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INSIGHTS

Shelby County v. Holder Decision Has Broad Impact on Voting Rights Act Compliance

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On June 25, 2013, the Supreme Court of the United States issued a landmark Voting Rights Act opinion that will impact all Texas governmental entities. For the time being, no jurisdiction in the country is required to seek pre-clearance from the federal government prior to enacting changes in its voting laws or procedures. All entities, nevertheless, must still comply with the remaining provisions of the Voting Rights Act. An aggrieved person or the Attorney General retain the ability to enforce voting guarantees under the Voting Rights Act.

In *Shelby County v. Holder*, 570 U.S. ___ (2013) (slip op.) the Supreme Court held that § 4(b) of the Voting Rights Act – the formula used to determine "covered jurisdictions" that must submit any changes in voting procedure to federal authorities for pre-clearance – is unconstitutional. That portion of the Voting Rights Act was designed to prevent discrimination in voting by requiring all state and local governments with a history of voting discrimination to get approval from the federal government before making any changes to their voting laws or procedures, no matter how small. The court did not strike down § 5 of the Voting Rights Act, which mandates pre-clearance. The effect of striking down § 4(b), however, is to render the preclearance provisions in § 5 powerless. Congress still has the opportunity to create a new formula, based on current conditions, to determine which jurisdictions must submit to preclearance under § 5. Until the Congress acts to create a new formula no jurisdictions are required to obtain pre-clearance from the federal government for any election laws or procedures.