

Chairman Feldman, and
Members of the Senate Education, Energy, and the Environment Committee

RE: SB0878 Voting Rights Act of 2023 - Counties and Municipalities [UNFAVORABLE]

This emergency bill, SB0878, and its companion, cross-filed bill HB1104, establish various State law provisions relating to voting rights, including provisions (1) establishing a Protected Class of voters; (2) protecting the voting rights and abilities of protected class members in local government elections; (3) prohibiting voter intimidation, deception, or obstruction; (4) requiring language-related assistance in local government elections under specified circumstances; (5) establishing a Statewide Election Database and Information Office; and (6) requiring the Civil Rights Division of the Office of the Attorney General to approve or deny proposed local government remedies to address certain violations.

SB0878/HB1104 set up a convoluted system of legal remedies to fix a problem that does not exist. Also, the bills promote changes in voting methods that would diminish local control of elections and changes that have nothing to do with voting rights. In addition, these bills would likely have the effect of promoting racial balkanization of the electorate by groups and organizations set up to profit from societal strife.

SB0878/HB1104 establish a Statewide Election Database and Information Office to perform duties in support of these bills; however, the expenses required to establish this Office are unnecessary because these bills are unnecessary. Current Maryland law already provides the protections and remedies for voting rights violations that these bills purport to address. Another unnecessary, expensive bureaucracy is not needed.

The bills mandate that the Attorney General's Civil Rights Division or the Anne Arundel Circuit Court identify and adjudicate "Racially Polarized Voting" and assure the voting rights of a "Protected Class" of voter. A major problem with these bills is that, in order to identify Racially Polarized Voting as defined in the bills, someone must be able to read the minds of the Protected Class voters to ascertain if an election resulted in a divergence between the preferences of that class and the actual outcome of the election. This is impossible. These bills are replete with "requirements" and infractions that are both subject to interpretation and unnecessary. For example, the bills state that racially polarized voting occurs under certain circumstances "based on the totality of the circumstances." These circumstances are undefined; the bills should at least define them. By relying on imprecise terms and subjective criteria, the bills would invite lawsuits brought by any group or outside organization, even those organizations outside of Maryland, that would want to profit from promoting divisions based on "race, color or language". These bills will result in countless hours of wasted time and wasted revenue because the protections of Protected Class Members provided in these bills are redundant to the protections afforded by current Maryland law.

The bills promote alternate methods of voting (ranked choice, cumulative, or limited). Ranked choice voting (RCV) is the subject of another proposed bill; however, this

method of voting should not be adopted because it disenfranchises voters, it uses algorithms to determine election outcomes, and it makes post-election audits impossible. Studies have shown that RCV results in lower voter turnout and undermines the principle of "one person, one vote." The bills do not define cumulative or limited voting; nevertheless, the only fair method of voting is the traditional, "at-large" method that maintains one person, one vote.

These bills would result in a shift of power over elections from counties and municipalities to the State. This is not the normal method of governance in the USA where local governments better serve local constituents. In the absence of some problem, this shift in power is unwarranted; and there is no such problem. Current civil rights and election laws in Maryland provide ample protection for the voting rights of its citizens.

By defining groups of citizens based on race, color or language, and setting up a prosecutorial system to adjudicate perceived infractions based on nebulous terms, these bills will likely promote divisions in the electorate based on race, color or language. Again, current law adequately addresses voting rights, and these bills are a solution to a non-problem.

For the above reasons, these bills should be reported as unfavorable.

Thank you,

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