



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB4068

Introduced 4/23/2021, by Rep. Kambium Buckner

SYNOPSIS AS INTRODUCED:

See Index

Amends the Election Code. Creates the Rights of Voters Article. Prohibits the imposition or application of a voting qualification or prerequisite to voting or standard, practice, or procedure by the State or any locality in a manner that results in a denial or abridgement of the right of any citizen of the United States to vote based on race or color or membership in a language minority group. Provides that a county, city, or town that has more than 5% of its eligible voters or 10,000 eligible voters that are members of a single language minority and are unable to speak or understand English adequately to participate in the electoral process shall provide shall also provide election materials in the language of that minority group. Requires notice of certain changes in the election process and allow for a public comment period. Alternatively, allows the election authority to submit proposed changes to the Attorney General for implementation. Prohibits the use of an at-large method of election in a manner that impairs the ability of members of a protected class to elect candidates of its choice or its ability to influence the outcome of an election. Creates the Voter Education and Outreach Fund as a special fund in the State treasury to deposit all penalties and charges related to violations of the provisions. Allows the Attorney General to commence a civil action in response to a violation of the provisions. Makes other and conforming changes. Provides that the amendatory Act may be referred to as the Illinois Voting Protection Act.

LRB102 18095 SMS 25245 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning elections.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. This Act may be referred to as the Illinois
5 Voting Protection Act.

6 Section 5. The Election Code is amended by adding Article
7 3A and Sections 29-21, 29-22, and 29-23 and by changing
8 Sections 17-14, 19A-25, and 29-4 as follows:

9 (10 ILCS 5/Art. 3A heading new)

10 ARTICLE 3A. RIGHTS OF VOTERS

11 (10 ILCS 5/3A-1 new)

12 Sec. 3A-1. Definitions. As used in this Article,
13 "protected class" means a group of citizens protected from
14 discrimination based on race or color or membership in a
15 language minority.

16 (10 ILCS 5/3A-5 new)

17 Sec. 3A-5. Vote denial or dilution.

18 (a) No voting qualification or prerequisite to voting or
19 standard, practice, or procedure shall be imposed or applied
20 by the State or any locality in a manner that results in a

1 denial or abridgement of the right of any citizen of the United
2 States to vote based on race or color or membership in a
3 language minority group.

4 (b) A violation of subsection (a) is established if, on
5 the basis of the totality of circumstances, it is shown that
6 the political processes leading to nomination or election in
7 the State or a locality are not equally open to participation
8 by members of a protected class in that its members have less
9 opportunity than other members of the electorate to
10 participate in the political processes or to elect
11 representatives of their choice. The extent to which members
12 of a protected class have been elected to office in the State
13 or locality is one circumstance that may be considered.

14 (c) Nothing in this Section shall be construed to
15 establish a right to have members of a protected class elected
16 in numbers equal to their proportion in the population.

17 (10 ILCS 5/3A-10 new)

18 Sec. 3A-10. Impairment of voting rights of registered
19 voters. Nothing in this Article shall be construed to deny,
20 impair, or otherwise adversely affect the right to vote of any
21 registered voter.

22 (10 ILCS 5/3A-15 new)

23 Sec. 3A-15. Minority language accessibility.

24 (a) The State Board of Elections shall designate a county,

1 city, or town as a covered locality if it determines, in
2 consultation with the Census Bureau of the United States
3 Department of Commerce, on the basis of the 2010 American
4 Community Survey census data and subsequent American Community
5 Survey data in 5-year increments, or comparable census data,
6 that (i) more than 5% of the citizens of voting age of the
7 county, city, or town are members of a single language
8 minority and are unable to speak or understand English
9 adequately enough to participate in the electoral process; or
10 (ii) more than 10,000 of the citizens of voting age of the
11 county, city, or town are members of a single language
12 minority and are unable to speak or understand English
13 adequately enough to participate in the electoral process.

14 (b) Whenever a covered locality provides any voting or
15 election materials, it shall provide the materials in the
16 language of the applicable minority group as well as in the
17 English language. For purposes of this requirement, "voting or
18 election materials" means registration or voting notices,
19 forms, instructions, assistance, voter information pamphlets,
20 ballots, sample ballots, candidate qualification information,
21 and notices regarding changes to local election districts,
22 precincts, or polling places. For purposes of this
23 requirement, "registration notices" means any notice of voter
24 registration approval, denial, or cancellation required by
25 this Code. A covered locality may distribute the materials in
26 the preferred language identified by the voter.

1 (c) The Attorney General, or any qualified voter who is a
2 member of a language minority group for whom a covered
3 locality is required to provide voting or election materials
4 in that language, may institute a cause of action in the
5 circuit court of the covered locality to compel the provision
6 of the voting or election materials in the language of the
7 applicable minority group. In the action, the court may, in
8 its discretion, allow a private plaintiff a reasonable
9 attorney's fee as part of the costs, if the plaintiff is the
10 prevailing party.

11 (10 ILCS 5/3A-20 new)

12 Sec. 3A-20. Covered practices; actions required before
13 enactment or administration.

14 (a) As used in this Section:

15 "Certification of no objection" means a certification
16 issued by the Attorney General that there is no objection to
17 the enactment or administration of a covered practice by a
18 locality because the covered practice neither has the purpose
19 or effect of denying or abridging the right to vote based on
20 race or color or membership in a language minority group nor
21 will result in the retrogression in the position of members of
22 a racial or ethnic group with respect to their effective
23 exercise of the electoral franchise.

24 "Covered practice" means:

25 (1) Any change to the method of election of members of

1 a governing body or an elected school board by adding
2 seats elected at large or by converting one or more seats
3 elected from a single-member district to one or more
4 at-large seats or seats from a multi-member district;

5 (2) Any change, or series of changes within a 12-month
6 period, to the boundaries of the locality that reduces by
7 more than 5 percentage points the proportion of the
8 locality's voting age population that is composed of
9 members of a single racial or language minority group, as
10 determined by the most recent American Community Survey
11 data;

12 (3) Any change to the boundaries of election districts
13 or wards in the locality, including changes made pursuant
14 to a decennial redistricting measure;

15 (4) Any change that restricts the ability of any
16 person to provide interpreter services to voters in any
17 language other than English or that limits or impairs the
18 creation or distribution of voting or election materials
19 in any language other than English; or

20 (5) Any change that reduces the number of or
21 consolidates or relocates polling places in the locality,
22 except where permitted by law in the event of an
23 emergency.

24 "Voting age population" means the resident population of
25 persons who are 18 years of age or older, as determined by the
26 most recent American Community Survey data available at the

1 time any change to a covered practice is published pursuant to
2 subsection (b).

3 (b) Before enacting or seeking to administer any voting
4 qualification or prerequisite to voting, or any standard,
5 practice, or procedure with respect to voting, that is a
6 covered practice, the election authority shall publish on the
7 official website for the locality the proposed covered
8 practice and general notice of opportunity for public comment
9 on the proposed covered practice. The election authority shall
10 also publicize the notice through press releases and other
11 media as will best serve the purpose and subject involved. The
12 notice shall be made at least 45 days in advance of the last
13 date prescribed in the notice for public comment.

14 Public comments shall be accepted for a period of no fewer
15 than 30 days. During this period, the election authority shall
16 afford interested persons an opportunity to submit data,
17 views, and arguments in writing by mail, fax, or email or
18 through an online public comment forum on the official website
19 for the locality if one has been established. The election
20 authority shall conduct at least one public hearing during
21 this period to receive public comments on the proposed covered
22 practice.

23 The election authority may make changes to the proposed
24 covered practice in response to public comments received. If
25 doing so, the revised covered practice shall be published and
26 public comments shall be accepted in accordance with this

1 subsection, except the public comment period shall be no fewer
2 than 15 days.

3 (c) Following the public comment period or periods
4 prescribed in subsection (b), the election authority shall
5 publish the final covered practice, which shall include a
6 plain English description of the practice and the text of an
7 ordinance giving effect to the practice, maps of proposed
8 boundary changes, or other relevant materials, and notice that
9 the covered practice will take effect in 30 days. During this
10 30-day waiting period, any person who will be subject to or
11 affected by the covered practice may challenge in the circuit
12 court of the locality where the covered practice is to be
13 implemented the covered practice as (i) having the purpose or
14 effect of denying or abridging the right to vote on the basis
15 of race or color or membership in a language minority group or
16 (ii) resulting in the retrogression in the position of members
17 of a racial or ethnic group with respect to their effective
18 exercise of the electoral franchise. In the action, the court
19 may, in its discretion, allow a private plaintiff a reasonable
20 attorney's fee as part of the costs, if the plaintiff is the
21 prevailing party.

22 (d) The election authority of a locality seeking to
23 administer or implement a covered practice, in lieu of
24 following the provisions of subsections (b) and (c), may
25 submit the proposed covered practice to the Office of the
26 Attorney General for issuance of a certification of no

1 objection. The covered practice shall not be given effect
2 until the Attorney General has issued the certification of no
3 objection. A certification of no objection shall be deemed to
4 have been issued if the Attorney General does not interpose an
5 objection within 60 days after the election authority's
6 submission or if, upon good cause shown and to facilitate an
7 expedited approval within 60 days after the election
8 authority's submission, the Attorney General has affirmatively
9 indicated that no such objection will be made. An affirmative
10 indication by the Attorney General that no objection will be
11 made or the absence of an objection to the covered practice by
12 the Attorney General shall not bar a subsequent action to
13 enjoin enforcement of such qualification, prerequisite,
14 standard, practice, or procedure.

15 (10 ILCS 5/3A-25 new)

16 Sec. 3A-25. At-large method of election; limitations;
17 violations; remedies.

18 (a) An at-large method of election, including one that
19 combines at-large elections with district-based or ward-based
20 elections, shall not be imposed or applied by the election
21 authority of any locality in a manner that impairs the ability
22 of members of a protected class to elect candidates of its
23 choice or its ability to influence the outcome of an election,
24 as a result of the dilution or the abridgement of the rights of
25 voters who are members of a protected class.

1 (b) A violation of subsection (a) is established if it is
2 shown that racially polarized voting occurs in local elections
3 and that this, in combination with the method of election,
4 dilutes the voting strength of members of a protected class.
5 For purposes of this subsection, "racially polarized voting"
6 refers to the extent to which the candidate preferences of
7 members of the protected class and other voters in the
8 jurisdiction have differed in recent elections for the office
9 at issue and other offices in which the voters have been
10 presented with a choice between candidates who are members of
11 the protected class and candidates who are not members of the
12 protected class. A finding of racially polarized voting or a
13 violation of subsection (a) shall not be precluded by the fact
14 that members of a protected class are not geographically
15 compact or concentrated in a locality. Proof of an intent on
16 the part of voters or elected officials to discriminate
17 against members of a protected class shall not be required to
18 prove a violation of subsection (a).

19 (c) Any voter who is a member of a protected class and who
20 resides in a locality where a violation of this Section is
21 alleged shall be entitled to initiate a cause of action in the
22 circuit court of the county or city in which the locality is
23 located. In the action, the court may, in its discretion,
24 allow a private plaintiff a reasonable attorney's fee as part
25 of the costs, if the plaintiff is the prevailing party.

26 (d) Upon a finding of a violation of this Section, the

1 court shall order appropriate remedies that are tailored to
2 remedy the violation, and may monitor the ongoing
3 implementation of remedies so ordered.

4 (10 ILCS 5/3A-30 new)

5 Sec. 3A-30. Voter Education and Outreach Fund. There is
6 hereby created in the State treasury a special fund to be known
7 as the Voter Outreach and Education Fund. All penalties and
8 charges directed to the Fund by Section 3A-35 and all other
9 funds from any public or private source directed to the Fund
10 shall be paid into the Fund. Interest earned on moneys in the
11 Fund shall remain in the Fund and be credited to it. Moneys in
12 the Fund shall be used solely for the purposes of educating
13 voters and persons qualified to be voters on the rights
14 ensured to them pursuant to federal and State constitutional
15 and statutory law and remedies.

16 (10 ILCS 5/3A-35 new)

17 Sec. 3A-35. Civil actions by Attorney General.

18 (a) Whenever the Attorney General has reasonable cause to
19 believe that a violation of this Code has occurred and that the
20 rights of any voter or group of voters have been affected by
21 the violation, the Attorney General may commence a civil
22 action in the appropriate circuit court for appropriate
23 relief.

24 (b) In the civil action, the court may:

1 (1) Award such preventive relief, including a
2 permanent or temporary injunction, restraining order, and
3 other order against the person responsible for a violation
4 of this Code, as is necessary to assure the full enjoyment
5 of the rights granted by this Code.

6 (2) Assess a civil penalty against the respondent (i)
7 in an amount not exceeding \$50,000 for a first violation
8 and (ii) in an amount not exceeding \$100,000 for any
9 subsequent violation. The civil penalties are payable to
10 the Voter Education and Outreach Fund established pursuant
11 to Section 3A-30.

12 (3) Award a prevailing plaintiff reasonable attorney's
13 fees and costs.

14 (c) The court or jury may award such other relief to the
15 aggrieved person as the court deems appropriate, including
16 compensatory damages and punitive damages.

17 (10 ILCS 5/17-14) (from Ch. 46, par. 17-14)

18 Sec. 17-14. Any voter who declares upon oath, properly
19 witnessed and with his or her signature or mark affixed, that
20 he or she requires assistance to vote by reason of blindness,
21 physical disability or inability to read, write or speak the
22 English language shall, upon request, be assisted in marking
23 his or her ballot, by 2 judges of election of different
24 political parties, to be selected by all judges of election of
25 each precinct at the opening of the polls or by a person of the

1 voter's choice, other than the voter's employer or agent of
2 that employer or officer or agent of the voter's union. A voter
3 who presents an Illinois Person with a Disability
4 Identification Card, issued to that person under the
5 provisions of the Illinois Identification Card Act, indicating
6 that such voter has a Class 1A or Class 2 disability under the
7 provisions of Section 4A of the Illinois Identification Card
8 Act, or a voter who declares upon oath, properly witnessed,
9 that by reason of any physical disability he is unable to mark
10 his ballot shall, upon request, be assisted in marking his
11 ballot by 2 of the election officers of different parties as
12 provided above in this Section or by a person of the voter's
13 choice other than the voter's employer or agent of that
14 employer or officer or agent of the voter's union. Such voter
15 shall state specifically the reason why he cannot vote without
16 assistance and, in the case of a voter with a physical
17 disability, what his physical disability is. Prior to entering
18 the voting booth, the person providing the assistance, if
19 other than 2 judges of election, shall be presented with
20 written instructions on how assistance shall be provided. This
21 instruction shall be prescribed by the State Board of
22 Elections and shall include the penalties for attempting to
23 influence the voter's choice of candidates, party, or votes in
24 relation to any question on the ballot and for not marking the
25 ballot as directed by the voter. Additionally, the person
26 providing the assistance shall sign an oath, swearing not to

1 influence the voter's choice of candidates, party, or votes in
2 relation to any question on the ballot and to cast the ballot
3 as directed by the voter. The oath shall be prescribed by the
4 State Board of Elections and shall include the penalty for
5 violating this Section. In the voting booth, such person shall
6 mark the ballot as directed by the voter, and shall thereafter
7 give no information regarding the same. The judges of election
8 shall enter upon the poll lists or official poll record after
9 the name of any elector who received such assistance in
10 marking his ballot a memorandum of the fact and if the
11 disability is permanent. Intoxication shall not be regarded as
12 a physical disability, and no intoxicated person shall be
13 entitled to assistance in marking his ballot.

14 In addition, if the voter requires assistance in a
15 language other than English and has not designated a person to
16 assist him, an election officer may assist as an interpreter
17 but shall first inquire of those authorized to be present
18 whether they have a volunteer available who can interpret for
19 the voter. One representative for each party or candidate,
20 insofar as available, shall be permitted to observe the
21 election officer communicate with the voter. In any locality
22 designated as a covered locality pursuant to Section 3A-15,
23 the local election authority shall ensure that interpretation
24 services in the language of the applicable minority group are
25 available and easily accessible to voters needing assistance
26 pursuant to this subsection.

1 No person shall secure or attempt to secure assistance in
2 voting who is not blind, a person with a physical disability,
3 or illiterate as herein provided, nor shall any person
4 knowingly assist a voter in voting contrary to the provisions
5 of this Section.

6 (Source: P.A. 99-143, eff. 7-27-15.)

7 (10 ILCS 5/19A-25)

8 Sec. 19A-25. Schedule of locations and times for early
9 voting.

10 (a) The election authority shall publish during the week
11 before the period for early voting and at least once each week
12 during the period for early voting in a newspaper of general
13 circulation in the election authority's jurisdiction a
14 schedule stating:

15 (1) the location of each permanent and temporary
16 polling place for early voting and the precincts served by
17 each location; and

18 (2) the dates and hours that early voting will be
19 conducted at each location.

20 (b) The election authority shall post a copy of the
21 schedule at any office or other location that is to be used as
22 a polling place for early voting. The schedule must be posted
23 continuously for a period beginning not later than the 10th
24 day before the first day of the period for early voting by
25 personal appearance and ending on the last day of that period.

1 (c) The election authority must make copies of the
2 schedule available to the public in reasonable quantities
3 without charge during the period of posting.

4 (d) If the election authority maintains a website, it
5 shall make the schedule available on its website.

6 (e) No additional permanent polling places for early
7 voting may be established after the schedule is published
8 under this Section. Additional temporary locations may be
9 established after the schedule is published, provided that the
10 location is open to all eligible voters. The location, dates,
11 and hours shall be reported to the State Board of Elections and
12 posted on the election authority's website.

13 (f) At least 10 days before the period for early voting
14 begins, each election authority shall provide the State Board
15 of Elections with a list of all early voting sites and the
16 hours each site will be open.

17 (g) The election authority shall publish notice of covered
18 practices pursuant to Section 3A-20.

19 (Source: P.A. 98-1171, eff. 6-1-15.)

20 (10 ILCS 5/29-4) (from Ch. 46, par. 29-4)

21 Sec. 29-4. Prevention of voting or candidate support.

22 (a) Any person who, by force, intimidation, threat,
23 deception or forgery, knowingly prevents any other person from
24 (a) registering to vote, or (b) lawfully voting, supporting or
25 opposing the nomination or election of any person for public

1 office or any public question voted upon at any election,
2 shall be guilty of a Class 4 felony.

3 (b) In addition to the criminal penalty provided in
4 subsection (a), such actions shall also create a cause of
5 action. A voter who is intimidated, threatened, or coerced by
6 another person in violation of subsection (a) shall be
7 entitled to institute an action for preventative relief,
8 including an application for a permanent or temporary
9 injunction, restraining order, and other order, against the
10 person. The action shall be instituted in the circuit court of
11 the locality where the violation occurred. In any the action,
12 the court may, in its discretion, allow a private plaintiff a
13 reasonable attorney's fee as part of the costs, if the
14 plaintiff is the prevailing party.

15 (c) This Section applies to any election and to any method
16 used by a political party for selection of its nominees and for
17 selection of delegates to its conventions and meetings.

18 (Source: P.A. 78-887.)

19 (10 ILCS 5/29-21 new)

20 Sec. 29-21. Intimidation of election officers. Any person
21 who, by bribery, intimidation, threats, coercion, or other
22 means in violation of this Code, willfully hinders or
23 prevents, or attempts to hinder or prevent, the election
24 officers at any polling place, including an early voting
25 polling place and any or other location being used by a

1 locality for voting purposes, from holding an election is
2 guilty of a Class 4 felony.

3 (10 ILCS 5/29-22 new)

4 Sec. 29-22. Communication of false information to
5 registered voter.

6 (a) It shall be unlawful for any person to communicate to a
7 registered voter, by any means, false information, knowing the
8 information to be false, intended to impede the voter in the
9 exercise of his right to vote. The provisions of this Section
10 shall apply to information only about the date, time, and
11 place of the election or the voter's precinct, polling place,
12 or voter registration status or the location of early voting
13 polling places.

14 (b) Any person who violates the provisions of this Section
15 is guilty of a Class A misdemeanor. The violation may be
16 prosecuted either in the jurisdiction from which the
17 communication was made or in the jurisdiction in which the
18 communication was received.

19 (c) In addition to the criminal penalty provided in
20 subsection (b), a violation of the provisions of this Section
21 shall also create a cause of action. A registered voter to whom
22 the false information is communicated shall be entitled to
23 institute an action for preventative relief, including an
24 application for a permanent or temporary injunction,
25 restraining order, and other order, against the person

1 communicating the false information. The action shall be
2 instituted in the circuit court of either the jurisdiction
3 from which the communication was made or the jurisdiction in
4 which the communication was received. In any the action, the
5 court may, in its discretion, allow a private plaintiff a
6 reasonable attorney's fee as part of the costs, if the
7 plaintiff is the prevailing party.

8 (10 ILCS 5/29-23 new)

9 Sec. 29-23. Interference with voting.

10 (a) Any person acting under the color of law who, contrary
11 to an official policy or procedure, fails to permit, or
12 refuses to permit, a qualified voter to vote, or who willfully
13 fails or refuses to tabulate, count, or report the vote of a
14 qualified voter, is subject to a civil penalty in an amount not
15 exceeding \$1,000 for each affected voter. The civil penalties
16 shall be payable to the Voter Education and Outreach Fund
17 established pursuant to Section 3A-30.

18 (b) Any person who furnishes a ballot to a person who he
19 knows cannot understand the language in which the ballot is
20 printed and misinforms him as to the content of the ballot with
21 an intent to deceive him and induce him to vote contrary to his
22 desire is guilty of a Class A misdemeanor. Any person who
23 changes a ballot of a person to prevent the person from voting
24 as he desires is guilty of a Class A misdemeanor. This
25 subsection (b) applies to any election and to any method used

1 by a political party for selection of its nominees and for
2 selection of delegates to its conventions and meetings.

3 Section 10. The State Finance Act is amended by adding
4 Section 5.938 as follows:

5 (30 ILCS 105/5.938 new)

6 Sec. 5.938. The Voter Education and Outreach Fund.

1 INDEX

2 Statutes amended in order of appearance

3 10 ILCS 5/Art. 3A heading

4 new

5 10 ILCS 5/3A-1 new

6 10 ILCS 5/3A-5 new

7 10 ILCS 5/3A-10 new

8 10 ILCS 5/3A-15 new

9 10 ILCS 5/3A-20 new

10 10 ILCS 5/3A-25 new

11 10 ILCS 5/3A-30 new

12 10 ILCS 5/3A-35 new

13 10 ILCS 5/17-14 from Ch. 46, par. 17-14

14 10 ILCS 5/19A-25

15 10 ILCS 5/29-4 from Ch. 46, par. 29-4

16 10 ILCS 5/29-21 new

17 10 ILCS 5/29-22 new

18 10 ILCS 5/29-23 new

19 30 ILCS 105/5.938 new