

# Public Citizen Fights for Minority Rights, Defends Voting Rights Act Against Texas Legal Challenge

BY EMMA CHEUSE

Public Citizen is defending the recently renewed Voting Rights Act against a lawsuit challenging the need and constitutionality of a certain provision of the law, which has been on the books since 1965 and was reauthorized by Congress last summer.

The Northwest Austin Municipal Utility District Number One (a local government body in Texas) filed the lawsuit on Aug. 6 against Attorney General Alberto Gonzales. The district is asking a three-judge panel in Washington, D.C., to strike down a section of the law that requires state and local governments in certain areas of the United States to receive explicit permission from the federal government before changing their voting laws.

Public Citizen joined the lawsuit Nov. 17. It is representing Texas voters Jovita Casarez, who lives in a congressional district recently found by the U.S. Supreme Court to have been drawn in violation of the Voting Rights Act; Angie Garcia, an officer of the League of United Latin American Citizens, which promotes Latino voters' rights and interests; and Ofelia Zapata, an active member of community service organizations.

The three are trying to keep this provision of the Voting Rights Act in place so the federal government will continue exercising oversight to protect their voting rights.

"Congress' renewal of the Voting Rights Act aims to ensure that all Americans have an equal chance to participate in our democracy and don't face discrimination when they try to register or vote for the candidate of their choice," said Michael Kirkpatrick, a Public Citizen attorney representing these voters. "Public Citizen supports the efforts of Congress to fulfill its role of protecting the fundamental right of citizens to vote where their own state and local governments fall short."

This suit is being closely watched by civil rights advocates as a case likely to go before the U.S. Supreme Court.

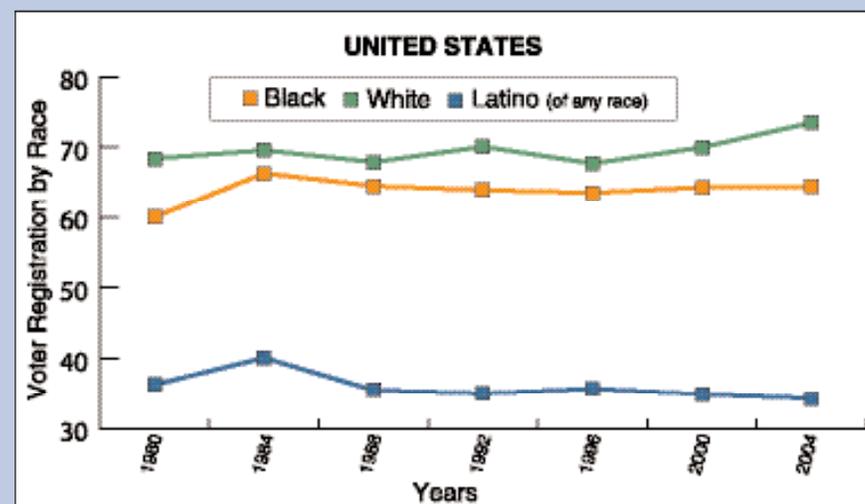
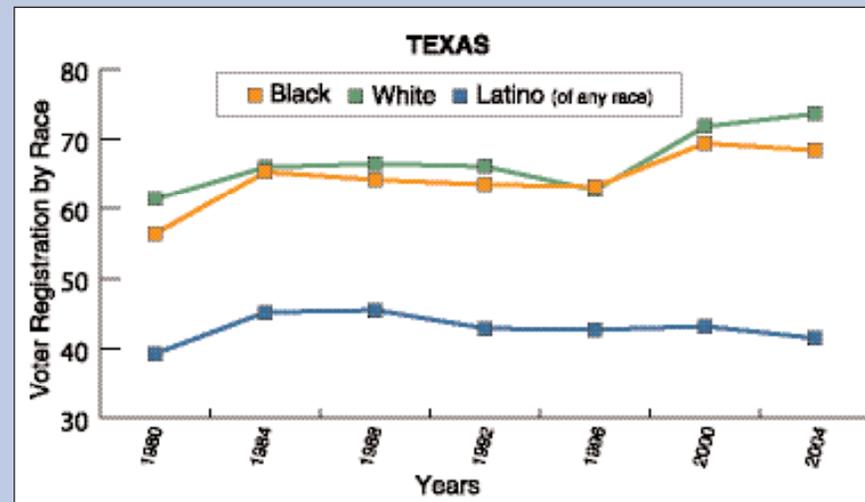
## Protecting voters from discrimination

The provision of the Voting Rights Act at issue in this lawsuit is Section 5, which requires that certain states and counties request permission, or "preclearance," from the federal government before making any change to electoral laws or policies – whether they are deciding the method of election, the way to draw district lines or the location of a polling place.

This provision of the federal law empowers the Justice Department and the federal judiciary to serve as watchdogs over state and local gov-

## Voter Registration Breakdown

The Voting Rights Act has helped prevent discrimination against minorities for decades. There has been an increase in the percentage of minorities who register to vote. However, these charts also show that disparities still exist between the percentages of white voter turnout and some minority voter turnout.



Source: U.S. Census Bureau, "Current Population Survey," <http://www.census.gov/population/www/socdemo/voting.html>

ernments that have a history of discrimination.

Only states and counties that have historically used literacy tests or other devices to discriminate against minority voters resulting in low voter registration or turnout must follow this preclearance procedure. Covered areas include Texas, Alabama, Georgia, Louisiana, Mississippi, South Carolina, Virginia, Alaska, Arizona and parts of North Carolina, Florida, California, New York and South Dakota.

The Texas municipal utility district claims that having to request preclearance from the federal government creates too much of an administrative burden. The district also argues that the requirement is unconstitutional because preclearance interferes with local government authority and because it and other state and local governments covered by the federal act no longer

discriminate against minority voters.

If the district were to win this suit, the only way minority voters in states currently protected by Section 5 could stop a discriminatory law would be to sue and prove in court that the law violates their rights, which would directly conflict with the intent of the Voting Rights Act to place the burden of proof on those who have discriminated, not those who have been discriminated against.

If a discriminatory law is passed now, the Voting Rights Act requires the federal government to object to the law before it takes effect, then to send the local or state government back to the drawing board to offer a law that does not discriminate.

## Voting Rights Act still needed

Congress passed the Voting Rights Act in 1965 to safeguard African-American citizens from vot-

ing discrimination and extended its protections in 1975 to "language minority" voters – or members of a minority group for whom, traditionally, English is a second language – including American-Indian, Asian-American, Alaskan-native and Latino voters.

Since that time, the Voting Rights Act has gone far to prevent the passage of laws and policies that state and local governments have used to try to suppress minority votes, such as voter intimidation, literacy tests, English-only ballot materials, biased districting plans and certain election methods.

Section 5 of the Voting Rights Act is still necessary.

During hearings held last summer about the need to reauthorize the temporary provisions of the Voting Rights Act, Congress found that local and state government-sponsored voter discrimination has occurred less often but still has not disappeared from areas covered by Section 5 since its last renewal in 1982. Congress found that if this legal protection is removed, discrimination could flare up again.

## Public Citizen's involvement

Public Citizen serves as co-counsel with Texas RioGrande Legal Aid to represent voters in this lawsuit because Public Citizen believes it is important to defend the constitutionality of one of the most successful pro-democracy, civil rights laws ever passed in this country, Kirkpatrick said.

"In addition to the future of this provision of the Voting Rights Act, which has an impact nationwide, also at stake here is Congress' ability to pass other remedial civil rights measures that have a broad impact to prevent states from discriminating against their own citizens," Kirkpatrick said.

Public Citizen is also working closely with nonprofit organizations representing other voters who have joined this lawsuit, including the Mexican American Legal Defense and Educational Fund, the American Civil Liberties Union, the Lawyers' Committee for Civil Rights Under Law, the NAACP-LDF and People for the American Way.

To read the municipal utility district's complaint challenging the constitutionality of the Voting Rights Act, visit [www.citizen.org/documents/mudgonzalescomplaint.pdf](http://www.citizen.org/documents/mudgonzalescomplaint.pdf).

To read Public Citizen's motion to intervene in this suit, granted by the court on Nov. 17, visit [www.citizen.org/documents/mudgonzalesmemo.pdf](http://www.citizen.org/documents/mudgonzalesmemo.pdf).

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