

and several counties in six other states), but not in 1982 or 2006. Specifically, the Court stated:

“Coverage today is based on decades-old data and eradicated practices. The formula captures States by reference to literacy tests and low voter registration and turnout in the 1960s and early 1970s. But such tests have been banned nationwide for over 40 years. And voter registration and turnout numbers in the covered States have risen dramatically in the years since.”

The Court did not believe that the record Congress amassed in 2006 establishing vote dilution and other discriminatory practices was tied to text of a coverage formula based on turnout, registration rates, and tests from the 1960s and 1970s.

The Court explicitly limited its holding to the 4(b) coverage formula based on election data from the 1960s and 70s, and stated that “Congress may draft another formula based on current conditions.” While the Court observed that states generally regulate state and local elections and that federal preclearance is “extraordinary,” the Court did not find the Section 5 preclearance process unconstitutional. Instead, it explicitly recognized that “voting discrimination still exists,” that “any racial discrimination in voting is too much,” and that Congress has the power to enforce the Fifteenth Amendment to prevent voting discrimination.

B. 2014 and 2015 Congressional Efforts To Update the Voting Rights Act

Since Shelby County, legislation has been submitted to update the Voting Rights Act—the Voting Rights Amendment Act of 2014 and the Voting Rights Advancement Act of 2015. Both bills: 1) tie preclearance to recent instances of discrimination; 2) allow judges to order “bail in” preclearance coverage as a remedy for a voting rights violation even in the absence of intentional discrimination; 3) attempt to deter bad activity by requiring that jurisdictions nationwide provide notice of certain election changes; and 4) make it easier for plaintiffs to obtain a preliminary injunction to block potentially discriminatory election rules before they are used in an election and harm voters.

There are, however, significant differences. Generally, the 2014 Amendment Act basis preclearance coverage on jurisdictions with significant voting rights violations over the prior 15 years, while the 2015 Amendment Act focuses on violations over the prior 25 years. Thus, while the 2014 Amendment Act subjected only Georgia, Louisiana, Mississippi, and Texas to preclearance when introduced, the 2015 Advancement Act applied preclearance to those states plus Alabama, Arkansas, Arizona, California, Florida, New York, North Carolina, South Carolina, and Virginia. The 2014 Amendment Act exempts voter identification from violations that justify the expansion of preclearance, whereas the 2015 Advancement Act provides no such voter identification exemptions.

The 2015 Advancement Act also contains provisions that do not appear in the 2014 Amendment Act. For example, the 2015 Advancement Act requires preclearance nationwide for “known practices” historically used to discriminate against voters of color, such as: 1) voter qualifications that make it more difficult to register or vote (e.g., ID or proof of citizenship documentation); 2) redistricting, annexations, polling place changes, and other changes to methods of elections (e.g., moving to at-large elections) in areas that are racially, ethnically, or linguistically diverse; and 3) reductions in language assistance. The 2015 Advancement Act also includes Native American and Alaska Native voting protections that ensure ballot translation, registration opportunities on and off

Indian reservations, and annual consultation with the Department of Justice.

II. The Need To Update the Voting Rights Act

A. Litigation Inadequate Substitute for Loss of Preclearance

While the holding in Shelby County was limited to invalidating the coverage formula, the decision has a significant impact. It effectively suspends Section 5 preclearance in all jurisdictions other than the handful currently subject to a Section 3(c) “bail in” court order,

Litigation Not Comprehensive: Preclearance was comprehensive—it deterred jurisdictions from adopting many unfair election rules because officials knew every decision would be reviewed. In contrast, litigation requires that plaintiffs have the information and resources to bring a claim, and therefore litigation misses a lot of under-the-radar manipulation.

Litigation More Expensive: Preclearance also put the burden to show a change was fair on jurisdictions—which enhanced efficiencies because jurisdictions generally have better access to information about the purpose and effect of their proposed election law changes. Litigation shifts the burden to affected citizens—who must employ experts and lawyers who fish for information during drawn-out discovery processes.

Significant Voting Discrimination Persists: Too many political operatives in previously covered jurisdictions continue to maintain power by unfairly manipulating voting rules based on how voters look or speak. Congress determined as much during the last reauthorization, and such discrimination has occurred since that time in various jurisdictions like Nueces County, Texas. While the Court in Shelby County invalidated the coverage formula because it was based on data from the 1960s and 1970s, the Court acknowledged that “voting discrimination still exists” and that “any racial discrimination in voting is too much.”

B. Joint Center Report: 50 Years of the Voting Rights Act

In 2015, the Joint Center for Political and Economic Studies published 50 Years of the Voting Rights Act:

The State of Race in Politics. The 46-page report established that while the Voting Rights Act increased turnout by voters of color, citizen voting age population turnout rates among Latinos and Asian Americans trail African-American turnout by 10–15 percentage points and white turnout by 15–20 points. The report also found that racially polarized voting persists, and in some contexts is growing. Race is the most significant factor in urban local elections, and more decisive than income, education, religion, sexual orientation, age, gender, and political ideology. The 38 point racial gap exceeds even the 33 point gap between Democratic and Republican voters.

III. Conclusion

In the last 51 years the United States has made significant progress on voting rights. Unfortunately, after Shelby County v. Holder political operatives have more opportunity to unfairly manipulate election rules based on race. The Court in Shelby County stated that the purpose of the Fifteenth Amendment is “to ensure a better future,” but the future will be worse if Congress fails to act.

Fortunately, Congress has the power to prevent discrimination and update the Voting Rights Act. An updated Voting Rights Act will help not just voters of color, but our nation as a whole. Protecting voting rights provides legitimacy to our nation’s efforts to promote democracy and prevent corruption

around the world. We all agree that racial discrimination in voting is wrong, and Congress should update the Voting Rights Act to ensure voting is free, fair, and accessible for all Americans.

RECOGNIZING COMMAND SERGEANT MAJOR LANCE LEHR

HON. BETO O’ROURKE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 2016

Mr. O’ROURKE. Mr. Speaker, I rise today to recognize and congratulate Command Sergeant Major Lance Lehr on his retirement from the United States Army after 30 years of service to our country. An esteemed and respected member of the Armor and Cavalry community, Command Sergeant Major Lehr most recently served as the Command Sergeant Major of the 1st Armored Division and Fort Bliss. In this role, he served a community of over 30,000 active duty servicemembers and 47,000 family members. He also played an integral role in strengthening the relationship between Fort Bliss and the El Paso community.

Command Sergeant Major Lehr’s distinguished career includes assignments across the United States, Germany, and Bosnia-Herzegovina. He has served as a Scout driver, gunner, and Vehicle Commander; Scout Platoon Sergeant; Operations Sergeant; First Sergeant; and Operations Sergeant Major at the battalion and brigade level. He also had the extremely rare privilege of serving as a Command Sergeant Major for three different battalions; the 1st Brigade Combat Team of the 1st Cavalry Division; and the National Training Center and Fort Irwin. His deployments include Bosnia-Herzegovina, as part of Operation Joint Guard, and Iraq, as part of Operation Desert Shield and Desert Storm, Operation Iraqi Freedom, Operation New Dawn, and Operation Spartan Shield.

As Command Sergeant Major Lehr embarks on a new chapter in life, it is my hope that he may recall, with a deep sense of pride and accomplishment, the outstanding contributions he has made to the Fort Bliss and El Paso communities and to the United States Army. I would like to send him my best wishes for continued success in his future endeavors.

CELEBRATING THE 60TH ANNIVERSARY OF TEMPLE EMANU-EL OF WEST ESSEX

HON. RODNEY P. FRELINGHUYSEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 2016

Mr. FRELINGHUYSEN. Mr. Speaker, I rise today to honor the Temple Emanu-El of West Essex, located in Livingston, Essex County, New Jersey as it celebrates its 60th Anniversary.

The Temple Emanu-El of West Essex was established in 1955 in response to growing demand for a Reform Jewish service within Livingston. Originally composed of eleven families, the congregation quickly expanded after the first year to include fifty-six families and has continued to grow throughout the years.