S T A T E O F N E W Y O R K

584--A

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, DelMONTE, DESTITO, DIAZ, DINOWITZ, ENGLEBRIGHT, FARRELL, FIELDS, GALEF, GIANARIS, GLICK, GOTTFRIED, GREENE, GUNTHER, HEASTIE, HEVESI, HOYT, JACOBS, KOON, LAVINE, LENTOL, LIFTON, LUPARDO, MAGEE, MARKEY, McENENY, MILLMAN, 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 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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:

Section 1. Subdivision 1-a of section 4-104 of the election law, as amended by chapter 580 of the laws of 1995, is amended and two new subdivisions 1-b and 1-c are added to read as follows:

1-a. Each polling place shall [have at least one entrance that provides access, by ramp or otherwise, to physically disabled voters, provided, however, that this requirement may be waived in writing by the county board of elections upon a petition to the board by the legislative body of the city or town designating such polling places showing good and sufficient cause. In the city of New York and in counties in which polling places are designated by the board of elections, the board shall specify in writing why it has determined that it is unable to comply with the provisions of this subdivision. Such petition, waiver,

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

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and written determination, as provided for in this subdivision, shall be filed in the office of the board and be available for public inspection. Such a waiver may be granted and filed or such a written determination may be filed only where the board of elections determines, with regard to each specific polling place for which a waiver is sought or a written determination is to be filed, (1) that an alternative accessible polling place is not reasonably available in the election district or a contiguous election district and that specific efforts were undertaken in cooperation with persons with disabilities who have contacted the legislative body of the city or town which requested such waiver or the board of elections which filed such written determination to locate such an alternative accessible polling place and such efforts are listed in the petition or written determination, (2) that compliance with the polling place accessibility requirements of this subdivision would require that unreasonable expenses be incurred and paid, pursuant to section 4-136 of this article and that specific information regarding expenses for compliance is listed in the petition or written determination, and (3) that substantial efforts will be undertaken in cooperation with persons with disabilities who have contacted the legislative body of the city or town which requested such waiver or the board of elections which filed such written determination during the period for which the waiver is effective to achieve compliance with the polling place accessibility requirements of this subdivision and that the specific substantial efforts to be undertaken to achieve compliance are listed in the petition or written determination. For purposes of this subdivision, the term "persons with disabilities" shall mean persons with disabilities who shall be entitled to vote in the election district for which a waiver is sought and service centers for independent living established pursuant to article twenty-three-A of the education law and other entities which represent the interests of persons with disabilities. A request for a waiver shall be filed at the same time that the list of polling places is submitted to or established by the board of elections. The board of elections shall forthwith prepare a list of all election districts for which a waiver is sought or a written determination filed. Such list together with all such petitions for waiver and written determinations shall be public records at the office of the board of elections. Not later than May seventh of each year, the board of elections shall mail a copy of said list by first class mail to every person who has made a written request for such list within the two preceding calendar years. The board of elections shall either grant or deny the waiver no later than June first of the year in which the request is made. The state board of elections shall promulgate regulations necessary to ensure proper execution of the provisions of this subdivision] BE ACCESSIBLE TO CITIZENS WITH DISABILITIES AND COMPLY WITH THE ACCESSIBILITY GUIDELINES OF THE AMERICANS WITH DISABILITIES ACT OF 1990. THE STATE BOARD OF ELECTIONS SHALL PUBLISH AND DISTRIBUTE TO EACH BOARD OF ELECTIONS WITH THE POWER TO DESIGNATE POLL SITES, A CONCISE, NON-TECHNICAL GUIDE DESCRIBING STANDARDS FOR POLL SITE ACCESSIBILITY, INCLUDING A POLLING SITE ACCESS SURVEY INSTRUMENT, IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT ACCESSIBILITY GUIDELINES (ADAAG) AND METHODS TO COMPLY WITH SUCH STANDARDS. SUCH GUIDE AND PROCEDURES SHALL BE DEVELOPED IN CONSULTATION WITH PERSONS, GROUPS OR ENTITIES WITH KNOWLEDGE ABOUT PUBLIC ACCESS AS THE STATE BOARD OF ELECTIONS SHALL DETERMINE APPROPRIATE.

1-B. THE COUNTY BOARD OF ELECTIONS SHALL CAUSE AN ACCESS SURVEY TO BE CONDUCTED FOR EVERY POLLING SITE TO VERIFY SUBSTANTIAL COMPLIANCE WITH

THE ACCESSIBILITY STANDARDS CITED IN THIS SECTION. COMPLETED SURVEYS SHALL BE SUBMITTED TO THE STATE BOARD OF ELECTIONS AND KEPT ON FILE AS A PUBLIC RECORD BY EACH COUNTY. EACH POLLING SITE SHALL BE EVALUATED PRIOR TO ITS DESIGNATION OR UPON CHANGES TO THE FACILITY. A SITE DESIGNATED AS A POLLING PLACE PRIOR TO THE EFFECTIVE DATE OF THIS SUBDIVISION SHALL BE EVALUATED WITHIN TWO YEARS OF THE EFFECTIVE DATE OF THIS SUBDIVISION BY AN INDIVIDUAL QUALIFIED TO DETERMINE WHETHER OR NOT SUCH SITE MEETS THE EXISTING STATE AND FEDERAL ACCESSIBILITY STANDARDS. ANY POLLING PLACE DEEMED NOT TO MEET THE EXISTING ACCESSIBILITY STANDARDS MUST MAKE NECESSARY CHANGES AND/OR MODIFICATIONS, OR BE MOVED TO A VERIFIED ACCESSIBLE POLLING PLACE WITHIN SIX MONTHS.

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

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