

ESSB 6002 - H AMD 1105

By Representative Irwin

OUT OF ORDER 02/27/2018

1 On page 9, beginning on line 18, strike all of section 302 and  
2 insert the following:

3 "NEW SECTION. **Sec. 302.** (1) A political subdivision is in  
4 violation of this act when:

5 (a) It is established by prima facie evidence that:

6 (i) The protected class is sufficiently large and geographically  
7 compact enough to constitute a majority in a single member voting  
8 district;

9 (ii) The protected class is politically cohesive; and

10 (iii) The majority votes sufficiently as a bloc to enable it to  
11 defeat the protected class' preferred candidate; and

12 (b) It is established that, by the totality of circumstances, the  
13 voters of the protected class have less opportunity than members of  
14 the majority group to participate in the political process and to  
15 elect representatives of their choice.

16 (2) In determining whether there is a violation of this act, the  
17 court shall analyze elections of the governing body of the political  
18 subdivision, ballot measure elections, elections in which at least  
19 one candidate is a member of a protected class, and other electoral  
20 choices that affect the rights and privileges of members of a  
21 protected class. Only elections conducted prior to the filing of an  
22 action pursuant to this chapter shall be used to establish or rebut  
23 the existence of a violation. In determining whether, by the totality  
24 of the circumstances, the voters of the protected class have less  
25 opportunity than members of the majority group to participate in the  
26 political process and to elect representatives of their choice, the  
27 court shall consider, at a minimum, the following factors:

28 (a) The history of voter-related discrimination in the political  
29 subdivision;

30 (b) The extent to which voting in elections of the political  
31 subdivision is racially polarized;

32 (c) The extent to which the political subdivision has used voting  
33 practices or procedures that tend to enhance the opportunity for

1 discrimination against the minority group, such as unusually large  
2 election districts, majority voting requirements, and prohibitions  
3 against bullet voting;

4 (d) The exclusion of members of the protected class from the  
5 candidate slating process;

6 (e) The extent to which protected class members bear the effects  
7 of past discrimination in areas such as education, employment, and  
8 health, which hinder their ability to participate effectively in the  
9 political process;

10 (f) The use of overt or subtle racial appeals in political  
11 campaigns;

12 (g) The extent to which members of the protected class have been  
13 elected to public office in the political subdivision; and

14 (h) Whether there is a significant lack of responsiveness on the  
15 part of elected officials to the particularized needs of the members  
16 of the protected class.

17 (3) In determining whether there is a violation of this act, the  
18 court shall analyze elections of the governing body of the political  
19 subdivision, ballot measure elections, elections in which at least  
20 one candidate is a member of a protected class, and other electoral  
21 choices that affect the rights and privileges of members of a  
22 protected class. The court shall also consider whether the proportion  
23 of elected officials serving on the political subdivision's  
24 legislative body who are members of the protected class is equivalent  
25 to the proportion of the population who are members of the protected  
26 class. Only elections conducted prior to the filing of an action  
27 pursuant to this chapter shall be used to establish or rebut the  
28 existence of a violation.

29 (4) The election of candidates who are members of a protected  
30 class and who were elected prior to the filing of an action pursuant  
31 to this chapter shall not preclude a finding of a violation of this  
32 act."

EFFECT: (1) Changes the requirements for establishing a violation to require a violation to show the protected class: (a) Is large and compact enough to be a majority in a district; (b) is politically cohesive; and (c) prefers candidates that are defeated by a majority voting bloc.

(2) Requires courts to analyze elections with at least one candidate who is a member of a protected class and limits consideration to elections prior to filing court action.

(3) Provides consideration of factors by a totality of circumstances standard.

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