

584

2009-2010 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2009

Introduced by M. of A. CAHILL, WEISENBERG, JOHN, EDDINGTON, WRIGHT, PAULIN, BRADLEY, ESPAILLAT, TITUS, KAVANAGH, BROOK-KRASNY, KELLNER, SPANO, SCHIMEL, GORDON, BENJAMIN, LATIMER, ZEBROWSKI, MAISEL, ALESSI, MAGNARELLI, TITONE, PHEFFER -- Multi-Sponsored by -- M. of A. ABBATE, BENEDETTO, BING, BOYLAND, BRENNAN, BRODSKY, CANESTRARI, CARROZZA, CHRISTENSEN, CLARK, COLTON, COOK, CUSICK, CYMBROWITZ, DeMONTE, DESTI-TO, DIAZ, DINOWITZ, ENGLEBRIGHT, FARRELL, FIELDS, GALEF, GIANARIS, GLICK, GOTTFRIED, GREENE, GUNTHER, HEASTIE, HEVESI, HOYT, JACOBS, KOON, LAVINE, LENTOL, LIFTON, LUPARDO, MAGEE, MARKEY, McENENY, MILL-MAN, MORELLE, ORTIZ, PEOPLES, PERALTA, PERRY, PRETLOW, RAMOS, REILLY, J. RIVERA, P. RIVERA, ROSENTHAL, SCARBOROUGH, SCHROEDER, SWEENEY, TOWNS, WALKER, 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 to read as
3 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

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

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

1 WIDE DISABILITY ORGANIZATIONS WITH KNOWLEDGE ABOUT PUBLIC ACCESS AS THE
2 STATE BOARD OF ELECTIONS SHALL DETERMINE APPROPRIATE.
3 AN ACCESS SURVEY MUST BE CONDUCTED FOR EVERY POLLING SITE TO VERIFY
4 SUBSTANTIAL COMPLIANCE WITH THE ACCESSIBILITY STANDARDS CITED IN THIS
5 SUBDIVISION. COMPLETED SURVEYS SHALL BE SUBMITTED TO THE STATE BOARD OF
6 ELECTIONS AND KEPT ON FILE AS A PUBLIC RECORD BY EACH COUNTY. EACH
7 POLLING SITE SHALL BE EVALUATED PRIOR TO ITS DESIGNATION AND AT LEAST
8 ONCE EVERY THREE YEARS THEREAFTER. A SITE DESIGNATED AS A POLLING PLACE
9 PRIOR TO THE EFFECTIVE DATE OF THIS PARAGRAPH SHALL BE EVALUATED WITHIN
10 TWO YEARS OF THE EFFECTIVE DATE THEREOF BY AN INDIVIDUAL QUALIFIED TO
11 DETERMINE WHETHER OR NOT SUCH SITE MEETS THE EXISTING STATE AND FEDERAL
12 ACCESSIBILITY STANDARDS. ANY POLLING PLACE DEEMED NOT TO MEET THE EXIST-
13 ING ACCESSIBILITY STANDARDS MUST MAKE NECESSARY CHANGES AND/OR MODIFICA-
14 TIONS, OR BE MOVED TO A VERIFIED ACCESSIBLE POLLING PLACE WITHIN SIX
15 MONTHS.
16 ANY AGGRIEVED PARTY MAY OBTAIN JUDICIAL REVIEW REGARDING THE
17 PROVISIONS OF THIS ARTICLE, OR SEEK ENFORCEMENT OF A COURT ORDER REGARD-
18 ING COMPLIANCE WITH THE PROVISIONS OF THIS ARTICLE, AND SHALL HAVE THE
19 RIGHT TO ALL LEGAL AND EQUITABLE RELIEF, INCLUDING THE RIGHT TO REASON-
20 ABLE ATTORNEY FEES AND COSTS INCURRED BY ANY PRIVATE PARTY IN THE PROSE-
21 CUTION OF ANY CLAIM.
22 THE STATE BOARD OF ELECTIONS SHALL PROMULGATE ANY RULES AND REGU-
23 LATIONS NECESSARY TO IMPLEMENT THE PROVISIONS OF THIS SUBDIVISION.
24 S 2. This act shall take effect on the fifteenth of December next
25 succeeding the date on which it shall have become a law; provided,
26 however, that effective immediately, the addition, amendment and/or
27 repeal of any rule or regulation necessary for the implementation of
28 this act on its effective date are authorized and directed to be made
29 and completed on or before such effective date.