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I N   A S S E M B L Y

May 4, 2010

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Introduced by M. of A. CAHILL, WEISENBERG, JOHN, WRIGHT, PAULIN, ESPAILLAT, TITUS, KAVANAGH, BROOK-KRASNY, KELLNER, SPANO, SCHIMEL, GORDON, BENJAMIN, LATIMER, ZEBROWSKI, MAISEL, ALESSI, MAGNARELLI, TITONE, PHEFFER, TOWNS -- Multi-Sponsored by -- M. of A. ABBATE, BENEDETTO, BING, BOYLAND, BRENNAN, BRODSKY, CALHOUN, CANESTRARI, CARROZZA, CASTRO, CHRISTENSEN, CLARK, COLTON, COOK, CUSICK, CYMBROWITZ, DelMONTE, DESTITO, DINOWITZ, ENGLEBRIGHT, FARRELL, FIELDS, FINCH, GALEF, GIANARIS, GLICK, GOTTFRIED, GUNTHER, HEASTIE, HEVESI, HOYT, JACOBS, JEFFRIES, KOON, LAVINE, LENTOL, LIFTON, LUPARDO, MAGEE, MARKEY, McENENY, M. MILLER, MILLMAN, MOLINARO, MONTESANO, MORELLE, ORTIZ, PEOPLES-STOKES, PERRY, PRETLOW, RAMOS, REILLY, J. RIVERA, P. RIVERA, ROBINSON, ROSENTHAL, SAYWARD, SCARBOROUGH, SCHROEDER, SKARTADOS, SWEENEY, THIELE, TOWNSEND, WEINSTEIN -- read once and referred to the Committee on Election Law

AN ACT to amend the election law, in relation to requiring polling places to be accessible to physically disabled voters

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1     Section 1. Subdivision 1-a of section 4-104 of the election law, as  
2     amended by chapter 580 of the laws of 1995, is amended and two new  
3     subdivisions 1-b and 1-c are added to read as follows:  
4     1-a. Each polling place shall [have at least one entrance that  
5     provides access, by ramp or otherwise, to physically disabled voters,  
6     provided, however, that this requirement may be waived in writing by the  
7     county board of elections upon a petition to the board by the legisla-  
8     tive body of the city or town designating such polling places showing  
9     good and sufficient cause. In the city of New York and in counties in  
10    which polling places are designated by the board of elections, the board  
11    shall specify in writing why it has determined that it is unable to  
12    comply with the provisions of this subdivision. Such petition, waiver,  
13    and written determination, as provided for in this subdivision, shall be  
14    filed in the office of the board and be available for public inspection.  
15    Such a waiver may be granted and filed or such a written determination  
16    may be filed only where the board of elections determines, with regard

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

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1 to each specific polling place for which a waiver is sought or a written  
2 determination is to be filed, (1) that an alternative accessible polling  
3 place is not reasonably available in the election district or a contig-  
4 uous election district and that specific efforts were undertaken in  
5 cooperation with persons with disabilities who have contacted the legis-  
6 lative body of the city or town which requested such waiver or the board  
7 of elections which filed such written determination to locate such an  
8 alternative accessible polling place and such efforts are listed in the  
9 petition or written determination, (2) that compliance with the polling  
10 place accessibility requirements of this subdivision would require that  
11 unreasonable expenses be incurred and paid, pursuant to section 4-136 of  
12 this article and that specific information regarding expenses for  
13 compliance is listed in the petition or written determination, and (3)  
14 that substantial efforts will be undertaken in cooperation with persons  
15 with disabilities who have contacted the legislative body of the city or  
16 town which requested such waiver or the board of elections which filed  
17 such written determination during the period for which the waiver is  
18 effective to achieve compliance with the polling place accessibility  
19 requirements of this subdivision and that the specific substantial  
20 efforts to be undertaken to achieve compliance are listed in the peti-  
21 tion or written determination. For purposes of this subdivision, the  
22 term "persons with disabilities" shall mean persons with disabilities  
23 who shall be entitled to vote in the election district for which a waiv-  
24 er is sought and service centers for independent living established  
25 pursuant to article twenty-three-A of the education law and other enti-  
26 ties which represent the interests of persons with disabilities. A  
27 request for a waiver shall be filed at the same time that the list of  
28 polling places is submitted to or established by the board of elections.  
29 The board of elections shall forthwith prepare a list of all election  
30 districts for which a waiver is sought or a written determination filed.  
31 Such list together with all such petitions for waiver and written deter-  
32 minations shall be public records at the office of the board of  
33 elections. Not later than May seventh of each year, the board of  
34 elections shall mail a copy of said list by first class mail to every  
35 person who has made a written request for such list within the two  
36 preceding calendar years. The board of elections shall either grant or  
37 deny the waiver no later than June first of the year in which the  
38 request is made. The state board of elections shall promulgate regu-  
39 lations necessary to ensure proper execution of the provisions of this  
40 subdivision] BE ACCESSIBLE TO CITIZENS WITH DISABILITIES AND COMPLY WITH  
41 THE ACCESSIBILITY GUIDELINES OF THE AMERICANS WITH DISABILITIES ACT OF  
42 1990. THE STATE BOARD OF ELECTIONS SHALL PUBLISH AND DISTRIBUTE TO EACH  
43 BOARD OF ELECTIONS WITH THE POWER TO DESIGNATE POLL SITES, A CONCISE,  
44 NON-TECHNICAL GUIDE DESCRIBING STANDARDS FOR POLL SITE ACCESSIBILITY,  
45 INCLUDING A POLLING SITE ACCESS SURVEY INSTRUMENT, IN ACCORDANCE WITH  
46 THE AMERICANS WITH DISABILITIES ACT ACCESSIBILITY GUIDELINES (ADAAG) AND  
47 METHODS TO COMPLY WITH SUCH STANDARDS. SUCH GUIDE AND PROCEDURES SHALL  
48 BE DEVELOPED IN CONSULTATION WITH PERSONS, GROUPS OR ENTITIES WITH KNOW-  
49 LEDGE ABOUT PUBLIC ACCESS AS THE STATE BOARD OF ELECTIONS SHALL DETER-  
50 MINE APPROPRIATE.

51 1-B. THE COUNTY BOARD OF ELECTIONS SHALL CAUSE AN ACCESS SURVEY TO BE  
52 CONDUCTED FOR EVERY POLLING SITE TO VERIFY SUBSTANTIAL COMPLIANCE WITH  
53 THE ACCESSIBILITY STANDARDS CITED IN THIS SECTION. COMPLETED SURVEYS  
54 SHALL BE SUBMITTED TO THE STATE BOARD OF ELECTIONS AND KEPT ON FILE AS A  
55 PUBLIC RECORD BY EACH COUNTY. EACH POLLING SITE SHALL BE EVALUATED PRIOR  
56 TO ITS DESIGNATION OR UPON CHANGES TO THE FACILITY. A SITE DESIGNATED AS

1 A POLLING PLACE PRIOR TO THE EFFECTIVE DATE OF THIS SUBDIVISION SHALL BE  
2 EVALUATED WITHIN TWO YEARS OF THE EFFECTIVE DATE OF THIS SUBDIVISION BY  
3 AN INDIVIDUAL QUALIFIED TO DETERMINE WHETHER OR NOT SUCH SITE MEETS THE  
4 EXISTING STATE AND FEDERAL ACCESSIBILITY STANDARDS. ANY POLLING PLACE  
5 DEEMED NOT TO MEET THE EXISTING ACCESSIBILITY STANDARDS MUST MAKE NECES-  
6 SARY CHANGES AND/OR MODIFICATIONS, OR BE MOVED TO A VERIFIED ACCESSIBLE  
7 POLLING PLACE WITHIN SIX MONTHS.

8 1-C. THE STATE BOARD OF ELECTIONS SHALL PROMULGATE ANY RULES AND REGU-  
9 LATIONS NECESSARY TO IMPLEMENT THE PROVISIONS OF THIS SECTION.

10 S 2. This act shall take effect on the fifteenth of December next  
11 succeeding the date on which it shall have become a law. Effective imme-  
12 diately, the addition, amendment and/or repeal of any rule or regulation  
13 necessary for the implementation of this act on its effective date are  
14 authorized and directed to be made and completed on or before such  
15 effective date.