

**Ann Marie Tallman, President and General Counsel
Statement Regarding the Reauthorization of the Temporary
Provisions of the Voting Rights Act**

**United States House of Representatives
Judiciary Subcommittee on the Constitution
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Mr. Chairman and Members of the Subcommittee, thank you for the invitation to testify regarding the reauthorization of the temporary provisions of the Voting Rights Act (VRA). I am Ann Marie Tallman, President and General Counsel of MALDEF, the Mexican American Legal Defense and Educational Fund. We are a nonpartisan organization that protects the civil rights of the over 40 million Latinos living in the United States.

Since our founding in 1968, MALDEF has challenged voting laws that deny Latinos an equal opportunity to participate in the political process. In *Garza v. Smith* in 1970, MALDEF won a ruling that permitted illiterate persons, many of whom were Latino, to receive assistance in casting ballots. MALDEF also frequently sought the elimination of at-large elections that deprived Latino voters of their ability to elect their candidates of their choice. Our first successful single member district lawsuit, *White v. Register* in 1973, resulted in the election of three Latinos and one African American to the Texas State Legislature and laid the legal groundwork for the present interpretation of Section 2 of the VRA.

In 1976, following the enactment of the language minority provisions of the VRA and the extension of Section 5 to the Southwest, MALDEF successfully challenged a Texas law that would have had a devastating effect on Latino voting power by requiring the annual re-registration of all voters. MALDEF also pressured the city of San Antonio to change from at-large to single member districts. In the next election, a record 29 Latino candidates filed and an unprecedented five Latinos were elected to the ten-member San Antonio City Council.

The Voting Rights Act is widely considered one of the most effective pieces of civil rights legislation in American history. It has helped to usher in an era in which Latinos and other minority groups are generally better able to register, vote, and elect their candidates of choice. Prior to 1965, many Latinos, especially in the Southwest, were excluded from full political participation by poll taxes, exclusionary primaries, intimidation by voting officials, and language barriers. Latino votes were also routinely diluted through the use of mechanisms like at-large voting and numbered place election systems. The Voting Rights Act has done more than any other piece of legislation to ensure that we as a nation progress beyond the discriminatory election laws that have marred our democratic processes. Despite these important gains, however, the VRA remains a necessary tool for effectively protecting the voting rights of Latinos and other minority groups.

The focus of my testimony today will be upon two areas of paramount concern to millions of Latino voters in the United States: Section 5 and the language minority provisions Section 203 and 4(f)(4).

The impact of Section 5 in countering discriminatory election laws cannot be overemphasized. This provision of the VRA, which affects almost as many Latinos as it does African Americans, has been essential in stimulating the unprecedented Latino political participation that we see today at all levels of American government. Section 5 prevents covered jurisdictions from 'changing the rules of game' to disadvantage minority voters before these voters can seek redress for the deprivation of their voting rights. Section 5's effectiveness in protecting minority voting rights lies in its shifting the burden of proof from the minority voters who have historically been subject to discriminatory practices to the covered jurisdictions seeking to change their election systems. By invalidating discriminatory election laws before they are put in place, Section 5 removes the need for minority voters to continually bring costly litigation to ensure that their voting rights are protected.

A recent Section 5 challenge brought by MALDEF in Texas demonstrates how Section 5 works

to preserve the voting rights of Latinos. In 2001, when Latinos had reached one-third of the State's total population, Texas proposed a redistricting plan for its House of Representatives that minimized Latino voters' impact in three districts and completely eliminated a fourth Latino-majority district. Because the plan added only one new Latino-majority district and eliminated four such districts, the U.S. Justice Department concluded that it was retrogressive and blocked its implementation under Section 5. As a direct result of DOJ's Section 5 intervention, the current Texas House redistricting plan maintains the four Latino-majority districts that were dismantled and contains a total of thirty-five districts that afford Latino voters the opportunity to elect their candidate of choice. If Section 5 were not in effect, these districts would likely not exist.

MALDEF seeks reauthorization of Section 5 with language clarifying Congress's intent to prohibit intentionally discriminatory voting changes as well as to preserve 'ability to elect' as the touchstone of Section 5 review.

Also of great importance to Latino voters are the language minority provisions contained within Sections 203 and 4(f)(4). Currently, 4.3 million Latino voting age citizens are limited English proficient. If Congress does not reauthorize the language minority provisions of the VRA, these Latino citizens will be unable to effectively exercise the franchise.

A recent challenge brought by MALDEF in Illinois demonstrates the continuing need for the language minority provisions. In 2002, Cook County, Illinois purchased a voting system that used punch-cards with "voter error notification" capabilities that was incapable of notifying Spanish-speaking voters of problems with their ballots. This voting system, combined with the county's failure to provide Spanish-speaking poll workers, left many Latino voters unable to cast effective ballots. MALDEF challenged the county's voting system under the bilingual assistance provisions of the Voting Rights Act and negotiated a consent decree on behalf of Latino voters in which the county agreed to increase the number of Spanish speaking poll workers and implement new training, monitoring, and hotline procedures. This protection of Latinos' ability to cast an effective ballot would not have been possible without Section 203 of the VRA.

MALDEF seeks reauthorization of the language minority provisions with an adjustment to the coverage formula of Section 203 to include jurisdictions containing between 7,500 and 10,000 language minority citizens.

MALDEF has worked for 37 years to ensure that Latinos' voting rights are protected. Section 5 and the language minority provisions of the VRA have been and continue to be our greatest tools. On behalf of MALDEF and other organizations that work to protect minority voting rights, I urge Congress reauthorize the Voting Rights Act to reflect the original intent of its crucial provisions.