

# STATE OF NEW YORK

6678--A

2021-2022 Regular Sessions

## IN ASSEMBLY

March 25, 2021

Introduced by M. of A. WALKER, DICKENS, FRONTUS, PERRY, CRUZ, RICHARDSON, REYES, SIMON, L. ROSENTHAL -- 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 establishing the John R. Lewis Voting Rights Act of New York, establishing rights of action for denying or abridging of the right of any member of a protected class to vote, establishing and maintaining a statewide database of voting and election data, providing assistance to language-minority groups, requiring certain political subdivisions to receive preclearance for potential violations of the NYVRA, and creating civil liability for voter intimidation

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

1 Section 1. This act shall be known and may be cited as the "John R.  
2 Lewis Voting Rights Act of New York (NYVRA)".  
3 § 2. Sections 17-100 through 17-170 of article 17 of the election law  
4 are designated title 1 and a new title heading is added to read as  
5 follows:

6 VIOLATIONS OF THE ELECTIVE FRANCHISE

7 § 3. The article heading of article 17 of the election law is amended  
8 to read as follows:

9 [~~VIOLATIONS OF~~] PROTECTING THE ELECTIVE FRANCHISE

10 § 4. Article 17 of the election law is amended by adding a new title 2  
11 to read as follows:

12 TITLE 2  
13 JOHN R. LEWIS VOTING RIGHTS ACT OF NEW YORK

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

LBD02423-06-1

- 1 Section 17-200. Legislative purpose and statement of public policy.
- 2 17-202. Interpretation of laws related to elective franchise.
- 3 17-204. Definitions.
- 4 17-206. Rights of action.
- 5 17-208. Maintenance of voting and election data.
- 6 17-210. Assistance for language-minority groups.
- 7 17-212. Preclearance.
- 8 17-214. Right of action against voter intimidation, deception or
- 9 obstruction.
- 10 17-216. Authority to issue subpoenas.
- 11 17-218. Expedited judicial proceedings and preliminary relief.
- 12 17-220. Attorneys' fees.
- 13 17-222. Applicability.
- 14 17-224. Severability.

15 § 17-200. Legislative purpose and statement of public policy. In  
 16 recognition of the protections for the right to vote provided by the  
 17 constitution of the state of New York, which substantially exceed the  
 18 protections for the right to vote provided by the constitution of the  
 19 United States, and in conjunction with the constitutional guarantees of  
 20 equal protection, freedom of expression, and freedom of association  
 21 under the law and against the denial or abridgement of the voting rights  
 22 of members of a race, color, or language-minority group, it is the  
 23 public policy of the state of New York to:

- 24 1. Encourage participation in the elective franchise by all eligible
- 25 voters to the maximum extent; and
- 26 2. Ensure that eligible voters who are members of racial, color, and
- 27 language-minority groups shall have an equal opportunity to participate
- 28 in the political processes of the state of New York, and especially to
- 29 exercise the elective franchise.

30 § 17-202. Interpretation of laws related to elective franchise. In  
 31 further recognition of the protections for the right to vote provided by  
 32 the constitution of the state of New York, statutes, rules and regu-  
 33 lations, and local laws or ordinances related to the elective franchise  
 34 shall be construed liberally in favor of (a) protecting the right to  
 35 cast an effective ballot; (b) ensuring that eligible voters are not  
 36 impaired in registering to vote or voting including having their votes  
 37 counted, and (c) ensuring equitable access with regard to race, color,  
 38 and language-minority groups to opportunities to register to vote and to  
 39 vote.

40 § 17-204. Definitions. For the purposes of this title:  
 41 1. "At-large" method of election means a method of electing members to  
 42 the governing body of a political subdivision: (a) in which all of the  
 43 voters of the entire political subdivision elect each of the members to  
 44 the governing body; (b) in which the candidates are required to reside  
 45 within given areas of the political subdivision and all of the voters of  
 46 the entire political subdivision elect each of the members to the  
 47 governing body; or (c) that combines at-large elections with district-  
 48 based elections, unless the only member of the governing body of a poli-  
 49 tical subdivision elected at-large holds exclusively executive responsi-  
 50 bilities. At-large method of election does not include ranked-choice  
 51 voting, cumulative voting, and limited voting.

52 2. "District-based" method of election means a method of electing  
 53 members to the governing body of a political subdivision using a  
 54 districting or redistricting plan in which each member of the governing  
 55 body resides within a district or ward that is a divisible part of the  
 56 political subdivision and is elected only by voters residing within that

1 district or ward, except for a member of the governing body that holds  
2 exclusively executive responsibilities.

3 3. "Alternative" method of election means a method of electing members  
4 to the governing body of a political subdivision using a method other  
5 than at-large or district-based, including, but not limited to, ranked-  
6 choice voting, cumulative voting, and limited voting.

7 4. "Political subdivision" means a geographic area of representation  
8 created for the provision of government services, including, but not  
9 limited to, a county, city, town, village, school district, or any other  
10 district organized pursuant to state or local law.

11 5. "Protected class" means a class of eligible voters who are members  
12 of a race, color, or language-minority group, as referenced and defined  
13 in the federal voting rights act.

14 6. "Racially polarized voting" means voting in which there is a  
15 difference in the candidate or electoral choice preferred by members in  
16 a protected class, and the candidate or electoral choice preferred by  
17 the rest of the electorate. The methodologies for estimating group  
18 voting behavior as approved in applicable federal cases to enforce the  
19 federal voting rights act to establish racially polarized voting may be  
20 used for purposes of this subdivision to prove that elections are char-  
21 acterized by racially polarized voting, but those methodologies shall  
22 not be the exclusive means of proving racially polarized voting.

23 7. "Federal voting rights act" means the federal Voting Rights Act of  
24 1965, 52 U.S.C. § 10301 et seq.

25 8. The "civil rights bureau" means the civil rights bureau of the  
26 office of the attorney general.

27 § 17-206. Rights of action. 1. Right of action against voter  
28 suppression. (a) No voting qualification, prerequisite to voting, law,  
29 ordinance, standard, practice, procedure, regulation, or policy shall be  
30 enacted or implemented by any board of elections or political subdivi-  
31 sion in a manner that results in a denial or abridgement of the right of  
32 any member of a protected class to vote.

33 (b) A violation is established if, based on the totality of the  
34 circumstances, the ability of members of the protected class to elect  
35 candidates of their choice or influence the outcome of elections is  
36 impaired.

37 (c) For political subdivisions where either the primary or general  
38 election is held on a date that is not concurrent with the primary or  
39 general election dates for state, county, or city office as established  
40 in section eight of article three or section eight of article thirteen  
41 of the constitution, and in state law, there shall be a presumption that  
42 the date of election results in the denial or abridgement of the right  
43 to vote where for three consecutive general elections in which there is  
44 at least one contested race for an office, the number of actual voters  
45 in each contested election is less than twenty-five percent of the total  
46 number of votes cast in the most recent general election for the presi-  
47 dency of the United States by voters in the political subdivision, or in  
48 which, for any protected class consisting of at least twenty-five thou-  
49 sand citizens of voting age or whose members comprise at least ten  
50 percent of the citizen voting age population, the percent of members of  
51 that protected class that are actual voters is at least twenty-five  
52 percent lower than the percent of citizens of voting age that are not  
53 members of that protected class that are actual voters.

54 2. Right of action against vote dilution. (a) A method of election,  
55 including at-large, district-based, or alternative, shall not have the  
56 effect of impairing the ability of members of a protected class to elect

1 candidates of their choice or influence the outcome of elections, as a  
2 result of the dilution or the abridgment of the rights of members of the  
3 protected class.

4 (b) A violation of this subdivision shall be:

5 (i) established if a political subdivision uses an at-large method of  
6 election and it is shown that either: (A) voting patterns of members of  
7 the protected class within the political subdivision are racially polar-  
8 ized; or (B) under the totality of the circumstances, the ability of  
9 members of the protected class to elect candidates of their choice or  
10 influence the outcome of elections is impaired; or

11 (ii) established if a political subdivision uses a district-based or  
12 alternative method of election and it is shown that candidates or elec-  
13 toral choices preferred by members of the protected class would usually  
14 be defeated, and either: (A) voting patterns of members of the protected  
15 class within the political subdivision are racially polarized; or (B)  
16 under the totality of the circumstances, the ability of members of the  
17 protected class to elect candidates of their choice or influence the  
18 outcome of elections is impaired; or

19 (iii) presumptively established if it is shown that the political  
20 subdivision used race, color, or language-minority group, or another  
21 characteristic that serves as a proxy for race, color, or language-mi-  
22 nority group, for the purpose of districting or redistricting. A poli-  
23 tical subdivision shall only rebut this presumption by showing that  
24 race, color, or language-minority group, or another characteristic that  
25 serves as a proxy for race, color, or language-minority group, was used  
26 to the extent necessary to comply with this title, the federal voting  
27 rights act, the constitution, or the constitution of the United States.

28 (c) In assessing whether voting patterns of members of the protected  
29 class within the political subdivision are racially polarized or whether  
30 candidates or electoral choices preferred by members of the protected  
31 class would usually be defeated: (i) elections conducted prior to the  
32 filing of an action pursuant to this subdivision are more probative than  
33 elections conducted after the filing of the action; (ii) evidence  
34 concerning elections for members of the governing body of the political  
35 subdivision are more probative than evidence concerning other elections;  
36 (iii) statistical evidence is more probative than non-statistical  
37 evidence; (iv) where there is evidence that more than one protected  
38 class of eligible voters are politically cohesive in the political  
39 subdivision, members of each of those protected classes may be combined;  
40 (v) evidence concerning the intent on the part of the voters, elected  
41 officials, or the political subdivision to discriminate against a  
42 protected class is not required; (vi) evidence that voting patterns and  
43 election outcomes could be explained by factors other than racially  
44 polarized voting, including but not limited to partisanship, shall not  
45 be considered; (vii) evidence that sub-groups within a protected class  
46 have different voting patterns shall not be considered; (viii) evidence  
47 concerning whether members of a protected class are geographically  
48 compact or concentrated shall not be considered, but may be a factor in  
49 determining an appropriate remedy; and (ix) evidence concerning project-  
50 ed changes in population or demographics shall not be considered, but  
51 may be a factor, in determining an appropriate remedy.

52 3. Evaluation of totality of the circumstances. In assessing whether,  
53 under the totality of the circumstances, the ability of members of the  
54 protected class to elect candidates of their choice or influence the  
55 outcome of elections is impaired, factors that may be considered shall  
56 include, but not be limited to: (a) the history of discrimination in the

1 political subdivision, geographic region, or the state; (b) the extent  
2 to which members of the protected class have been elected to office in  
3 the political subdivision; (c) the use of any voting qualification,  
4 prerequisite to voting, law, ordinance, standard, practice, procedure,  
5 regulation, or policy that may enhance the dilutive effects of the  
6 election scheme; (d) denial of access of either eligible voters or  
7 candidates who are members of the protected class to those processes  
8 determining which groups of candidates will receive access to the  
9 ballot, financial support, or other support in a given election; (e) the  
10 extent to which members of the protected class contribute to political  
11 campaigns at lower rates; (f) the extent to which members of a protected  
12 class in the state or political subdivision vote at lower rates than  
13 other members of the electorate; (g) the extent to which members of the  
14 protected class are disadvantaged in areas including but not limited to  
15 education, employment, health, criminal justice, housing, land use, or  
16 environmental protection; (h) the extent to which members of the  
17 protected class are disadvantaged in other areas which may hinder their  
18 ability to participate effectively in the political process; (i) the use  
19 of overt or subtle racial appeals in political campaigns; (j) a signif-  
20 icant lack of responsiveness on the part of elected officials to the  
21 particularized needs of members of the protected class; and (k) whether  
22 the political subdivision has a compelling policy justification for  
23 adopting or maintaining the method of election or the voting qualifica-  
24 tion, prerequisite to voting, law, ordinance, standard, practice, proce-  
25 dure, regulation, or policy. No factor is dispositive or necessary to  
26 establish the existence of racially polarized voting. Evidence of these  
27 factors concerning the state, private actors, or other political subdi-  
28 visions in the geographic region may be considered but is less probative  
29 than evidence concerning the political subdivision itself.

30 4. Standing. Any aggrieved person, organization whose membership  
31 includes or is likely to include aggrieved persons, organization whose  
32 mission would be frustrated by a violation of this section, organization  
33 that would expend resources in order to fulfill its mission as a result  
34 of a violation of this section, or the attorney general may file an  
35 action pursuant to this section in the supreme court of the county in  
36 which the political subdivision is located.

37 5. Remedies. (a) Upon a finding of a violation of any provision of  
38 this section, the court shall implement appropriate remedies that are  
39 tailored to remedy the violation. Remedies may include, but shall not be  
40 limited to:

- 41 (i) a district-based method of election;
- 42 (ii) an alternative method of election;
- 43 (iii) new or revised districting or redistricting plans;
- 44 (iv) elimination of staggered elections so that all members of the  
45 governing body are elected on the same date;
- 46 (v) increasing the size of the governing body;
- 47 (vi) moving the dates of elections to be concurrent with the primary  
48 or general election dates for state, county, or city office as estab-  
49 lished in section eight of article three or section eight of article  
50 thirteen of the constitution;
- 51 (vii) additional voting hours or days;
- 52 (viii) additional polling locations;
- 53 (ix) additional means of voting such as voting by mail;
- 54 (x) ordering of special elections;
- 55 (xi) requiring expanded opportunities for voter registration;
- 56 (xii) requiring additional voter education;

1 (xiii) modifying the election calendar; or  
2 (xiv) the restoration or addition of persons to registration lists.

3 (b) The court shall only adopt a remedy that will not diminish the  
4 ability of minority groups to participate in the political process and  
5 to elect their preferred candidates to office. The court shall consider  
6 proposed remedies by any parties and interested non-parties, and shall  
7 not provide deference or priority to a proposed remedy because it is  
8 proposed by the political subdivision. This title gives the court  
9 authority to implement remedies notwithstanding any other provision of  
10 law, including any other state or local law.

11 6. Procedures for implementing new or revised districting or redistricting plans. The governing body of a political subdivision with the  
12 authority under this title and all applicable state and local laws to  
13 enact and implement a new method of election that will replace the political  
14 subdivision's at-large method of election with a district-based or  
15 alternative method of election, or enact and implement a new districting  
16 or redistricting plan, shall undertake each of the steps enumerated in  
17 this subdivision, if proposed subsequent to receipt of a NYVRA notification  
18 letter, as defined in subdivision seven of this section, or the  
19 filing of a claim pursuant to this title or the federal voting rights  
20 act.

21  
22 (a) Before drawing a draft districting or redistricting plan or plans  
23 of the proposed boundaries of the districts, the political subdivision  
24 shall hold at least two public hearings over a period of no more than  
25 thirty days, at which the public is invited to provide input regarding  
26 the composition of the districts. Before these hearings, the political  
27 subdivision may conduct outreach to the public, including to non-English-  
28 speaking communities, to explain the districting or redistricting  
29 process and to encourage public participation.

30 (b) After all draft districting or redistricting plans are drawn, the  
31 political subdivision shall publish and make available for release at  
32 least one draft districting or redistricting plan and, if members of the  
33 governing body of the political subdivision will be elected in their  
34 districts at different times to provide for staggered terms of office,  
35 the potential sequence of the elections. The political subdivision shall  
36 also hold at least two additional hearings over a period of no more than  
37 forty-five days, at which the public is invited to provide input regard-  
38 ing the content of the draft districting or redistricting plan or plans  
39 and the proposed sequence of elections, if applicable. The draft  
40 districting or redistricting plan or plans shall be published at least  
41 seven days before consideration at a hearing. If the draft districting  
42 or redistricting plan or plans are revised at or following a hearing, the  
43 revised versions shall be published and made available to the public for  
44 at least seven days before being adopted.

45 (c) In determining the final sequence of the district elections  
46 conducted in a political subdivision in which members of the governing  
47 body will be elected at different times to provide for staggered terms  
48 of office, the governing body shall give special consideration to the  
49 purposes of this title, and it shall take into account the preferences  
50 expressed by members of the districts.

51 7. Notification requirement and safe harbor for judicial actions.  
52 Before commencing a judicial action against a political subdivision  
53 under this section, a prospective plaintiff shall send by certified mail  
54 a written notice to the clerk of the political subdivision, or, if the  
55 political subdivision does not have a clerk, the governing body of the  
56 political subdivision, against which the action would be brought,

1 asserting that the political subdivision may be in violation of this  
2 title. This written notice shall be referred to as a "NYVRA notification  
3 letter" in this title. For actions against a school district or any  
4 other political subdivision that holds elections governed by the educa-  
5 tion law, the prospective plaintiff shall also send by certified mail a  
6 copy of the NYVRA notification letter to the commissioner of education.

7 (a) A prospective plaintiff shall not commence a judicial action  
8 against a political subdivision under this section within fifty days of  
9 sending to the political subdivision a NYVRA notification letter.

10 (b) Before receiving a NYVRA notification letter, or within fifty days  
11 of mailing of a NYVRA notification letter, the governing body of a poli-  
12 tical subdivision may pass a resolution affirming: (i) the political  
13 subdivision's intention to enact and implement a remedy for a potential  
14 violation of this title; (ii) specific steps it will undertake to facil-  
15 itate approval and implementation of such a remedy; and (iii) a schedule  
16 for enacting and implementing such a remedy. Such a resolution shall be  
17 referred to as a "NYVRA resolution" in this title. If a political subdivi-  
18 vision passes a NYVRA resolution, a prospective plaintiff shall not  
19 commence an action to enforce this section against the political subdivi-  
20 vision within ninety days of the resolution's passage. For actions  
21 against a school district, the commissioner of education may order the  
22 enactment of an NYVRA resolution pursuant to the commissioner's authori-  
23 ty under section three hundred five of the education law.

24 (c) If the governing body of a political subdivision lacks the author-  
25 ity under this title or applicable state law or local laws to enact or  
26 implement a remedy identified in a NYVRA resolution within ninety days  
27 after the passage of the NYVRA resolution, or if the political subdivi-  
28 sion is a covered entity as defined under section 17-212 of this title,  
29 the governing body of the political subdivision may undertake the steps  
30 enumerated in the following provisions upon passage of a NYVRA resol-  
31 ution:

32 (i) The governing body of the political subdivision may approve a  
33 proposed remedy that complies with this title and submit such a proposed  
34 remedy to the civil rights bureau. Such a submission shall be referred  
35 to as a "NYVRA proposal" in this title.

36 (ii) Prior to passing a NYVRA proposal, the political subdivision  
37 shall hold at least one public hearing, at which the public is invited  
38 to provide input regarding the NYVRA proposal. Before this hearing, the  
39 political subdivision may conduct outreach to the public, including to  
40 non-English-speaking communities, to encourage public participation.

41 (iii) Within sixty days of receipt of a NYVRA proposal, the civil  
42 rights bureau shall either grant or deny approval of the NYVRA proposal.

43 (iv) The civil rights bureau shall only grant approval to the NYVRA  
44 proposal if it concludes that: (A) the political subdivision may be in  
45 violation of this title; (B) the NYVRA proposal would remedy any poten-  
46 tial violation of this title; (C) the NYVRA proposal is unlikely to  
47 violate the constitution or any federal law; (D) the NYVRA proposal will  
48 not diminish the ability of minority groups to participate in the poli-  
49 tical process and to elect their preferred candidates to office; and (E)  
50 implementation of the NYVRA proposal is feasible. The civil rights  
51 bureau may grant approval to the NYVRA proposal notwithstanding any  
52 other provision of law, including any other state or local law.

53 (v) If the civil rights bureau grants approval, the NYVRA proposal  
54 shall be enacted and implemented immediately, notwithstanding any other  
55 provision of law, including any other state or local law. If the poli-  
56 tical subdivision is a covered entity as defined under section 17-212 of

1 this title, there shall be no need for the political subdivision to also  
2 obtain preclearance for the NYVRA proposal pursuant to such section.

3 (vi) If the civil rights bureau denies approval, the NYVRA proposal  
4 shall not be enacted or implemented. The civil rights bureau shall  
5 interpose objections explaining its basis and may, in its discretion,  
6 indicate another NYVRA proposal for which it would grant approval.

7 (vii) If the civil rights bureau does not respond, the NYVRA proposal  
8 shall not be enacted or implemented.

9 (d) A political subdivision that has passed a NYVRA resolution may  
10 enter into an agreement with a prospective plaintiff who sends a NYVRA  
11 notification letter providing that such a prospective plaintiff shall  
12 not commence an action to enforce this section against the political  
13 subdivision for an additional ninety days. This written agreement may be  
14 referred to as a "NYVRA extension agreement". The NYVRA extension agree-  
15 ment shall include a requirement that either the political subdivision  
16 shall enact and implement a remedy that complies with this title or the  
17 political subdivision shall pass a NYVRA proposal and submit it to the  
18 civil rights bureau.

19 (e) If, pursuant to a process commenced by a NYVRA notification  
20 letter, a political subdivision enacts or implements a remedy or the  
21 civil rights bureau grants approval to a NYVRA proposal, a prospective  
22 plaintiff who sent the NYVRA notification letter may, within thirty days  
23 of the enactment or implementation of the remedy or approval of the  
24 NYVRA proposal, demand reimbursement for the cost of the work product  
25 generated to support the NYVRA notification letter. A prospective plain-  
26 tiff shall make the demand in writing and shall substantiate the demand  
27 with financial documentation, such as a detailed invoice for demography  
28 services or for the analysis of voting patterns in the political subdivi-  
29 vision. A political subdivision may request additional documentation if  
30 the provided documentation is insufficient to corroborate the claimed  
31 costs. A political subdivision shall reimburse a prospective plaintiff  
32 for reasonable costs claimed, or in an amount to which the parties mutu-  
33 ally agree. The cumulative amount of reimbursements to all prospective  
34 plaintiffs, except for actions brought by the attorney general, shall  
35 not exceed forty-three thousand dollars, as adjusted annually to the  
36 consumer price index for all urban consumers, United States city aver-  
37 age, as published by the United States department of labor. To the  
38 extent a prospective plaintiff who sent the NYVRA notification letter  
39 and a political subdivision are unable to come to a mutual agreement,  
40 either party may file a declaratory judgment action to obtain a clarifi-  
41 cation of rights.

42 (f) Notwithstanding the provisions of this subdivision, if the first  
43 day for designating petitions for a political subdivision's next regular  
44 election to select members of its governing board has begun or is sched-  
45 uled to begin within thirty days, or if a political subdivision is sche-  
46 duled to conduct any election within one hundred twenty days, a plain-  
47 tiff alleging any violation of this title may commence a judicial action  
48 against a political subdivision under this section, provided that the  
49 relief sought by such a plaintiff includes preliminary relief for that  
50 election. Prior to or concurrent with commencing such a judicial action,  
51 any such plaintiff shall also submit a NYVRA notification letter to the  
52 political subdivision. If a judicial action commenced under this  
53 provision is withdrawn or dismissed for mootness because the political  
54 subdivision has enacted or implemented a remedy or the civil rights  
55 bureau has granted approval of a NYVRA proposal pursuant to a process

1 commenced by a NYVRA notification letter, any such plaintiff may only  
2 demand reimbursement pursuant to this subdivision.

3 § 17-208. Maintenance of voting and election data. 1. Establishment  
4 of a statewide database. There shall be established within the state  
5 university of New York a repository of the data necessary to assist the  
6 state and all political subdivisions with evaluating whether and to what  
7 extent existing laws and practices with respect to voting and elections  
8 are consistent with the public policy expressed in this title, imple-  
9 menting best practices in voting and elections to achieve the purposes  
10 of this title, and to investigate potential infringements upon the right  
11 to vote. This repository shall be referred to as the "statewide data-  
12 base" in this title.

13 2. Director of the statewide database. The operation of the statewide  
14 database shall be the responsibility of the director of the statewide  
15 database, hereinafter referred to in this title as the "director", who  
16 shall be a member of the faculty of the state university of New York  
17 with doctoral-level expertise in demography, statistical analysis, and  
18 electoral systems. The director shall be appointed by the governor.

19 3. Statewide database staff. The director shall appoint such staff as  
20 are necessary to implement and maintain the statewide database.

21 4. Data, information, and estimates maintained. The statewide database  
22 shall maintain in electronic format at least the following data and  
23 records for at least the previous twelve year period:

24 (a) Estimates of the total population, voting age population, and  
25 citizen voting age population by race, color, and language-minority  
26 group, broken down to the election district level on a year-by-year  
27 basis for every political subdivision in the state, based on data from  
28 the United States census bureau, American community survey, or data of  
29 comparable quality collected by a public office.

30 (b) Election results at the election district level for every state-  
31 wide election and every election in every political subdivision.

32 (c) Contemporaneous voter registration lists, voter history files,  
33 election day poll site locations, and early voting site locations, for  
34 every election in every political subdivision.

35 (d) Contemporaneous maps, descriptions of boundaries, and shapefiles  
36 for election districts.

37 (e) Election day or early voting poll sites including, but not limited  
38 to, lists of election districts assigned to each polling place, if  
39 applicable.

40 (f) Districting or redistricting plans for every election in every  
41 political subdivision.

42 (g) Any other data that the director deems advisable to maintain in  
43 furtherance of the purposes of this title.

44 5. Public availability of data. Except for any data, information, or  
45 estimates that identifies individual voters, the data, information, and  
46 estimates maintained by the statewide database shall be posted online  
47 and made available to the public at no cost.

48 6. Data on race, color, and language-minority groups. The statewide  
49 database shall prepare any estimates made pursuant to this section by  
50 applying the most advanced, peer-reviewed, and validated methodologies.

51 7. Calculation and publication of political subdivisions required to  
52 provide assistance to language-minority groups. On or before February  
53 twenty-eighth, two thousand twenty-three and every third year thereaft-  
54 er, the statewide database shall publish on its web site and transmit to  
55 the state board of elections for dissemination to the county boards of  
56 elections and for the state education department a list of political

1 subdivisions required pursuant to this section to provide assistance to  
2 members of language-minority groups and each language in which those  
3 political subdivisions are required to provide assistance. The boards of  
4 elections shall transmit the list described herein to all political  
5 subdivisions within their jurisdiction.

6 8. Duty to send data and information to statewide database. Upon the  
7 certification of election results and the completion of the voter histo-  
8 ry file after each election, each election authority shall transmit  
9 copies of: (a) election results at the election district level; (b)  
10 contemporaneous voter registration lists; (c) voter history files; (d)  
11 maps, descriptions, and shapefiles for election districts; and (e) lists  
12 of election day poll site and early voting sites and lists, shapefiles,  
13 or descriptions of the election districts assigned to each election day  
14 poll site or early voting site. As used in this subdivision, the term  
15 "election authority" refers to the agency primarily responsible for  
16 maintaining the records listed in subdivision four of this section and  
17 include any board of election, as well as general purpose local govern-  
18 ments or special purpose local governments that administer their own  
19 elections or maintain their own voting and election records.

20 9. Technical assistance to political subdivisions. Staff at the state-  
21 wide database may provide non-partisan technical assistance to political  
22 subdivisions, scholars, and the general public seeking to use the  
23 resources of the statewide database.

24 10. Presumption of validity. The data, information, and estimates  
25 maintained by the statewide database shall be granted a rebuttable  
26 presumption of validity by any court concerning any claim brought pursu-  
27 ant to this title.

28 § 17-210. Assistance for language-minority groups. 1. Political subdi-  
29 visions required to provide language assistance. A board of elections or  
30 a political subdivision that administers elections shall provide  
31 language-related assistance in voting and elections to a language-minor-  
32 ity group in a political subdivision if the director determines, based  
33 on data from the American community survey, or data of comparable quali-  
34 ty collected by a public office, that:

35 (a) more than two percent of the citizens of voting age of a political  
36 subdivision are members of a single language-minority group and speak  
37 English "less than very well" according to the American community  
38 survey;

39 (b) more than four thousand of the citizens of voting age of such  
40 political subdivision are members of a single language-minority group  
41 and speak English "less than very well" according to the American commu-  
42 nity survey; or

43 (c) in the case of a political subdivision that contains all or any  
44 part of a Native American reservation, more than two percent of the  
45 Native American citizens of voting age within the Native American reser-  
46 vation are members of a single language-minority group and speak English  
47 "less than very well" according to the American community survey. For  
48 the purposes of this paragraph, "Native American" is defined to include  
49 any persons recognized by the United States census bureau or New York as  
50 "American Indian" or "Alaska Native".

51 2. Language assistance to be provided. When the director determines  
52 that a board of elections or political subdivision shall provide  
53 language assistance to a particular minority group, such board of  
54 elections or political subdivision shall provide voting materials in the  
55 covered language of an equal quality of the corresponding English  
56 language materials, including registration or voting notices, forms,

1 instructions, assistance, or other materials or information relating to  
2 the electoral process, including ballots. Whenever any such board of  
3 elections or political subdivision provides any registration or voting  
4 notices, forms, instructions, assistance, or other materials or informa-  
5 tion relating to the electoral process, including ballots, in a covered  
6 political subdivision, it shall provide them in the language of the  
7 applicable minority group as well as in the English language, provided  
8 that where the language of the applicable minority group is oral or  
9 unwritten or in the case of some American Indians, if the predominant  
10 language is historically unwritten, the board of elections or political  
11 subdivision is only required to furnish oral instructions, assistance,  
12 or other information relating to registration and voting.

13 3. Action for declaratory judgment for English-only voting materials.  
14 A board of elections or political subdivision that shall provide  
15 language assistance to a particular minority group, which seeks to  
16 provide English-only materials notwithstanding the determination of the  
17 director, may file an action against the state for a declaratory judg-  
18 ment permitting such provision. The court shall grant the requested  
19 relief if it finds that the determination of the director was unreason-  
20 able or an abuse of discretion.

21 § 17-212. Preclearance. 1. Preclearance. To ensure that the right to  
22 vote is not denied or abridged on account of race, color, or language-  
23 minority group, as a result of the enactment or implementation of a  
24 covered policy, as defined in subdivision two of this section, after the  
25 effective date of this section, the enactment or implementation of a  
26 covered policy by a covered entity, as defined in subdivision three of  
27 this section, shall be subject to preclearance by the civil rights  
28 bureau or by a designated court as set forth in this section.

29 2. Covered policies. A "covered policy" shall include any new or modi-  
30 fied voting qualification, prerequisite to voting, law, ordinance, stan-  
31 dard, practice, procedure, regulation, or policy concerning any of the  
32 following topics:

- 33 (a) Districting or redistricting;
- 34 (b) Method of election;
- 35 (c) Form of government;
- 36 (d) Annexation of a political subdivision;
- 37 (e) Incorporation of a political subdivision;
- 38 (f) Consolidation or division of political subdivisions;
- 39 (g) Removal of voters from enrollment lists or other list maintenance  
40 activities;
- 41 (h) Number, location, or hours of any election day or early voting  
42 poll site;
- 43 (i) Dates of elections and the election calendar, except with respect  
44 to special elections;
- 45 (j) Registration of voters;
- 46 (k) Assignment of election districts to election day or early voting  
47 poll sites;
- 48 (l) Assistance offered to members of a language-minority group; and
- 49 (m) The civil rights bureau may designate additional topics for inclu-  
50 sion in this list pursuant to a rule promulgated under the state admin-  
51 istrative procedure act, if it determines that a new or modified voting  
52 qualification, prerequisite to voting, law, ordinance, standard, prac-  
53 tice, procedure, regulation, or policy concerning such topics may have  
54 the effect of denying or abridging the right to vote on account of race,  
55 color, or language-minority group.

1 3. Covered entity. A "covered entity" shall include: (a) any political  
2 subdivision which, within the previous twenty-five years, has become  
3 subject to a court order or government enforcement action based upon a  
4 finding of any violation of this title, the federal voting rights act,  
5 the fifteenth amendment to the United States constitution, or a voting-  
6 related violation of the fourteenth amendment to the United States  
7 constitution; (b) any political subdivision which, within the previous  
8 five years, has failed to comply with its obligations to provide data or  
9 information to the statewide database, as stated in section 17-208 of  
10 this title; (c) any political subdivision which, within the previous  
11 twenty-five years, has become subject to at least three court orders or  
12 government enforcement actions based upon a finding of any violation of  
13 any state or federal civil rights law or the fourteenth amendment to the  
14 United States constitution concerning discrimination against members of  
15 a protected class; (d) any county in which, based on data provided by  
16 the division of criminal justice services, the combined misdemeanor and  
17 felony arrest rate of members of any protected class consisting of at  
18 least ten thousand citizens of voting age or whose members comprise at  
19 least ten percent of the citizen voting age population of the county,  
20 exceeds that of the citizen voting age population of the county as a  
21 whole by at least twenty percent at any point within the previous ten  
22 years; or (e) any political subdivision in which, based on data made  
23 available by the United States census, the dissimilarity index of any  
24 protected class consisting of at least twenty-five thousand citizens of  
25 voting age or whose members comprise at least ten percent of the citizen  
26 voting age population of the political subdivision, is in excess of  
27 fifty with respect to non-Hispanic white citizens of voting age within  
28 the political subdivision at any point within the previous ten years. If  
29 any covered entity is a political subdivision in which a board of  
30 elections has been established, that board of elections shall also be  
31 deemed a covered entity. If any political subdivision in which a board  
32 of elections has been established contains a covered entity fully within  
33 its borders, that political subdivision and that board of elections  
34 shall both be deemed a covered entity.

35 4. Preclearance by civil rights bureau. A covered entity may obtain  
36 preclearance for a covered policy from the civil rights bureau pursuant  
37 to the following process:

38 (a) The covered entity shall submit the covered policy in writing to  
39 the civil rights bureau of the office of the attorney general. If the  
40 covered entity is a county or city board of elections, it shall contem-  
41 poraneously provide a copy of the covered policy to the state board of  
42 elections.

43 (b) The civil rights bureau shall grant or deny preclearance within  
44 the following time periods:

45 (i) For any covered policy concerning the designation of poll sites or  
46 the assignment of election districts to poll sites, whether for election  
47 day or early voting, the civil rights bureau shall grant or deny  
48 preclearance within thirty days following the receipt of submission. If  
49 the civil rights bureau grants preclearance, it may, in its discretion,  
50 designate preclearance as "preliminary" in which case the civil rights  
51 bureau may deny preclearance within sixty days following the receipt of  
52 submission of the covered policy.

53 (ii) For any other covered policy, the civil rights bureau shall grant  
54 or deny preclearance within sixty days following the receipt of  
55 submission of the covered policy.

1 (iii) For any covered policy concerning the establishment of a  
2 district-based or alternative method of election, districting or redis-  
3 tricting plans, or a change to the form of government of a political  
4 subdivision, the civil rights bureau may invoke up to two extensions of  
5 ninety days.

6 (c) The civil rights bureau shall provide an opportunity for any  
7 interested party to submit written comments concerning any covered poli-  
8 cy prior to granting or denying preclearance.

9 (d) The civil rights bureau shall grant preclearance only if it deter-  
10 mines that the covered policy will not diminish the ability of minority  
11 groups to participate in the political process and to elect their  
12 preferred candidates to office. If the civil rights bureau grants  
13 preclearance, the covered entity may enact or implement the covered  
14 policy immediately.

15 (e) If the civil rights bureau denies preclearance, the civil rights  
16 bureau shall interpose objections explaining its basis and the covered  
17 policy shall not be enacted or implemented.

18 (f) If the civil rights bureau fails to respond within the time for  
19 response as established in this section, the covered policy shall be  
20 deemed precleared and the covered entity may enact or implement the  
21 covered policy.

22 (g) Appeal of any denial by the civil rights bureau may be heard in  
23 the supreme court for the county of New York, from which appeal may be  
24 taken according to the ordinary rules of appellate procedure. Due to the  
25 frequency and urgency of elections, actions brought pursuant to this  
26 section shall be subject to expedited pretrial and trial proceedings and  
27 receive an automatic calendar preference on appeal.

28 5. Preclearance by a designated court. A covered entity may obtain  
29 preclearance for a covered policy from a court pursuant to the following  
30 process:

31 (a) The covered entity shall submit the covered policy in writing to  
32 the following designated court in the judicial department within which  
33 the covered entity is located: (i) first judicial department: New York  
34 county; (ii) second judicial department: Westchester county; (iii)  
35 third judicial department: Albany county; and (iv) fourth judicial  
36 department: Erie county. If the covered entity is a county or city  
37 board of elections, it shall contemporaneously provide a copy of the  
38 covered policy to the state board of elections.

39 (b) The covered entity shall contemporaneously provide a copy of the  
40 covered policy to the civil rights bureau. The failure of the covered  
41 entity to provide a copy of the covered policy to the civil rights  
42 bureau will result in an automatic denial of preclearance.

43 (c) The court shall grant or deny preclearance within sixty days  
44 following the receipt of submission of the covered policy.

45 (d) The court shall grant preclearance only if it determines that the  
46 covered policy will not diminish the ability of minority groups to  
47 participate in the political process and to elect their preferred candi-  
48 dates to office. If the court grants preclearance, the covered entity  
49 may enact or implement the covered policy immediately.

50 (e) If the court denies preclearance, or fails to respond within sixty  
51 days, the covered policy shall not be enacted or implemented.

52 (f) Appeal of any denial may be taken according to the ordinary rules  
53 of appellate procedure. Due to the frequency and urgency of elections,  
54 actions brought pursuant to this section shall be subject to expedited  
55 pretrial and trial proceedings and receive an automatic calendar prefer-  
56 ence on appeal.

1 6. Failure to seek or obtain preclearance. If any covered entity  
2 enacts or implements a covered policy without seeking preclearance  
3 pursuant to this section, or enacts or implements a covered policy  
4 notwithstanding the denial of preclearance, either the civil rights  
5 bureau or any other party with standing to bring an action under this  
6 title may bring an action to enjoin the covered policy and to seek sanc-  
7 tions against the political subdivision and officials in violation.

8 7. Lookback review. (a) For a period of one hundred eighty days begin-  
9 ning on the effective date of this section, the civil rights bureau may,  
10 in its discretion, initiate a lookback review in which it may deny  
11 clearance to certain covered policies that had been previously enacted  
12 by covered jurisdictions.

13 (b) The civil rights bureau may only initiate a lookback review of  
14 covered policies that were enacted or implemented by a covered jurisdic-  
15 tion on or after the date on which this title takes effect and prior to  
16 the effective date of this section.

17 (c) In order to initiate a lookback review, the civil rights bureau  
18 must provide notice to a covered entity of its decision to review a  
19 covered policy enacted or implemented by that covered entity. Upon  
20 receipt of such notice, the covered entity shall submit the covered  
21 policy in writing to the civil rights bureau within thirty days.

22 (d) Upon receipt of the covered policy, the civil rights bureau may  
23 deny clearance to the covered policy within ninety days if it determines  
24 that the covered policy is likely to diminish the ability of minority  
25 groups to participate in the political process and to elect their  
26 preferred candidates to office.

27 (e) If the civil rights bureau denies clearance to a covered policy  
28 pursuant to this subdivision, the civil rights bureau shall interpose  
29 objections explaining its basis and the covered policy shall not be  
30 enacted or implemented; however, denial of clearance shall not provide a  
31 basis to invalidate any elections previously conducted pursuant to the  
32 covered policy.

33 (f) Appeal of any denial of clearance by the civil rights bureau may  
34 be heard in the supreme court for the county of New York, from which  
35 appeal may be taken according to the ordinary rules of appellate proce-  
36 dure. Due to the frequency and urgency of elections, actions brought  
37 pursuant to this section shall be subject to expedited pretrial and  
38 trial proceedings and receive an automatic calendar preference on  
39 appeal.

40 (g) The civil rights bureau shall provide opportunity for any inter-  
41 ested party to submit written comments concerning any covered policy  
42 during the lookback period.

43 8. Rules and regulations. The civil rights bureau may promulgate such  
44 rules and regulations pursuant to the state administrative procedure act  
45 as are necessary to effectuate the purposes of this section.

46 § 17-214. Right of action against voter intimidation, deception or  
47 obstruction. 1. (a) No person, whether acting under color of law or  
48 otherwise, may engage in acts of intimidation, deception, or obstruction  
49 that affects the right of voters to access the elective franchise.

50 (b) A violation of this subdivision shall be:

51 (i) established if a person uses or threatens to use any force,  
52 violence, restraint, abduction or duress, or inflicts or threatens to  
53 inflict any injury, damage, harm or loss, or in any other manner prac-  
54 tices intimidation that causes or will reasonably have the effect of  
55 causing any person to vote or refrain from voting in general or for or  
56 against any particular person or for or against any proposition submit-

1 ted to voters at such election; to place or refrain from placing their  
2 name upon a registry of voters; or to request or refrain from requesting  
3 an absentee ballot; or

4 (ii) established if a person uses any deceptive or fraudulent device,  
5 contrivance or communication, that impedes, prevents or otherwise inter-  
6 feres with the free exercise of the elective franchise by any person, or  
7 that causes or will reasonably have the effect of causing any person to  
8 vote or refrain from voting in general or for or against any particular  
9 person or for or against any proposition submitted to voters at such  
10 election; to place or refrain from placing their name upon a registry of  
11 voters; or to request or refrain from requesting an absentee ballot; or

12 (iii) established if a person obstructs, impedes, or otherwise inter-  
13 feres with access to any polling place or elections office, or  
14 obstructs, impedes, or otherwise interferes with any voter in any manner  
15 that causes or will reasonably have the effect of causing any delay in  
16 voting or the voting process, including the canvassing and tabulation of  
17 ballots.

18 2. Standing. Any aggrieved persons, organization whose membership  
19 includes or is likely to include aggrieved persons, organization whose  
20 mission would be frustrated by a violation of this section, organization  
21 that would expend resources in order to fulfill its mission as a result  
22 of a violation of this section, or the attorney general may file an  
23 action pursuant to this section in the supreme court of the county in  
24 which the alleged violation of this section occurred.

25 3. Remedies. Upon a finding of a violation of any provision of this  
26 section, the court shall implement appropriate remedies that are  
27 tailored to remedy the violation, including but not limited to providing  
28 for additional time to cast a ballot that may be counted in the election  
29 at issue. This title gives the court authority to implement remedies  
30 notwithstanding any other provision of state or local law, including any  
31 other state or local law. Any party who shall violate any of the  
32 provisions of the foregoing section or who shall aid the violation of  
33 any of said provisions shall be liable to any prevailing plaintiff party  
34 for damages, including nominal damages for any violation, and compensa-  
35 tory or punitive damages for any intentional violation.

36 § 17-216. Authority to issue subpoenas. In any action or investigation  
37 to enforce any provision of this title, the attorney general shall have  
38 the authority to take proof and determine relevant facts and to issue  
39 subpoenas in accordance with the civil practice law and rules.

40 § 17-218. Expedited judicial proceedings and preliminary relief.  
41 Because of the frequency of elections, the severe consequences and irre-  
42 parable harm of holding elections under unlawful conditions, and the  
43 expenditure to defend potentially unlawful conditions that benefit  
44 incumbent officials, actions brought pursuant to this title shall be  
45 subject to expedited pretrial and trial proceedings and receive an auto-  
46 matic calendar preference. In any action alleging a violation of this  
47 section in which a plaintiff party seeks preliminary relief with respect  
48 to an upcoming election, the court shall grant relief if it determines  
49 that: (a) plaintiffs are more likely than not to succeed on the merits;  
50 and (b) it is possible to implement an appropriate remedy that would  
51 resolve the alleged violation in the upcoming election.

52 § 17-220. Attorneys' fees. In any action to enforce any provision of  
53 this title, the court shall allow the prevailing plaintiff party, other  
54 than the state or political subdivision thereof, a reasonable attorneys'  
55 fee, litigation expenses including, but not limited to, expert witness  
56 fees and expenses as part of the costs. A plaintiff will be deemed to

1 have prevailed when, as a result of litigation, the defendant party  
2 yields much or all of the relief sought in the suit. Prevailing defend-  
3 ant parties shall not recover any costs, unless the court finds the  
4 action to be frivolous, unreasonable, or without foundation.

5 § 17-222. Applicability. The provisions of this title shall apply to  
6 all elections for any elected office or electoral choice within the  
7 state or any political subdivision. The provisions of this title shall  
8 apply notwithstanding any other provision of law, including any other  
9 state law or local law.

10 § 17-224. Severability. If any provision of this title or its applica-  
11 tion to any person, political subdivision, or circumstance is held  
12 invalid, the invalidity shall not affect other provisions or applica-  
13 tions of this title which can be given effect without the invalid  
14 provision or application, and to this end the provisions of this title  
15 are severable.

16 § 5. This act shall take effect immediately; provided, however, that  
17 paragraph (c) of subdivision seven of section 17-206 of the election law  
18 as added by section four of this act shall take effect one year after it  
19 shall have become a law; and provided further, however, that sections  
20 17-208 and 17-210 of the election law as added by section four of this  
21 act shall take effect three years after it shall have become a law; and  
22 provided further, however, that section 17-212 of the election law, as  
23 added by section four of this act, shall take effect one year after the  
24 attorney general certifies that the office of the attorney general is  
25 prepared to execute the duties assigned in section four of this act, if  
26 after the expiration of one year the attorney general requires more time  
27 to certify that the office of the attorney general is prepared to  
28 execute the duties assigned in section four of this act, the attorney  
29 general, may, for good cause shown, apply to the governor for such an  
30 extension of time. The governor may grant or deny an extension of up to  
31 one year according to his or her discretion. The attorney general shall  
32 notify the legislative bill drafting commission upon the occurrence of  
33 the enactment of the legislation provided for in section four of this  
34 act in order that the commission may maintain an accurate and timely  
35 effective data base of the official text of the laws of the state of New  
36 York in furtherance of effectuating the provisions of section 44 of the  
37 legislative law and section 70-b of the public officers law.