

2022-02-23 SB413 VRA LWVMD Favorable.pdf

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Position: FAV



**TESTIMONY TO THE SENATE EDUCATION, HEALTH, AND ENVIRONMENTAL
AFFAIRS COMMITTEE**

SB413 Voting Rights Act of 2022 – Counties and Municipalities

POSITION: Favorable

BY: Nancy Soreng, President

DATE: February 23, 2022

The League of Women Voters of Maryland is a nonpartisan organization that has worked for over a century to empower voters by increasing citizen's understanding of public policy issues and advocating for transparency and best practices. We support SB413 based on our positions that it is important for election systems to produce representation that reflects community sentiment AND we support redistricting processes and enforceable standards that promote fair and effective representation at all levels of government.

Existing Maryland law does not include sufficient safeguards for protected classes in the local redistricting process. This means that minority neighborhoods that are disadvantaged in the redistricting process have no recourse but to sue under the Voting Rights Act (VRA). This puts the cost of justice on the very communities that can least afford it. Predictably, we are aware of only two instances where this happened:

1. In 1985, violation of the VRA in Dorchester County was alleged in federal court and as a result Dorchester County reached a settlement and changed their election methods.
2. In 2021, civil rights groups including the League of Women Voters of Baltimore County challenged local redistricting in federal court, bearing the expense of defending minorities against attempts to dilute their voting rights.

Maryland, as a majority-minority state, needs to codify electoral rights for protected classes, rather than relying on federal laws. If SB413 were law, then the Attorney General could investigate and enforce it, rather than the state relying on non-partisan entities to protect minorities. LWVMD, representing over 1,500 concerned citizens throughout Maryland, urges a favorable report on SB413 Voting Rights Act of 2022 – Counties and Municipalities.

SB0413_Voting_Rights_Act_MLC_FAV.pdf

Uploaded by: Cecilia Plante

Position: FAV



TESTIMONY FOR SB0413

Voting Rights Act of 2022 – Counties and Municipalities

Bill Sponsor: Senator Sydnor

Committee: Education, Health, and Environmental Affairs

Organization Submitting: Maryland Legislative Coalition

Person Submitting: Cecilia Plante, co-chair

Position: FAVORABLE

I am submitting this testimony in strong support of SB0413 on behalf of the Maryland Legislative Coalition. The Maryland Legislative Coalition is an association of activists - individuals and grassroots groups in every district in the state. We are unpaid citizen lobbyists and our Coalition supports well over 30,000 members.

Our members believe strongly in the right to vote of every person. As a democratic Republic, we should always take steps to ensure that right. However, we seem to have taken a wrong turn as a country, and there are many states who are trying their level best to disenfranchise whole members of their populations based on their race, ethnicity, or language.

In this day of repression of rights, it is important to affirm that Maryland is still a democratic state, that respects and supports the rights of all of its citizens to vote.

This bill simply states – ‘A method for electing the governing body of a county (or a municipality) may not be imposed or applied in a manner that impairs the ability of members of a protected class to elect candidates of the members’ choice, or the members’ ability to influence the outcome of an election, as a result of the dilution or the abridgement of the rights of voters who are members of a protected class.’ In other words, it requires that counties or municipalities do not change the rules that govern an election in order to exclude minorities from voting.

This is the essence of democracy.

We strongly support this bill and recommend a **FAVORABLE** report in committee.

SB0413 Sen Sydnor Testimony for VRA EHE.pdf

Uploaded by: Charles E. Sydnor III

Position: FAV



THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

Senator Charles E. Sydnor III
Testimony for SB 413
Voting Rights Act of 2022 – Counties and Municipalities
Before: Education, Health, and Environmental Affairs Committee
February 23, 2022

Good afternoon Chair Pinsky, members of the Education, Health, and Environmental Affairs Committee,

In 1985, then Attorney General Stephen H. Sachs, who just last week departed this life, completed an 111-page audit of 11 heavily black counties which found Racial discrimination and polarization in a number of Maryland's southern and Eastern Shore counties. "Although it found only Somerset with discrimination patterns severe enough to violate the Voting Rights Act, the audit said exclusion of blacks from the electoral process is widespread. Between 1962 and 1982, for example, according to the study, a total of 282 commissioners and county council members were elected in the 11 counties, but only one was black. The counties' voting-age populations are on the average about 21 percent black."¹

At the time, it was reported by the Washington Post that the audit reported that "There is a "special sense of isolation among members of the black community... a sense that they are governed, but do not participate in governing, and that important public issues are decided for them, not by them."

Fast forward to the more recent present and you will Del. Brian Crosby (D-St. Mary's) charging during the 2020 election that the lack of a second early voting center in his county amounted to "voter suppression" and Montgomery County's White Oak residents repeatedly asking election officials for an early voting center in the majority-minority neighborhood in recent years.²

More recently when it came to redistricting, a Baltimore County Commission, formed by our County Council proposed a redistricting plan that would maintain a white majority in six of seven Council districts by "packing" a supermajority of Black voters (70 plus percent) into its single majority Black district, a tactic the U.S. Supreme Court has counseled against. Advocacy organizations, my colleagues and I persuaded the County Council to amend the map to better reflect the demographics of the county. Instead of doing that, the Council amended the map

¹ <https://www.washingtonpost.com/archive/local/1985/07/19/voting-bias-found-in-some-md-counties/58882df1-ecd4-4fc2-919a-37c2505a56be/>

² <https://www.marylandmatters.org/2019/10/08/state-board-will-consider-additional-early-voting-site-in-montgomery-but-not-baltimore/>

creating an even more precarious council districts in its map. The Council's response led me and a few other Baltimore County citizens to join the ACLU, League of Women Voters of Baltimore County, the Baltimore County Branch of the NAACP, and Common Cause - Maryland in filing a federal lawsuit challenging the racially discriminatory and unlawful redistricting plan approved by the Baltimore County Council last December.

Our case was recently argued before United States District Judge Lydia Kay Griggsby to issue an injunction overturning Baltimore County's racially discriminatory redistricting plan and requiring the County to reconfigure its election system in compliance with the Voting Rights Act. The County Council's dilution of Black voters would illegally allow white voters, who make up barely half of the County's population and will soon be a minority, to control six of the council's seven seats for the next decade. We expect a decision to come down any hour now; however, the task to make a municipality or county act in accordance to federal law should not be left to private citizens.

The federal Voting Rights Act gives our US Attorney General the ability to sue any government which violates the federal Voting Rights Act, but the reality is, that office does not have the capacity to get involved in every violation that occurs. So similar to the California Voting Rights Act of 2001, SB 413 grants express authority to the Maryland Attorney General to seek injunctive relief, damages or other relief to enforce the bill when a County or municipality violates the Voting Rights Act of 2022. This is a power that should be in the hands of the chief law enforcement officer of the state and places this authority where it belongs.

SB 413 prohibits Maryland counties and municipalities from imposing or applying a method for electing its representatives in a manner that impairs a Protected Class member³ from electing a candidate of that member's choice or impairs that protected class member's ability to influence the outcome of an election as a result of the dilution or the abridgment of that Protected Class member's voting rights. The legislation provides that intent to discriminate is not required to establish a violation and it provides five probative factors which may be used to establish whether a violation occurred. Those probative factors are noted under sections 8-903(D) and 4-603(D).⁴

To prove that a violation of the Voting Rights Act of 2022 occurred, the Attorney General would have to establish (1) elections in the Maryland county or municipality exhibit Polarized Voting⁵

³ Section 8-901(C) of the legislation defines "Protected Class" as a "class of voter who are members of a race, color, or language minority group, as this class is referenced and defined in the federal Voting Rights Act of 1965 and related federal case law."

⁴ These include (1) a history of discrimination, (2) the use of electoral devices or other voting practices or procedures that may enhance the dilutive effects of a method of election, including at large elections, (3) the denial of access to the processes determining which groups of candidates will receive financial or other support in a given election, (4) the extent to which members of a protected class bear the effects of past discrimination in areas such as education, employment, and health that hinders the ability to participate effectively in the political process, and (5) the use of overt or subtle racial appeals in political campaigns.

⁵ Section 8-901(C) of the legislation defines "Polarized Voting" as "voting in which there is a difference, as defined in federal case law regarding enforcement of the federal Voting Rights Act of 1965, in the choice of candidates or other electoral choices that are preferred by voters in a protected class, and in the choices that are preferred by voters in a protected class, and in the choice of candidates and electoral choices that are preferred by voters in the rest of electorate." Sections 8-904 and section 4-604 of the legislation provide a framework for a court to determine whether Polarized Voting has occurred.

and (2) the method of election dilutes or abridges the voting strength of a protected class member's ability to influence the outcome of an election.

When making a determination whether Polarized Voting occurred, the court must consider: (1) the methodologies for estimating group voting behavior, as approved in federal case law, to enforce the federal Voting Rights act of 1965, (2) elections of the governing body of the county or municipality, (3) ballot question elections, (4) elections where at least one candidate is a member of a protected class, and (5) other electoral choices that affect the right and privileges of the protected class member.

For the aforementioned reasons, I am asking that this committee provide a favorable report for SB 413.

2022-02-23 SB 413 (Support).pdf

Uploaded by: Hannibal Kemerer

Position: FAV

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OFFICE OF THE ATTORNEY GENERAL

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February 23, 2022

TO: The Honorable Paul G. Pinsky
Chair, Education, Health, and Environmental Affairs Committee

FROM: Hannibal G. Williams II Kemerer
Chief Counsel, Legislative Affairs, Office of the Attorney General

RE: SB 413 – Voting Rights Act of 2022 – Counties and Municipalities – **Support**

Chair Pinsky, Vice Chair Kagan, and distinguished members of the Education, Health, and Environmental Affairs Committee, we write to urge your favorable report on Senate Bill 413. This legislation, introduced by Senator Sydnor, would prohibit methods for electing county governing bodies from impairing the ability of protected classes to elect candidates of the members' choice, or the members' ability to influence the outcome of an election through dilution or abridgement of the rights of voters who are members of a protected class.

In short, SB 413 would import the requirements of Section 2 of the federal Voting Rights Act ("VRA") of 1965¹ into State law, as applied to county and municipal elections, and authorize the Attorney General to enforce it. Since the federal VRA already applies to local elections, and since private enforcement of the federal VRA is already available, the significant change this bill works would be to empower the Attorney General to investigate and enforce these similar provisions under State law at the county and municipal level.

We think so empowering the Attorney General is a laudatory goal and that our Office could enforce the provisions with existing resources. Therefore, we urge a favorable report on Senate Bill 413.

cc: Committee Members

¹¹ See, 79 Stat. 437, as amended, 52 U.S.C. § 10301, (formerly codified at 42 U.S.C. § 1973).

SB 413 - Voting Rights Act of 2022 - Counties and

Uploaded by: Morgan Drayton

Position: FAV

February 23, 2022

Testimony on HB 413
Voting Rights Act of 2022 – Counties and Municipalities
Education, Health, and Environmental Affairs

Position: Favorable

Common Cause Maryland is in favor of SB 413, which would give Marylanders a broader category of voting rights. The bill expressly empowers the state Attorney General to intervene and ensure that Marylanders' fundamental right to vote is protected in the event that local governments violate federal voting laws.

The goal of this legislation is to bolster protections for minorities by making it clear that Maryland's Attorney General has the power to apply federal voting rights laws to intervene in local government decisions concerning redistricting, polling places, early voting access if it's determined that those decisions could dilute or impair the power of minority voters. And when local governments have the authority to choose where polls and opportunities for early voting or registration are located, it's easy to see how that power could be used to diminish turnout or make it more difficult for a protected class to elect a member of their own community.

This comes in the wake of Baltimore County's redistricting process, in which County Council members violated federal voting laws by packing one district with a more than 70% Black populace and splitting Black voters among other adjacent districts - despite the fact that more than one majority-Black district clearly could have been drawn. Currently the recourse available to constituents whose rights have been violated is to sue, which is the route Common Cause Maryland, along with our partners with the Baltimore County NAACP, League of Women's Voters of Baltimore County, and the ACLU of Maryland have chosen to take. However, this is an extremely costly and time-consuming course of action, especially considering fewer than 1,000 lawyers in the U.S. specialize in voting rights laws.¹

Given the long history of minority voter disenfranchisement within the state, it is critical that we take steps to ensure that the voices of all Marylanders are heard. The Maryland Attorney General has the perfect combination of resources and clout to combat voter suppression, and SB 413 will authorize the office to apply the full weight of federal law to protect the voting rights of state residents. For those reasons, we urge a favorable report.

¹ <https://www.baltimoresun.com/maryland/baltimore-county/bs-md-co-sydnor-voting-rights-bill-20220208-4kezaqtcwbainjklcrpimmbly-story.html>

SB 413 testimony.pdf

Uploaded by: Samuela Ansah

Position: FAV

EDUCATION, HEALTH, AND ENVIRONMENTAL AFFAIRS**February 22, 2022****SB 413 – Voting Rights Act of 2022 – Counties and Municipalities****Position: SUPPORT**

Disability Rights Maryland (DRM – formerly Maryland Disability Law Center) is the Protection & Advocacy agency in Maryland, mandated to advance the civil rights of people with disabilities. DRM works to increase opportunities for Marylanders with disabilities to be part of their communities through equal and clear access to the ballot by advocating for eliminating and reducing barriers to voting for people with disabilities.

DRM supports SB 413 which will prohibit methods of diluting a protected class' ability to elect a governing body of a county and municipal, which essentially violates their voting rights. Spurred by the Baltimore County's redistricting map that only has one Black majority district, we support the protections afforded in SB 413 to preserve the desires of Black voters in Baltimore County to elect officials that they believe will serve in the best interests. Historically, Black voters constantly receive and navigate methods that attempt to stifle their electoral voice since all Black people were afforded the right to vote through the 15th and 19th amendments. Baltimore County's redistricting map only reinforces the unfair and immoral power dynamics that contribute to systemic racism by diluting the voices of Black voters to elect officials that represent them and violates the Voting Rights Act.

Black people represent 30% of Baltimore County's population, however the current redistricting map only allocates one Black majority district out of the total seven that makes up Baltimore County. The current redistricting map approved by the Baltimore County Council contributes to racial gerrymandering and violates the Voting Rights Act which federally protects counties and municipalities from diluting the electoral power of historically disenfranchised voters. Disability Rights Maryland is particularly concerned because of the implications on Black voters with disabilities in Baltimore County. Currently, Black people with disabilities make up 10.5% of the population in Baltimore County according to the 2019 American Community Survey¹. Black people with disabilities face a unique lived experience due to their race and disability. Race and disability identities will interact and produce a different lived experience than just one identity can experience.

In addition to the historical barriers to voting Black people are still facing, such as the racial gerrymandering occurring in Baltimore County, Black voters with disabilities also face barriers to the polls due to their disability such as inaccessible polling locations and undertrained election judges that can create a negative voting experience. The Baltimore County Council's redistricting map adds an additional barrier that continues to attempt to stifle the voice of Black voters with disabilities by diluting the power of their electoral voice to elect candidates that

¹ <https://data.census.gov/cedsci/table?g=05000000US24005&tid=ACST1Y2019.S1810>



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represent their best interests and upholds an unfair power imbalance that contributes to the racial inequalities persistent across all sectors of our society. HB 413 is a necessary measure that will ensure the protections of the Voting Rights Act is realized for historically disenfranchised voters, particularly Black voters with disabilities in Baltimore County.

For these reasons DRM urges a **favorable** report on **SB 413**.

Please do not hesitate to contact me at samuelaa@disabilityrightsmd.org or by phone at 443-356-6304.

SB413.docx.pdf

Uploaded by: Willie Flowers

Position: FAV



NAACP

Maryland

STATE CONFERENCE

TESTIMONY TO THE SENATE EDUCATION, HEALTH, AND ENVIRONMENTAL AFFAIRS COMMITTEE

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

POSITION: Favorable

Willie Flowers, President

DATE: February 23, 2022

The NAACP Maryland State Conference is the oldest civil rights organization in the state and we are happy to support SB 413 or the voting rights act of 2022. The bill is a guide to maintaining access to the ballot and will also give oversight in cases of redistricting and reapportionment. This bill is the lens that is needed to at least control how politics and money influences who gets elected to local governments.

Currently, the state of Maryland does not in a way pave a way for population increases in certain jurisdictions to have representation. In certain counties like Saint Mary's and Charles to name 2, they still have county council members who are elected at-large although the population in both these counties have increased dramatically. Not only has the number of elected officials have not changed but the idea of having districts has not either. This creates a problem for fair representation. Each resident should have a council representative who represents them. Just like their senator and congressman. I have to remark here that the current structure of having delegates elected at-large doesn't allow for fair representation either.

A few years ago, Howard County, Md also existed with an at-large structure for the school board. Luckily, a law was passed by the Howard County delegation to create districts that complimented the Howard County council and added 2 at-large members. This was important because some of the members lived in the same districts.

These are small local examples of how SB 413 will influence the way we do things in the state of Maryland. Everyone needs representation and as populations change at the state and local level we must have a policy making entity within the state government to use the law to mediate this process so that every citizen has access to the ballot and has representation.

Finally, I recently learned that the redistricting plan for the Baltimore County council was challenged by the NAACP Baltimore County Branch, Common Cause Maryland and the

NAACP

Maryland State Conference

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League of Women Voters. Their case was upheld by the US District Court and the county now has to start over again because local elected officials did not consider justice and the Voting Rights Act. Instead they played politics as usual and the county is in the news.

SB 413 can be used to avoid those types of local matters from going to the federal courts and they can hopefully be handled in the civil rights division of the Maryland Attorney General's office.

SB413_FWA_ACLUMD_SPACCASI.pdf

Uploaded by: Olivia Spaccasi

Position: FWA



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.¹

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

¹ 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.



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.² 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

² Brnovich, Attorney General of Arizona, et al. v. Democratic National Committee et al., [supremecourt.gov](https://www.supremecourt.gov/opinions/20pdf/19-1257_g204.pdf) (Supreme Court of the United States October 2020). Retrieved from 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/opinions/21pdf/21a375_d18f.pdf) (Supreme Court of the United States February 7, 2022). Retrieved from https://www.supremecourt.gov/opinions/21pdf/21a375_d18f.pdf



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.