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EDITOR WASHINGTON LETTER

Rhonda J. McMillion
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June 27, 2006

The Honorable Arlen Specter
Chairman
Committee on the Judiciary
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

As the Judiciary Committee proceeds with its consideration of legislation to reauthorize expiring provisions of the Voting Rights Act of 1965 ("the Act"), I write to express the views of the American Bar Association (ABA) with respect to S. 2703, the Fannie Lou Hamer, Rosa Parks, and Coretta Scott King Voting Rights Act Reauthorization and Amendments Act of 2006.

While great progress has been made since the original passage of the Act, there is ample evidence that voting discrimination still exists today in many areas of our nation. For this reason, the ABA supports the reauthorization of Sections 5, 203, and 6-9 of the Voting Rights Act for a period of 25 years. The Voting Rights Act has been called the most effective civil rights law ever enacted and it is critical that the expiring provisions of the Act be reauthorized in order to ensure access to the ballot box for all citizens, as well as to reaffirm our nation's commitment to eliminating discriminatory voting practices.

As drafted, S. 2703 makes several important and greatly needed modifications to Sections 5, 203, and 14(e). Specifically, S. 2703 would amend Section 5 to prohibit the preclearance of any voting changes enacted with a discriminatory purpose of denying or abridging the right to vote on account of race, color, or membership in a language minority group and clarify the legal standard for discriminatory effect as a retrogression of political strength of a minority community and the failure to preserve the ability of minority voters to elect candidates of choice. In addition, the bill would require that coverage determinations under Section 203 be based on information compiled by the American Community Survey on a rolling 5-year average. Finally, the bill would amend Section 14(e) to permit the recovery of expert fees and expenses. The ABA strongly supports each of these provisions.

However, we believe that additional changes to S. 2703 are needed to further enhance the effectiveness of the Act and assure the voting rights of all citizens. Section 5 should also be amended to prohibit the preclearance of any voting change shown to have a dilutive effect in violation of Section 2 of the Act. Voting is a fundamental and inherent part of our citizenship. Any changes in

elections that could have the effect of narrowing the right to vote and ability for all citizens to participate in our democracy must not be taken lightly and should continue to be precleared through the Department of Justice.

As newly naturalized citizens and citizens with limited English proficiency choose to exercise their right of citizenship to participate in our electoral process, it is imperative that they be given every opportunity to understand fully their right to vote and also the procedures which govern the franchise. The ABA supports amending Section 203 to clarify the definition of a political subdivision to include separate election jurisdictions, such as cities or school districts of significant size. From a practical standpoint of administering elections at a local level, this proposed change would provide assistance to more language minority groups participating in smaller elections, who do not qualify under the larger Section 203 definition, who actually need translated materials. Conversely, it would not require local school districts or smaller political jurisdictions to provide translated materials based on the larger county-based populations of language minority groups. This change in definition will make sure that translated materials are provided to more accurately fit the needs of the local language minority groups.

We also support lowering the numerical for coverage under Section 203 from 10,000 to 5,000. Lowering the trigger will have the practical effect of providing language assistance to greater numbers of minority language groups, many of which are comprised of newer immigrant populations who most need assistance in navigating the political process. Helping citizens become comfortable with and become a part of our democratic process is important and if language assistance is to be provided it should be provided in a manner that reaches those most needing the assistance.

The ABA also supports amending the Act to clarify that Section 203 applies only to materials provided by government entities and not by citizen petitioners. This amendment is necessary in order to clarify situations where citizens desiring to circulate recall or initiative petitions may be required to bear the costs of translation of such petitions. The right of citizens to petition the government should not be burdened by the cost of translating petition materials. Congress should clarify Section 203 to indicate that such accommodations are required only after petitions have qualified for placement on the ballot.

The basic right of citizens to vote and the importance of having protections in place that will ensure equal access to the voting process for all is at the core of our democratic process and is central to improving participation in our nation's electoral process. The Voting Rights Act has been critical to expanding our democratic franchise to all eligible citizens, and we again urge you to support the reauthorization and extension of the expiring provisions of the Act as well as amendments to Sections 5, 203, and 14(e) that will broaden voting access for all citizens.

Thank you for your consideration of our views.

Sincerely,


Robert D. Evans

cc: Members of the Senate Judiciary Committee