisites; establishment of violation

(a) No voting qualification or prerequisite to voting or standard, practice, or procedure shall be imposed or applied by any State or political subdivision in a manner which results in a denial or abridgement of the right of any citizen of the United States to vote on account of race or color, or in contravention of the guarantees set forth in section 1973b(f)(2) of this title, as provided in subsection (b) of this section.

(b) A violation of subsection (a) of this section is established if, based on the totality of circumstances, it is shown that the political processes leading to nomination or election in the State or political subdivision are not equally open to participation by members of a class of citizens protected by subsection (a) of this section in that its members have less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice. The extent to which members of a protected class have been elected to office in the State or political subdivision is one circumstance which may be considered: *Provided*, That nothing in this section establishes a right to have members of a protected class elected in numbers equal to their proportion in the population.

(Pub. L. 89–110, title I, § 2, Aug. 6, 1965, 79 Stat. 437; renumbered title I, Pub. L. 91–285, § 2, June 22, 1970, 84 Stat. 314; amended Pub. L. 94–73, title II, § 206, Aug. 6, 1975, 89 Stat. 402; Pub. L. 97–205, § 3, June 29, 1982, 96 Stat. 134.)

AMENDMENTS

1982—Pub. L. 97–205 redesignated existing provisions as subsec. (a), struck out the comma after ''voting'', substituted ''in a manner which results in a denial or abridgement of'' for ''to deny or abridge'', inserted '', as provided in subsection (b) of this section'' after ''in contravention of the guarantees set forth in section 1973b(f)(2) of this title'', and added subsec. (b).

1975—Pub. L. 94–73 substituted ''race or color, or in contravention of the guarantees set forth in section 1973b(f)(2) of this title'' for ''race or color''.

EFFECTIVE DATE OF 1982 AMENDMENT

Section 6 of Pub. L. 97–205 provided that: ''Except as otherwise provided in this Act, the amendments made by this Act [see Short Title of 1982 Amendment note below] shall take effect on the date of the enactment of this Act [June 29, 1982].''

SHORT TITLE OF 1982 AMENDMENT

Section 1 of Pub. L. 97–205 provided: ''That this Act [enacting section 1973aa–6 of this title, amending this section and sections 1973b and 1973aa–1a of this title, and enacting provisions set out as notes under this section and sections 1971, 1973b, 1973aa–1a, and 1973aa–6 of this title] may be cited as the 'Voting Rights Act Amendments of 1982'.''

SHORT TITLE OF 1970 AMENDMENT

Pub. L. 91–285, § 1, June 22, 1970, 84 Stat. 314, provided: ''That this Act [designating existing provisions of Pub. L. 89–110 as subchapter I–A, enacting subchapters I–B and I–C of this chapter, and amending sections 1973b and 1973c of this title] may be cited as the 'Voting Rights Act Amendments of 1970'.''

SHORT TITLE

Section 1 of Pub. L. 89–110 provided that: ''This Act [enacting subchapters I–A, I–B, and I–C of this chapter and amending section 1971 of this title] shall be known as the 'Voting Rights Act of 1965'.''

SEPARABILITY

Section 208 of Pub. L. 94–73 provided that: ''If any amendments made by this Act [enacting sections 1973aa–1a and 1973aa–5 of this title, amending this section and sections 1973a to 1973d, 1973h, 1973i, 1973k, 1973*l*, 1973aa, 1973aa–2, 1973aa–3, 1973bb, 1973bb–1 of this title, and repealing sections 1973bb–2 to 1973bb–4 of this title] or the application of any provision thereof to any person or circumstance is judicially determined to be invalid, the remainder of the Voting Rights Act of 1965 [this subchapter and subchapters I–B and I–C of this chapter], or the application of such provision to other persons or circumstances shall not be affected by such determination.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1973j of this title.

§ 1973a. Proceeding to enforce the right to vote

(a) Authorization by court for appointment of Federal examiners

Whenever the Attorney General or an aggrieved person institutes a proceeding under any statute to enforce the voting guarantees of the fourteenth or fifteenth amendment in any State or political subdivision the court shall authorize the appointment of Federal examiners by the Director of the Office of Personnel Management in accordance with section 1973d of this title to serve for such period of time and for such political subdivisions as the court shall determine is appropriate to enforce the voting guarantees of the fourteenth or fifteenth amendment (1) as part of any interlocutory order if the court determines that the appointment of such examiners is necessary to enforce such voting guarantees or (2) as part of any final judgment if the court finds that violations of the fourteenth or fifteenth amendment justifying equitable relief have occurred in such State or subdivision: *Provided*, That the court need not authorize the appointment of examiners if any incidents of denial or abridgement of the right to vote on account of race or color, or in contravention of the voting guarantees set forth in section 1973b(f)(2) of this title (1) have been few in number and have been promptly and effectively corrected by State or local action, (2) the continuing effect of such incidents has been eliminated, and (3) there is no reasonable probability of their recurrence in the future.

(b) Suspension of use of tests and devices which deny or abridge the right to vote

If in a proceeding instituted by the Attorney General or an aggrieved person under any stat-

ute to enforce the voting guarantees of the fourteenth or fifteenth amendment in any State or political subdivision the court finds that a test or device has been used for the purpose or with the effect of denying or abridging the right of any citizen of the United States to vote on account of race or color, or in contravention of the voting guarantees set forth in section 1973b(f)(2) of this title, it shall suspend the use of tests and devices in such State or political subdivisions as the court shall determine is appropriate and for such period as it deems necessary.

(c) Retention of jurisdiction to prevent commencement of new devices to deny or abridge the right to vote

If in any proceeding instituted by the Attorney General or an aggrieved person under any statute to enforce the voting guarantees of the fourteenth or fifteenth amendment in any State or political subdivision the court finds that violations of the fourteenth or fifteenth amendment justifying equitable relief have occurred within the territory of such State or political subdivision, the court, in addition to such relief as it may grant, shall retain jurisdiction for such period as it may deem appropriate and during such period no voting qualification or prerequisite to voting or standard, practice, or procedure with respect to voting different from that in force or effect at the time the proceeding was commenced shall be enforced unless and until the court finds that such qualification, prerequisite, standard, practice, or procedure does not have the purpose and will not have the effect of denying or abridging the right to vote on account of race or color, or in contravention of the voting guarantees set forth in section 1973b(f)(2) of this title: *Provided*, That such qualification, prerequisite, standard, practice, or procedure may be enforced if the qualification, prerequisite, standard, practice, or procedure has been submitted by the chief legal officer or other appropriate official of such State or subdivision to the Attorney General and the Attorney General has not interposed an objection within sixty days after such submission, except that neither the court's finding nor the Attorney General's failure to object shall bar a subsequent action to enjoin enforcement of such qualification, prerequisite, standard, practice, or procedure.

(Pub. L. 89–110, title I, § 3, Aug. 6, 1965, 79 Stat. 437; renumbered title I, Pub. L. 91–285, § 2, June 22, 1970, 84 Stat. 314; amended Pub. L. 94–73, title II, §§ 205, 206, title IV, §§ 401, 410, Aug. 6, 1975, 89 Stat. 402, 404, 406; 1978 Reorg. Plan No. 2, § 102, eff. Jan. 1, 1979, 43 F.R. 36037, 92 Stat. 3783.)

AMENDMENTS

1975—Subsec. (a). Pub. L. 94–73 inserted reference to fourteenth amendment in three places, and substituted ''voting guarantees'' for ''guarantees'' in three places, ''Attorney General or an aggrieved person'' for ''Attorney General'', and ''on account of race or color or in contravention of the voting guarantees set forth in section 1973b(f)(2) of this title'' for ''on account of race or color''.

Subsec. (b). Pub. L. 94–73 substituted ''Attorney General or an aggrieved person under any statute to enforce the voting guarantees of the fourteenth or fifteenth amendment'' for ''Attorney General under any statute to enforce the guarantees of the fifteenth amendment'', and ''on account of race or color, or in contravention of the voting guarantees set forth in section 1973b(f)(2) of this title'' for ''on account of race or color''.

Subsec. (c). Pub. L. 94–73 substituted ''Attorney General or an aggrieved person under any statute to enforce the voting guarantees of the fourteenth or fifteenth amendment in any State or political subdivision the court finds that violations of the fourteenth or fifteenth amendment'' for ''Attorney General under any statute to enforce the guarantees of the fifteenth amendment in any State or political subdivision the court finds that violations of the fifteenth amendment'' and ''on account of race or color, or in contravention of the voting guarantees set forth in section 1973b(f)(2) of this title'' for ''on account of race or color''.

TRANSFER OF FUNCTIONS

''Director of the Office of Personnel Management'' substituted for ''United States Civil Service Commission'' in subsec. (a) pursuant to Reorg. Plan No. 2 of 1978, § 102, 43 F.R. 36037, 92 Stat. 3783, set out under section 1101 of Title 5, Government Organization and Employees, which transferred all functions vested by statute in United States Civil Service Commission to Director of Office of Personnel Management (except as otherwise specified), effective Jan. 1, 1979, as provided by section 1–102 of Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, set out under section 1101 of Title 5.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1973d, 1973f, 1973i, 1973j, 1973k of this title.

§ 1973b. Suspension of the use of tests or devices in determining eligibility to vote

(a) Action by State or political subdivision for declaratory judgment of no denial or abridgement; three-judge district court; appeal to Supreme Court; retention of jurisdiction by three-judge court

(1) To assure that the right of citizens of the United States to vote is not denied or abridged on account of race or color, no citizen shall be denied the right to vote in any Federal, State, or local election because of his failure to comply with any test or device in any State with respect to which the determinations have been made under the first two sentences of subsection (b) of this section or in any political subdivision of such State (as such subdivision existed on the date such determinations were made with respect to such State), though such determinations were not made with respect to such subdivision as a separate unit, or in any political subdivision with respect to which such determinations have been made as a separate unit, unless the United States District Court for the District of Columbia issues a declaratory judgment under this section. No citizen shall be denied the right to vote in any Federal, State, or local election because of his failure to comply with any test or device in any State with respect to which the determinations have been made under the third sentence of subsection (b) of this section or in any political subdivision of such State (as such subdivision existed on the date such determinations were made with respect to such State), though such determinations were not made with respect to such subdivision as a separate unit, or in any political subdivision with respect to which such determinations have been made as a separate unit,

unless the United States District Court for the District of Columbia issues a declaratory judgment under this section. A declaratory judgment under this section shall issue only if such court determines that during the ten years preceding the filing of the action, and during the pendency of such action—

(A) no such test or device has been used within such State or political subdivision for the purpose or with the effect of denying or abridging the right to vote on account of race or color or (in the case of a State or subdivision seeking a declaratory judgment under the second sentence of this subsection) in contravention of the guarantees of subsection (f)(2) of this section;

(B) no final judgment of any court of the United States, other than the denial of declaratory judgment under this section, has determined that denials or abridgements of the right to vote on account of race or color have occurred anywhere in the territory of such State or political subdivision or (in the case of a State or subdivision seeking a declaratory judgment under the second sentence of this subsection) that denials or abridgements of the right to vote in contravention of the guarantees of subsection (f)(2) of this section have occurred anywhere in the territory of such State or subdivision and no consent decree, settlement, or agreement has been entered into resulting in any abandonment of a voting practice challenged on such grounds; and no declaratory judgment under this section shall be entered during the pendency of an action commenced before the filing of an action under this section and alleging such denials or abridgements of the right to vote;

(C) no Federal examiners under subchapters I–A to I–C of this chapter have been assigned to such State or political subdivision;

(D) such State or political subdivision and all governmental units within its territory have complied with section 1973c of this title, including compliance with the requirement that no change covered by section 1973c of this title has been enforced without preclearance under section 1973c of this title, and have repealed all changes covered by section 1973c of this title to which the Attorney General has successfully objected or as to which the United States District Court for the District of Columbia has denied a declaratory judgment;

(E) the Attorney General has not interposed any objection (that has not been overturned by a final judgment of a court) and no declaratory judgment has been denied under section 1973c of this title, with respect to any submission by or on behalf of the plaintiff or any governmental unit within its territory under section 1973c of this title, and no such submissions or declaratory judgment actions are pending; and

(F) such State or political subdivision and all governmental units within its territory—

(i) have eliminated voting procedures and methods of election which inhibit or dilute equal access to the electoral process;

(ii) have engaged in constructive efforts to eliminate intimidation and harassment of persons exercising rights protected under subchapters I–A to I–C of this chapter; and

(iii) have engaged in other constructive efforts, such as expanded opportunity for convenient registration and voting for every person of voting age and the appointment of minority persons as election officials throughout the jurisdiction and at all stages of the election and registration process.

(2) To assist the court in determining whether to issue a declaratory judgment under this subsection, the plaintiff shall present evidence of minority participation, including evidence of the levels of minority group registration and voting, changes in such levels over time, and disparities between minority-group and non-minority-group participation.

(3) No declaratory judgment shall issue under this subsection with respect to such State or political subdivision if such plaintiff and governmental units within its territory have, during the period beginning ten years before the date the judgment is issued, engaged in violations of any provision of the Constitution or laws of the United States or any State or political subdivision with respect to discrimination in voting on account of race or color or (in the case of a State or subdivision seeking a declaratory judgment under the second sentence of this subsection) in contravention of the guarantees of subsection (f)(2) of this section unless the plaintiff establishes that any such violations were trivial, were promptly corrected, and were not repeated.

(4) The State or political subdivision bringing such action shall publicize the intended commencement and any proposed settlement of such action in the media serving such State or political subdivision and in appropriate United States post offices. Any aggrieved party may as of right intervene at any stage in such action.

(5) An action pursuant to this subsection shall be heard and determined by a court of three judges in accordance with the provisions of section 2284 of title 28 and any appeal shall lie to the Supreme Court. The court shall retain jurisdiction of any action pursuant to this subsection for ten years after judgment and shall reopen the action upon motion of the Attorney General or any aggrieved person alleging that conduct has occurred which, had that conduct occurred during the ten-year periods referred to in this subsection, would have precluded the issuance of a declaratory judgment under this subsection. The court, upon such reopening, shall vacate the declaratory judgment issued under this section if, after the issuance of such declaratory judgment, a final judgment against the State or subdivision with respect to which such declaratory judgment was issued, or against any governmental unit within that State or subdivision, determines that denials or abridgements of the right to vote on account of race or color have occurred anywhere in the territory of such State or political subdivision or (in the case of a State or subdivision which sought a declaratory judgment under the second sentence of this subsection) that denials or abridgements of the right to vote in contravention of the guarantees of subsection (f)(2) of this section have occurred anywhere in the territory of such State or sub-

division, or if, after the issuance of such declaratory judgment, a consent decree, settlement, or agreement has been entered into resulting in any abandonment of a voting practice challenged on such grounds.

(6) If, after two years from the date of the filing of a declaratory judgment under this subsection, no date has been set for a hearing in such action, and that delay has not been the result of an avoidable delay on the part of counsel for any party, the chief judge of the United States District Court for the District of Columbia may request the Judicial Council for the Circuit of the District of Columbia to provide the necessary judicial resources to expedite any action filed under this section. If such resources are unavailable within the circuit, the chief judge shall file a certificate of necessity in accordance with section 292(d) of title 28.

(7) The Congress shall reconsider the provisions of this section at the end of the fifteen-year period following the effective date of the amendments made by the Voting Rights Act Amendments of 1982.

(8) The provisions of this section shall expire at the end of the twenty-five-year period following the effective date of the amendments made by the Voting Rights Act Amendments of 1982.

(9) Nothing in this section shall prohibit the Attorney General from consenting to an entry of judgment if based upon a showing of objective and compelling evidence by the plaintiff, and upon investigation, he is satisfied that the State or political subdivision has complied with the requirements of subsection (a)(1) of this section. Any aggrieved party may as of right intervene at any stage in such action.

(b) Required factual determinations necessary to allow suspension of compliance with tests and devices; publication in Federal Register

The provisions of subsection (a) of this section shall apply in any State or in any political subdivision of a State which (1) the Attorney General determines maintained on November 1, 1964, any test or device, and with respect to which (2) the Director of the Census determines that less than 50 per centum of the persons of voting age residing therein were registered on November 1, 1964, or that less than 50 per centum of such persons voted in the presidential election of November 1964. On and after August 6, 1970, in addition to any State or political subdivision of a State determined to be subject to subsection (a) of this section pursuant to the previous sentence, the provisions of subsection (a) of this section shall apply in any State or any political subdivision of a State which (i) the Attorney General determines maintained on November 1, 1968, any test or device, and with respect to which (ii) the Director of the Census determines that less than 50 per centum of the persons of voting age residing therein were registered on November 1, 1968, or that less than 50 per centum of such persons voted in the presidential election of November 1968. On and after August 6, 1975, in addition to any State or political subdivision of a State determined to be subject to subsection (a) of this section pursuant to the previous two sentences, the provisions of subsection (a) of this section shall apply in any State or any political subdivision of a State which (i) the Attorney General determines maintained on November 1, 1972, any test or device, and with respect to which (ii) the Director of the Census determines that less than 50 per centum of the citizens of voting age were registered on November 1, 1972, or that less than 50 per centum of such persons voted in the Presidential election of November 1972.

A determination or certification of the Attorney General or of the Director of the Census under this section or under section 1973d or 1973k of this title shall not be reviewable in any court and shall be effective upon publication in the Federal Register.

(c) "Test or device" defined

The phrase ''test or device'' shall mean any requirement that a person as a prerequisite for voting or registration for voting (1) demonstrate the ability to read, write, understand, or interpret any matter, (2) demonstrate any educational achievement or his knowledge of any particular subject, (3) possess good moral character, or (4) prove his qualifications by the voucher of registered voters or members of any other class.

(d) Required frequency, continuation and probable recurrence of incidents of denial or abridgement to constitute forbidden use of tests or devices

For purposes of this section no State or political subdivision shall be determined to have engaged in the use of tests or devices for the purpose or with the effect of denying or abridging the right to vote on account of race or color, or in contravention of the guarantees set forth in subsection (f)(2) of this section if (1) incidents of such use have been few in number and have been promptly and effectively corrected by State or local action, (2) the continuing effect of such incidents has been eliminated, and (3) there is no reasonable probability of their recurrence in the future.

(e) Completion of requisite grade level of education in American-flag schools in which the predominant classroom language was other than English

(1) Congress hereby declares that to secure the rights under the fourteenth amendment of persons educated in American-flag schools in which the predominant classroom language was other than English, it is necessary to prohibit the States from conditioning the right to vote of such persons on ability to read, write, understand, or interpret any matter in the English language.

(2) No person who demonstrates that he has successfully completed the sixth primary grade in a public school in, or a private school accredited by, any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico in which the predominant classroom language was other than English, shall be denied the right to vote in any Federal, State, or local election because of his inability to read, write, understand, or interpret any matter in the English language, except that in States in which State law provides that a different level of education is presumptive of literacy, he shall demonstrate

that he has successfully completed an equivalent level of education in a public school in, or a private school accredited by, any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico in which the predominant classroom language was other than English.

(f) Congressional findings of voting discrimination against language minorities; prohibition of English-only elections; other remedial measures

(1) The Congress finds that voting discrimination against citizens of language minorities is pervasive and national in scope. Such minority citizens are from environments in which the dominant language is other than English. In addition they have been denied equal educational opportunities by State and local governments, resulting in severe disabilities and continuing illiteracy in the English language. The Congress further finds that, where State and local officials conduct elections only in English, language minority citizens are excluded from participating in the electoral process. In many areas of the country, this exclusion is aggravated by acts of physical, economic, and political intimidation. The Congress declares that, in order to enforce the guarantees of the fourteenth and fifteenth amendments to the United States Constitution, it is necessary to eliminate such discrimination by prohibiting English-only elections, and by prescribing other remedial devices.

(2) No voting qualification or prerequisite to voting, or standard, practice, or procedure shall be imposed or applied by any State or political subdivision to deny or abridge the right of any citizen of the United States to vote because he is a member of a language minority group.

(3) In addition to the meaning given the term under subsection (c) of this section, the term ''test or device'' shall also mean any practice or requirement by which any State or political subdivision provided any registration or voting notices, forms, instructions, assistance, or other materials or information relating to the electoral process, including ballots, only in the English language, where the Director of the Census determines that more than five per centum of the citizens of voting age residing in such State or political subdivision are members of a single language minority. With respect to subsection (b) of this section, the term ''test or device'', as defined in this subsection, shall be employed only in making the determinations under the third sentence of that subsection.

(4) Whenever any State or political subdivision subject to the prohibitions of the second sentence of subsection (a) of this section provides any registration or voting notices, forms, instructions, assistance, or other materials or information relating to the electoral process, including ballots, it shall provide them in the language of the applicable language minority group as well as in the English language: *Provided*, That where the language of the applicable minority group is oral or unwritten or in the case of Alaskan Natives and American Indians, if the predominate language is historically unwritten, the State or political subdivision is only required to furnish oral instructions, assistance, or other information relating to registration and voting.

(Pub. L. 89–110, title I, § 4, Aug. 6, 1965, 79 Stat. 438; renumbered title I and amended Pub. L. 91–285, §§ 2–4, June 22, 1970, 84 Stat. 314, 315; Pub. L. 94–73, title I, § 101, title II, §§ 201–203, 206, Aug. 6, 1975, 89 Stat. 400–402; Pub. L. 97–205, § 2(a)–(c), June 29, 1982, 96 Stat. 131–133.)

REFERENCES IN TEXT

The Voting Rights Act Amendments of 1982, referred to in subsec. (a)(7) and (8), is Pub. L. 97–205, June 29, 1982, 96 Stat. 131. The amendments made by that Act are governed by one of three effective dates as follows:

(1) The substitution, in subsec. (a) of this section, of ''nineteen years'' for ''seventeen years'', the insertion, in subsec. (f)(4) of this section, of provisions relating to Alaskan Natives and American Indians if the predominate language is historically unwritten, and the amendment of sections 1973 and 1973aa–1a of this title are effective June 29, 1982.

(2) The enactment of section 1973aa–6 of this title is effective Jan. 1, 1984.

(3) The complete revision of subsec. (a) of this section by section 2(b) of Pub. L. 97–205 is effective on and after Aug. 5, 1984.

AMENDMENTS

1982—Subsec. (a). Pub. L. 97–205, § 2(a), (b), substituted ''nineteen years'' for ''seventeen years'' in three places, effective June 29, 1982, and, effective on and after Aug. 5, 1985, completely revised subsec. (a). Prior to such revision, subsec. (a) consisted of 4 undesignated paragraphs reading as follows:

''To assure that the right of citizens of the United States to vote is not denied or abridged on account of race or color, no citizen shall be denied the right to vote in any Federal, State, or local election because of his failure to comply with any test or device in any State with respect to which the determinations have been made under the first two sentences of subsection (b) of this section or in any political subdivision with respect to which such determinations have been made as a separate unit, unless the United States District Court for the District of Columbia in an action for a declaratory judgment brought by such State or subdivision against the United States has determined that no such test or device has been used during the seventeen years preceding the filing of the action for the purpose or with the effect of denying or abridging the right to vote on account of race or color: *Provided*, That no such declaratory judgment shall issue with respect to any plaintiff for a period of seventeen years after the entry of a final judgment of any court of the United States, other than the denial of a declaratory judgment under this section, whether entered prior to or after August 6, 1965, determining that denials or abridgments of the right to vote on account of race or color through the use of such tests or devices have occurred any where in the territory of such plaintiff. No citizen shall be denied the right to vote in any Federal, State, or local election because of his failure to comply with any test or device in any State with respect to which the determinations have been made under the third sentence of subsection (b) of this section or in any political subdivision with respect to which such determinations have been made as a separate unit, unless the United States District Court for the District of Columbia in an action for a declaratory judgment brought by such State or subdivision against the United States has determined that no such test or device has been used during the ten years preceding the filing of the action for the purpose or with the effect of denying or abridging the right to vote on account of race or color, or in contravention of the guarantees set forth in subsection (f)(2) of this section: *Provided*, That no such declaratory judgment shall issue with respect to any plaintiff for a

period of ten years after the entry of a final judgment of any court of the United States, other than the denial of a declaratory judgment under this section, whether entered prior to or after the enactment of this paragraph, determining that denials or abridgments of the right to vote on account of race or color, or in contravention of the guarantees set forth in subsection (f)(2) of this section through the use of tests or devices have occurred anywhere in the territory of such plaintiff.

''An action pursuant to this subsection shall be heard and determined by a court of three judges in accordance with the provisions of section 2284 of title 28 and any appeal shall lie to the Supreme Court. The court shall retain jurisdiction of any action pursuant to this subsection for five years after judgment and shall reopen the action upon motion of the Attorney General alleging that a test or device has been used for the purpose or with the effect of denying or abridging the right to vote on account of race or color, or in contravention of the guarantees set forth in subsection (f)(2) of this section.

''If the Attorney General determines that he has no reason to believe that any such test or device has been used during the seventeen years preceding the filing of an action under the first sentence of this subsection for the purpose or with the effect of denying or abridging the right to vote on account of race or color, he shall consent to the entry of such judgment.

''If the Attorney General determines that he has no reason to believe that any such test or device has been used during the ten years preceding the filing of an action under the second sentence of this subsection for the purpose or with the effect of denying or abridging the right to vote on account of race or color, or in contravention of the guarantees set forth in subsection (f)(2) of this section, he shall consent to the entry of such judgment.''

Subsec. (f)(4). Pub. L. 97–205, § 2(c), inserted ''or in the case of Alaskan Natives and American Indians, if the predominate language is historically unwritten''.

1975—Subsec. (a). Pub. L. 94–73, §§ 101, 201, 206, in first par., substituted ''seventeen years'' for ''ten years'' in two places, and ''determinations have been made under the first two sentences of subsection (b)'' for ''determinations have been made under subsection (b)'', inserted provisions that no citizen shall be denied the right to vote in any Federal, State, or local election because of his failure to comply with any test or device in any state with respect to which the determinations have been made under the third sentence of subsection (b) of this section or in any political subdivision with respect to which such determinations have been made as a separate unit, unless the United States District Court for the District of Columbia in an action for a declaratory judgment brought by such state or subdivision against the United States has determined that no such test or device has been used during the ten years preceding the filing of the action for the purpose or with the effect of denying or abridging the right to vote on account of race or color, or in contravention of the guarantees set forth in subsection (f)(2) of this section with the proviso that no such declaratory judgment shall issue with respect to any plaintiff for a period of ten years after the entry of final judgment of any court of the United States, other than the denial of a declaratory judgment under this section, whether entered prior to or after the enactment of this paragraph, determining that denials or abridgments of the right to vote on account of race or color, or in contravention of the guarantees set forth in subsection (f)(2) of this section through the use of tests or devices have occurred anywhere in the territory of such plaintiff, in second par., substituted ''on account of race or color, or in contravention of the guarantees set forth in subsection (f)(2) of this section'' for ''on account of race or color'', in third par., substituted ''seventeen years preceding the filing of an action under the first sentence of this subsection'' for ''ten years preceding the filing of the action'', and added fourth par.

Subsec. (b). Pub. L. 94–73, § 202, inserted provisions that on and after August 6, 1975, in addition to any State or political subdivision of a State determined to be subject to subsection (a) pursuant to the previous two sentences, the provisions of subsection (a) shall apply in any State or any political subdivision of a State which the Attorney General determines maintained on November 1, 1972, any test or device, and with respect to which the Director of the Census determines that less than 50 per centum of the citizens of voting age were registered on November 1, 1972, or that less than 50 per centum of such persons voted in the Presidential election of November, 1972.

Subsec. (d). Pub. L. 94–73, § 206, substituted ''on account of race or color or in contravention of the guarantees set forth in section 1973b(f)(2) of this title'' for ''on account of race or color''.

Subsec. (f). Pub. L. 94–73, § 203, added subsec. (f).

1970—Subsec. (a). Pub. L. 91–285, § 3, substituted ''ten'' for ''five'' years in first and third pars.

Subsec. (b). Pub. L. 91–285, § 4, inserted provision respecting the making of factual determinations concerning maintenance of any test or device on Nov. 1, 1968, registration of less than 50 per centum of persons of voting age on Nov. 1, 1968, and voting by less than 50 per centum of such persons in the presidential election of November 1968.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by section 2(a), (c) of Pub. L. 97–205 effective June 29, 1982, see section 6 of Pub. L. 97–205, set out as a note under section 1973 of this title.

Section 2(b) of Pub. L. 97–205 provided that the amendment made by that section is effective on and after Aug. 5, 1984.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1973, 1973a, 1973c, 1973d, 1973h, 1973j, 1973k, 1973*l*, 1973aa–5 of this title.

§ 1973c. Alteration of voting qualifications and procedures; action by State or political subdivision for declaratory judgment of no denial or abridgement of voting rights; three-judge district court; appeal to Supreme Court

Whenever a State or political subdivision with respect to which the prohibitions set forth in section 1973b(a) of this title based upon determinations made under the first sentence of section 1973b(b) of this title are in effect shall enact or seek to administer any voting qualification or prerequisite to voting, or standard, practice, or procedure with respect to voting different from that in force or effect on November 1, 1964, or whenever a State or political subdivision with respect to which the prohibitions set forth in section 1973b(a) of this title based upon determinations made under the second sentence of section 1973b(b) of this title are in effect shall enact or seek to administer any voting qualification or prerequisite to voting, or standard, practice, or procedure with respect to voting different from that in force or effect on November 1, 1968, or whenever a State or political subdivision with respect to which the prohibitions set forth in section 1973b(a) of this title based upon determinations made under the third sentence of section 1973b(b) of this title are in effect shall enact or seek to administer any voting qualification or prerequisite to voting, or standard, practice, or procedure with respect to voting different from that in force or effect on November 1, 1972, such State or subdivision may institute

an action in the United States District Court for the District of Columbia for a declaratory judgment that such qualification, prerequisite, standard, practice, or procedure does not have the purpose and will not have the effect of denying or abridging the right to vote on account of race or color, or in contravention of the guarantees set forth in section 1973b(f)(2) of this title, and unless and until the court enters such judgment no person shall be denied the right to vote for failure to comply with such qualification, prerequisite, standard, practice, or procedure: *Provided*, That such qualification, prerequisite, standard, practice, or procedure may be enforced without such proceeding if the qualification, prerequisite, standard, practice, or procedure has been submitted by the chief legal officer or other appropriate official of such State or subdivision to the Attorney General and the Attorney General has not interposed an objection within sixty days after such submission, or upon good cause shown, to facilitate an expedited approval within sixty days after such submission, the Attorney General has affirmatively indicated that such objection will not be made. Neither an affirmative indication by the Attorney General that no objection will be made, nor the Attorney General's failure to object, nor a declaratory judgment entered under this section shall bar a subsequent action to enjoin enforcement of such qualification, prerequisite, standard, practice, or procedure. In the event the Attorney General affirmatively indicates that no objection will be made within the sixty-day period following receipt of a submission, the Attorney General may reserve the right to reexamine the submission if additional information comes to his attention during the remainder of the sixty-day period which would otherwise require objection in accordance with this section. Any action under this section shall be heard and determined by a court of three judges in accordance with the provisions of section 2284 of title 28 and any appeal shall lie to the Supreme Court.

(Pub. L. 89–110, title I, § 5, Aug. 6, 1965, 79 Stat. 439; renumbered title I and amended Pub. L. 91–285, §§ 2, 5, June 22, 1970, 84 Stat. 314, 315; Pub. L. 94–73, title II, §§ 204, 206, title IV, § 405, Aug. 6, 1975, 89 Stat. 402, 404.)

AMENDMENTS

1975—Pub. L. 94–73 inserted ''or whenever a State or political subdivision with respect to which the prohibitions set forth in section 1973b(a) of this title based upon determinations made under third sentence of section 1973b(b) of this title are in effect shall enact or seek to administer any voting qualification or prerequisite to voting, or standard, practice, or procedure with respect to voting different from that in force or effect on November 1, 1972,'' after 1968, substituted ''or upon good cause shown, to facilitate an expedited approval within sixty days after such submission, the Attorney General has affirmatively indicated that such objection will not be made. Neither an affirmative indication by the Attorney General that no objection will be made, nor the Attorney General's failure to object,'' for ''except that neither the Attorney General's failure to object'', and ''on account of race or color, or in contravention of the guarantees set forth in section 1973b(f)(2) of this title'' for ''on account of race or color'', and inserted provisions that in the event the Attorney General affirmatively indicates that no objection will be made within the sixty-day period following receipt of a submission, the Attorney General may reserve the right to examine the submission if additional information comes to his attention during the remainder of the sixty-day period which would otherwise require objection in accordance with this section.

1970—Pub. L. 91–285 inserted ''based upon determinations made under the first sentence of section 1973b(b) of this title'' after ''section 1973b(a) of this title'' and ''or whenever a State or political subdivision with respect to which the prohibitions set forth in section 1973b(a) of this title based upon determinations made under the second sentence of section 1973b(b) of this title are in effect shall enact or seek to administer any voting qualification or prerequisite to voting, or standard, practice, or procedure with respect to voting different from that in force or effect on November 1, 1968,'' after ''1964,''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1973b, 1973j, 1973*l* of this title.

§ 1973d. Federal voting examiners; appointment

Whenever (a) a court has authorized the appointment of examiners pursuant to the provisions of section 1973a(a) of this title, or (b) unless a declaratory judgment has been rendered under section 1973b(a) of this title, the Attorney General certifies with respect to any political subdivision named in, or included within the scope of, determinations made under section 1973b(b) of this title that (1) he has received complaints in writing from twenty or more residents of such political subdivision alleging that they have been denied the right to vote under color of law on account of race or color, or in contravention of the guarantees set forth in section 1973b(f)(2) of this title, and that he believes such complaints to be meritorious, or (2) that in his judgment (considering, among other factors, whether the ratio of nonwhite persons to white persons registered to vote within such subdivision appears to him to be reasonably attributable to violations of the fourteenth or fifteenth amendment or whether substantial evidence exists that bona fide efforts are being made within such subdivision to comply with the fourteenth or fifteenth amendment), the appointment of examiners is otherwise necessary to enforce the guarantees of the fourteenth or fifteenth amendment, the Director of the Office of Personnel Management shall appoint as many examiners for such subdivision as the Director may deem appropriate to prepare and maintain lists of persons eligible to vote in Federal, State, and local elections. Such examiners, hearing officers provided for in section 1973g(a) of this title and other persons deemed necessary by the Director to carry out the provisions and purposes of subchapters I–A to I–C of this chapter shall be appointed, compensated, and separated without regard to the provisions of any statute administered by the Director of the Office of Personnel Management, and service under subchapters I–A to I–C of this chapter shall not be considered employment for the purposes of any statute administered by the Director of the Office of Personnel Management, except the provisions of subchapter III of chapter 73 of title 5 relating to political activities: *Provided*, That the Director is authorized, after consulting the head of the appropriate department

or agency, to designate suitable persons in the official service of the United States, with their consent, to serve in these positions. Examiners and hearing officers shall have the power to administer oaths.

(Pub. L. 89–110, title I, § 6, Aug. 6, 1965, 79 Stat. 439; renumbered title I, Pub. L. 91–285, § 2, June 22, 1970, 84 Stat. 314; amended Pub. L. 94–73, title II, §§ 205, 206, Aug. 6, 1975, 89 Stat. 402; 1978 Reorg. Plan No. 2, § 102, eff. Jan. 1, 1979, 43 F.R. 36037, 92 Stat. 3783; Pub. L. 103–94, § 5, Oct. 6, 1993, 107 Stat. 1005.)

AMENDMENTS

1993—Pub. L. 103–94 substituted ''the provisions of subchapter III of chapter 73 of title 5 relating to political activities'' for ''the provisions of section 9 of the Act of August 2, 1939, as amended (5 U.S.C. 118i), prohibiting partisan political activity''.

1975—Pub. L. 94–73 inserted reference to fourteenth amendment in three places and substituted ''on account of race or color, or in contravention of the guarantees set forth in section 1973b(f)(2) of this title'' for ''on account of race or color''.

EFFECTIVE DATE OF 1993 AMENDMENT; SAVINGS PROVISION

Amendment by Pub. L. 103–94 effective 120 days after Oct. 6, 1993, but not to release or extinguish any penalty, forfeiture, or liability incurred under amended provision, which is to be treated as remaining in force for purpose of sustaining any proper proceeding or action for enforcement of that penalty, forfeiture, or liability, and no provision of Pub. L. 103–94 to affect any proceedings with respect to which charges were filed on or before 120 days after Oct. 6, 1993, with orders to be issued in such proceedings and appeals taken therefrom as if Pub. L. 103–94 had not been enacted, see section 12 of Pub. L. 103–94, set out as an Effective Date; Savings Provision note under section 7321 of Title 5, Government Organization and Employees.

TRANSFER OF FUNCTIONS

''Director of the Office of Personnel Management'', ''Director'', and ''the Director'' substituted in text for ''Civil Service Commission'', ''Commission'', and ''it'', respectively, pursuant to Reorg. Plan No. 2 of 1978, § 102, 43 F.R. 36037, 92 Stat. 3783, set out under section 1101 of Title 5, Government Organization and Employees, which transferred all functions vested by statute in United States Civil Service Commission to Director of Office of Personnel Management (except as otherwise specified), effective Jan. 1, 1979, as provided by section 1–102 of Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, set out under section 1101 of Title 5.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1973a, 1973b, 1973i, 1973k of this title.

§ 1973e. Examination of applicants for registration

(a) Form of application; requisite allegation of nonregistration

The examiners for each political subdivision shall, at such places as the Director of the Office of Personnel Management shall by regulation designate, examine applicants concerning their qualifications for voting. An application to an examiner shall be in such form as the Director may require and shall contain allegations that the applicant is not otherwise registered to vote.

(b) Placement of eligible voters on official lists; transmittal of lists

Any person whom the examiner finds, in accordance with instructions received under section 1973g(b) of this title, to have the qualifications prescribed by State law not inconsistent with the Constitution and laws of the United States shall promptly be placed on a list of eligible voters. A challenge to such listing may be made in accordance with section 1973g(a) of this title and shall not be the basis for a prosecution under section 1973j of this title. The examiner shall certify and transmit such list, and any supplements as appropriate, at least once a month, to the offices of the appropriate election officials, with copies to the Attorney General and the attorney general of the State, and any such lists and supplements thereto transmitted during the month shall be available for public inspection on the last business day of the month and in any event not later than the forty-fifth day prior to any election. The appropriate State or local election official shall place such names on the official voting list. Any person whose name appears on the examiner's list shall be entitled and allowed to vote in the election district of his residence unless and until the appropriate election officials shall have been notified that such person has been removed from such list in accordance with subsection (d) of this section: *Provided*, That no person shall be entitled to vote in any election by virtue of subchapters I–A to I–C of this chapter unless his name shall have been certified and transmitted on such a list to the offices of the appropriate election officials at least forty-five days prior to such election.

(c) Certificate of eligibility

The examiner shall issue to each person whose name appears on such a list a certificate evidencing his eligibility to vote.

(d) Removal of names from list by examiners

A person whose name appears on such a list shall be removed therefrom by an examiner if (1) such person has been successfully challenged in accordance with the procedure prescribed in section 1973g of this title, or (2) he has been determined by an examiner to have lost his eligibility to vote under State law not inconsistent with the Constitution and the laws of the United States.

(Pub. L. 89–110, title I, § 7, Aug. 6, 1965, 79 Stat. 440; renumbered title I, Pub. L. 91–285, § 2, June 22, 1970, 84 Stat. 314; amended 1978 Reorg. Plan No. 2, § 102, eff. Jan. 1, 1979, 43 F.R. 36037, 92 Stat. 3783.)

TRANSFER OF FUNCTIONS

''Director of the Office of Personnel Management'' and ''Director'' substituted for ''Civil Service Commission'' and ''Commission'', respectively, in subsec. (a) pursuant to Reorg. Plan No. 2 of 1978, § 102, 43 F.R. 36037, 92 Stat. 3783, set out under section 1101 of Title 5, Government Organization and Employees, which transferred all functions vested by statute in United States Civil Service Commission to Director of Office of Personnel Management (except as otherwise specified), effective Jan. 1, 1979, as provided by section 1–102 of Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, set out under section 1101 of Title 5.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1973j of this title.

§ 1973f. Observers at elections; assignment; duties; reports

Whenever an examiner is serving under subchapters I–A to I–C of this title in any political subdivision, the Director of the Office of Personnel Management may assign, at the request of the Attorney General, one or more persons, who may be officers of the United States, (1) to enter and attend at any place for holding an election in such subdivision for the purpose of observing whether persons who are entitled to vote are being permitted to vote, and (2) to enter and attend at any place for tabulating the votes cast at any election held in such subdivision for the purpose of observing whether votes cast by persons entitled to vote are being properly tabulated. Such persons so assigned shall report to an examiner appointed for such political subdivision, to the Attorney General, and if the appointment of examiners has been authorized pursuant to section 1973a(a) of this title, to the court.

(Pub. L. 89–110, title I, § 8, Aug. 6, 1965, 79 Stat. 441; renumbered title I, Pub. L. 91–285, § 2, June 22, 1970, 84 Stat. 314; amended 1978 Reorg. Plan. No. 2, § 102, eff. Jan. 1, 1979, 43 F.R. 36037, 92 Stat. 3783.)

TRANSFER OF FUNCTIONS

''Director of the Office of Personnel Management'' substituted in text for ''Civil Service Commission'' pursuant to Reorg. Plan No. 2 of 1978, § 102, 43 F.R. 36037, 92 Stat. 3783, set out under section 1101 of Title 5, Government Organization and Employees, which transferred all functions vested by statute in United States Civil Service Commission to Director of Office of Personnel Management (except as otherwise specified), effective Jan. 1, 1979, as provided by section 1–102 of Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, set out under section 1101 of Title 5.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1973i of this title.

§ 1973g. Challenges to eligibility listings

(a) Filing of challenge; supplementary affidavits; service upon person challenged; hearing; review

Any challenge to a listing on an eligibility list prepared by an examiner shall be heard and determined by a hearing officer appointed by and responsible to the Director of the Office of Personnel Management and under such rules as the Director shall by regulation prescribe. Such challenge shall be entertained only if filed at such office within the State as the Director of the Office of Personnel Management shall by regulation designate, and within ten days after the listing of the challenged person is made available for public inspection, and if supported by (1) the affidavits of at least two persons having personal knowledge of the facts constituting grounds for the challenge, and (2) a certification that a copy of the challenge and affidavits have been served by mail or in person upon the person challenged at his place of residence set out in the application. Such challenge shall be determined within fifteen days after it has been filed. A petition for review of the decision of the hearing officer may be filed in the United States court of appeals for the circuit in which the person challenged resides within fifteen days after service of such decision by mail on the person petitioning for review but no decision of a hearing officer shall be reversed unless clearly erroneous. Any person listed shall be entitled and allowed to vote pending final determination by the hearing officer and by the court.

(b) Rules and regulations by Director of the Office of Personnel Management

The times, places, procedures, and form for application and listing pursuant to subchapters I–A to I–C of this chapter and removals from the eligibility lists shall be prescribed by regulations promulgated by the Director of the Office of Personnel Management and the Director shall, after consultation with the Attorney General, instruct examiners concerning applicable State law not inconsistent with the Constitution and laws of the United States with respect to (1) the qualifications required for listing, and (2) loss of eligibility to vote.

(c) Subpena power of Director of the Office of Personnel Management; contempt

Upon the request of the applicant or the challenger or on its own motion the Director of the Office of Personnel Management shall have the power to require by subpena the attendance and testimony of witnesses and the production of documentary evidence relating to any matter pending before the Director under the authority of this section. In case of contumacy or refusal to obey a subpena, any district court of the United States or the United States court of any territory or possession, or the District Court of the United States for the District of Columbia, within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides or is domiciled or transacts business, or has appointed an agent for receipt of service of process, upon application by the Attorney General of the United States shall have jurisdiction to issue to such person an order requiring such person to appear before the Director or a hearing officer, there to produce pertinent, relevant, and nonprivileged documentary evidence if so ordered, or there to give testimony touching the matter under investigation; and any failure to obey such order of the court may be punished by said court as a contempt thereof.

(Pub. L. 89–110, title I, § 9, Aug. 6, 1965, 79 Stat. 441; renumbered title I, Pub. L. 91–285, § 2, June 22, 1970, 84 Stat. 314; amended 1978 Reorg. Plan No. 2, § 102, eff. Jan. 1, 1979, 43 F.R. 36037, 92 Stat. 3783.)

TRANSFER OF FUNCTIONS

''Director of the Office of Personnel Management'', ''Director'', and ''the Director'' substituted in text for ''Civil Service Commission'', ''Commission'', and ''it'', respectively, pursuant to Reorg. Plan No. 2 of 1978, § 102, 43 F.R. 36037, 92 Stat. 3783, set out under section 1101 of Title 5, Government Organization and Employees, which transferred all functions vested by statute in United States Civil Service Commission to Director of Office of Personnel Management (except as otherwise

specified), effective Jan. 1, 1979, as provided by section 1–102 of Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, set out under section 1101 of Title 5.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1973d, 1973e, 1973i, 1973*l* of this title.

§ 1973h. Poll taxes

(a) Congressional finding and declaration of policy against enforced payment of poll taxes as a device to impair voting rights

The Congress finds that the requirement of the payment of a poll tax as a precondition to voting (i) precludes persons of limited means from voting or imposes unreasonable financial hardship upon such persons as a precondition to their exercise of the franchise, (ii) does not bear a reasonable relationship to any legitimate State interest in the conduct of elections, and (iii) in some areas has the purpose or effect of denying persons the right to vote because of race or color. Upon the basis of these findings, Congress declares that the constitutional right of citizens to vote is denied or abridged in some areas by the requirement of the payment of a poll tax as a precondition to voting.

(b) Authority of Attorney General to institute actions for relief against enforcement of poll tax requirement

In the exercise of the powers of Congress under section 5 of the fourteenth amendment, section 2 of the fifteenth amendment and section 2 of the twenty-fourth amendment, the Attorney General is authorized and directed to institute forthwith in the name of the United States such actions, including actions against States or political subdivisions, for declaratory judgment or injunctive relief against the enforcement of any requirement of the payment of a poll tax as a precondition to voting, or substitute therefor enacted after November 1, 1964, as will be necessary to implement the declaration of subsection (a) of this section and the purposes of this section.

(c) Jurisdiction of three-judge district courts; appeal to Supreme Court

The district courts of the United States shall have jurisdiction of such actions which shall be heard and determined by a court of three judges in accordance with the provisions of section 2284 of title 28 and any appeal shall lie to the Supreme Court. It shall be the duty of the judges designated to hear the case to assign the case for hearing at the earliest practicable date, to participate in the hearing and determination thereof, and to cause the case to be in every way expedited.

(Pub. L. 89–110, title I, § 10, Aug. 6, 1965, 79 Stat. 442; renumbered title I, Pub. L. 91–285, § 2, June 22, 1970, 84 Stat. 314; amended Pub. L. 94–73, title IV, § 408, Aug. 6, 1975, 89 Stat. 405.)

AMENDMENTS

1975—Subsec. (b). Pub. L. 94–73, § 408(2), (3), inserted reference to section 2 of twenty-fourth amendment.

Subsec. (d). Pub. L. 94–73, § 408(1), struck out subsec. (d) which related to post-payment of poll taxes in event of a judicial declaration of constitutionality.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1973j of this title.

§ 1973i. Prohibited acts

(a) Failure or refusal to permit casting or tabulation of vote

No person acting under color of law shall fail or refuse to permit any person to vote who is entitled to vote under any provision of subchapters I–A to I–C of this chapter or is otherwise qualified to vote, or willfully fail or refuse to tabulate, count, and report such person's vote.

(b) Intimidation, threats, or coercion

No person, whether acting under color of law or otherwise, shall intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce any person for voting or attempting to vote, or intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce any person for urging or aiding any person to vote or attempt to vote, or intimidate, threaten, or coerce any person for exercising any powers or duties under section 1973a(a), 1973d, 1973f, 1973g, 1973h, or 1973j(e) of this title.

(c) False information in registering or voting; penalties

Whoever knowingly or willfully gives false information as to his name, address or period of residence in the voting district for the purpose of establishing his eligibility to register or vote, or conspires with another individual for the purpose of encouraging his false registration to vote or illegal voting, or pays or offers to pay or accepts payment either for registration to vote or for voting shall be fined not more than $10,000 or imprisoned not more than five years, or both: *Provided, however*, That this provision shall be applicable only to general, special, or primary elections held solely or in part for the purpose of selecting or electing any candidate for the office of President, Vice President, presidential elector, Member of the United States Senate, Member of the United States House of Representatives, Delegate from the District of Columbia, Guam, or the Virgin Islands, or Resident Commissioner of the Commonwealth of Puerto Rico.

(d) Falsification or concealment of material facts or giving of false statements in matters within jurisdiction of examiners or hearing officers; penalties

Whoever, in any matter within the jurisdiction of an examiner or hearing officer knowingly and willfully falsifies or conceals a material fact, or makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry, shall be fined not more than $10,000 or imprisoned not more than five years, or both.

(e) Voting more than once

(1) Whoever votes more than once in an election referred to in paragraph (2) shall be fined not more than $10,000 or imprisoned not more than five years, or both.

(2) The prohibition of this subsection applies with respect to any general, special, or primary

election held solely or in part for the purpose of selecting or electing any candidate for the office of President, Vice President, presidential elector, Member of the United States Senate, Member of the United States House of Representatives, Delegate from the District of Columbia, Guam, or the Virgin Islands, or Resident Commissioner of the Commonwealth of Puerto Rico.

(3) As used in this subsection, the term ''votes more than once'' does not include the casting of an additional ballot if all prior ballots of that voter were invalidated, nor does it include the voting in two jurisdictions under section 1973aa–1 of this title, to the extent two ballots are not cast for an election to the same candidacy or office.

(Pub. L. 89–110, title I, § 11, Aug. 6, 1965, 79 Stat. 443; renumbered title I, Pub. L. 91–285, § 2, June 22, 1970, 84 Stat. 314; amended Pub. L. 91–405, title II, § 204(e), Sept. 22, 1970, 84 Stat. 853; Pub. L. 94–73, title IV, §§ 404, 409, Aug. 6, 1975, 89 Stat. 404, 405.)

AMENDMENTS

1975—Subsec. (c). Pub. L. 94–73, § 404, inserted reference to Guam and Virgin Islands.

Subsec. (e). Pub. L. 94–73, § 409, added subsec. (e).

1970—Subsec. (c). Pub. L. 91–405 substituted reference to Delegate from District of Columbia for Delegates or Commissioners from territories or possessions.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–405 effective Sept. 22, 1970, see section 206(b) of Pub. L. 91–405, set out as an Effective Date note under section 25a of Title 2, The Congress.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1973j, 1973aa–1 of this title.

§ 1973j. Civil and criminal sanctions

(a) Depriving or attempting to deprive persons of secured rights

Whoever shall deprive or attempt to deprive any person of any right secured by section 1973, 1973a, 1973b, 1973c, 1973e, or 1973h of this title or shall violate section 1973i(a) of this title, shall be fined not more than $5,000, or imprisoned not more than five years, or both.

(b) Destroying, defacing, mutilating, or altering ballots or official voting records

Whoever, within a year following an election in a political subdivision in which an examiner has been appointed (1) destroys, defaces, mutilates, or otherwise alters the marking of a paper ballot which has been cast in such election, or (2) alters any official record of voting in such election tabulated from a voting machine or otherwise, shall be fined not more than $5,000, or imprisoned not more than five years, or both.

(c) Conspiring to violate or interfere with secured rights

Whoever conspires to violate the provisions of subsection (a) or (b) of this section, or interferes with any right secured by section 1973, 1973a, 1973b, 1973c, 1973e, 1973h, or 1973i(a) of this title shall be fined not more than $5,000, or imprisoned not more than five years, or both.

(d) Civil action by Attorney General for preventive relief; injunctive and other relief

Whenever any person has engaged or there are reasonable grounds to believe that any person is about to engage in any act or practice prohibited by section 1973, 1973a, 1973b, 1973c, 1973e, 1973h, 1973i, or subsection (b) of this section, the Attorney General may institute for the United States, or in the name of the United States, an action for preventive relief, including an application for a temporary or permanent injunction, restraining order, or other order, and including an order directed to the State and State or local election officials to require them (1) to permit persons listed under subchapters I–A to I–C of this chapter to vote and (2) to count such votes.

(e) Proceeding by Attorney General to enforce the counting of ballots of registered and eligible persons who are prevented from voting

Whenever in any political subdivision in which there are examiners appointed pursuant to subchapters I–A to I–C of this chapter any persons alleged to such an examiner within forty-eight hours after the closing of the polls that notwithstanding (1) their listing under subchapters I–A to I–C of this chapter or registration by an appropriate election official and (2) their eligibility to vote, they have not been permitted to vote in such election, the examiner shall forthwith notify the Attorney General if such allegations in his opinion appear to be well founded. Upon receipt of such notification, the Attorney General may forthwith file with the district court an application for an order providing for the marking, casting, and counting of the ballots of such persons and requiring the inclusion of their votes in the total vote before the results of such election shall be deemed final and any force or effect given thereto. The district court shall hear and determine such matters immediately after the filing of such application. The remedy provided in this subsection shall not preclude any remedy available under State or Federal law.

(f) Jurisdiction of district courts; exhaustion of administrative or other remedies unnecessary

The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this section and shall exercise the same without regard to whether a person asserting rights under the provisions of subchapters I–A to I–C of this chapter shall have exhausted any administrative or other remedies that may be provided by law.

(Pub. L. 89–110, title I, § 12, Aug. 6, 1965, 79 Stat. 443; Pub. L. 90–284, title I, § 103(c), Apr. 11, 1968, 82 Stat. 75; renumbered title I, Pub. L. 91–285, § 2, June 22, 1970, 84 Stat. 314.)

AMENDMENTS

1968—Subsecs. (a), (c). Pub. L. 90–284 struck out reference to violation of section 1973i(b) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1973e, 1973i of this title.

§ 1973k. Termination of listing procedures; basis for termination; survey or census by Director of the Census

Listing procedures shall be terminated in any political subdivision of any State (a) with respect to examiners appointed pursuant to clause (b) of section 1973d of this title whenever the Attorney General notifies the Director of the Office of Personnel Management, or whenever the District Court for the District of Columbia determines in an action for declaratory judgment brought by any political subdivision with respect to which the Director of the Census has determined that more than 50 per centum of the nonwhite persons of voting age residing therein are registered to vote, (1) that all persons listed by an examiner for such subdivision have been placed on the appropriate voting registration roll, and (2) that there is no longer reasonable cause to believe that persons will be deprived of or denied the right to vote on account of race or color, or in contravention of the guarantees set forth in section 1973b(f)(2) of this title in such subdivision, and (b), with respect to examiners appointed pursuant to section 1973a(a) of this title, upon order of the authorizing court. A political subdivision may petition the Attorney General for the termination of listing procedures under clause (a) of this section, and may petition the Attorney General to request the Director of the Census to take such survey or census as may be appropriate for the making of the determination provided for in this section. The District Court for the District of Columbia shall have jurisdiction to require such survey or census to be made by the Director of the Census and it shall require him to do so if it deems the Attorney General's refusal to request such survey or census to be arbitrary or unreasonable.

(Pub. L. 89–110, title I, § 13, Aug. 6, 1965, 79 Stat. 444; renumbered title I, Pub. L. 91–285, § 2, June 22, 1970, 84 Stat. 314; amended Pub. L. 94–73, title II, § 206, Aug. 6, 1975, 89 Stat. 402; 1978 Reorg. Plan No. 2, § 102, eff. Jan. 1, 1979, 43 F.R. 36037, 92 Stat. 3783.)

AMENDMENTS

1975—Pub. L. 94–73 substituted ''on account of race or color, or in contravention of the guarantees set forth in section 1973b(f)(2) of this title'' for ''on account of race or color''.

TRANSFER OF FUNCTIONS

''Director of the Office of Personnel Management'' substituted in text for ''Civil Service Commission'' pursuant to Reorg. Plan No. 2 of 1978, § 102, 43 F.R. 36037, 92 Stat. 3783, set out under section 1101 of Title 5, Government Organization and Employees, which transferred all functions vested by statute in United States Civil Service Commission to Director of Office of Personnel Management (except as otherwise specified), effective Jan. 1, 1979, as provided by section 1–102 of Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, set out under section 1101 of Title 5.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1973b, 1973i of this title.

§ 1973*l*. Enforcement proceedings

(a) Criminal contempt

All cases of criminal contempt arising under the provisions of subchapters I–A to I–C of this chapter shall be governed by section 1995 of this title.

(b) Jurisdiction of courts for declaratory judgment, restraining orders, or temporary or permanent injunction

No court other than the District Court for the District of Columbia or a court of appeals in any proceeding under section 1973g of this title shall have jurisdiction to issue any declaratory judgment pursuant to section 1973b or 1973c of this title or any restraining order or temporary or permanent injunction against the execution or enforcement of any provision of subchapters I–A to I–C of this chapter or any action of any Federal officer or employee pursuant hereto.

(c) Definitions

(1) The terms ''vote'' or ''voting'' shall include all action necessary to make a vote effective in any primary, special, or general election, including, but not limited to, registration, listing pursuant to this subchapter, or other action required by law prerequisite to voting, casting a ballot, and having such ballot counted properly and included in the appropriate totals of votes cast with respect to candidates for public or party office and propositions for which votes are received in an election.

(2) The term ''political subdivision'' shall mean any county or parish, except that where registration for voting is not conducted under the supervision of a county or parish, the term shall include any other subdivision of a State which conducts registration for voting.

(3) The term ''language minorities'' or ''language minority group'' means persons who are American Indian, Asian American, Alaskan Natives or of Spanish heritage.

(d) Subpenas

In any action for a declaratory judgment brought pursuant to section 1973b or 1973c of this title, subpenas for witnesses who are required to attend the District Court for the District of Columbia may be served in any judicial district of the United States: *Provided*, That no writ of subpena shall issue for witnesses without the District of Columbia at a greater distance than one hundred miles from the place of holding court without the permission of the District Court for the District of Columbia being first had upon proper application and cause shown.

(e) Attorney's fees

In any action or proceeding to enforce the voting guarantees of the fourteenth or fifteenth amendment, the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee as part of the costs.

(Pub. L. 89–110, title I, § 14, Aug. 6, 1965, 79 Stat. 445; renumbered title I, Pub. L. 91–285, § 2, June 22, 1970, 84 Stat. 314; amended Pub. L. 94–73, title II, § 207, title IV, § 402, Aug. 6, 1975, 89 Stat. 402, 404.)

AMENDMENTS

1975—Subsec. (c)(3). Pub. L. 94–73, § 207, added par. (3). Subsec. (e). Pub. L. 94–73, § 402, added subsec. (e).

§ 1973m. Omitted

CODIFICATION

Section, Pub. L. 89–110, title I, § 16, Aug. 6, 1965, 79 Stat. 445; renumbered title I, Pub. L. 91–285, § 2, June 22, 1970, 84 Stat. 314, authorized Attorney General and Secretary of Defense, jointly, to make a study to determine whether laws or practices of any State or States impose preconditions to voting resulting in discrimination against Armed Forces personnel seeking to vote and to make a report to Congress not later than June 30, 1966, with the results of such study and recommendations for legislation.

§ 1973n. Impairment of voting rights of persons holding current registration

Nothing in subchapters I–A to I–C of this chapter shall be construed to deny, impair, or otherwise adversely affect the right to vote of any person registered to vote under the law of any State or political subdivision.

(Pub. L. 89–110, title I, § 17, Aug. 6, 1965, 79 Stat. 446; renumbered title I, Pub. L. 91–285, § 2, June 22, 1970, 84 Stat. 314.)

§ 1973*o*. Authorization of appropriations

There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of subchapters I–A to I–C of this chapter.

(Pub. L. 89–110, title I, § 18, Aug. 6, 1965, 79 Stat. 446; renumbered title I, Pub. L. 91–285, § 2, June 22, 1970, 84 Stat. 314.)

§ 1973p. Separability

If any provision of subchapters I–A to I–C of this chapter or the application thereof to any person or circumstances is held invalid, the remainder of subchapters I–A to I–C of this chapter and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

(Pub. L. 89–110, title I, § 19, Aug. 6, 1965, 79 Stat. 446; renumbered title I, Pub. L. 91–285, § 2, June 22, 1970, 84 Stat. 314.)

SUBCHAPTER I–B—SUPPLEMENTAL PROVISIONS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1973b, 1973d, 1973e, 1973f, 1973g, 1973i, 1973j, 1973*l*, 1973n, 1973*o*, 1973p, 1973ee–5, 1973gg–6, 1973gg–9 of this title; title 28 section 1869.

§ 1973aa. Application of prohibition to other States; "test or device" defined

(a) No citizen shall be denied, because of his failure to comply with any test or device, the right to vote in any Federal, State, or local election conducted in any State or political subdivision of a State.

(b) As used in this section, the term ''test or device'' means any requirement that a person as a prerequisite for voting or registration for voting (1) demonstrate the ability to read, write, understand, or interpret any matter, (2) demonstrate any educational achievement or his knowledge of any particular subject, (3) possess good moral character, or (4) prove his qualifications by the voucher of registered voters or members of any other class.

(Pub. L. 89–110, title II, § 201, as added Pub. L. 91–285, § 6, June 22, 1970, 84 Stat. 315; amended Pub. L. 94–73, title I, § 102, Aug. 6, 1975, 89 Stat. 400.)

AMENDMENTS

1975—Subsec. (a). Pub. L. 94–73 struck out ''Prior to August 6, 1975,'' and ''as to which the provisions of section 1973b(a) of this title are not in effect by reason of determinations made under section 1973b(b) of this title''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1973aa–2, 1973aa–3 of this title.

§ 1973aa–1. Residence requirements for voting

(a) Congressional findings

The Congress hereby finds that the imposition and application of the durational residency requirement as a precondition to voting for the offices of President and Vice President, and the lack of sufficient opportunities for absentee registration and absentee balloting in presidential elections—

(1) denies or abridges the inherent constitutional right of citizens to vote for their President and Vice President;

(2) denies or abridges the inherent constitutional right of citizens to enjoy their free movement across State lines;

(3) denies or abridges the privileges and immunities guaranteed to the citizens of each State under article IV, section 2, clause 1, of the Constitution;

(4) in some instances has the impermissible purpose or effect of denying citizens the right to vote for such officers because of the way they may vote;

(5) has the effect of denying to citizens the equality of civil rights, and due process and equal protection of the laws that are guaranteed to them under the fourteenth amendment; and

(6) does not bear a reasonable relationship to any compelling State interest in the conduct of presidential elections.

(b) Congressional declaration: durational residency requirement, abolishment; absentee registration and balloting standards, establishment

Upon the basis of these findings, Congress declares that in order to secure and protect the above-stated rights of citizens under the Constitution, to enable citizens to better obtain the enjoyment of such rights, and to enforce the guarantees of the fourteenth amendment, it is necessary (1) to completely abolish the durational residency requirement as a precondition to voting for President and Vice President, and (2) to establish nationwide, uniform standards relative to absentee registration and absentee balloting in presidential elections.

(c) Prohibition of denial of right to vote because of durational residency requirement or absentee balloting

No citizen of the United States who is otherwise qualified to vote in any election for Presi-

dent and Vice President shall be denied the right to vote for electors for President and Vice President, or for President and Vice President, in such election because of the failure of such citizen to comply with any durational residency requirement of such State or political subdivision; nor shall any citizen of the United States be denied the right to vote for electors for President and Vice President, or for President and Vice President, in such election because of the failure of such citizen to be physically present in such State or political subdivision at the time of such election, if such citizen shall have complied with the requirements prescribed by the law of such State or political subdivision providing for the casting of absentee ballots in such election.

(d) Registration: time for application; absentee balloting: time of application and return of ballots

For the purposes of this section, each State shall provide by law for the registration or other means of qualification of all duly qualified residents of such State who apply, not later than thirty days immediately prior to any presidential election, for registration or qualification to vote for the choice of electors for President and Vice President or for President and Vice President in such election; and each State shall provide by law for the casting of absentee ballots for the choice of electors for President and Vice President, or for President and Vice President, by all duly qualified residents of such State who may be absent from their election district or unit in such State on the day such election is held and who have applied therefor not later than seven days immediately prior to such election and have returned such ballots to the appropriate election official of such State not later than the time of closing of the polls in such State on the day of such election.

(e) Change of residence; voting in person or by absentee ballot in State of prior residence

If any citizen of the United States who is otherwise qualified to vote in any State or political subdivision in any election for President and Vice President has begun residence in such State or political subdivision after the thirtieth day next preceding such election and, for that reason, does not satisfy the registration requirements of such State or political subdivision he shall be allowed to vote for the choice of electors for President and Vice President, or for President and Vice President, in such election, (1) in person in the State or political subdivision in which he resided immediately prior to his removal if he had satisfied, as of the date of his change of residence, the requirements to vote in that State or political subdivision, or (2) by absentee ballot in the State or political subdivision in which he resided immediately prior to his removal if he satisfies, but for his nonresident status and the reason for his absence, the requirements for absentee voting in that State or political subdivision.

(f) Absentee registration requirement

No citizen of the United States who is otherwise qualified to vote by absentee ballot in any State or political subdivision in any election for President and Vice President shall be denied the right to vote for the choice of electors for President and Vice President, or for President and Vice President, in such election because of any requirement of registration that does not include a provision for absentee registration.

(g) State or local adoption of less restrictive voting practices

Nothing in this section shall prevent any State or political subdivision from adopting less restrictive voting practices than those that are prescribed herein.

(h) "State" defined

The term ''State'' as used in this section includes each of the several States and the District of Columbia.

(i) False registration, and other fraudulent acts and conspiracies: application of penalty for false information in registering or voting

The provisions of section 1973i(c) of this title shall apply to false registration, and other fraudulent acts and conspiracies, committed under this section.

(Pub. L. 89–110, title II, § 202, as added Pub. L. 91–285, § 6, June 22, 1970, 84 Stat. 316.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1973i, 1973aa–2, 1973aa–3 of this title.

§ 1973aa–1a. Bilingual election requirements

(a) Congressional findings and declaration of policy

The Congress finds that, through the use of various practices and procedures, citizens of language minorities have been effectively excluded from participation in the electoral process. Among other factors, the denial of the right to vote of such minority group citizens is ordinarily directly related to the unequal educational opportunities afforded them resulting in high illiteracy and low voting participation. The Congress declares that, in order to enforce the guarantees of the fourteenth and fifteenth amendments to the United States Constitution, it is necessary to eliminate such discrimination by prohibiting these practices, and by prescribing other remedial devices.

(b) Bilingual voting materials requirement

(1) Generally

Before August 6, 2007, no covered State or political subdivision shall provide voting materials only in the English language.

(2) Covered States and political subdivisions

(A) Generally

A State or political subdivision is a covered State or political subdivision for the purposes of this subsection if the Director of the Census determines, based on census data, that—

(i)(I) more than 5 percent of the citizens of voting age of such State or political subdivision are members of a single language minority and are limited-English proficient;

(II) more than 10,000 of the citizens of voting age of such political subdivision are

members of a single language minority and are limited-English proficient; or

(III) in the case of a political subdivision that contains all or any part of an Indian reservation, more than 5 percent of the American Indian or Alaska Native citizens of voting age within the Indian reservation are members of a single language minority and are limited-English proficient; and

(ii) the illiteracy rate of the citizens in the language minority as a group is higher than the national illiteracy rate.

(B) Exception

The prohibitions of this subsection do not apply in any political subdivision that has less than 5 percent voting age limited-English proficient citizens of each language minority which comprises over 5 percent of the statewide limited-English proficient population of voting age citizens, unless the political subdivision is a covered political subdivision independently from its State.

(3) Definitions

As used in this section—

(A) the term ''voting materials'' means registration or voting notices, forms, instructions, assistance, or other materials or information relating to the electoral process, including ballots;

(B) the term ''limited-English proficient'' means unable to speak or understand English adequately enough to participate in the electoral process;

(C) the term ''Indian reservation'' means any area that is an American Indian or Alaska Native area, as defined by the Census Bureau for the purposes of the 1990 decennial census;

(D) the term ''citizens'' means citizens of the United States; and

(E) the term ''illiteracy'' means the failure to complete the 5th primary grade.

(4) Special rule

The determinations of the Director of the Census under this subsection shall be effective upon publication in the Federal Register and shall not be subject to review in any court.

(c) Requirement of voting notices, forms, instructions, assistance, or other materials and ballots in minority language

Whenever any State or political subdivision subject to the prohibition of subsection (b) of this section provides any registration or voting notices, forms, instructions, assistance, or other materials or information relating to the electoral process, including ballots, it shall provide them in the language of the applicable minority group as well as in the English language: *Provided*, That where the language of the applicable minority group is oral or unwritten or in the case of Alaskan natives and American Indians, if the predominant language is historically unwritten, the State or political subdivision is only required to furnish oral instructions, assistance, or other information relating to registration and voting.

(d) Action for declaratory judgment permitting English-only materials

Any State or political subdivision subject to the prohibition of subsection (b) of this section, which seeks to provide English-only registration or voting materials or information, including ballots, may file an action against the United States in the United States District Court for a declaratory judgment permitting such provision. The court shall grant the requested relief if it determines that the illiteracy rate of the applicable language minority group within the State or political subdivision is equal to or less than the national illiteracy rate.

(e) Definitions

For purposes of this section, the term ''language minorities'' or ''language minority group'' means persons who are American Indian, Asian American, Alaskan Natives, or of Spanish heritage.

(Pub. L. 89–110, title II, § 203, as added Pub. L. 94–73, title III, § 301, Aug. 6, 1975, 89 Stat. 402; amended Pub. L. 97–205, §§ 2(d), 4, June 29, 1982, 96 Stat. 134; Pub. L. 102–344, § 2, Aug. 26, 1992, 106 Stat. 921.)

AMENDMENTS

1992—Subsec. (b). Pub. L. 102–344 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: ''Prior to August 6, 1992, no State or political subdivision shall provide registration or voting notices, forms, instructions, assistance, or other materials or information relating to the electoral process, including ballots, only in the English language if the Director of the Census determines (i) that more than 5 percent of the citizens of voting age of such State or political subdivision are members of a single language minority and (ii) that the illiteracy rate of such persons as a group is higher than the national illiteracy rate: *Provided*, That the prohibitions of this subsection shall not apply in any political subdivision which has less than five percent voting age citizens of each language minority which comprises over five percent of the statewide population of voting age citizens. For purposes of this subsection, illiteracy means the failure to complete the fifth primary grade. The determinations of the Director of the Census under this subsection shall be effective upon publication in the Federal Register and shall not be subject to review in any court.''

1982—Subsec. (b). Pub. L. 97–205, § 4, substituted ''Prior to August 6, 1992'' for ''Prior to August 6, 1985''.

Subsec. (c). Pub. L. 97–205, § 2(d), inserted ''and American Indians'' after ''Alaskan natives''.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97–205 effective June 29, 1982, see section 6 of Pub. L. 97–205, set out as a note under section 1973 of this title.

EXTENSION TO AUGUST 6, 1992, OF PROHIBITION ON USE OF VOTING INSTRUCTIONS, ASSISTANCE, OR OTHER MATERIALS OR INFORMATION IN ENGLISH ONLY; LIMITATIONS BASED ON 1980 CENSUS AND SUBSEQUENT CENSUS DATA

Section 4 of Pub. L. 97–205 provided in part that: ''[T]he extension made by this section [amending subsec. (b) of this section] shall apply only to determinations made by the Director of the Census under clause (i) of section 203(b) [subsec. (b)(i) of this section] for members of a single language minority who do not speak or understand English adequately enough to participate in the electoral process when such a determination can be made by the Director of the Census based on the 1980 and subsequent census data.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1973aa–2. 1973aa–3 of this title.

§ 1973aa–2. Judicial relief; civil actions by the Attorney General; three-judge district court; appeal to Supreme Court

Whenever the Attorney General has reason to believe that a State or political subdivision (a) has enacted or is seeking to administer any test or device as a prerequisite to voting in violation of the prohibition contained in section 1973aa of this title, or (b) undertakes to deny the right to vote in any election in violation of section 1973aa–1 or 1973aa–1a of this title, he may institute for the United States, or in the name of the United States, an action in a district court of the United States, in accordance with sections 1391 through 1393[1] of title 28, for a restraining order, a preliminary or permanent injunction, or such other order as he deems appropriate. An action under this subsection shall be heard and determined by a court of three judges in accordance with the provisions of section 2284 of title 28 and any appeal shall be to the Supreme Court.

(Pub. L. 89–110, title II, § 204, formerly § 203, as added Pub. L. 91–285, § 6, June 22, 1970, 84 Stat. 317; renumbered § 204 and amended Pub. L. 94–73, title III, §§ 302, 303, title IV, § 406, Aug. 6, 1975, 89 Stat. 403, 405.)

REFERENCES IN TEXT

Section 1393 of title 28, referred to in text, was repealed by Pub. L. 100–702, title X, § 1001(a), Nov. 19, 1988, 102 Stat. 4664.

AMENDMENTS

1975—Pub. L. 94–73 inserted reference to section 1973aa–1a of this title and substituted reference to section 2284 of title 28 for reference to section 2282 of title 28.

CROSS REFERENCES

Supreme Court jurisdiction, direct appeals from decisions of three-judge courts, see section 1253 of Title 28, Judiciary and Judicial Procedure.

§ 1973aa–3. Penalty

Whoever shall deprive or attempt to deprive any person of any right secured by section 1973aa, 1973aa–1, or 1973aa–1a of this title shall be fined not more than $5,000, or imprisoned not more than five years, or both.

(Pub. L. 89–110, title II, § 205, formerly § 204, as added Pub. L. 91–285, § 6, June 22, 1970, 84 Stat. 317; renumbered § 205 and amended Pub. L. 94–73, title III, §§ 302, 304, Aug. 6, 1975, 89 Stat. 403.)

AMENDMENTS

1975—Pub. L. 94–73 inserted reference to section 1973aa–1a of this title.

§ 1973aa–4. Separability

If any provision of subchapters I–A to I–C of this chapter or the application of any provision thereof to any person or circumstance is judicially determined to be invalid, the remainder of subchapters I–A to I–C of this chapter or the application of such provision to other persons or circumstances shall not be affected by such determination.

(Pub. L. 89–110, title II, § 206, formerly § 205, as added Pub. L. 91–285, § 6, June 22, 1970, 84 Stat. 318; renumbered § 206, Pub. L. 94–73, title III, § 302, Aug. 6, 1975, 89 Stat. 403.)

[1] See References in Text note below.

§ 1973aa–5. Survey to compile registration and voting statistics

(a) Elections to House of Representatives and elections designated by United States Commission on Civil Rights

Congress hereby directs the Director of the Census forthwith to conduct a survey to compile registration and voting statistics: (i) in every State or political subdivision with respect to which the prohibitions of section 1973b(a) of this title are in effect, for every statewide general election for Members of the United States House of Representatives after January 1, 1974; and (ii) in every State or political subdivision for any election designated by the United States Commission on Civil Rights. Such surveys shall only include a count of citizens of voting age, race or color, and national origin, and a determination of the extent to which such persons are registered to vote and have voted in the elections surveyed.

(b) Prohibition against compulsion to disclose personal data; advice of rights

In any survey under subsection (a) of this section no person shall be compelled to disclose his race, color, national origin, political party affiliation, or how he voted (or the reasons therefor), nor shall any penalty be imposed for his failure or refusal to make such disclosures. Every person interrogated orally, by written survey or questionnaire, or by any other means with respect to such information shall be fully advised of his right to fail or refuse to furnish such information.

(c) Report to Congress

The Director of the Census shall, at the earliest practicable time, report to the Congress the results of every survey conducted pursuant to the provisions of subsection (a) of this section.

(d) Confidentiality of information; penalties

The provisions of section 9 and chapter 7 of title 13 shall apply to any survey, collection, or compilation of registration and voting statistics carried out under subsection (a) of this section.

(Pub. L. 89–110, title II, § 207, as added Pub. L. 94–73, title IV, § 403, Aug. 6, 1975, 89 Stat. 404.)

§ 1973aa–6. Voting assistance for blind, disabled or illiterate persons

Any voter who requires assistance to vote by reason of blindness, disability, or inability to read or write may be given assistance by a person of the voter's choice, other than the voter's employer or agent of that employer or officer or agent of the voter's union.

(Pub. L. 89–110, title II, § 208, as added Pub. L. 97–205, § 5, June 29, 1982, 96 Stat. 135.)

EFFECTIVE DATE

Section 5 of Pub. L. 97–205 provided that this section is effective Jan. 1, 1984.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1973ee–3 of this title.

SUBCHAPTER I–C—EIGHTEEN-YEAR-OLD VOTING AGE

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1973b, 1973d, 1973e, 1973f, 1973g, 1973i, 1973j, 1973*l*, 1973n, 1973*o*, 1973p, 1973aa–4, 1973ee–5, 1973gg–6, 1973gg–9 of this title; title 28 section 1869.

§ 1973bb. Enforcement of twenty-sixth amendment

(a)(1) The Attorney General is directed to institute, in the name of the United States, such actions against States or political subdivisions, including actions for injunctive relief, as he may determine to be necessary to implement the twenty-sixth article of amendment to the Constitution of the United States.

(2) The district courts of the United States shall have jurisdiction of proceedings instituted under this subchapter, which shall be heard and determined by a court of three judges in accordance with section 2284 of title 28, and any appeal shall lie to the Supreme Court. It shall be the duty of the judges designated to hear the case to assign the case for hearing and determination thereof, and to cause the case to be in every way expedited.

(b) Whoever shall deny or attempt to deny any person of any right secured by the twenty-sixth article of amendment to the Constitution of the United States shall be fined not more than $5,000 or imprisoned not more than five years, or both.

(Pub. L. 89–110, title III, § 301, as added Pub. L. 91–285, § 6, June 22, 1970, 84 Stat. 318; amended Pub. L. 94–73, title IV, § 407, Aug. 6, 1975, 89 Stat. 405.)

AMENDMENTS

1975—Pub. L. 94–73 substituted provisions authorizing the Attorney General to institute proceedings to enforce twenty-sixth amendment, the jurisdiction of the district courts, and penalties for denial of rights secured by twenty-sixth amendment, for provisions relating to Congressional findings and prohibition of denial of right to vote on account of age.

§ 1973bb–1. "State" defined

As used in this subchapter, the term ''State'' includes the District of Columbia.

(Pub. L. 89–110, title III, § 302, as added Pub. L. 91–285, § 6, June 22, 1970, 84 Stat. 318; amended Pub. L. 94–73, title IV, § 407, Aug. 6, 1975, 89 Stat. 405.)

AMENDMENTS

1975—Pub. L. 94–73 substituted definition of State for provisions prohibiting denial of right to vote because of age.

§§ 1973bb–2 to 1973bb–4. Repealed. Pub. L. 94–73, title IV, § 407, Aug. 6, 1975, 89 Stat. 405

Section 1973bb–2, Pub. L. 89–110, title III, § 303, as added Pub. L. 91–285, § 6, June 22, 1970, 84 Stat. 318, authorized the Attorney General to institute actions to enforce this subchapter, and provided for jurisdiction of district courts, appeals, and penalties for denial of rights secured by this subchapter. See section 1973bb of this title.

Section 1973bb–3, Pub. L. 89–110, title III, § 304, as added Pub. L. 91–285, § 6, June 22, 1970, 84 Stat. 319, defined ''State''. See section 1973bb–1 of this title.

Section 1973bb–4, Pub. L. 891–10, title III, § 305, as added Pub. L. 91–285, § 6, June 22, 1970, 84 Stat. 319, provided for effective date of this subchapter.

SUBCHAPTER I–D—FEDERAL ABSENTEE VOTING ASSISTANCE

PART I—RECOMMENDATION TO STATES

§§ 1973cc to 1973cc–3. Repealed. Pub. L. 99–410, title II, § 203, Aug. 28, 1986, 100 Stat. 930

Section 1973cc, acts Aug. 9, 1955, ch. 656, title I, § 101, 69 Stat. 584; June 18, 1968, Pub. L. 90–343, § 1, 82 Stat. 180; Nov. 4, 1978, Pub. L. 95–593, § 7, 92 Stat. 2537, related to State enactment of absentee voting legislation and to covered persons. See sections 1973ff–1 and 1973ff–3 of this title.

Section 1973cc–1, acts Aug. 9, 1955, ch. 656, title I, § 102, 69 Stat. 584; June 18, 1968, Pub. L. 90–344, § 1(1), 82 Stat. 181; Aug. 6, 1981, Pub. L. 97–31, § 12(19), 95 Stat. 154, related to balloting procedures. See section 1973ff–3 of this title.

Section 1973cc–2, act Aug. 9, 1955, ch. 656, title I, § 103, 69 Stat. 585, related to availability of statistical data to assist Presidential designee in compiling comprehensive information of operations under this subchapter. See section 1973ff–3(8) of this title.

Section 1973cc–3, act Aug. 9, 1955, ch. 656, title I, § 104, as added June 18, 1968, Pub. L. 90–344, § 1(2), 82 Stat. 181, related to legal residence for voting purposes of personnel residing on military installations.

EFFECTIVE DATE OF REPEAL

Repeal applicable with respect to elections taking place after Dec. 31, 1987, see section 204 of Pub. L. 99–410, set out as an Effective Date note under section 1973ff of this title.

PART II—RESPONSIBILITIES OF FEDERAL GOVERNMENT

§§ 1973cc–11 to 1973cc–15. Repealed. Pub. L. 99–410, title II, § 203, Aug. 28, 1986, 100 Stat. 930

Section 1973cc–11, acts Aug. 9, 1955, ch. 656, title II, § 201, 69 Stat. 585; Dec. 21, 1982, Pub. L. 97–375, title II, § 203(b), 96 Stat. 1823, provided for designation of Presidential designee to coordinate and facilitate Federal responsibilities and to report to the President and Congress. See section 1973ff(a) and (b) of this title.

Section 1973cc–12, acts Aug. 9, 1955, ch. 656, title II, § 202, 69 Stat. 586; Nov. 4, 1978, Pub. L. 95–593, § 8, 92 Stat. 2537, related to acquisition and distribution by Presidential designee of current absentee voting information from each State.

Section 1973c–13, acts Aug. 9, 1955, ch. 656, title II, § 203, 69 Stat. 586; June 18, 1968, Pub. L. 90–344, § 1(3), 82 Stat. 181; Nov. 4, 1978, Pub. L. 95–593, § 9, 92 Stat. 2538, related to cooperation of Government officials, drafts of State legislation, and printing and transmitting of post cards. See section 1973ff(c) of this title.

Section 1973cc–14, acts Aug. 9, 1955, ch. 656, title II, § 204, 69 Stat. 586; June 18, 1968, Pub. L. 90–343, § 2, 82 Stat. 181; June 18, 1968, Pub. L. 90–344, § 1(4)–(6), 82 Stat. 182; Nov. 4, 1978, Pub. L. 95–593, § 10, 92 Stat. 2538, related to form and content of post card application. See section 1973ff(b)(2) of this title.

Section 1973cc–15, act Aug. 9, 1955, ch. 656, title II, § 205, 69 Stat. 588, related to use of prior post card form for election of Members of Congress.

EFFECTIVE DATE OF REPEAL

Repeal applicable with respect to elections taking place after Dec. 31, 1987, see section 204 of Pub. L. 99–410, set out as an Effective Date note under section 1973ff of this title.

PART III—GENERAL PROVISIONS

§§ 1973cc–21 to 1973cc–26. Repealed. Pub. L. 99–410, title II, § 203, Aug. 28, 1986, 100 Stat. 930

Section 1973cc–21, act Aug. 9, 1955, ch. 656, title III, § 301, 69 Stat. 588, provided definitions of terms used in this subchapter. See section 1973ff–6 of this title.

Section 1973cc–22, act Aug. 9, 1955, ch. 656, title III, § 302, 69 Stat. 588, provided free postage for official post cards, ballots, voting instructions, and envelopes. See section 3406 of Title 39, Postal Service.

Section 1973cc–23, act Aug. 9, 1955, ch. 656, title III, § 303, 69 Stat. 588, related to prevention of fraud and coercion.

Section 1973cc–24, act Aug. 9, 1955, ch. 656, title III, § 304, 69 Stat. 589, provided that acts done in good faith do not constitute a violation of any provision of law relating to elective franchise.

Section 1973cc–25, act Aug. 9, 1955, ch. 656, title III, § 305, 69 Stat. 589, provided that no undue influence be used by any officer but that nothing in this subchapter be deemed to prohibit free discussion regarding political issues or candidates for public office. See section 609 of Title 18, Crimes and Criminal Procedure.

Section 1973cc–26, act Aug. 9, 1955, ch. 656, title III, § 308, 69 Stat. 589, authorized appropriations as necessary to carry out this subchapter.

EFFECTIVE DATE OF REPEAL

Repeal applicable with respect to elections taking place after Dec. 31, 1987, see section 204 of Pub. L. 99–410, set out as an Effective Date note under section 1973ff of this title.

SUBCHAPTER I–E—VOTING RIGHTS OF OVERSEAS CITIZENS

§§ 1973dd to 1973dd–6. Repealed. Pub. L. 99–410, title II, § 203, Aug. 28, 1986, 100 Stat. 930

Section 1973dd, Pub. L. 94–203, § 2, Jan. 2, 1976, 89 Stat. 1142; Pub. L. 95–593, § 1, Nov. 4, 1978, 92 Stat. 2535, provided definitions of terms used in this subchapter. See section 1973ff–6 of this title.

Section 13973dd–1, Pub. L. 94–203, § 3, Jan. 2, 1976, 89 Stat. 1142; Pub. L. 95–593, § 2, Nov. 4, 1978, 92 Stat. 2535, related to qualifications for registration and vote by absentee ballot.

Section 1973dd–2, Pub. L. 94–203, § 4, Jan. 2, 1976, 89 Stat. 1143; Pub. L. 95–593, § 3, Nov. 4, 1978, 92 Stat. 2535, related to State provisions concerning absentee registration or qualification and absentee ballots and to recommendations to States in carrying out the provisions of this section. See sections 1973ff–1 and 1973ff–3 of this title.

Section 1973dd–2a, Pub. L. 94–203, § 5, as added Pub. L. 95–593, § 4(2), Nov. 4, 1978, 92 Stat. 2535, related to acquisition and dissemination by Presidential designee of current absentee voting information from each State.

Section 1973dd–2b, Pub. L. 94–203, § 6, as added Pub. L. 95–593, § 4(2), Nov. 4, 1978, 92 Stat. 2536, related to printing and transmitting of voting material. See section 1973ff(c)(2) of this title and section 3406 of Title 39, Postal Service.

Section 1973dd–3, Pub. L. 94–203, § 7, formerly § 5, Jan. 2, 1976, 89 Stat. 1143; renumbered § 7, Pub. L. 95–593, § 4(1), Nov. 4, 1978, 92 Stat. 2535, provided for enforcement by the Attorney General, jurisdiction of courts, and penalties for depriving or attempting to deprive persons of secured rights and giving or conspiring to give false information or paying or accepting money either for registration to vote or voting. See section 1973ff–4 of this title and section 608 of Title 18, Crimes and Criminal Procedure.

Section 1973dd–4, Pub. L. 94–203, § 8, formerly § 6, Jan. 2, 1976, 89 Stat. 1143; renumbered § 8, Pub. L. 95–593, § 4(1), Nov. 4, 1978, 92 Stat. 2535, provided that if any provision of this subchapter is held invalid, the validity of the remainder of this subchapter not be affected.

Section 1973dd–5, Pub. L. 94–203, § 9, formerly § 7, Jan. 2, 1976, 89 Stat. 1144; renumbered § 9 and amended Pub. L. 95–593, §§ 4(1), 5, Nov. 4, 1978, 92 Stat. 2535, 2537, related to applicability of this subchapter to State registration requirements and voting practices and provided that exercise of any right to register or vote in Federal elections by any citizen outside the United States not affect the determination of residence or domicile for tax purposes. See section 1973ff–5 of this title.

Section 1973dd–6, Pub. L. 94–203, § 11, as added Pub. L. 95–593, § 6, Nov. 4, 1978, 92 Stat. 2537, authorized appropriations as necessary to carry out this subchapter.

EFFECTIVE DATE OF REPEAL

Repeal applicable with respect to elections taking place after Dec. 31, 1987, see section 204 of Pub. L. 99–410, set out as an Effective Date note under section 1973ff of this title.

SUBCHAPTER I–F—VOTING ACCESSIBILITY FOR THE ELDERLY AND HANDICAPPED

§ 1973ee. Congressional declaration of purpose

It is the intention of Congress in enacting this subchapter to promote the fundamental right to vote by improving access for handicapped and elderly individuals to registration facilities and polling places for Federal elections.

(Pub. L. 98–435, § 2, Sept. 28, 1984, 98 Stat. 1678.)

EFFECTIVE DATE

Section 9 of Pub. L. 98–435 provided that: ''This Act [enacting this subchapter] shall apply with respect to elections taking place after December 31, 1985.''

SHORT TITLE

Section 1 of Pub. L. 98–435 provided that: ''This Act [enacting this subchapter] may be cited as the 'Voting Accessibility for the Elderly and Handicapped Act'.''

§ 1973ee–1. Selection of polling facilities

(a) Accessibility to all polling places as responsibility of each political subdivision

Within each State, except as provided in subsection (b) of this section, each political subdivision responsible for conducting elections shall assure that all polling places for Federal elections are accessible to handicapped and elderly voters.

(b) Exception

Subsection (a) of this section shall not apply to a polling place—

(1) in the case of an emergency, as determined by the chief election officer of the State; or

(2) if the chief election officer of the State—

(A) determines that all potential polling places have been surveyed and no such accessible place is available, nor is the political subdivision able to make one temporarily accessible, in the area involved; and

(B) assures that any handicapped or elderly voter assigned to an inaccessible polling place, upon advance request of such voter (pursuant to procedures established by the chief election officer of the State)—

(i) will be assigned to an accessible polling place, or

(ii) will be provided with an alternative means for casting a ballot on the day of the election.

(c) Report to Federal Election Commission

(1) Not later than December 31 of each even-numbered year, the chief election officer of each State shall report to the Federal Election Commission, in a manner to be determined by the Commission, the number of accessible and inaccessible polling places in such State on the date of the preceding general Federal election, and the reasons for any instance of inaccessibility.

(2) Not later than April 30 of each odd-numbered year, the Federal Election Commission shall compile the information reported under paragraph (1) and shall transmit that information to the Congress.

(3) The provisions of this subsection shall only be effective for a period of 10 years beginning on September 28, 1984.

(Pub. L. 98–435, § 3, Sept. 28, 1984, 98 Stat. 1678.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1973gg–4 of this title.

§ 1973ee–2. Selection of registration facilities

(a) Each State or political subdivision responsible for registration for Federal elections shall provide a reasonable number of accessible permanent registration facilities.

(b) Subsection (a) of this section does not apply to any State that has in effect a system that provides an opportunity for each potential voter to register by mail or at the residence of such voter.

(Pub. L. 98–435, § 4, Sept. 28, 1984, 98 Stat. 1679.)

§ 1973ee–3. Registration and voting aids

(a) Printed instructions; telecommunications devices for the deaf

Each State shall make available registration and voting aids for Federal elections for handicapped and elderly individuals, including—

(1) instructions, printed in large type, conspicuously displayed at each permanent registration facility and each polling place; and

(2) information by telecommunications devices for the deaf.

(b) Medical certification

No notarization or medical certification shall be required of a handicapped voter with respect to an absentee ballot or an application for such ballot, except that medical certification may be required when the certification establishes eligibility, under State law—

(1) to automatically receive an application or a ballot on a continuing basis; or

(2) to apply for an absentee ballot after the deadline has passed.

(c) Notice of availability of aids

The chief election officer of each State shall provide public notice, calculated to reach elderly and handicapped voters, of the availability of aids under this section, assistance under section 1973aa–6 of this title, and the procedures for voting by absentee ballot, not later than general public notice of registration and voting is provided.

(Pub. L. 98–435, § 5, Sept. 28, 1984, 98 Stat. 1679.)

§ 1973ee–4. Enforcement

(a) Action for declaratory or injunctive relief

If a State or political subdivision does not comply with this subchapter, the United States Attorney General or a person who is personally aggrieved by the noncompliance may bring an action for declaratory or injunctive relief in the appropriate district court.

(b) Prerequisite notice of noncompliance

An action may be brought under this section only if the plaintiff notifies the chief election officer of the State of the noncompliance and a period of 45 days has elapsed since the date of notification.

(c) Attorney fees

Notwithstanding any other provision of law, no award of attorney fees may be made with respect to an action under this section, except in any action brought to enforce the original judgment of the court.

(Pub. L. 98–435, § 6, Sept. 28, 1984, 98 Stat. 1679.)

§ 1973ee–5. Relationship to Voting Rights Act of 1965

This subchapter shall not be construed to impair any right guaranteed by the Voting Rights Act of 1965 (42 U.S.C. 1973 et seq.).

(Pub. L. 98–435, § 7, Sept. 28, 1984, 98 Stat. 1679.)

REFERENCES IN TEXT

The Voting Rights Act of 1965, referred to in text, is Pub. L. 89–110, Aug. 6, 1965, 79 Stat. 437, as amended, which is classified generally to subchapters I–A (§ 1973 et seq.), I–B (§ 1973aa et seq.), and I–C (§ 1973bb et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1973 of this title and Tables.

§ 1973ee–6. Definitions

As used in this subchapter, the term—

(1) ''accessible'' means accessible to handicapped and elderly individuals for the purpose of voting or registration, as determined under guidelines established by the chief election officer of the State involved;

(2) ''elderly'' means 65 years of age or older;

(3) ''Federal election'' means a general, special, primary, or runoff election for the office of President or Vice President, or of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress;

(4) ''handicapped'' means having a temporary or permanent physical disability; and

(5) ''State'' means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possesssion[1] of the United States.

(Pub. L. 98–435, § 8, Sept. 28, 1984, 98 Stat. 1679.)

SUBCHAPTER I–G—REGISTRATION AND VOTING BY ABSENT UNIFORMED SERVICES VOTERS AND OVERSEAS VOTERS IN ELECTIONS FOR FEDERAL OFFICE

PRIOR PROVISIONS

Provisions similar to this subchapter were contained in subchapters I–D and I–E (1973cc et seq. and 1973dd et seq.) of this chapter prior to repeal by Pub. L. 99–410.

[1] So in original. Probably should be ''possession''.

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 1973gg–4 of this title; title 18 section 608; title 39 section 3406.

§ 1973ff. Federal responsibilities

(a) Presidential designee

The President shall designate the head of an executive department to have primary responsibility for Federal functions under this subchapter.

(b) Duties of Presidential designee

The Presidential designee shall—

(1) consult State and local election officials in carrying out this subchapter;

(2) prescribe an official post card form, containing both an absentee voter registration application and an absentee ballot application, for use by the States as recommended in section 1973ff–3 of this title;

(3) carry out section 1973ff–2 of this title with respect to the Federal write-in absentee ballot for overseas voters in general elections for Federal office;

(4) prescribe a suggested design for absentee ballot mailing envelopes for use by the States as recommended in section 1973ff–3 of this title;

(5) compile and distribute (A) descriptive material on State absentee registration and voting procedures, and (B) to the extent practicable, facts relating to specific elections, including dates, offices involved, and the text of ballot questions; and

(6) not later than the end of each year after a Presidential election year, transmit to the President and the Congress a report on the effectiveness of assistance under this subchapter, including a statistical analysis of voter participation and a description of State-Federal cooperation.

(c) Duties of other Federal officials

(1) In general

The head of each Government department, agency, or other entity shall, upon request of the Presidential designee, distribute balloting materials and otherwise cooperate in carrying out this subchapter.

(2) Administrator of General Services

As directed by the Presidential designee, the Administrator of General Services shall furnish official post card forms (prescribed under subsection (b) of this section) and Federal write-in absentee ballots (prescribed under section 1973ff–2 of this title).

(Pub. L. 99–410, title I, § 101, Aug. 28, 1986, 100 Stat. 924.)

EFFECTIVE DATE

Section 204 of Pub. L. 99–410 provided that: ''The amendments and repeals made by this Act [see Short Title note below] shall apply with respect to elections taking place after December 31, 1987.''

SHORT TITLE

Section 1 of Pub. L. 99–410 provided that: ''This Act [enacting this subchapter, sections 608 and 609 of Title 18, Crimes and Criminal Procedure, and section 3406 of Title 39, Postal Service, amending sections 2401, 3627, and 3684 of Title 39, repealing subchapters I–D and I–E of this chapter, and enacting provisions set out as a note under this section] may be cited as the 'Uniformed and Overseas Citizens Absentee Voting Act'.''

EX. ORD. NO. 12642. DESIGNATION OF SECRETARY OF DEFENSE AS PRESIDENTIAL DESIGNEE

Ex. Ord. No. 12642, June 8, 1988, 53 F.R. 21975, provided:

By virtue of the authority vested in me as President by the Constitution and laws of the United States of America, including section 101(a) of the Uniformed and Overseas Citizens Absentee Voting Act (Public Law 99–410) (''the Act'') [42 U.S.C. 1973ff(a)], it is hereby ordered as follows:

SECTION 1. The Secretary of Defense is hereby designated as the ''Presidential designee'' under Title I of the Act [42 U.S.C. 1973ff et seq.].

SEC. 2. In order to effectuate the purposes of the Act [see Short Title note above], the Secretary of Defense is hereby authorized to delegate any or all of the functions, responsibilities, powers, authority, or discretion devolving upon him in consequence of this Order to any person or persons within the Department of Defense.

RONALD REAGAN.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1973ff–3, 1973ff–6 of this title.

§ 1973ff–1. State responsibilities

Each State shall—

(1) permit absent uniformed services voters and overseas voters to use absentee registration procedures and to vote by absentee ballot in general, special, primary, and runoff elections for Federal office;

(2) accept and process, with respect to any general, special, primary, or runoff election for Federal office, any otherwise valid voter registration application from an absent uniformed services voter or overseas voter, if the application is received by the appropriate State election official not less than 30 days before the election; and

(3) permit overseas voters to use Federal write-in absentee ballots (in accordance with section 1973ff–2 of this title) in general elections for Federal office.

(Pub. L. 99–410, title I, § 102, Aug. 28, 1986, 100 Stat. 925.)

§ 1973ff–2. Federal write-in absentee ballot for overseas voters in general elections for Federal office

(a) In general

The Presidential designee shall prescribe a Federal write-in absentee ballot (including a secrecy envelope and mailing envelope for such ballot) for use in general elections for Federal office by overseas voters who make timely application for, and do not receive, States, absentee ballots.

(b) Submission and processing

Except as otherwise provided in this subchapter, a Federal write-in absentee ballot shall be submitted and processed in the manner provided by law for absentee ballots in the State involved. A Federal write-in absentee ballot of an overseas voter shall not be counted—

(1) if the ballot is submitted from any location in the United States;

(2) if the application of the overseas voter for a State absentee ballot is received by the appropriate State election official less than 30 days before the general election; or

(3) if a State absentee ballot of the overseas voter is received by the appropriate State election official not later than the deadline for receipt of the State absentee ballot under State law.

(c) Special rules

The following rules shall apply with respect to Federal write-in absentee ballots:

(1) In completing the ballot, the overseas voter may designate a candidate by writing in the name of the candidate or by writing in the name of a political party (in which case the ballot shall be counted for the candidate of that political party).

(2) In the case of the offices of President and Vice President, a vote for a named candidate or a vote by writing in the name of a political party shall be counted as a vote for the electors supporting the candidate involved.

(3) Any abbreviation, misspelling, or other minor variation in the form of the name of a candidate or a political party shall be disregarded in determining the validity of the ballot, if the intention of the voter can be ascertained.

(d) Second ballot submission; instruction to overseas voter

An overseas voter who submits a Federal write-in absentee ballot and later receives a State absentee ballot, may submit the State absentee ballot. The Presidential designee shall assure that the instructions for each Federal write-in absentee ballot clearly state that an overseas voter who submits a Federal write-in absentee ballot and later receives and submits a State absentee ballot should make every reasonable effort to inform the appropriate State election official that the voter has submitted more than one ballot.

(e) Use of approved State absentee ballot in place of Federal write-in absentee ballot

The Federal write-in absentee ballot shall not be valid for use in a general election if the State involved provides a State absentee ballot that—

(1) at the request of the State, is approved by the Presidential designee for use in place of the Federal write-in absentee ballot; and

(2) is made available to overseas voters at least 60 days before the deadline for receipt of the State ballot under State law.

(f) Certain States exempted

A State is not required to permit use of the Federal write-in absentee ballot, if, on and after August 28, 1986, the State has in effect a law providing that—

(1) a State absentee ballot is required to be available to any voter described in section 1973ff–6(5)(A) of this title at least 90 days before the general election involved; and

(2) a State absentee ballot is required to be available to any voter described in section 1973ff–6(5)(B) or (C) of this title, as soon as the official list of candidates in the general election is complete.

(Pub. L. 99–410, title I, § 103, Aug. 28, 1986, 100 Stat. 925.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1973ff, 1973ff–1, 1973ff–6 of this title.

§ 1973ff–3. Recommendations to States to maximize access to polls by absent uniformed services voters and overseas voters

To afford maximum access to the polls by absent uniformed services voters and overseas voters, it is recommended that the States—

(1) use the official post card form (prescribed under section 1973ff of this title) for simultaneous voter registration application and absentee ballot application;

(2) adopt the suggested design for absentee ballot mailing envelopes prescribed under section 1973ff of this title;

(3) waive registration requirements for absent uniformed services voters and overseas voters who, by reason of service or residence, do not have an opportunity to register;

(4) if an application other than an official post card form (prescribed under section 1973ff of this title) is required for absentee registration, provide that registration forms be sent with the absentee ballot and may be returned with it;

(5) expedite processing of balloting materials with respect to absent uniformed services voters and overseas voters;

(6) permit any oath required for a document under this subchapter to be administered by a commissioned officer of the Armed Forces or any official authorized to administer oaths under Federal law or the law of the State or other place where the oath is administered;

(7) assure that absentee ballots are mailed to absent uniformed services voters and overseas voters at the earliest opportunity;

(8) assist the Presidential designee in compiling statistical and other information relating to this subchapter; and

(9) provide late registration procedures for persons recently separated from the Armed Forces.

(Pub. L. 99–410, title I, § 104, Aug. 28, 1986, 100 Stat. 926.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1973ff of this title.

§ 1973ff–4. Enforcement

The Attorney General may bring a civil action in an appropriate district court for such declaratory or injunctive relief as may be necessary to carry out this subchapter.

(Pub. L. 99–410, title I, § 105, Aug. 28, 1986, 100 Stat. 927.)

§ 1973ff–5. Effect on certain other laws

The exercise of any right under this subchapter shall not affect, for purposes of any Federal, State, or local tax, the residence or domicile of a person exercising such right.

(Pub. L. 99–410, title I, § 106, Aug. 28, 1986, 100 Stat. 927.)

§ 1973ff–6. Definitions

As used in this subchapter, the term—

(1) ''absent uniformed services voter'' means—

(A) a member of a uniformed service on active duty who, by reason of such active duty, is absent from the place of residence where the member is otherwise qualified to vote;

(B) a member of the merchant marine who, by reason of service in the merchant marine, is absent from the place of residence where the member is otherwise qualified to vote; and

(C) a spouse or dependent of a member referred to in subparagraph (A) or (B) who, by reason of the active duty or service of the member, is absent from the place of residence where the spouse or dependent is otherwise qualified to vote;

(2) ''balloting materials'' means official post card forms (prescribed under section 1973ff of this title), Federal write-in absentee ballots (prescribed under section 1973ff–2 of this title), and any State balloting materials that, as determined by the Presidential designee, are essential to the carrying out of this subchapter;

(3) ''Federal office'' means the office of President or Vice President, or of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress;

(4) ''member of the merchant marine'' means an individual (other than a member of a uniformed service or an individual employed, enrolled, or maintained on the Great Lakes or the inland waterways)—

(A) employed as an officer or crew member of a vessel documented under the laws of the United States, or a vessel owned by the United States, or a vessel of foreign-flag registry under charter to or control of the United States; or

(B) enrolled with the United States for employment or training for employment, or maintained by the United States for emergency relief service, as an officer or crew member of any such vessel;

(5) ''overseas voter'' means—

(A) an absent uniformed services voter who, by reason of active duty or service is absent from the United States on the date of the election involved;

(B) a person who resides outside the United States and is qualified to vote in the last place in which the person was domiciled before leaving the United States; or

(C) a person who resides outside the United States and (but for such residence) would be qualified to vote in the last place in which the person was domiciled before leaving the United States.

(6) ''State'' means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, and American Samoa;

(7) ''uniformed services'' means the Army, Navy, Air Force, Marine Corps, and Coast Guard, the commissioned corps of the Public Health Service, and the commissioned corps of the National Oceanic and Atmospheric Administration; and

(8) ''United States'', where used in the territorial sense, means the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, and American Samoa.

(Pub. L. 99–410, title I, § 107, Aug. 28, 1986, 100 Stat. 927.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1973ff–2 of this title; title 39 section 3406.

SUBCHAPTER I–H—NATIONAL VOTER REGISTRATION

§ 1973gg. Findings and purposes

(a) Findings

The Congress finds that—

(1) the right of citizens of the United States to vote is a fundamental right;

(2) it is the duty of the Federal, State, and local governments to promote the exercise of that right; and

(3) discriminatory and unfair registration laws and procedures can have a direct and damaging effect on voter participation in elections for Federal office and disproportionately harm voter participation by various groups, including racial minorities.

(b) Purposes

The purposes of this subchapter are—

(1) to establish procedures that will increase the number of eligible citizens who register to vote in elections for Federal office;

(2) to make it possible for Federal, State, and local governments to implement this subchapter in a manner that enhances the participation of eligible citizens as voters in elections for Federal office;

(3) to protect the integrity of the electoral process; and

(4) to ensure that accurate and current voter registration rolls are maintained.

(Pub. L. 103–31, § 2, May 20, 1993, 107 Stat. 77.)

REFERENCES IN TEXT

This subchapter, referred to in subsec. (b), was in the original ''this Act'', meaning Pub. L. 103–31, May 20, 1993, 107 Stat. 77, is classified principally to this subchapter. For complete classification of this Act to the Code, see Short Title note below and Tables.

EFFECTIVE DATE

Section 13 of Pub. L. 103–31 provided that: ''This Act [see Short Title note below] shall take effect—

''(1) with respect to a State that on the date of enactment of this Act [May 20, 1993] has a provision in the constitution of the State that would preclude compliance with this Act unless the State maintained separate Federal and State official lists of eligible voters, on the later of—

''(A) January 1, 1996; or

''(B) the date that is 120 days after the date by which, under the constitution of the State as in effect on the date of enactment of this Act, it would be legally possible to adopt and place into effect any amendments to the constitution of the State that are necessary to permit such compliance with this Act without requiring a special election; and

''(2) with respect to any State not described in paragraph (1), on January 1, 1995.''

SHORT TITLE

Section 1 of Pub. L. 103–31 provided that: ''This Act [enacting this subchapter and section 3629 of Title 39,

Postal Service, and amending sections 2401 and 3627 of Title 39] may be cited as the 'National Voter Registration Act of 1993'.''

PROOF OF CITIZENSHIP

Pub. L. 104–132, title IX, § 902, Apr. 24, 1996, 110 Stat. 1317, provided that: ''Notwithstanding any other provision of law, a Federal, State, or local government agency may not use a voter registration card (or other related document) that evidences registration for an election for Federal office, as evidence to prove United States citizenship.''

Similar provisions were contained in section 117 of H.R. 2076, One Hundred Fourth Congress, as passed by the House of Representatives on Dec. 6, 1995, and as enacted into law by Pub. L. 104–91, title I, § 101(a), Jan. 6, 1996, 110 Stat. 11, as amended by Pub. L. 104–99, title II, § 211, Jan. 26, 1996, 110 Stat. 37.

§ 1973gg–1. Definitions

As used in this subchapter—

(1) the term ''election'' has the meaning stated in section 431(1) of title 2;

(2) the term ''Federal office'' has the meaning stated in section 431(3) of title 2;

(3) the term ''motor vehicle driver's license'' includes any personal identification document issued by a State motor vehicle authority;

(4) the term ''State'' means a State of the United States and the District of Columbia; and

(5) the term ''voter registration agency'' means an office designated under section 1973gg–5(a)(1) of this title to perform voter registration activities.

(Pub. L. 103–31, § 3, May 20, 1993, 107 Stat. 77.)

§ 1973gg–2. National procedures for voter registration for elections for Federal office

(a) In general

Except as provided in subsection (b) of this section, notwithstanding any other Federal or State law, in addition to any other method of voter registration provided for under State law, each State shall establish procedures to register to vote in elections for Federal office—

(1) by application made simultaneously with an application for a motor vehicle driver's license pursuant to section 1973gg–3 of this title;

(2) by mail application pursuant to section 1973gg–4 of this title; and

(3) by application in person—

(A) at the appropriate registration site designated with respect to the residence of the applicant in accordance with State law; and

(B) at a Federal, State, or nongovernmental office designated under section 1973gg–5 of this title.

(b) Nonapplicability to certain States

This subchapter does not apply to a State described in either or both of the following paragraphs:

(1) A State in which, under law that is in effect continuously on and after August 1, 1994, there is no voter registration requirement for any voter in the State with respect to an election for Federal office.

(2) A State in which, under law that is in effect continuously on and after August 1, 1994, or that was enacted on or prior to August 1, 1994, and by its terms is to come into effect upon the enactment of this subchapter, so long as that law remains in effect, all voters in the State may register to vote at the polling place at the time of voting in a general election for Federal office.

(Pub. L. 103–31, § 4, May 20, 1993, 107 Stat. 78; Pub. L. 104–91, title I, § 101(a), Jan. 6, 1996, 110 Stat. 11, amended Pub. L. 104–99, title II, § 211, Jan. 26, 1996, 110 Stat. 37.)

REFERENCES IN TEXT

Upon the enactment of this subchapter, referred to in subsec. (b)(2), means the date of enactment of Pub. L. 103–31, which was approved May 20, 1993.

CODIFICATION

Amendment by Pub. L. 104–91 is based on section 116(a) of H.R. 2076, One Hundred Fourth Congress, as passed by the House of Representatives on Dec. 6, 1995, which was enacted into law by Pub. L. 104–91.

AMENDMENTS

1996—Subsec. (b). Pub. L. 104–91, as amended by Pub. L. 104–99, substituted ''August 1, 1994'' for ''March 11, 1993'' wherever appearing.

EFFECTIVE DATE OF 1996 AMENDMENT

Section 116(b) of H.R. 2076, One Hundred Fourth Congress, as passed by the House of Representatives on Dec. 6, 1995, and as enacted into law by Pub. L. 104–91, title I, § 101(a), Jan. 6, 1996, 110 Stat. 11, as amended by Pub. L. 104–99, title II, § 211, Jan. 26, 1996, 110 Stat. 37, provided that: ''The amendments made by subsection (a) [amending this section] shall take effect as if included in the provisions of the National Voter Registration Act of 1993 [Pub. L. 103–31].''

§ 1973gg–3. Simultaneous application for voter registration and application for motor vehicle driver's license

(a) In general

(1) Each State motor vehicle driver's license application (including any renewal application) submitted to the appropriate State motor vehicle authority under State law shall serve as an application for voter registration with respect to elections for Federal office unless the applicant fails to sign the voter registration application.

(2) An application for voter registration submitted under paragraph (1) shall be considered as updating any previous voter registration by the applicant.

(b) Limitation on use of information

No information relating to the failure of an applicant for a State motor vehicle driver's license to sign a voter registration application may be used for any purpose other than voter registration.

(c) Forms and procedures

(1) Each State shall include a voter registration application form for elections for Federal office as part of an application for a State motor vehicle driver's license.

(2) The voter registration application portion of an application for a State motor vehicle driver's license—

(A) may not require any information that duplicates information required in the driver's license portion of the form (other than a sec-

ond signature or other information necessary under subparagraph (C));

(B) may require only the minimum amount of information necessary to—

(i) prevent duplicate voter registrations; and

(ii) enable State election officials to assess the eligibility of the applicant and to administer voter registration and other parts of the election process;

(C) shall include a statement that—

(i) states each eligibility requirement (including citizenship);

(ii) contains an attestation that the applicant meets each such requirement; and

(iii) requires the signature of the applicant, under penalty of perjury;

(D) shall include, in print that is identical to that used in the attestation portion of the application—

(i) the information required in section 1973gg–6(a)(5)(A) and (B) of this title;

(ii) a statement that, if an applicant declines to register to vote, the fact that the applicant has declined to register will remain confidential and will be used only for voter registration purposes; and

(iii) a statement that if an applicant does register to vote, the office at which the applicant submits a voter registration application will remain confidential and will be used only for voter registration purposes; and

(E) shall be made available (as submitted by the applicant, or in machine readable or other format) to the appropriate State election official as provided by State law.

(d) Change of address

Any change of address form submitted in accordance with State law for purposes of a State motor vehicle driver's license shall serve as notification of change of address for voter registration with respect to elections for Federal office for the registrant involved unless the registrant states on the form that the change of address is not for voter registration purposes.

(e) Transmittal deadline

(1) Subject to paragraph (2), a completed voter registration portion of an application for a State motor vehicle driver's license accepted at a State motor vehicle authority shall be transmitted to the appropriate State election official not later than 10 days after the date of acceptance.

(2) If a registration application is accepted within 5 days before the last day for registration to vote in an election, the application shall be transmitted to the appropriate State election official not later than 5 days after the date of acceptance.

(Pub. L. 103–31, § 5, May 20, 1993, 107 Stat. 78.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1973gg–2, 1973gg–6 of this title.

§ 1973gg–4. Mail registration

(a) Form

(1) Each State shall accept and use the mail voter registration application form prescribed by the Federal Election Commission pursuant to section 1973gg–7(a)(2) of this title for the registration of voters in elections for Federal office.

(2) In addition to accepting and using the form described in paragraph (1), a State may develop and use a mail voter registration form that meets all of the criteria stated in section 1973gg–7(b) of this title for the registration of voters in elections for Federal office.

(3) A form described in paragraph (1) or (2) shall be accepted and used for notification of a registrant's change of address.

(b) Availability of forms

The chief State election official of a State shall make the forms described in subsection (a) of this section available for distribution through governmental and private entities, with particular emphasis on making them available for organized voter registration programs.

(c) First-time voters

(1) Subject to paragraph (2), a State may by law require a person to vote in person if—

(A) the person was registered to vote in a jurisdiction by mail; and

(B) the person has not previously voted in that jurisdiction.

(2) Paragraph (1) does not apply in the case of a person—

(A) who is entitled to vote by absentee ballot under the Uniformed and Overseas Citizens Absentee Voting Act [42 U.S.C. 1973ff et seq.];

(B) who is provided the right to vote otherwise than in person under section 1973ee–1(b)(2)(B)(ii) of this title; or

(C) who is entitled to vote otherwise than in person under any other Federal law.

(d) Undelivered notices

If a notice of the disposition of a mail voter registration application under section 1973gg–6(a)(2) of this title is sent by nonforwardable mail and is returned undelivered, the registrar may proceed in accordance with section 1973gg–6(d) of this title.

(Pub. L. 103–31, § 6, May 20, 1993, 107 Stat. 79.)

REFERENCES IN TEXT

The Uniformed and Overseas Citizens Absentee Voting Act, referred to in subsec. (c)(2)(A), is Pub. L. 99–410, Aug. 28, 1986, 100 Stat. 924, which is classified principally to subchapter I–G (§ 1973ff et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1973ff of this title and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1973gg–2, 1973gg–6 of this title.

§ 1973gg–5. Voter registration agencies

(a) Designation

(1) Each State shall designate agencies for the registration of voters in elections for Federal office.

(2) Each State shall designate as voter registration agencies—

(A) all offices in the State that provide public assistance; and

(B) all offices in the State that provide State-funded programs primarily engaged in providing services to persons with disabilities.

(3)(A) In addition to voter registration agencies designated under paragraph (2), each State shall designate other offices within the State as voter registration agencies.

(B) Voter registration agencies designated under subparagraph (A) may include—

(i) State or local government offices such as public libraries, public schools, offices of city and county clerks (including marriage license bureaus), fishing and hunting license bureaus, government revenue offices, unemployment compensation offices, and offices not described in paragraph (2)(B) that provide services to persons with disabilities; and

(ii) Federal and nongovernmental offices, with the agreement of such offices.

(4)(A) At each voter registration agency, the following services shall be made available:

(i) Distribution of mail voter registration application forms in accordance with paragraph (6).

(ii) Assistance to applicants in completing voter registration application forms, unless the applicant refuses such assistance.

(iii) Acceptance of completed voter registration application forms for transmittal to the appropriate State election official.

(B) If a voter registration agency designated under paragraph (2)(B) provides services to a person with a disability at the person's home, the agency shall provide the services described in subparagraph (A) at the person's home.

(5) A person who provides service described in paragraph (4) shall not—

(A) seek to influence an applicant's political preference or party registration;

(B) display any such political preference or party allegiance;

(C) make any statement to an applicant or take any action the purpose or effect of which is to discourage the applicant from registering to vote; or

(D) make any statement to an applicant or take any action the purpose or effect of which is to lead the applicant to believe that a decision to register or not to register has any bearing on the availability of services or benefits.

(6) A voter registration agency that is an office that provides service or assistance in addition to conducting voter registration shall—

(A) distribute with each application for such service or assistance, and with each recertification, renewal, or change of address form relating to such service or assistance—

(i) the mail voter registration application form described in section 1973gg–7(a)(2) of this title, including a statement that—

(I) specifies each eligibility requirement (including citizenship);

(II) contains an attestation that the applicant meets each such requirement; and

(III) requires the signature of the applicant, under penalty of perjury; or

(ii) the office's own form if it is equivalent to the form described in section 1973gg–7(a)(2) of this title,

unless the applicant, in writing, declines to register to vote;

(B) provide a form that includes—

(i) the question, ''If you are not registered to vote where you live now, would you like to apply to register to vote here today?'';

(ii) if the agency provides public assistance, the statement, ''Applying to register or declining to register to vote will not affect the amount of assistance that you will be provided by this agency.'';

(iii) boxes for the applicant to check to indicate whether the applicant would like to register or declines to register to vote (failure to check either box being deemed to constitute a declination to register for purposes of subparagraph (C)), together with the statement (in close proximity to the boxes and in prominent type), ''IF YOU DO NOT CHECK EITHER BOX, YOU WILL BE CONSIDERED TO HAVE DECIDED NOT TO REGISTER TO VOTE AT THIS TIME.'';

(iv) the statement, ''If you would like help in filling out the voter registration application form, we will help you. The decision whether to seek or accept help is yours. You may fill out the application form in private.''; and

(v) the statement, ''If you believe that someone has interfered with your right to register or to decline to register to vote, your right to privacy in deciding whether to register or in applying to register to vote, or your right to choose your own political party or other political preference, you may file a complaint with _____.'', the blank being filled by the name, address, and telephone number of the appropriate official to whom such a complaint should be addressed; and

(C) provide to each applicant who does not decline to register to vote the same degree of assistance with regard to the completion of the registration application form as is provided by the office with regard to the completion of its own forms, unless the applicant refuses such assistance.

(7) No information relating to a declination to register to vote in connection with an application made at an office described in paragraph (6) may be used for any purpose other than voter registration.

(b) Federal Government and private sector cooperation

All departments, agencies, and other entities of the executive branch of the Federal Government shall, to the greatest extent practicable, cooperate with the States in carrying out subsection (a) of this section, and all nongovernmental entities are encouraged to do so.

(c) Armed Forces recruitment offices

(1) Each State and the Secretary of Defense shall jointly develop and implement procedures for persons to apply to register to vote at recruitment offices of the Armed Forces of the United States.

(2) A recruitment office of the Armed Forces of the United States shall be considered to be a voter registration agency designated under sub-

section (a)(2) of this section for all purposes of this subchapter.

(d) Transmittal deadline

(1) Subject to paragraph (2), a completed registration application accepted at a voter registration agency shall be transmitted to the appropriate State election official not later than 10 days after the date of acceptance.

(2) If a registration application is accepted within 5 days before the last day for registration to vote in an election, the application shall be transmitted to the appropriate State election official not later than 5 days after the date of acceptance.

(Pub. L. 103–31, § 7, May 20, 1993, 107 Stat. 80.)

EX. ORD. NO. 12926. IMPLEMENTATION OF NATIONAL VOTER REGISTRATION ACT OF 1993

Ex. Ord. No. 12926, Sept. 12, 1994, 59 F.R. 47227, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 301 of title 3, United States Code, and in order to ensure, as required by section 7(b) of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg) [42 U.S.C. 1973gg–5(b)] (''the Act''), that departments, agencies, and other entities of the executive branch of the Federal Government cooperate with the States in carrying out the Act's requirements, it is hereby ordered as follows:

SECTION 1. *Assistance to States*. To the greatest extent practicable, departments, agencies, and other entities of the executive branch of the Federal Government that provide, in whole or in part, funding, grants, or assistance for, or with respect to the administration of, any program of public assistance or services to persons with disabilities within the meaning of section 7(a) of the Act shall: (a) provide, to State agencies administering any such program, guidance for the implementation of the requirements of section 7 of the Act, including guidance for use and distribution of voter registration forms in connection with applications for service;

(b) assist each such State agency administering any such program with the costs of implementation of the Act [42 U.S.C. 1973gg et seq.], consistent with legal authority and the availability of funds, and promptly indicate to each State agency the extent to which such assistance will be made available; and

(c) designate an office or staff to be available to provide technical assistance to such State agencies.

SEC. 2. *Armed Forces Recruitment Offices*. The Secretary of Defense is directed to work with the appropriate State elections authorities in each State to develop procedures for persons to apply to register to vote at Armed Forces recruitment offices as required by section 7(c) of the Act.

SEC. 3. *Acceptance of Designation*. To the greatest extent practicable, departments, agencies, or other entities of the executive branch of the Federal Government, if requested to be designated as a voter registration agency pursuant to section 7(a)(3)(B)(ii) of the Act, shall: (a) agree to such a designation if agreement is consistent with the department's, agency's, or entity's legal authority and availability of funds; and

(b) ensure that all of its offices that are located in a particular State will have available to the public at least one of the national voter registration forms that are required under the Act to be available in that State.

WILLIAM J. CLINTON.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1973gg–1, 1973gg–2, 1973gg–6 of this title.

§ 1973gg–6. Requirements with respect to administration of voter registration

(a) In general

In the administration of voter registration for elections for Federal office, each State shall—

(1) ensure that any eligible applicant is registered to vote in an election—

(A) in the case of registration with a motor vehicle application under section 1973gg–3 of this title, if the valid voter registration form of the applicant is submitted to the appropriate State motor vehicle authority not later than the lesser of 30 days, or the period provided by State law, before the date of the election;

(B) in the case of registration by mail under section 1973gg–4 of this title, if the valid voter registration form of the applicant is postmarked not later than the lesser of 30 days, or the period provided by State law, before the date of the election;

(C) in the case of registration at a voter registration agency, if the valid voter registration form of the applicant is accepted at the voter registration agency not later than the lesser of 30 days, or the period provided by State law, before the date of the election; and

(D) in any other case, if the valid voter registration form of the applicant is received by the appropriate State election official not later than the lesser of 30 days, or the period provided by State law, before the date of the election;

(2) require the appropriate State election official to send notice to each applicant of the disposition of the application;

(3) provide that the name of a registrant may not be removed from the official list of eligible voters except—

(A) at the request of the registrant;

(B) as provided by State law, by reason of criminal conviction or mental incapacity; or

(C) as provided under paragraph (4);

(4) conduct a general program that makes a reasonable effort to remove the names of ineligible voters from the official lists of eligible voters by reason of—

(A) the death of the registrant; or

(B) a change in the residence of the registrant, in accordance with subsections (b), (c), and (d) of this section;

(5) inform applicants under sections 1973gg–3, 1973gg–4, and 1973gg–5 of this title of—

(A) voter eligibility requirements; and

(B) penalties provided by law for submission of a false voter registration application; and

(6) ensure that the identity of the voter registration agency through which any particular voter is registered is not disclosed to the public.

(b) Confirmation of voter registration

Any State program or activity to protect the integrity of the electoral process by ensuring the maintenance of an accurate and current voter registration roll for elections for Federal office—

(1) shall be uniform, nondiscriminatory, and in compliance with the Voting Rights Act of 1965 (42 U.S.C. 1973 et seq.); and

(2) shall not result in the removal of the name of any person from the official list of voters registered to vote in an election for Federal office by reason of the person's failure to vote.

(c) Voter removal programs

(1) A State may meet the requirement of subsection (a)(4) of this section by establishing a program under which—

(A) change-of-address information supplied by the Postal Service through its licensees is used to identify registrants whose addresses may have changed; and

(B) if it appears from information provided by the Postal Service that—

(i) a registrant has moved to a different residence address in the same registrar's jurisdiction in which the registrant is currently registered, the registrar changes the registration records to show the new address and sends the registrant a notice of the change by forwardable mail and a postage prepaid pre-addressed return form by which the registrant may verify or correct the address information; or

(ii) the registrant has moved to a different residence address not in the same registrar's jurisdiction, the registrar uses the notice procedure described in subsection (d)(2) of this section to confirm the change of address.

(2)(A) A State shall complete, not later than 90 days prior to the date of a primary or general election for Federal office, any program the purpose of which is to systematically remove the names of ineligible voters from the official lists of eligible voters.

(B) Subparagraph (A) shall not be construed to preclude—

(i) the removal of names from official lists of voters on a basis described in paragraph (3)(A) or (B) or (4)(A) of subsection (a) of this section; or

(ii) correction of registration records pursuant to this subchapter.

(d) Removal of names from voting rolls

(1) A State shall not remove the name of a registrant from the official list of eligible voters in elections for Federal office on the ground that the registrant has changed residence unless the registrant—

(A) confirms in writing that the registrant has changed residence to a place outside the registrar's jurisdiction in which the registrant is registered; or

(B)(i) has failed to respond to a notice described in paragraph (2); and

(ii) has not voted or appeared to vote (and, if necessary, correct the registrar's record of the registrant's address) in an election during the period beginning on the date of the notice and ending on the day after the date of the second general election for Federal office that occurs after the date of the notice.

(2) A notice is described in this paragraph if it is a postage prepaid and pre-addressed return card, sent by forwardable mail, on which the registrant may state his or her current address, together with a notice to the following effect:

(A) If the registrant did not change his or her residence, or changed residence but remained in the registrar's jurisdiction, the registrant should return the card not later than the time provided for mail registration under subsection (a)(1)(B) of this section. If the card is not returned, affirmation or confirmation of the registrant's address may be required before the registrant is permitted to vote in a Federal election during the period beginning on the date of the notice and ending on the day after the date of the second general election for Federal office that occurs after the date of the notice, and if the registrant does not vote in an election during that period the registrant's name will be removed from the list of eligible voters.

(B) If the registrant has changed residence to a place outside the registrar's jurisdiction in which the registrant is registered, information concerning how the registrant can continue to be eligible to vote.

(3) A voting registrar shall correct an official list of eligible voters in elections for Federal office in accordance with change of residence information obtained in conformance with this subsection.

(e) Procedure for voting following failure to return card

(1) A registrant who has moved from an address in the area covered by a polling place to an address in the same area shall, notwithstanding failure to notify the registrar of the change of address prior to the date of an election, be permitted to vote at that polling place upon oral or written affirmation by the registrant of the change of address before an election official at that polling place.

(2)(A) A registrant who has moved from an address in the area covered by one polling place to an address in an area covered by a second polling place within the same registrar's jurisdiction and the same congressional district and who has failed to notify the registrar of the change of address prior to the date of an election, at the option of the registrant—

(i) shall be permitted to correct the voting records and vote at the registrant's former polling place, upon oral or written affirmation by the registrant of the new address before an election official at that polling place; or

(ii)(I) shall be permitted to correct the voting records and vote at a central location within the same registrar's jurisdiction designated by the registrar where a list of eligible voters is maintained, upon written affirmation by the registrant of the new address on a standard form provided by the registrar at the central location; or

(II) shall be permitted to correct the voting records for purposes of voting in future elections at the appropriate polling place for the current address and, if permitted by State law, shall be permitted to vote in the present election, upon confirmation by the registrant of the new address by such means as are required by law.

(B) If State law permits the registrant to vote in the current election upon oral or written affirmation by the registrant of the new address at a polling place described in subparagraph (A)(i) or (A)(ii)(II), voting at the other locations described in subparagraph (A) need not be provided as options.

(3) If the registration records indicate that a registrant has moved from an address in the area covered by a polling place, the registrant shall, upon oral or written affirmation by the registrant before an election official at that polling place that the registrant continues to reside at the address previously made known to the registrar, be permitted to vote at that polling place.

(f) Change of voting address within a jurisdiction

In the case of a change of address, for voting purposes, of a registrant to another address within the same registrar's jurisdiction, the registrar shall correct the voting registration list accordingly, and the registrant's name may not be removed from the official list of eligible voters by reason of such a change of address except as provided in subsection (d) of this section.

(g) Conviction in Federal court

(1) On the conviction of a person of a felony in a district court of the United States, the United States attorney shall give written notice of the conviction to the chief State election official designated under section 1973gg–8 of this title of the State of the person's residence.

(2) A notice given pursuant to paragraph (1) shall include—

(A) the name of the offender;

(B) the offender's age and residence address;

(C) the date of entry of the judgment;

(D) a description of the offenses of which the offender was convicted; and

(E) the sentence imposed by the court.

(3) On request of the chief State election official of a State or other State official with responsibility for determining the effect that a conviction may have on an offender's qualification to vote, the United States attorney shall provide such additional information as the United States attorney may have concerning the offender and the offense of which the offender was convicted.

(4) If a conviction of which notice was given pursuant to paragraph (1) is overturned, the United States attorney shall give the official to whom the notice was given written notice of the vacation of the judgment.

(5) The chief State election official shall notify the voter registration officials of the local jurisdiction in which an offender resides of the information received under this subsection.

(h) Omitted

(i) Public disclosure of voter registration activities

(1) Each State shall maintain for at least 2 years and shall make available for public inspection and, where available, photocopying at a reasonable cost, all records concerning the implementation of programs and activities conducted for the purpose of ensuring the accuracy and currency of official lists of eligible voters, except to the extent that such records relate to a declination to register to vote or to the identity of a voter registration agency through which any particular voter is registered.

(2) The records maintained pursuant to paragraph (1) shall include lists of the names and addresses of all persons to whom notices described in subsection (d)(2) of this section are sent, and information concerning whether or not each such person has responded to the notice as of the date that inspection of the records is made.

(j) "Registrar's jurisdiction" defined

For the purposes of this section, the term ''registrar's jurisdiction'' means—

(1) an incorporated city, town, borough, or other form of municipality;

(2) if voter registration is maintained by a county, parish, or other unit of government that governs a larger geographic area than a municipality, the geographic area governed by that unit of government; or

(3) if voter registration is maintained on a consolidated basis for more than one municipality or other unit of government by an office that performs all of the functions of a voting registrar, the geographic area of the consolidated municipalities or other geographic units.

(Pub. L. 103–31, § 8, May 20, 1993, 107 Stat. 82.)

REFERENCES IN TEXT

The Voting Rights Act of 1965, referred to in subsec. (b)(1), is Pub. L. 89–110, Aug. 6, 1965, 79 Stat. 437, as amended, which is classified generally to subchapters I–A (§ 1973 et seq.), I–B (§ 1973aa et seq.), and I–C (§ 1973bb et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1973 of this title and Tables.

CODIFICATION

Section is comprised of section 8 of Pub. L. 103–31. Subsec. (h) of section 8 of Pub. L. 103–31 enacted section 3629 of Title 39, Postal Service, and amended sections 2401 and 3627 of Title 39.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1973gg–3, 1973gg–4, 1973gg–7 of this title.

§ 1973gg–7. Federal coordination and regulations

(a) In general

The Federal Election Commission—

(1) in consultation with the chief election officers of the States, shall prescribe such regulations as are necessary to carry out paragraphs (2) and (3);

(2) in consultation with the chief election officers of the States, shall develop a mail voter registration application form for elections for Federal office;

(3) not later than June 30 of each odd-numbered year, shall submit to the Congress a report assessing the impact of this subchapter on the administration of elections for Federal office during the preceding 2-year period and including recommendations for improvements in Federal and State procedures, forms, and other matters affected by this subchapter; and

(4) shall provide information to the States with respect to the responsibilities of the States under this subchapter.

(b) Contents of mail voter registration form

The mail voter registration form developed under subsection (a)(2) of this section—

(1) may require only such identifying information (including the signature of the applicant) and other information (including data relating to previous registration by the applicant), as is necessary to enable the appropriate State election official to assess the eligibility of the applicant and to administer voter registration and other parts of the election process;

(2) shall include a statement that—

(A) specifies each eligibility requirement (including citizenship);

(B) contains an attestation that the applicant meets each such requirement; and

(C) requires the signature of the applicant, under penalty of perjury;

(3) may not include any requirement for notarization or other formal authentication; and

(4) shall include, in print that is identical to that used in the attestation portion of the application—

(i) the information required in section 1973gg–6(a)(5)(A) and (B) of this title;

(ii) a statement that, if an applicant declines to register to vote, the fact that the applicant has declined to register will remain confidential and will be used only for voter registration purposes; and

(iii) a statement that if an applicant does register to vote, the office at which the applicant submits a voter registration application will remain confidential and will be used only for voter registration purposes.

(Pub. L. 103–31, § 9, May 20, 1993, 107 Stat. 87.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1973gg–4, 1973gg–5 of this title.

§ 1973gg–8. Designation of chief State election official

Each State shall designate a State officer or employee as the chief State election official to be responsible for coordination of State responsibilities under this subchapter.

(Pub. L. 103–31, § 10, May 20, 1993, 107 Stat. 87.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1973gg–6 of this title.

§ 1973gg–9. Civil enforcement and private right of action

(a) Attorney General

The Attorney General may bring a civil action in an appropriate district court for such declaratory or injunctive relief as is necessary to carry out this subchapter.

(b) Private right of action

(1) A person who is aggrieved by a violation of this subchapter may provide written notice of the violation to the chief election official of the State involved.

(2) If the violation is not corrected within 90 days after receipt of a notice under paragraph (1), or within 20 days after receipt of the notice if the violation occurred within 120 days before the date of an election for Federal office, the aggrieved person may bring a civil action in an appropriate district court for declaratory or injunctive relief with respect to the violation.

(3) If the violation occurred within 30 days before the date of an election for Federal office, the aggrieved person need not provide notice to the chief election official of the State under paragraph (1) before bringing a civil action under paragraph (2).

(c) Attorney's fees

In a civil action under this section, the court may allow the prevailing party (other than the United States) reasonable attorney fees, including litigation expenses, and costs.

(d) Relation to other laws

(1) The rights and remedies established by this section are in addition to all other rights and remedies provided by law, and neither the rights and remedies established by this section nor any other provision of this subchapter shall supersede, restrict, or limit the application of the Voting Rights Act of 1965 (42 U.S.C. 1973 et seq.).

(2) Nothing in this subchapter authorizes or requires conduct that is prohibited by the Voting Rights Act of 1965 (42 U.S.C. 1973 et seq.).

(Pub. L. 103–31, § 11, May 20, 1993, 107 Stat. 88.)

REFERENCES IN TEXT

The Voting Rights Act of 1965, referred to in subsec. (d), is Pub. L. 89–110, Aug. 6, 1965, 79 Stat. 437, as amended, which is classified generally to subchapters I–A (§ 1973 et seq.), I–B (§ 1973aa et seq.), and I–C (§ 1973bb et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1973 of this title and Tables.

§ 1973gg–10. Criminal penalties

A person, including an election official, who in any election for Federal office—

(1) knowingly and willfully intimidates, threatens, or coerces, or attempts to intimidate, threaten, or coerce, any person for—

(A) registering to vote, or voting, or attempting to register or vote;

(B) urging or aiding any person to register to vote, to vote, or to attempt to register or vote; or

(C) exercising any right under this subchapter; or

(2) knowingly and willfully deprives, defrauds, or attempts to deprive or defraud the residents of a State of a fair and impartially conducted election process, by—

(A) the procurement or submission of voter registration applications that are known by the person to be materially false, fictitious, or fraudulent under the laws of the State in which the election is held; or

(B) the procurement, casting, or tabulation of ballots that are known by the person to be materially false, fictitious, or fraudulent under the laws of the State in which the election is held,

shall be fined in accordance with title 18 (which fines shall be paid into the general fund of the Treasury, miscellaneous receipts (pursuant to

section 3302 of title 31), notwithstanding any other law), or imprisoned not more than 5 years, or both.

(Pub. L. 103–31, § 12, May 20, 1993, 107 Stat. 88.)

SUBCHAPTER II—FEDERAL ELECTION RECORDS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 1971 of this title.

§ 1974. Retention and preservation of records and papers by officers of elections; deposit with custodian; penalty for violation

Every officer of election shall retain and preserve, for a period of twenty-two months from the date of any general, special, or primary election of which candidates for the office of President, Vice President, presidential elector, Member of the Senate, Member of the House of Representatives, or Resident Commissioner from the Commonwealth of Puerto Rico are voted for, all records and papers which come into his possession relating to any application, registration, payment of poll tax, or other act requisite to voting in such election, except that, when required by law, such records and papers may be delivered to another officer of election and except that, if a State or the Commonwealth of Puerto Rico designates a custodian to retain and preserve these records and papers at a specified place, then such records and papers may be deposited with such custodian, and the duty to retain and preserve any record or paper so deposited shall devolve upon such custodian. Any officer of election or custodian who willfully fails to comply with this section shall be fined not more than $1,000 or imprisoned not more than one year, or both.

(Pub. L. 86–449, title III, § 301, May 6, 1960, 74 Stat. 88.)

SHORT TITLE

Section 1 of Pub. L. 86–449 provided that: ''This Act [enacting this subchapter and sections 837, 1074, and 1609 of Title 18, Crimes and Criminal Procedure, and amending section 1971 of this title and sections 241 and 640 of Title 20, Education] may be cited as the 'Civil Rights Act of 1960'.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1974a, 1974b of this title.

§ 1974a. Theft, destruction, concealment, mutilation, or alteration of records or papers; penalties

Any person, whether or not an officer of election or custodian, who willfully steals, destroys, conceals, mutilates, or alters any record or paper required by section 1974 of this title to be retained and preserved shall be fined not more than $1,000 or imprisoned not more than one year, or both.

(Pub. L. 86–449, title III, § 302, May 6, 1960, 74 Stat. 88.)

§ 1974b. Demand for records or papers by Attorney General or representative; statement of basis and purpose

Any record or paper required by section 1974 of this title to be retained and preserved shall, upon demand in writing by the Attorney General or his representative directed to the person having custody, possession, or control of such record or paper, be made available for inspection, reproduction, and copying at the principal office of such custodian by the Attorney General or his representative. This demand shall contain a statement of the basis and the purpose therefor.

(Pub. L. 86–449, title III, § 303, May 6, 1960, 74 Stat. 88.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1974d of this title.

§ 1974c. Disclosure of records or papers

Unless otherwise ordered by a court of the United States, neither the Attorney General nor any employee of the Department of Justice, nor any other representative of the Attorney General, shall disclose any record or paper produced pursuant to this subchapter, or any reproduction or copy, except to Congress and any committee thereof, governmental agencies, and in the presentation of any case or proceeding before any court or grand jury.

(Pub. L. 86–449, title III, § 304, May 6, 1960, 74 Stat. 88.)

§ 1974d. Jurisdiction to compel production of records or papers

The United States district court for the district in which a demand is made pursuant to section 1974b of this title, or in which a record or paper so demanded is located, shall have jurisdiction by appropriate process to compel the production of such record or paper.

(Pub. L. 86–449, title III, § 305, May 6, 1960, 74 Stat. 88.)

§ 1974e. "Officer of election" defined

As used in this subchapter, the term ''officer of election'' means any person who, under color of any Federal, State, Commonwealth, or local law, statute, ordinance, regulation, authority, custom, or usage, performs or is authorized to perform any function, duty, or task in connection with any application, registration, payment of poll tax, or other act requisite to voting in any general, special, or primary election at which votes are cast for candidates for the office of President, Vice President, presidential elector, Member of the Senate, Member of the House of Representatives, or Resident Commissioner from the Commonwealth of Puerto Rico.

(Pub. L. 86–449, title III, § 306, May 6, 1960, 74 Stat. 88.)

CHAPTER 20A—CIVIL RIGHTS COMMISSION

Sec.
1975. Establishment of Commission.
(a) Generally.