

STATE OF NEW YORK

1722--A

2023-2024 Regular Sessions

IN ASSEMBLY

January 20, 2023

Introduced by M. of A. ZINERMAN, DINOWITZ, WALKER, SILLITTI, TAYLOR, BURGOS, FALL, LEVENBERG, SIMON, AUBRY, JEAN-PIERRE, DE LOS SANTOS, TAPIA, NOVAKHOV -- read once and referred to the Committee on Election Law -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the election law, in relation to the form in which a proposed amendment to the constitution or other question provided by law to be submitted to a statewide vote shall be submitted to the people for their approval

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Section 1-104 of the election law is amended by adding a
2 new subdivision 40 to read as follows:

3 40. (a) The term "plain language" when applied to any statement of the
4 form in which a proposed amendment to the constitution or other question
5 provided by law to be submitted to a statewide vote appears on the
6 ballot shall mean a statement which, in addition to satisfying the
7 requirements set forth in paragraph d of subdivision one of section
8 4-108 of this chapter: (i) scores no higher than eighth grade or "good",
9 as indicated by a score of a nine on the automated reading index as
10 calculated pursuant to the formula set forth in paragraph (b) of this
11 subdivision, (ii) contains no more than one passive sentence, (iii)
12 avoids the use of semicolons, using multiple sentences as necessary, and
13 (iv) does not contain any double negatives.

14 (b) The automated reading index shall be calculated according to the
15 following formula:

16 (i) Divide the number of characters by the number of words and multi-
17 ply that number by 4.71.

18 (ii) Divide the number of words by the number of sentences and multi-
19 ply that number by 0.5.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 (iii) Add the results from subparagraphs (i) and (ii) of this para-
 2 graph.

3 (iv) Subtract 21.43 from the result of subparagraph (iii) of this
 4 paragraph and round to the nearest whole number.

5 § 2. Paragraphs a and d of subdivision 1 and subdivisions 2 and 3 of
 6 section 4-108 of the election law, paragraph d of subdivision 1 and
 7 subdivision 2 as amended by chapter 136 of the laws of 1978 and subdivi-
 8 sion 3 as added by chapter 234 of the laws of 1976, are amended and four
 9 new subdivisions 4, 5, 6 and 7 are added to read as follows:

10 a. Whenever any proposed amendment to the constitution or other ques-
 11 tion provided by law to be submitted to a statewide vote shall be
 12 submitted to the people for their approval, the state board of elections
 13 at least three months prior to the general election at which such amend-
 14 ment, proposition or question is to be submitted, shall transmit to each
 15 county board of elections a certified copy of the text of each amend-
 16 ment, proposition or question and a statement of the form in which it is
 17 to be submitted as approved after public comment has been received and
 18 reviewed pursuant to paragraph d of this subdivision.

19 d. In addition to the text, such transmittal shall contain an abstract
 20 of such proposed amendment, proposition or question, prepared by the
 21 state board of elections [~~concisely stating the purpose and effect ther-~~
 22 ~~eof in a clear and coherent manner using words with common and everyday~~
 23 ~~meanings] in plain language as defined in subdivision forty of section
 24 1-104 of this chapter and satisfying the requirements set forth in
 25 subdivision two of this section. At least four months prior to the
 26 general election at which such amendment, proposition or question is to
 27 be submitted, the state board of elections shall publicly release and
 28 submit for public comment the proposed form in which the amendment,
 29 proposition or question is to be submitted to the people. The public
 30 shall have no less than fifteen days to submit comments on the proposed
 31 form in which the amendment, proposition or question is to be submitted
 32 to the voters. The state board of elections shall review and consider
 33 all comments before finalizing the statement of the form in which the
 34 proposed amendment, proposition or question is to be submitted for
 35 approval by the people.~~

36 2. The form in which the proposed amendment, proposition or question
 37 is to be submitted shall consist [~~ef]~~ only [~~an abbreviated title indi-~~
 38 ~~cating generally and briefly, and in a clear and coherent manner using~~
 39 ~~words with common and every-day meanings, the subject matter of the~~
 40 ~~amendment, proposition or question] of the following:~~

41 a. a brief descriptive title of up to fifteen words, which describes
 42 the topic, goal or outcome of the ballot proposal written in plain
 43 language;

44 b. a summary of the text of the ballot proposal of up to thirty words,
 45 written in plain language, that describes the change in policy to be
 46 adopted and not the legal mechanism; and

47 c. a statement of what a "Yes" or "No" vote means of up to thirty
 48 words, written in plain language that identifies the practical outcome
 49 of each election result and not the legal mechanism. The ballot proposal
 50 language may consist of multiple sentences.

51 If more than one such amendment, proposition or question is to be
 52 voted upon at such election, each such amendment, proposition or ques-
 53 tion respectively shall be separately and consecutively numbered.

54 3. The attorney general shall advise in the preparation of [~~such~~
 55 ~~abstract and]~~ such form of submission, and such recommendations shall be
 56 in plain language.

1 4. a. The state board of elections shall prominently publish on its
2 website at least four months prior to the general election at which a
3 ballot proposal shall appear, the proposed form of the ballot proposal
4 and abstract. There shall be a public comment period of at least fifteen
5 days subsequent to such publication.

6 b. The state board of elections shall review and consider public
7 comments before adopting the final form of the ballot proposal and
8 abstract. The state board of elections shall also publish on its
9 website the automated readability index score calculated pursuant to
10 subdivision six of this section for each form of question and abstract.

11 c. The score shall require no higher than an eighth grade reading
12 level (a score of eight on the automated readability index), unless the
13 state board of elections shall state the basis for its determination
14 that the plain language requirements of this section are met.

15 5. For the purposes of this section, plain language shall mean the
16 form of the ballot proposal and abstract:

17 a. shall be written in easily comprehended, concise language;

18 b. shall not contain more the one passive sentence;

19 c. shall not use semicolons, using multiple sentences as necessary;
20 and

21 d. shall not contain double negatives.

22 6. To evaluate compliance with the plain language requirements of this
23 section, the state board of elections shall calculate an automated read-
24 ability index score, separately, for each statewide form of ballot
25 proposal and abstract. The automated readability index score shall be
26 calculated according to the following formula:

27 a. divide the number of characters (excluding spaces) by the number of
28 words and multiply that number by 4.71;

29 b. divide the number of words by the number of sentences and multiply
30 that number by 0.5;

31 c. add the results of paragraphs a and b of this subdivision;

32 d. subtract 21.43 from the result of paragraph c of this subdivision
33 and round to the nearest whole number.

34 7. No specific automated readability index score shall be required;
35 provided, however, the state board of elections shall use best efforts
36 to score at an eighth grade reading level or below and meet the defi-
37 inition of plain language in subdivision five of this section. In addi-
38 tion, the state board of elections shall expend their best efforts not
39 to exceed the word limits in subdivision two of this section but may do
40 so when plain language clarity is improved thereby.

41 § 3. Subdivision 2 of section 4-116 of the election law, as amended by
42 chapter 60 of the laws of 1993, is amended to read as follows:

43 2. The state board of elections shall publish once in the week preced-
44 ing any election at which proposed constitutional amendments or other
45 propositions or questions are to be submitted to the voters of the state
46 an abstract of such amendment or question, a brief statement of the law
47 or proceedings authorizing such submission, a statement that such
48 submission will be made and the form satisfying the requirements of
49 paragraph d of subdivision one of section 4-108 of this article in which
50 it is to be submitted. No later than two months prior to the general
51 election at which such amendment, proposition or question is to be
52 submitted, such information shall be prominently displayed on the state
53 board of elections' website and on the website of every county board of
54 elections which maintains a website.

55 § 4. Section 4-116 of the election law is amended by adding a new
56 subdivision 4 to read as follows:

1 4. No later than two months prior to the general election at which any
2 statewide ballot proposal is to be submitted to the people, the state
3 board of elections and all local boards of elections shall publish on
4 their websites the information required to be published pursuant to
5 subdivision two of this section.

6 § 5. This act shall take effect on the first of January next succeed-
7 ing the date on which it shall have become a law.