



Top Republican warns of discrimination at the polls in November

BY MIKE LILLIS - 03/31/16 10:20 AM EDT

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A leading GOP voice on election law is warning that voter discrimination is all but inevitable in November unless Congress acts first to strengthen poll protections.

Rep. Jim Sensenbrenner (R-Wis.), former chairman of the Judiciary Committee, said a 2013 Supreme Court decision gutting the 1965 Voting Rights Act (VRA) threatens to disenfranchise minority voters if lawmakers don't move quickly to update the law.

Writing in The New York Times, Sensenbrenner pointed to the recent primary debacle in Arizona — where sharp cutbacks in the number of polling stations led to hours-long waits in some districts — as an example of the type of barrier voters might face without congressional action.

"If Congress doesn't act soon, 2016 will be the first time since 1964 that the United States will elect a president without the full protections of the law," Sensenbrenner wrote. "Modernizing the act to address the Supreme Court's concerns should be one of Congress's highest priorities."

The message is aimed more at Sensenbrenner's fellow Republicans than it is at the Democrats, who almost universally support the stronger protections.

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While Speaker Paul Ryan (R-Wis.) has said recently that he backs Sensenbrenner's bill to update the VRA, he's also vowing not to bring it to the floor unless it moves first through the Judiciary Committee.

Ryan's bottom-up approach means the proposal faces a bleak future. The Judiciary panel is headed by an opponent of the legislation, Rep. Bob Goodlatte (R-Va.), who says no update to the law is needed due to the "substantial" protections the court left intact. He's singled out the retained power of voters to sue if they feel they've suffered discrimination.

But Sensenbrenner, who championed the last update of the voting rights law in 2006, is taking that argument to task, saying "the law's strongest protections have been rendered meaningless." He noted that by the time the courts act the election would have been long passed.

"There is no adequate remedy for voter discrimination after an election because there is no way to know who would have won absent discrimination," he wrote.

In its 5-4 ruling in 2013, the Supreme Court struck down a central part of the VRA requiring regions with a documented history of racial discrimination at the polls to get approval from Washington before changing their voting rules. Before the decision, the pre-clearance mandate applied to nine states, mostly in the South, and certain districts within six others.

The court's conservative majority found that, while the federal government has the power to require pre-clearance of voting changes, the formula dictating which states are subject is outdated and therefore unconstitutional. That formula was last updated in the 1970s.

Chief Justice John Roberts invited Congress to "draft another formula based on current conditions."

Written along with Rep. John Conyers (D-Mich.), a senior Democrat on the Judiciary panel and a founding member of the Congressional Black Caucus, Sensenbrenner's proposal is designed to answer that challenge.

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Under the bill, states found to have discriminated against voters based on race at least five times in the last 15 years would be subject to federal pre-clearance standards. Those that remedy the problems would be deemed exempt from the extra hurdle, while those guilty of future discrimination would be newly subject to it.

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"In this way, the bill responds to the Supreme Court's concerns about the dated formula and resurrects the protections of the law that have been a part of American elections for five decades," Sensenbrenner wrote.

The op-ed arrives just five days before a crucial primary in Sensenbrenner's home state of Wisconsin, a state that has installed a series of tough restrictions — including a new voter ID requirement and the elimination of some early voting — since the Supreme Court ruling.

Wisconsin is hardly alone. Since the last presidential election in 2012, 16 states have adopted tougher voting laws, [according to](#) the Brennan Center at New York University's School of Law.

Most of the changes were pushed by Republican legislatures, citing fears of election fraud.

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In Arizona, which was subject to the VRA pre-clearance requirement before the Supreme Court ruling, election officials cut the number of polling locations during last week's primary to 60, down from roughly 200 in 2012 and 400 in 2008. As a result, thousands of people faced waits as long as five hours, and many thousands more are thought to have been discouraged from voting at all.

Sensenbrenner says that, under his bill, "more people might have voted" in that contest.

"Would that have changed the results?" he asks. "We'll never know."

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