

112TH CONGRESS
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To prevent and remedy discrimination with respect to federally funded transportation projects, programs, and activities, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 26, 2011

Ms. RICHARDSON (for herself, Mr. CONYERS, Mr. NADLER, Mr. SERRANO, Ms. NORTON, Ms. LEE of California, Mr. FILNER, Ms. SLAUGHTER, Ms. VELÁZQUEZ, Mr. JACKSON of Illinois, Mr. CLEAVER, Mr. STARK, Mr. LEWIS of Georgia, Mr. GRIJALVA, Mr. DEFazio, Mr. CUMMINGS, Mr. TOWNS, Ms. CLARKE of New York, Ms. JACKSON LEE of Texas, Mr. JOHNSON of Georgia, Mr. SABLAN, Mrs. NAPOLITANO, Ms. CHU, Ms. BASS of California, Mr. CAPUANO, Ms. FUDGE, Ms. ROYBAL-ALLARD, Mrs. MALONEY, Mr. ELLISON, Mr. SIRES, Mr. BUTTERFIELD, Ms. BROWN of Florida, Mr. COHEN, Ms. SCHAKOWSKY, Mr. PAYNE, Mr. RANGEL, Mr. BACA, Ms. MOORE, Mr. MEEKS, and Mrs. CHRISTENSEN) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To prevent and remedy discrimination with respect to federally funded transportation projects, programs, and activities, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Transportation Oppor-
3 tunity and Accountability Act of 2011”.

4 **SEC. 2. FINDINGS.**

5 Congress finds the following:

6 (1) Public investment in the transportation sys-
7 tem of the United States is critical to ensuring equi-
8 table opportunities, mobility, and economic security
9 and prosperity for all Americans.

10 (2) To prevent and eliminate discrimination on
11 the basis of race, color, or national origin related to
12 Federal transportation funding, the Department of
13 Transportation has issued regulations to effectuate
14 title VI of the Civil Rights Act of 1964 (42 U.S.C.
15 2000d et seq.), which prohibit discrimination on the
16 basis of race, color, or national origin, including ac-
17 tions that have the effect of discriminating against
18 individuals of a particular race, color, or national or-
19 igin.

20 (3) Full enforcement of title VI of the Civil
21 Rights Act of 1964 (42 U.S.C. 2000d et seq.) and
22 related regulations is necessary to establish account-
23 ability for recipients of Federal funds and to ensure
24 that Federal funds are not spent in a manner that
25 encourages, subsidizes, or results in discrimination

1 on the basis of race, color, or national origin, di-
2 rectly or indirectly.

3 (4) The absence of a private right of action to
4 enforce Department of Transportation regulations
5 that effectuate title VI of the Civil Rights Act of
6 1964 (42 U.S.C. 2000d et seq.) would leave full vin-
7 dication of the right to nondiscrimination solely to
8 the Department of Transportation, which may fail to
9 take necessary and appropriate action because of ad-
10 ministrative delay, limited resources, or other rea-
11 sons.

12 (5) The decision of the Supreme Court in Alex-
13 ander v. Sandoval, 532 U.S. 275 (2001), impairs
14 protections against discrimination intended by Con-
15 gress, denying a private right of action to redress
16 conduct prohibited by title VI of the Civil Rights Act
17 of 1964 (42 U.S.C. 2000d et seq.) and related regu-
18 lations.

19 (6) Action by Congress to confirm the existence
20 of an effective private right of action is necessary to
21 ensure that victims of discrimination will have a
22 remedy if they are excluded from, denied the bene-
23 fits of, or subjected to discrimination by programs or
24 activities receiving Federal financial assistance.

1 (7) Without effective enforcement of equal op-
2 portunity and nondiscrimination statutes and regula-
3 tions, transportation decisions and investments can
4 directly or indirectly result in discriminatory out-
5 comes, including residential segregation, population
6 displacement, exclusion from transportation decision-
7 making, disproportionately high rates of exposure to
8 pollutants, and denial of equitable transportation
9 benefits on the basis of race, color, or national ori-
10 gin.

11 (8) Without effective oversight and monitoring
12 of equal opportunity and nondiscrimination statutes
13 and regulations, transportation decisions and invest-
14 ments can directly or indirectly result in the under-
15 employment of racial and ethnic minority workers
16 and the underrepresentation of disadvantaged busi-
17 ness enterprises in Federal contracting.

18 (9) The likelihood of owning an automobile var-
19 ies by race, color, and national origin, with 24 per-
20 cent of African-American households, 17 percent of
21 Latino households, and 13 percent of Asian-Amer-
22 ican households not owning an automobile as com-
23 pared to 7 percent of Caucasian households.

1 (10) Reliance on public transportation varies by
2 race, color, and national origin, as nearly 60 percent
3 of all transit riders are people of color.

4 (11) Public transportation investment decisions
5 are significantly related to access to job opportuni-
6 ties for communities reliant on mass transit.

7 (12) African-Americans, Latinos, and Asian-
8 Americans are more likely to rely on mass transit to
9 get to work and school than Caucasians and, in
10 urban areas, people of color comprise 62 percent of
11 all bus riders, 35 percent of all subway riders, and
12 29 percent of all commuter rail riders.

13 (13) Exposure to pollutants associated with
14 highway, freight facility, and other transportation
15 investments varies by race, color, and national ori-
16 gin, with African-Americans and Latinos dispropor-
17 tionately exposed to harmful air pollutants associ-
18 ated with highways and freeways.

19 (14) Only 6 percent of the roughly 8,000,000
20 people employed in the construction industry are Af-
21 rican-American, which results in African-American
22 workers being less likely to be hired on transpor-
23 tation projects.

24 (15) Racial and ethnic minorities are underrep-
25 resented in transportation decisionmaking bodies, as

1 88 percent of the voting members of the 50 largest
2 metropolitan planning organizations in the United
3 States are Caucasian, 7 percent are African-Amer-
4 ican, 3 percent are Latino, and one percent are
5 Asian or Pacific Islander, and minorities are under-
6 represented in State departments of transportation
7 in almost all workforce categories, including the offi-
8 cials and administrators who lead those organiza-
9 tions and make hiring decisions.

10 **SEC. 3. ENFORCEMENT RELATING TO TITLE VI OF THE**
11 **CIVIL RIGHTS ACT OF 1964.**

12 (a) ADMINISTRATIVE ENFORCEMENT.—

13 (1) IN GENERAL.—The Secretary of Transpor-
14 tation shall enhance monitoring, enforcement, and
15 technical assistance activities carried out by the De-
16 partment of Transportation to ensure the compli-
17 ance of recipients of Federal financial assistance
18 with title VI of the Civil Rights Act of 1964 (42
19 U.S.C. 2000d et seq.).

20 (2) AUTHORIZATION OF APPROPRIATIONS.—

21 There is authorized to be appropriated to carry out
22 this subsection \$3,000,000 for each of fiscal years
23 2012 through 2016.

24 (b) PRIVATE RIGHT OF ACTION.—

1 (1) PURPOSE.—It is the purpose of this sub-
2 section to clarify that there is a private right of ac-
3 tion to enforce the regulations of the Department of
4 Transportation issued to effectuate title VI of the
5 Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.).

6 (2) IN GENERAL.—Any person aggrieved by the
7 failure of a recipient of Federal financial assistance
8 to comply with any regulation, or part thereof, that
9 prohibits discrimination and was issued by the Sec-
10 retary of Transportation to effectuate title VI of the
11 Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.)
12 may bring a civil action in any Federal or State
13 court of competent jurisdiction.

14 (3) RECOVERY WITH RESPECT TO INTENTIONAL
15 DISCRIMINATION.—In an action brought by an ag-
16 grieved person pursuant to paragraph (2) based on
17 evidence of intentional discrimination, the aggrieved
18 person may recover equitable and legal relief, rea-
19 sonable attorney’s fees (including expert fees), and
20 costs.

21 (4) RECOVERY WITH RESPECT TO DISCRIMINA-
22 TION BASED ON DISPARATE IMPACT.—In an action
23 brought by an aggrieved person pursuant to para-
24 graph (2) based on evidence of disparate impact, the
25 aggrieved person may recover equitable relief, rea-

1 sonable attorney’s fees (including expert fees), and
2 costs.

3 (5) WAIVER OF STATE IMMUNITY.—As a condi-
4 tion of receiving Federal financial assistance from
5 the Department of Transportation, a State waives
6 immunity under the 11th Amendment of the Con-
7 stitution of the United States with respect to a civil
8 action brought in Federal court under paragraph
9 (2).

10 (6) RELATIONSHIP TO OTHER LAW.—Nothing
11 in this subsection may be interpreted to restrict or
12 deny any other right, private right of action, privi-
13 lege, remedy, or protection expressly or implicitly
14 conferred by any other provision of law, including
15 any regulation.

16 **SEC. 4. TRANSPORTATION EQUITY RESEARCH PROGRAM.**

17 (a) IN GENERAL.—The Secretary of Transportation
18 shall carry out research and demonstration activities relat-
19 ing to the impact of transportation planning, investment,
20 and operations on low-income and minority populations,
21 including populations that are transit dependent.

22 (b) REQUIRED ACTIVITIES.—Research and dem-
23 onstration activities carried out under subsection (a) shall
24 include activities to assist the development of—

1 (1) strategies to advance equitable economic
2 and community development in low-income and mi-
3 nority communities;

4 (2) strategies to increase the participation of
5 low-income and minority communities in transpor-
6 tation planning and decisionmaking;

7 (3) training programs that promote equitable
8 employment opportunities for low-income and minor-
9 ity individuals with respect to federally funded trans-
10 portation projects; and

11 (4) research techniques for and data on the im-
12 pact of transportation policy on individuals without
13 an automobile and other vulnerable populations, in-
14 cluding with respect to disaster preparedness and re-
15 sponse, public health, and land use.

16 (c) AUTHORIZATION OF APPROPRIATIONS.—There is
17 authorized to be appropriated to carry out this section
18 \$1,000,000 for each of fiscal years 2012 through 2016.

19 **SEC. 5. EQUAL OPPORTUNITY ASSESSMENT.**

20 (a) IN GENERAL.—In accordance with this section,
21 the Secretary of Transportation shall assess, throughout
22 the United States, the extent to which nondiscrimination
23 and equal opportunity exist in the construction and oper-
24 ation of federally funded transportation projects, pro-
25 grams, and activities.

1 (b) SUPPORTING INFORMATION.—In conducting the
2 assessment under subsection (a), the Secretary shall—

3 (1) review all demographic data, discrimination
4 complaints, reports, and other relevant information
5 collected or prepared by a recipient of Federal finan-
6 cial assistance or the Department of Transportation
7 pursuant to an applicable civil rights statute, regula-
8 tion, or other obligation; and

9 (2) coordinate with the Secretary of Labor, as
10 necessary, to obtain information regarding equitable
11 employment and contracting opportunities.

12 (c) REPORT.—Not later than 4 years after the date
13 of enactment of this Act, and every 4 years thereafter,
14 the Secretary shall submit to Congress and publish on the
15 Web site of the Department of Transportation a report
16 on the results of the assessment under subsection (a),
17 which shall include the following:

18 (1) A specification of the impediments to non-
19 discrimination and equal opportunity in federally
20 funded transportation projects, programs, and activi-
21 ties.

22 (2) Recommendations for overcoming the im-
23 pediments specified under paragraph (1).

24 (3) Information upon which the assessment is
25 based.

1 (d) COLLECTION AND REPORTING PROCEDURES.—

2 (1) PUBLIC AVAILABILITY.—The Secretary
3 shall ensure, to the extent appropriate, that all in-
4 formation reviewed or collected for the assessment
5 under subsection (a) is made available to the public
6 through the prompt and ongoing publication of the
7 information, including a summary of the informa-
8 tion, on the Web site of the Department of Trans-
9 portation.

10 (2) REGULATIONS.—The Secretary shall issue
11 regulations for the collection and reporting of infor-
12 mation necessary to carry out this section.

13 (e) COORDINATION.—In carrying out this section, the
14 Secretary shall coordinate with the Director of the Bureau
15 of Transportation Statistics, the Director of the Depart-
16 mental Office of Civil Rights, the Secretary of Labor, and
17 the heads of such other agencies as may contribute to the
18 assessment under subsection (a).

19 (f) AUTHORIZATION OF APPROPRIATIONS.—There is
20 authorized to be appropriated to carry out this section
21 \$500,000 for each of fiscal years 2012 through 2016.

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