



## Testimony for the Senate Education, Energy, and the Environment Committee

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### SB 255 – Voting Rights Act of 2026 – Counties and Municipal Corporations

#### FAVORABLE

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The ACLU of Maryland strongly urges a favorable report on SB 255, which offers key provisions of the Maryland Voting Rights Act (MDVRA) that are urgently needed to give Maryland’s diverse communities a clear, state-level pathway to fix local election systems that limit their ability to choose their preferred representatives. Despite leading the nation as the most diverse state on the East Coast<sup>1</sup>, Maryland’s democracy is still threatened by unfair at-large voting, unjust district maps, and other discriminatory systems that dilute the power of voters of color in local elections. With ongoing attacks on the limited federal protections addressing this racial vote dilution, SB 255 offers a pivotal opportunity for Maryland to seize the reins and provide state-based tools to better safeguard elections in local counties, towns, and cities.

#### SB 255 Targets Vote Dilution, A Persistent Barrier to Fair Local Elections

During the 2025 legislative session, both this Committee and the full Senate recognized the need for these protections with favorable votes on provisions of the MDVRA that are effectively identical to many of those currently offered under SB 255.<sup>2</sup> These provisions target racial vote dilution, which happens when an election system or other policy denies voters of color an equal opportunity to elect the candidates they support. This means that voters of color can cast ballots, but their votes do not have equal power or weight compared to white voters.

Racial vote dilution often flows through at-large voting systems and unfair district maps that remain pervasive in Maryland. In an at-large voting system, only a slim majority of the entire population is needed to win – even if voters of color make up a significant part a community, this system can shut down their power to choose their representatives. Similar limitations persist with district maps that “pack” and

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<sup>1</sup> Marissa J. Lang & Ted Mellnik, *Census data shows Maryland is now the East Coast’s most diverse state, while D.C. is whiter*, Wash. Post (August 12, 2021), <https://www.washingtonpost.com/dc-md-va/2021/08/12/dc-virginia-maryland-census-redistricting-2/>.

<sup>2</sup> See S.B. 342, 2025 Leg., Reg. Sess. (Md. 2025).

“crack” communities of color by concentrating them into a small minority of districts that does not match their share of the overall population, and splitting up the rest among the other districts so that their size is never enough to elect the candidates they prefer for those seats. As a result, the community’s preferred representative, which they can generally only elect in the “packed” district, can be consistently overcome by those who may not represent the community’s interests.

## **SB 255 Builds on Federal Law with Better Tools to Fix Local Vote Dilution**

In Maryland’s towns and cities with substantial populations of color, about 62% still have at-large voting systems.<sup>3</sup> While this presents a grave risk of vote dilution, SB 255 offers a pathway for those impacted to seek solutions. This pathway builds on similar protections offered under Section 2 of the federal Voting Rights Act of 1965 (VRA) and provides Maryland’s voters of color with a more efficient and realistic framework for identifying, raising, and resolving vote dilution in local county and municipal elections. Under the proposed addition of a new Title 15.7 to the state election law code, key improvements include:

- Allowing more diverse communities of color and those that are not residentially-segregated to challenge vote dilution together as a class, helping to better address its pervasive impact (see Sections 15.7–101(c) and 104(c))
- Streamlining the definitions applied in assessing claims and the proof needed to raise them, so that there is less confusion, and impacted voters of color are not needlessly blocked from challenging discriminatory systems (see Sections 15.7–101 through 105)
- Opening the door to more creative fixes that address the realities of vote dilution by allowing the court to consider remedies offered by any party to a lawsuit, and prioritizing solutions that better protect impacted voters (see Section 15.7–106)

These critical protections are some of the primary components of the MDVRA, along with language access provisions enacted last year<sup>4</sup> and safeguards against

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<sup>3</sup> This is an estimate based on an October 2025 survey of the local government structures in Maryland’s 156 incorporated towns and cities, as available through each local government’s website and Maryland Manual On-Line, Maryland State Archives, <https://msa.maryland.gov/msa/mdmanual/html/mmtoc.html>. “Substantial populations of color” refers to recent U.S. Census Bureau data where “Non-Hispanic White” is noted as the race of less than 80% of the total local population. For municipal data (which excludes Baltimore City), see [Maryland Department of Planning, Census Incorporated Places and Census Designated Places, 2020 Census Redistricting Data](#) (P.L. 94-171) (Aug. 12, 2021), [https://planning.maryland.gov/MSDC/Pages/census/Census2020/pL\\_2020redistricting.aspx](https://planning.maryland.gov/MSDC/Pages/census/Census2020/pL_2020redistricting.aspx)

<sup>4</sup> H.B. 983, 2025 Leg., Reg. Sess., ch. 278 (Md. 2025); S.B. 685, 2025 Leg., Reg. Sess., ch. 277 (Md. 2025).

voter intimidation and suppression advanced this year under separate legislation<sup>5</sup>. Enacting the MDVRA aligns Maryland with a growing number of states that have taken the lead in passing their own state voting rights acts to address the critical needs of Black and Brown communities locked out of local government by vote dilution, yet deterred from taking action in federal court due to the expense, decades of rollbacks to core protections, and looming Supreme Court threats to what remains of the VRA.

## **SB 255 Fill Gaps Left by Inadequate Federal Protections**

In 1965 Congress passed the federal VRA, one of the most transformative pieces of civil rights litigation in American history. This essential federal reform has worked to counter centuries of institutionalized racial discrimination preventing minority communities from exercising the fundamental right to vote.<sup>6</sup> In particular, Section 2 of the VRA permits voters of color to file a lawsuit in federal court challenging discriminatory electoral practices.<sup>7</sup> However, these cases are increasingly limited by years of court decisions undermining key VRA provisions in cases like *Shelby County v. Holder*, 570 U.S. 529 (2013), which effectively ended preemptive oversight of changes in the electoral processes of places with a history of discrimination.

Threats to the VRA unfortunately persist, with two pending two Supreme Court cases imperiling its remaining core functions – in *Louisiana v. Callais*, No. 24-109 (U.S. Sup. Ct.), opponents of Section 2 have asked the Court to effectively void these longstanding protections by finding that compliance amounts to unconstitutional racial gerrymandering. Alarms are likewise ringing with *Turtle Mountain Band of Chippewa Indians, et al. v. Howe*, No. 25-253 (U.S. Sept. 4, 2025) (petition for cert. filed), where the ultimate outcome could strip individual voters of the ability to file suit on their own directly under Section 2, creating a major barrier to even seeking review of voting rights challenges.

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<sup>5</sup> H.B. 219, 2026 Leg., Reg. Sess. (Md. 2026) (Maryland Voting Rights Act of 2026 – Voter Intimidation and Suppression) (pending before the House Government, Labor, and Elections Committee).

<sup>6</sup> See Myrna Pérez, *Voting Rights Act: The Legacy of the 15th Amendment*, Brennan Center for Justice, (June 30, 2009), <https://bit.ly/3cjDezF>.

<sup>7</sup> 52 U.S.C. § 10301. Critically, Section 2 does not require voters to prove they were victims of intentional discrimination. In *Thornburg v. Gingles*, 478 U.S. 30 (1986), the Court explained that Congress was overturning *Mobile v. Bolden*, 446 U.S. 55 (1980), when it enacted the 1982 VRA amendments. *Mobile* had declared that minority voters had to prove an election mechanism was “intentionally adopted or maintained by state officials for a discriminatory purpose,” in order to satisfy either § 2 of the VRA or the Fourteenth or Fifteenth Amendments. *Thornburg*, 478 U.S. at 35. In response to *Mobile*, Congress revised § 2 to clarify that a violation could be established “by showing discriminatory effect alone...” *Id.*

In addition to these persistent attacks, relief from vote dilution through the VRA is limited by burdensome requirements that fail to account for the varied but still valid manifestations of this pervasive issue. For example, in many places impacted voters of color do not all reside within close proximity to each other (commonly referred to as “geographic compactness” or “residential segregation”). While their shared voting power can still be diluted by discriminatory at-large election systems, their ability to bring challenges under the VRA is constrained by a restrictive test requiring them successfully prove they can make up the majority of a sufficiently compact electoral district.<sup>8</sup>

This means that, in counties like Harford County and municipalities like Delmar with large but dispersed Black populations, the federal VRA offers no path to resolve vote dilution. This leaves impacted voters without a way to fix demonstrated discrimination in their local election systems. Different courts across the country have also narrowed challenges under Section 2 by restricting the ability of voters of color to join across racial groups and bring “coalition claims” together as a class, limiting opportunities to quickly and efficiently resolve broad vote dilution by the same local systems.<sup>9</sup>

Congress has failed to update the VRA to counteract these cases and, instead, is focused on advancing policies like the SAVE Act that make it *harder* for individuals to exercise their right to vote.<sup>10</sup> As a result, the federal VRA remains at significant risk of being completely dismantled, despite the ongoing reality of racial discrimination in elections across the country. While the persistent expense and complexity of filing a claim under Section 2 of VRA can also leave harmful election practices unchecked, SB 255 offers a cost-effective, clear and robust process for Maryland’s communities of color to eliminate vote dilution together without relying on the diminishing legacy of the VRA.

## **SB 255 Improves Recourse Following Recent Examples of Local Vote Dilution**

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<sup>8</sup> This test was created by the Supreme Court in *Thornburg v. Gingles*, 478 U.S. 30 (1986), and narrowly interpreted by the Court’s conservative majority in *Bartlett v. Strickland*, 556 U.S. 1 (2009).

<sup>9</sup> *See, e.g., Petteway v. Galveston County*, 86 F.4th 1146 (5th Cir. 2024) (en banc) (reversing earlier precedent to hold that Section 2 of the VRA does not allow separate minority groups to aggregate their populations for purposes of a vote dilution claim); *Nixon v. Kent County*, 76 F.3d 1381 (6th Cir. 1996) (en banc) (rejecting coalition claims under Section 2).

<sup>10</sup> The SAVE Act would require every voter to show proof of citizenship with their current name whenever they register to vote or change their registration. Passage of this Act would effectively end online and mail-in voter registration, since voters would not be able to prove their citizenship remotely. It would also significantly complicate the voting process for individuals who change their names after marriage or following transition, since they may not have updated documentation that reflects their new legal names. These burdens would fall more heavily on younger voters, voters of color, low-income voters, and elder voters.

As one of just two states where people of color comprise the majority,<sup>11</sup> most of Maryland’s counties and municipalities have substantial populations of color accounting for 20% or more of the local population – this applies to about 75% of Maryland’s 24 counties, and about 55% of the state’s 156 incorporated towns and cities.<sup>12</sup> As of October 2025, a substantial portion of the elected local officials in these areas still present as all-white, including about a quarter of the county governments with significantly diverse constituencies.<sup>13</sup>

This underrepresentation underscores the ongoing need to address structural barriers like at-large voting and unfair redistricting. While people in the same racial groups commonly vote for the same preferred candidates (called “racially polarized voting” or “RPV”), electoral systems can significantly affect whether those preferences translate into representation. When voters have the choice to elect candidates who share their racial identity, they often prefer to do so. Accordingly, the absence of representatives sharing the racial identity of a large portion of the voting population can signal an imbalance in voting power, which ultimately disconnects those voters from the decisions that shape their communities.

So far, impacted voters have relied on the federal VRA for recourse in many parts of the state. In places like Worcester and Somerset Counties, Salisbury, Pocomoke City, Berlin, Snow Hill, Hurlock, Easton, and Princess Anne, Black communities have successfully challenged discriminatory at-large elections.<sup>14</sup> This legal pressure has successfully compelled reforms to empower local residents and allow Black leaders to finally be elected to public office, often for the first time in the history of their community.<sup>15</sup> However, as the following examples demonstrate,

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<sup>11</sup> Supra note 1.

<sup>12</sup> Supra note 3. For the referenced county data (which includes Baltimore City), see *USAFacts, Maryland Population by County and Year* (July 2022), <https://usafacts.org/data/topics/people-society/population-and-demographics/our-changing-population/state/maryland/>.

<sup>13</sup> Id.

<sup>14</sup> See *Cane v. Worcester Cnty., Md.*, 35 F.3d 921 (4th Cir. 1994); *Letter to U.S. Dept. of Justice*, ACLU of Maryland (Mar. 24, 2010); “Redistricting, Ensuring Election Fairness,” ACLU of Maryland, (Apr. 10, 2012), <https://www.aclu-md.org/en/cases/redistricting-ensuring-election-fairness>; Sam Janesch, ‘We want a voice.’ *Federalsburg’s Black residents become latest Eastern Shore voters to get a long-awaited shot at representation*, BALTIMORE SUN (Jun. 21, 2023), <https://www.baltimoresun.com/politics/bs-md-pol-shore-voting-rights-20230616-xot2c5fehfcblzfy3ilzu6uri-story.html>.[https://www.aclu-md.org/sites/default/files/field\\_documents/somerset\\_perez\\_letter.pdf](https://www.aclu-md.org/sites/default/files/field_documents/somerset_perez_letter.pdf); *Redistricting, Ensuring Election Fairness*, ACLU of Maryland (Apr. 10, 2012), <https://www.aclu-md.org/en/cases/redistricting-ensuring-election-fairness>; Sam Janesch, ‘We want a voice.’ *Federalsburg’s Black residents become latest Eastern Shore voters to get a long-awaited shot at representation*, BALTIMORE SUN (Jun. 21, 2023), <https://www.baltimoresun.com/politics/bs-md-pol-shore-voting-rights-20230616-xot2c5fehfcblzfy3ilzu6uri-story.html>.

<sup>15</sup> See e.g., *NAACP of Caroline Cnty v. Town of Federalsburg*, 23-CV-00484-SAG, (D. Md. Feb. 22, 2023).

there is still a critical need to improve on the federal VRA’s protections by enacting the stronger provisions offered by SB 255.

### *Federalsburg*

For 200 years, the town of Federalsburg in Caroline County operated under an all-white government, despite Black residents comprising the largest portion of its population. That finally changed in 2023 after seven Black women sued the town for diluting their right to vote through the town’s at-large system.<sup>16</sup>

Federalsburg officials resistance to voters efforts to resolve the problem collaboratively in 2022 led to an expensive and intense federal lawsuit that ultimately resulted in a court-approved plan that changed the at-large system into a district system. Through this reform, the people of Federalsburg were finally able to elect two Black women to the Council for the first time in history. As part of the legal settlement, the town also issued an official apology among other acts acknowledging the discrimination that excluded generations of Black residents from having an equal vote. Under SB 255’s streamlined provisions, local voters in similar circumstances will not have to shoulder the additional burden of the federal VRA’s confusing and prolonged process to secure their power to elect candidates aligned with the needs of their community.

### *Wicomico County*

While communities of color make up almost 40% of Wicomico County’s population, its council and school board have been almost exclusively been led by white people, with only one Black person at a time ever elected to either governing body under the partial at-large system that formerly constrained local elections. Following decades of ardent pushback by impacted residents steadfastly rebuffed by Wicomico officials, a group of local Black voters and community leaders filed suit in December 2023 under Section 2 of the federal VRA. In addition to achieving the creation of a more equitable system of seven single-member districts in 2025, the landmark settlement and consent decree<sup>17</sup> resulting from this litigation incorporated creative remedies to promote unity and collaboration, such as establishing a new Wicomico Human Rights Advisory Committee, mandating anti-bias trainings, adding biannual work sessions with plaintiff organizations, and adding a first-ever student member position to the School Board.

With the improved process for seeking similarly creative remedies under SB 255, voters of color facing vote dilution in Maryland’s many at-large election systems

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<sup>16</sup> Id.

<sup>17</sup> *Wicomico Cnty. Branch of the NAACP et al. v. Wicomico Cnty., Md., Settlement Agreement & Release (Execution Version)*, Civil Action No. 1:23-cv-03325-MJM (D. Md. Feb. 14, 2025), [https://www.aclu-md.org/app/uploads/drupal/sites/default/files/field\\_documents/wicomico\\_settlement\\_agreement\\_execution\\_version.pdf](https://www.aclu-md.org/app/uploads/drupal/sites/default/files/field_documents/wicomico_settlement_agreement_execution_version.pdf)

can be better equipped with flexible and fair tools to fully address the realities of this pervasive issue in their specific community.

### *Baltimore County*

During the summer of 2025, community advocates and leaders recently won the creation of an improved map for the County’s newly-expanded nine council districts that more fairly represents its diverse population. Baltimore County’s formerly seven-member County Council remained all-white from its creation in 1956 until 2001, when the threat of legal action by Black voters resulted in the County’s first majority-Black district. In 2002, that district elected Baltimore County’s first-ever Black councilmember. However, even as the County continued to diversify, vote dilution persisted as the single majority-Black district became increasingly “packed” with higher and higher percentages of Black voters.

This sole majority-Black district remained the only one for decades, with only one Black representative elected at a time amid council districts that were 86% white, despite the Black population accounting for a third of the County within the broader communities of color that make up almost half of its residents. Following public outcry and litigation under Section 2 of the VRA that ramped up in 2021<sup>18</sup>, as well as the creation of a redistricting commission after voters approved expanding the Council to nine members, a new map was created in 2025 that now includes two majority-Black districts and another district predominated by diverse communities of color, offering a better opportunity for fairer representation.

With the innovative provisions under SB 255 that allow broader racial groups to partner together to overcome the same local systems diluting their shared voting power, this legislation is well-suited to help ensure the district maps in culturally-rich places like Baltimore County fairly represent the diversity of local communities. Moreover, this consolidated process can help significantly mitigate litigation costs—over a million dollars spent on lawyers by Baltimore County might have been avoided if SB 255’s streamlined framework was available.

### **SB 255 Offers Key Aspects of the MDVRA Critical to Local Democracy**

While Maryland has achieved recent progress in protecting the voting rights of local residents, discrimination still persists through systems like at-large voting and unfair district maps that dilute the voices of voters of color and entrench the dominance of white majorities. Along with the additional legislation being advanced this year to provide the MDVRA’s voter intimidation and suppression protections, SB 255 gives Marylanders the tools uproot these constraints on their connection to the decisions of elected officials without relying on limited federal provisions that remain under attack. It is time for Maryland to meet the challenges

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<sup>18</sup> *Baltimore County Branch of the NAACP v. Baltimore County*, No. 21-CV-03232-LKG, 2022 WL 657562, 2 (D. Md. Feb. 22, 2022).

of the current moment and enact SB 255 to safeguard local democracy by engraining these urgently-needed vote dilution protections in state law.

For the foregoing reasons, the ACLU of Maryland urges a favorable report on SB 255.

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