

# SENATE BILL 413

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EMERGENCY BILL

2lr1569

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By: **Senator Sydnor**

Introduced and read first time: January 26, 2022

Assigned to: Education, Health, and Environmental Affairs

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## A BILL ENTITLED

1 AN ACT concerning

2 **Voting Rights Act of 2022 – Counties and Municipalities**

3 FOR the purpose of prohibiting the imposition or application of a method for electing the  
4 governing body of a county or municipality that impairs the ability of members of a  
5 protected class to elect candidates of the members' choice or influence the outcome  
6 of an election by diluting or abridging the rights of voters who are members of a  
7 protected class; and generally relating to voting rights of members of protected  
8 classes in counties and municipalities.

9 BY adding to

10 Article – Election Law

11 Section 8–901 through 8–905 to be under the new subtitle “Subtitle 9. Voting Rights  
12 – Counties”

13 Annotated Code of Maryland

14 (2017 Replacement Volume and 2021 Supplement)

15 BY adding to

16 Article – Local Government

17 Section 4–601 through 4–605 to be under the new subtitle “Subtitle 6. Voting Rights  
18 – Municipalities”

19 Annotated Code of Maryland

20 (2013 Volume and 2021 Supplement)

21 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

22 That the Laws of Maryland read as follows:

23 **Article – Election Law**

24 **SUBTITLE 9. VOTING RIGHTS – COUNTIES.**

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **8-901.**

2 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS  
3 INDICATED.

4 (B) "POLARIZED VOTING" MEANS VOTING IN WHICH THERE IS A  
5 DIFFERENCE, AS DEFINED IN FEDERAL CASE LAW REGARDING ENFORCEMENT OF  
6 THE FEDERAL VOTING RIGHTS ACT OF 1965, IN THE CHOICE OF CANDIDATES OR  
7 OTHER ELECTORAL CHOICES THAT ARE PREFERRED BY VOTERS IN A PROTECTED  
8 CLASS, AND IN THE CHOICE OF CANDIDATES AND ELECTORAL CHOICES THAT ARE  
9 PREFERRED BY VOTERS IN THE REST OF THE ELECTORATE.

10 (C) "PROTECTED CLASS" MEANS A CLASS OF VOTERS WHO ARE MEMBERS  
11 OF A RACE, COLOR, OR LANGUAGE MINORITY GROUP, AS THIS CLASS IS REFERENCED  
12 AND DEFINED IN THE FEDERAL VOTING RIGHTS ACT OF 1965, AND RELATED  
13 FEDERAL CASE LAW.

14 **8-902.**

15 (A) THIS SUBTITLE APPLIES ONLY TO ELECTIONS IN A COUNTY.

16 (B) THIS SUBTITLE DOES NOT APPLY TO STATEWIDE ELECTIONS.

17 **8-903.**

18 (A) A METHOD FOR ELECTING THE GOVERNING BODY OF A COUNTY MAY  
19 NOT BE IMPOSED OR APPLIED IN A MANNER THAT IMPAIRS THE ABILITY OF  
20 MEMBERS OF A PROTECTED CLASS TO ELECT CANDIDATES OF THE MEMBERS'  
21 CHOICE, OR THE MEMBERS' ABILITY TO INFLUENCE THE OUTCOME OF AN ELECTION,  
22 AS A RESULT OF THE DILUTION OR THE ABRIDGEMENT OF THE RIGHTS OF VOTERS  
23 WHO ARE MEMBERS OF A PROTECTED CLASS.

24 (B) A VIOLATION OF SUBSECTION (A) OF THIS SECTION IS ESTABLISHED IF:

25 (1) ELECTIONS IN A COUNTY EXHIBIT POLARIZED VOTING; AND

26 (2) THE METHOD OF ELECTION DILUTES OR ABRIDGES THE VOTING  
27 STRENGTH OF MEMBERS OF A PROTECTED CLASS TO ELECT A CANDIDATE OF THE  
28 MEMBERS' CHOICE OR THE MEMBERS' ABILITY TO INFLUENCE THE OUTCOME OF AN  
29 ELECTION.

30 (C) PROOF OF INTENT ON THE PART OF THE VOTERS OR ELECTED  
31 OFFICIALS TO DISCRIMINATE AGAINST MEMBERS OF A PROTECTED CLASS IS NOT

1 REQUIRED TO ESTABLISH A VIOLATION OF SUBSECTION (A) OF THIS SECTION.

2 (D) THE FOLLOWING FACTORS ARE PROBATIVE, BUT NOT REQUIRED TO  
3 ESTABLISH A VIOLATION OF SUBSECTION (A) OF THIS SECTION:

4 (1) THE HISTORY OF DISCRIMINATION;

5 (2) THE USE OF ELECTORAL DEVICES OR OTHER VOTING PRACTICES  
6 OR PROCEDURES THAT MAY ENHANCE THE DILUTIVE EFFECTS OF A METHOD OF  
7 ELECTION, INCLUDING AT LARGE ELECTIONS;

8 (3) THE DENIAL OF ACCESS TO THE PROCESSES DETERMINING WHICH  
9 GROUPS OF CANDIDATES WILL RECEIVE FINANCIAL OR OTHER SUPPORT IN A GIVEN  
10 ELECTION;

11 (4) THE EXTENT TO WHICH MEMBERS OF A PROTECTED CLASS BEAR  
12 THE EFFECTS OF PAST DISCRIMINATION IN AREAS SUCH AS EDUCATION,  
13 EMPLOYMENT, AND HEALTH THAT HINDERS THE ABILITY TO PARTICIPATE  
14 EFFECTIVELY IN THE POLITICAL PROCESS; AND

15 (5) THE USE OF OVERT OR SUBTLE RACIAL APPEALS IN POLITICAL  
16 CAMPAIGNS.

17 8-904.

18 (A) TO DETERMINE WHETHER THERE IS POLARIZED VOTING UNDER §  
19 8-903(B)(1) OF THIS SUBTITLE, THE COURT SHALL CONSIDER:

20 (1) THE METHODOLOGIES FOR ESTIMATING GROUP VOTING  
21 BEHAVIOR, AS APPROVED IN FEDERAL CASE LAW, TO ENFORCE THE FEDERAL  
22 VOTING RIGHTS ACT OF 1965;

23 (2) ELECTIONS OF THE GOVERNING BODY OF THE COUNTY;

24 (3) BALLOT QUESTION ELECTIONS;

25 (4) ELECTIONS WHERE AT LEAST ONE CANDIDATE IS A MEMBER OF A  
26 PROTECTED CLASS; AND

27 (5) OTHER ELECTORAL CHOICES THAT AFFECT THE RIGHTS AND  
28 PRIVILEGES OF MEMBERS OF A PROTECTED CLASS.

29 (B) (1) ELECTIONS THAT ARE CONDUCTED BEFORE THE FILING OF AN

1 ACTION TO ENFORCE § 8-903(A) OF THIS SUBTITLE ARE MORE PROBATIVE TO  
2 ESTABLISH THE EXISTENCE OF POLARIZED VOTING THAN ELECTIONS CONDUCTED  
3 AFTER THE FILING OF AN ACTION.

4 (2) THE ELECTION OF CANDIDATES WHO ARE MEMBERS OF A  
5 PROTECTED CLASS AND WHO WERE ELECTED BEFORE THE FILING OF AN ACTION TO  
6 ENFORCE § 8-903(A) OF THIS SUBTITLE MAY NOT PRECLUDE A FINDING OF  
7 POLARIZED VOTING THAT RESULTS IN AN UNEQUAL OPPORTUNITY FOR A  
8 PROTECTED CLASS TO ELECT CANDIDATES OF ITS CHOICE.

9 (C) THE FACT THAT MEMBERS OF A PROTECTED CLASS ARE NOT  
10 GEOGRAPHICALLY COMPACT OR CONCENTRATED MAY NOT PRECLUDE A FINDING OF  
11 POLARIZED VOTING OR A VIOLATION OF § 8-903(A) OF THIS SUBTITLE, BUT IT MAY  
12 BE A FACTOR THAT IS CONSIDERED.

13 8-905.

14 THE ATTORNEY GENERAL MAY BRING AN ACTION TO ENFORCE § 8-903 OF  
15 THIS SUBTITLE IN THE COUNTY WHERE THE VIOLATION ALLEGEDLY OCCURRED FOR  
16 INJUNCTIVE RELIEF, DAMAGES, OR OTHER RELIEF.

17 Article – Local Government

18 SUBTITLE 6. VOTING RIGHTS – MUNICIPALITIES.

19 4-601.

20 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS  
21 INDICATED.

22 (B) “POLARIZED VOTING” MEANS VOTING IN WHICH THERE IS A  
23 DIFFERENCE, AS DEFINED IN FEDERAL CASE LAW REGARDING ENFORCEMENT OF  
24 THE FEDERAL VOTING RIGHTS ACT OF 1965, IN THE CHOICE OF CANDIDATES OR  
25 OTHER ELECTORAL CHOICES THAT ARE PREFERRED BY VOTERS IN A PROTECTED  
26 CLASS, AND IN THE CHOICE OF CANDIDATES AND ELECTORAL CHOICES THAT ARE  
27 PREFERRED BY VOTERS IN THE REST OF THE ELECTORATE.

28 (C) “PROTECTED CLASS” MEANS A CLASS OF VOTERS WHO ARE MEMBERS  
29 OF A RACE, COLOR, OR LANGUAGE MINORITY GROUP, AS THIS CLASS IS REFERENCED  
30 AND DEFINED IN THE FEDERAL VOTING RIGHTS ACT OF 1965, AND RELATED  
31 FEDERAL CASE LAW.

32 4-602.

1           **THIS SUBTITLE APPLIES ONLY TO ELECTIONS IN A MUNICIPALITY.**

2   **4-603.**

3           **(A) A METHOD FOR ELECTING THE GOVERNING BODY OF A MUNICIPALITY**  
4 **MAY NOT BE IMPOSED OR APPLIED IN A MANNER THAT IMPAIRS THE ABILITY OF**  
5 **MEMBERS OF A PROTECTED CLASS TO ELECT CANDIDATES OF THE MEMBERS'**  
6 **CHOICE, OR THE MEMBERS' ABILITY TO INFLUENCE THE OUTCOME OF AN ELECTION,**  
7 **AS A RESULT OF THE DILUTION OR THE ABRIDGEMENT OF THE RIGHTS OF VOTERS**  
8 **WHO ARE MEMBERS OF A PROTECTED CLASS.**

9           **(B) A VIOLATION OF SUBSECTION (A) OF THIS SECTION IS ESTABLISHED IF:**

10           **(1) ELECTIONS IN A MUNICIPALITY EXHIBIT POLARIZED VOTING; AND**

11           **(2) THE METHOD OF ELECTION DILUTES OR ABRIDGES THE VOTING**  
12 **STRENGTH OF MEMBERS OF A PROTECTED CLASS TO ELECT A CANDIDATE OF THE**  
13 **MEMBERS' CHOICE OR THE MEMBERS' ABILITY TO INFLUENCE THE OUTCOME OF AN**  
14 **ELECTION.**

15           **(C) PROOF OF INTENT ON THE PART OF THE VOTERS OR ELECTED**  
16 **OFFICIALS TO DISCRIMINATE AGAINST MEMBERS OF A PROTECTED CLASS IS NOT**  
17 **REQUIRED TO ESTABLISH A VIOLATION OF SUBSECTION (A) OF THIS SECTION.**

18           **(D) THE FOLLOWING FACTORS ARE PROBATIVE, BUT NOT REQUIRED TO**  
19 **ESTABLISH A VIOLATION OF SUBSECTION (A) OF THIS SECTION:**

20           **(1) THE HISTORY OF DISCRIMINATION;**

21           **(2) THE USE OF ELECTORAL DEVICES OR OTHER VOTING PRACTICES**  
22 **OR PROCEDURES THAT MAY ENHANCE THE DILUTIVE EFFECTS OF A METHOD OF**  
23 **ELECTION, INCLUDING AT LARGE ELECTIONS;**

24           **(3) THE DENIAL OF ACCESS TO THE PROCESSES DETERMINING WHICH**  
25 **GROUPS OF CANDIDATES WILL RECEIVE FINANCIAL OR OTHER SUPPORT IN A GIVEN**  
26 **ELECTION;**

27           **(4) THE EXTENT TO WHICH MEMBERS OF A PROTECTED CLASS BEAR**  
28 **THE EFFECTS OF PAST DISCRIMINATION IN AREAS SUCH AS EDUCATION,**  
29 **EMPLOYMENT, AND HEALTH THAT HINDERS THE ABILITY TO PARTICIPATE**  
30 **EFFECTIVELY IN THE POLITICAL PROCESS; AND**

1           **(5) THE USE OF OVERT OR SUBTLE RACIAL APPEALS IN POLITICAL**  
2 **CAMPAIGNS.**

3 **4-604.**

4           **(A) TO DETERMINE WHETHER THERE IS POLARIZED VOTING UNDER §**  
5 **4-603(B)(1) OF THIS SUBTITLE, THE COURT SHALL CONSIDER:**

6           **(1) THE METHODOLOGIES FOR ESTIMATING GROUP VOTING**  
7 **BEHAVIOR, AS APPROVED IN FEDERAL CASE LAW, TO ENFORCE THE FEDERAL**  
8 **VOTING RIGHTS ACT OF 1965;**

9           **(2) ELECTIONS OF THE GOVERNING BODY OF THE MUNICIPALITY;**

10           **(3) BALLOT QUESTION ELECTIONS;**

11           **(4) ELECTIONS WHERE AT LEAST ONE CANDIDATE IS A MEMBER OF A**  
12 **PROTECTED CLASS; AND**

13           **(5) OTHER ELECTORAL CHOICES THAT AFFECT THE RIGHTS AND**  
14 **PRIVILEGES OF MEMBERS OF A PROTECTED CLASS.**

15           **(B) (1) ELECTIONS THAT ARE CONDUCTED BEFORE THE FILING OF AN**  
16 **ACTION TO ENFORCE § 4-603(A) OF THIS SUBTITLE ARE MORE PROBATIVE TO**  
17 **ESTABLISH THE EXISTENCE OF POLARIZED VOTING THAN ELECTIONS CONDUCTED**  
18 **AFTER THE FILING OF AN ACTION.**

19           **(2) THE ELECTION OF CANDIDATES WHO ARE MEMBERS OF A**  
20 **PROTECTED CLASS AND WHO WERE ELECTED BEFORE THE FILING OF AN ACTION TO**  
21 **ENFORCE § 4-603(A) OF THIS SUBTITLE MAY NOT PRECLUDE A FINDING OF**  
22 **POLARIZED VOTING THAT RESULTS IN AN UNEQUAL OPPORTUNITY FOR A**  
23 **PROTECTED CLASS TO ELECT CANDIDATES OF ITS CHOICE.**

24           **(C) THE FACT THAT MEMBERS OF A PROTECTED CLASS ARE NOT**  
25 **GEOGRAPHICALLY COMPACT OR CONCENTRATED MAY NOT PRECLUDE A FINDING OF**  
26 **POLARIZED VOTING OR A VIOLATION OF § 4-603(A) OF THIS SUBTITLE, BUT IT MAY**  
27 **BE A FACTOR THAT IS CONSIDERED.**

28 **4-605.**

29           **THE ATTORNEY GENERAL MAY BRING AN ACTION TO ENFORCE § 4-603 OF**  
30 **THIS SUBTITLE IN THE MUNICIPALITY WHERE THE VIOLATION ALLEGEDLY**  
31 **OCCURRED FOR INJUNCTIVE RELIEF, DAMAGES, OR OTHER RELIEF.**

1           SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency  
2 measure, is necessary for the immediate preservation of the public health or safety, has  
3 been passed by a yea and nay vote supported by three-fifths of all the members elected to  
4 each of the two Houses of the General Assembly, and shall take effect from the date it is  
5 enacted.