



## Testimony for the Education, Health, and Environmental Affairs Committee

February 23, 2022

### SB 413 - Voting Rights Act of 2022 – Counties and Municipalities

#### FAVORABLE WITH AMENDMENTS

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The ACLU of Maryland supports SB 413 with one amendment, which would give voters a private right of action and include fee shifting provisions for individuals whose claims against counties and municipalities are vindicated.

This bill would empower the attorney general to intervene when local governments violate federal voting rights laws and impair the power of minorities to make their voices heard through the ballot box. It would also ensure that redistricting, polling site placement, early voting access provisions and more could not be used dilute minority participation in the democratic process. Under the Voting Rights Act, the U.S. attorney general has the ability to enforce various aspects of the statute. This law would ensure that the attorney general of Maryland would be able to act in the same capacity within the state.

The creation of this bill was necessitated by redistricting practices in certain areas of the state that have strategically diminished the power of minority voters. In Baltimore County, despite census data that shows people of color make up 47% of the county's population, racial gerrymandering has strategically placed the majority of minority residents into one of seven districts.<sup>1</sup>

The adoption of this redistricting plan brought about a federal lawsuit, alleging violations of the 15<sup>th</sup> Amendment and the Voting Rights Act.

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<sup>1</sup> Baltimore County Branch of the National Association for the Advancement of Colored People, et al. v. Baltimore County, Maryland et al., aclu-md.org (United States District Court for the District of Maryland December 21, 21AD). Retrieved from [https://www.aclu-md.org/sites/default/files/field\\_documents/balt\\_co\\_redistricting\\_-\\_d.\\_md.\\_21-cv-03232\\_dckt\\_000001\\_000\\_filed\\_2021-12-21.pdf](https://www.aclu-md.org/sites/default/files/field_documents/balt_co_redistricting_-_d._md._21-cv-03232_dckt_000001_000_filed_2021-12-21.pdf).



## Maryland

This bill empowers the attorney general to step in and prevent these egregious acts of racial discrimination from occurring in the first place. The empowerment of the attorney general to intervene will increase oversight and accountability among elected officials who seek to manipulate districts for political gain.

This bill would also assure that the widespread attacks on voting rights around the country will not spill into the Free State. The Voting Rights Act, a major victory of the Civil Rights Movement, has faced numerous attacks since its passage in 1965. However, recent efforts to undermine the protections in the statute, specifically in Section 2, threaten to unravel the law entirely and render it virtually unenforceable. Additionally, impending Supreme Court decisions will pose an additional risk to both Section 2 protections and private right of action.<sup>2</sup> Despite 50 years of private enforcement of the Voting Rights Act, there has been a proliferation of claims that a private right of action remains an “open question.”

As a result, it is imperative that an amendment is added that will ensure private parties can fight against voter suppression, should the private right of action be effectively eliminated in the Voting Rights Act. Without an amendment of this nature, the enforceability of this bill would be significantly diminished.

The proposed amendment would also ensure that the financial burden of seeking legal redress for such violations is not a barrier for those looking to do so. This would expand access to justice and make the playing field even for plaintiffs facing the resources of the government. Without a fee shifting provision, the playing field is uneven: State and local governments have legal staff and insurance to defend against lawsuits, but ordinary citizens do not have such resources to bring

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<sup>2</sup> Brnovich, Attorney General of Arizona, et al. v. Democratic National Committee et al., [supremecourt.gov](https://www.supremecourt.gov) (Supreme Court of the United States October 2020). Retrieved from [https://www.supremecourt.gov/opinions/20pdf/19-1257\\_g204.pdf](https://www.supremecourt.gov/opinions/20pdf/19-1257_g204.pdf); John H. Merrill, Alabama Secretary of State, et al. v. Evan Milligan, et al., [supremecourt.gov](https://www.supremecourt.gov) (Supreme Court of the United States February 7, 2022). Retrieved from [https://www.supremecourt.gov/opinions/21pdf/21a375\\_d18f.pdf](https://www.supremecourt.gov/opinions/21pdf/21a375_d18f.pdf)



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cases. An amendment granting citizens a private right of action must be accompanied by a provision that ensures access to that right.

For the foregoing reasons, the ACLU of Maryland supports SB 413 with amendments.