

# STATE OF NEW YORK

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2021-2022 Regular Sessions

## IN ASSEMBLY

March 25, 2021

Introduced by M. of A. WALKER, DICKENS, FRONTUS, CRUZ, REYES, SIMON, L. ROSENTHAL, FORREST, SILLITTI, DINOWITZ, GALLAGHER, JEAN-PIERRE, MAMDANI, HUNTER, KELLES, EPSTEIN, MEEKS, BENEDETTO, COOK, O'DONNELL, ZINERMAN, KIM, LAVINE, MITAYNES, CARROLL, THIELE, ANDERSON, ABBATE, SEAWRIGHT, OTIS, TAYLOR, BURDICK, BICHOTTE HERMELYN, BURGOS, GOTTFRIED, PAULIN, ENGLEBRIGHT, HYNDMAN, FERNANDEZ, RAJKUMAR, SEPTIMO, HEVESI, GIBBS, McDONALD, JACKSON, DE LOS SANTOS, NIOU, RAMOS, LUNSFORD, GLICK, GALEF, TAPIA, FAHY, PRETLOW, GONZALEZ-ROJAS, DAVILA, BRONSON, ABINANTI, SOLAGES, QUART, CUNNINGHAM, J. RIVERA, STIRPE -- read once and referred to the Committee on Election Law -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Election Law in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, 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, 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)".

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

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1 § 2. Sections 17-100 through 17-170 of article 17 of the election law  
2 are designated title 1 and a new title heading is added to read as  
3 follows:

4 VIOLATIONS OF THE ELECTIVE FRANCHISE

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

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

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

- 10 TITLE 2
- 11 JOHN R. LEWIS VOTING RIGHTS ACT OF NEW YORK
- 12 Section 17-200. Legislative purpose and statement of public policy.
- 13 17-202. Interpretation of laws related to elective franchise.
- 14 17-204. Definitions.
- 15 17-206. Rights of action.
- 16 17-208. Assistance for language-minority groups.
- 17 17-210. Preclearance commission.
- 18 17-212. Preclearance.
- 19 17-214. Right of action against voter intimidation, deception or
- 20 obstruction.
- 21 17-216. Authority to issue subpoenas.
- 22 17-218. Expedited judicial proceedings and preliminary relief.
- 23 17-220. Attorneys' fees.
- 24 17-222. Applicability.
- 25 17-224. Severability.

26 § 17-200. Legislative purpose and statement of public policy. In  
27 recognition of the protections for the right to vote provided by the  
28 constitution of the state of New York, which substantially exceed the  
29 protections for the right to vote provided by the constitution of the  
30 United States, and in conjunction with the constitutional guarantees of  
31 equal protection, freedom of expression, and freedom of association  
32 under the law and against the denial or abridgement of the voting rights  
33 of members of a race, color, or language-minority group, it is the  
34 public policy of the state of New York to:

- 35 1. Encourage participation in the elective franchise by all eligible
- 36 voters to the maximum extent; and
- 37 2. Ensure that eligible voters who are members of racial, color, and
- 38 language-minority groups shall have an equal opportunity to participate
- 39 in the political processes of the state of New York, and especially to
- 40 exercise the elective franchise.

41 § 17-202. Interpretation of laws related to elective franchise. In  
42 further recognition of the protections for the right to vote provided by  
43 the constitution of the state of New York, statutes, rules and regu-  
44 lations, and local laws or ordinances related to the elective franchise  
45 shall be construed liberally in favor of (a) protecting the right to  
46 cast an effective ballot; (b) ensuring that eligible voters are not  
47 impaired in registering to vote or voting including having their votes  
48 counted, and (c) ensuring equitable access with regard to race, color,  
49 and language-minority groups to opportunities to register to vote and to  
50 vote. The authority to prescribe or maintain voting or elections poli-  
51 cies and practices cannot be so exercised as to unnecessarily deny or  
52 abridge the right to vote. Policies and practices that burden the right

1 to vote must be narrowly tailored to promote a compelling policy justifi-  
2 fication that must be supported by substantial evidence.

3 § 17-204. Definitions. For the purposes of this title:

4 1. "At-large" method of election means a method of electing members to  
5 the governing body of a political subdivision: (a) in which all of the  
6 voters of the entire political subdivision elect each of the members to  
7 the governing body; (b) in which the candidates are required to reside  
8 within given areas of the political subdivision and all of the voters of  
9 the entire political subdivision elect each of the members to the  
10 governing body; or (c) that combines at-large elections with district-  
11 based elections, unless the only member of the governing body of a poli-  
12 tical subdivision elected at-large holds exclusively executive responsi-  
13 bilities. At-large method of election does not include ranked-choice  
14 voting, cumulative voting, and limited voting.

15 2. "District-based" method of election means a method of electing  
16 members to the governing body of a political subdivision using a  
17 districting or redistricting plan in which each member of the governing  
18 body resides within a district or ward that is a divisible part of the  
19 political subdivision and is elected only by voters residing within that  
20 district or ward, except for a member of the governing body that holds  
21 exclusively executive responsibilities.

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

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

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

33 6. "Racially polarized voting" means voting in which there is a  
34 difference in the candidate or electoral choice preferred by members in  
35 a protected class, and the candidate or electoral choice preferred by  
36 the rest of the electorate. The methodologies for estimating group  
37 voting behavior as approved in applicable federal cases to enforce the  
38 federal voting rights act to establish racially polarized voting may be  
39 used for purposes of this subdivision to prove that elections are char-  
40 acterized by racially polarized voting, but those methodologies shall  
41 not be the exclusive means of proving racially polarized voting.

42 7. "Federal voting rights act" means the federal Voting Rights Act of  
43 1965, 52 U.S.C. § 10301 et seq.

44 8. The "civil rights bureau" means the civil rights bureau of the  
45 office of the attorney general.

46 9. "Government enforcement action" means a denial of administrative or  
47 judicial preclearance by the state or federal government, pending liti-  
48 gation filed by a federal or state entity, a final judgment or adjudi-  
49 cation, a consent decree, or similar formal action.

50 10. "Preclearance commission" means the commission formed by this  
51 title to make determinations as to preclearance, informed by the recom-  
52 mendations of the civil rights bureau.

53 11. "Deceptive or fraudulent device, contrivance, or communication"  
54 means one that contains false information pertaining to: (a) the time,  
55 place, and manner of any election; (b) the qualifications or  
56 restrictions on voter eligibility for such election; or (c) a statement

1 of endorsement by any specifically named person, political party, or  
2 organization.

3 § 17-206. Rights of action. 1. Right of action against voter  
4 suppression. (a) No voting qualification, prerequisite to voting, law,  
5 ordinance, standard, practice, procedure, regulation, or policy shall be  
6 enacted or implemented by any board of elections or political subdivi-  
7 sion in a manner that results in a denial or abridgement of the right of  
8 any member of a protected class to vote.

9 (b) A violation is established if, based on the totality of the  
10 circumstances, the ability of members of the protected class to elect  
11 candidates of their choice or influence the outcome of elections is  
12 impaired.

13 (c) For political subdivisions where either the primary or general  
14 election is held on a date that is not concurrent with the primary or  
15 general election dates for state, county, or city office as established  
16 in section eight of article three or section eight of article thirteen  
17 of the constitution, and in state law, there shall be a presumption that  
18 the date of election results in the denial or abridgement of the right  
19 to vote where, for any protected class consisting of at least twenty-  
20 five thousand citizens of voting age or whose members comprise at least  
21 ten percent of the citizen voting age population, the percent of members  
22 of that protected class that are actual voters is at least twenty-five  
23 percent lower than the percent of citizens of voting age that are not  
24 members of that protected class that are actual voters.

25 2. Right of action against vote dilution. (a) A method of election,  
26 including at-large, district-based, or alternative, shall not have the  
27 effect of impairing the ability of members of a protected class to elect  
28 candidates of their choice or influence the outcome of elections, as a  
29 result of the dilution or the abridgment of the rights of members of the  
30 protected class.

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

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

38 (ii) established if a political subdivision uses a district-based or  
39 alternative method of election and it is shown that candidates or elec-  
40 toral choices preferred by members of the protected class would usually  
41 be defeated, and either: (A) voting patterns of members of the protected  
42 class within the political subdivision are racially polarized; or (B)  
43 under the totality of the circumstances, the ability of members of the  
44 protected class to elect candidates of their choice or influence the  
45 outcome of elections is impaired; or

46 (c) In assessing whether voting patterns of members of the protected  
47 class within the political subdivision are racially polarized or whether  
48 candidates or electoral choices preferred by members of the protected  
49 class would usually be defeated: (i) elections conducted prior to the  
50 filing of an action pursuant to this subdivision are more probative than  
51 elections conducted after the filing of the action; (ii) evidence  
52 concerning elections for members of the governing body of the political  
53 subdivision are more probative than evidence concerning other elections;  
54 (iii) statistical evidence is more probative than non-statistical  
55 evidence; (iv) where there is evidence that more than one protected  
56 class of eligible voters are politically cohesive in the political

1 subdivision, members of each of those protected classes may be combined;  
2 (v) evidence concerning the intent on the part of the voters, elected  
3 officials, or the political subdivision to discriminate against a  
4 protected class is not required; (vi) evidence that voting patterns and  
5 election outcomes could be explained by factors other than racially  
6 polarized voting, including but not limited to partisanship, shall not  
7 be considered; (vii) evidence that sub-groups within a protected class  
8 have different voting patterns shall not be considered; (viii) evidence  
9 concerning whether members of a protected class are geographically  
10 compact or concentrated shall not be considered, but may be a factor in  
11 determining an appropriate remedy; and (ix) evidence concerning project-  
12 ed changes in population or demographics shall not be considered, but  
13 may be a factor, in determining an appropriate remedy.

14 3. Evaluation of totality of the circumstances. In assessing whether,  
15 under the totality of the circumstances, the ability of members of the  
16 protected class to elect candidates of their choice or influence the  
17 outcome of elections is impaired without a compelling policy justifica-  
18 tion, factors that may be considered shall include, but not be limited  
19 to: (a) the history of discrimination in the political subdivision,  
20 geographic region, or the state; (b) the extent to which members of the  
21 protected class have been elected to office in the political subdivi-  
22 sion; (c) the use of any voting qualification, prerequisite to voting,  
23 law, ordinance, standard, practice, procedure, regulation, or policy  
24 that may enhance the dilutive effects of the election scheme; (d) denial  
25 of access of either eligible voters or candidates who are members of the  
26 protected class to those processes determining which groups of candi-  
27 dates will receive access to the ballot, financial support, or other  
28 support in a given election; (e) the extent to which members of the  
29 protected class contribute to political campaigns at lower rates; (f)  
30 the extent to which members of a protected class in the state or poli-  
31 tical subdivision vote at lower rates than other members of the elector-  
32 ate; (g) the extent to which members of the protected class are disad-  
33 vantaged in areas including but not limited to education, employment,  
34 health, criminal justice, housing, land use, or environmental  
35 protection; (h) the extent to which members of the protected class are  
36 disadvantaged in other areas which may hinder their ability to partic-  
37 ipate effectively in the political process; (i) the use of overt or  
38 subtle racial appeals in political campaigns; (j) a significant lack of  
39 responsiveness on the part of elected officials to the particularized  
40 needs of members of the protected class; and (k) whether the political  
41 subdivision has a compelling policy justification that is substantiated  
42 and supported by evidence for adopting or maintaining the method of  
43 election or the voting qualification, prerequisite to voting, law, ordi-  
44 nance, standard, practice, procedure, regulation, or policy. No factor  
45 is dispositive or necessary to establish the existence of racially  
46 polarized voting. Evidence of these factors concerning the state,  
47 private actors, or other political subdivisions in the geographic region  
48 may be considered but is less probative than evidence concerning the  
49 political subdivision itself.

50 4. Standing. Any aggrieved person, organization whose membership  
51 includes or is likely to include aggrieved persons, organization whose  
52 mission would be frustrated by a violation of this section, organization  
53 that would expend resources in order to fulfill its mission as a result  
54 of a violation of this section, or the attorney general may file an  
55 action pursuant to this section in the supreme court of the county in  
56 which the political subdivision is located.

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

5 (i) a district-based method of election;  
6 (ii) an alternative method of election;  
7 (iii) new or revised districting or redistricting plans;  
8 (iv) elimination of staggered elections so that all members of the  
9 governing body are elected on the same date;  
10 (v) reasonably increasing the size of the governing body;  
11 (vi) moving the dates of elections to be concurrent with the primary  
12 or general election dates for state, county, or city office as estab-  
13 lished in section eight of article three or section eight of article  
14 thirteen of the constitution;  
15 (vii) transferring authority for conducting the political subdivi-  
16 sion's elections to the board of elections for the county in which the  
17 political subdivision is located;  
18 (viii) additional voting hours or days;  
19 (ix) additional polling locations;  
20 (x) additional means of voting such as voting by mail;  
21 (xi) ordering of special elections;  
22 (xii) requiring expanded opportunities for voter registration;  
23 (xiii) requiring additional voter education;  
24 (xiv) modifying the election calendar;  
25 (xv) the restoration or addition of persons to registration lists; or  
26 (xvi) retaining jurisdiction for such period of time on a given matter  
27 as the court may deem appropriate, during which no redistricting plan  
28 shall be enforced unless and until the court finds that such plan does  
29 not have the purpose of diluting the right to vote on the basis of  
30 protected class membership, or in contravention of the voting guarantees  
31 set forth in this title, except that the court's finding shall not bar a  
32 subsequent action to enjoin enforcement of such redistricting plan.

33 (b) The court shall only adopt a remedy that will not diminish the  
34 ability of protected class members to participate in the political proc-  
35 ess and to elect their preferred candidates to office. The court shall  
36 consider proposed remedies by any parties and interested non-parties,  
37 and shall not provide deference or priority to a proposed remedy because  
38 it is proposed by the political subdivision. This title gives the court  
39 authority to implement remedies notwithstanding any other provision of  
40 law, including any other state or local law.

41 6. Procedures for implementing new or revised districting or redis-  
42 tricting plans. The governing body of a political subdivision with the  
43 authority under this title and all applicable state and local laws to  
44 enact and implement a new method of election that will replace the poli-  
45 tical subdivision's at-large method of election with a district-based or  
46 alternative method of election, or enact and implement a new districting  
47 or redistricting plan, shall undertake each of the steps enumerated in  
48 this subdivision, if proposed subsequent to receipt of a NYVRA notifica-  
49 tion letter, as defined in subdivision seven of this section, or the  
50 filing of a claim pursuant to this title or the federal voting rights  
51 act.

52 (a) Before drawing a draft districting or redistricting plan or plans  
53 of the proposed boundaries of the districts, the political subdivision  
54 shall hold at least two public hearings over a period of no more than  
55 thirty days, at which the public is invited to provide input regarding  
56 the composition of the districts. Before these hearings, the political

1 subdivision may conduct outreach to the public, including to non-Engl-  
2 ish-speaking communities, to explain the districting or redistricting  
3 process and to encourage public participation.

4 (b) After all draft districting or redistricting plans are drawn, the  
5 political subdivision shall publish and make available for release at  
6 least one draft districting or redistricting plan and, if members of the  
7 governing body of the political subdivision will be elected in their  
8 districts at different times to provide for staggered terms of office,  
9 the potential sequence of the elections. The political subdivision shall  
10 also hold at least two additional hearings over a period of no more than  
11 forty-five days, at which the public is invited to provide input regard-  
12 ing the content of the draft districting or redistricting plan or plans  
13 and the proposed sequence of elections, if applicable. The draft  
14 districting or redistricting plan or plans shall be published at least  
15 seven days before consideration at a hearing. If the draft districting  
16 or redistricting plan or plans are revised at or following a hearing,  
17 the revised versions shall be published and made available to the public  
18 for at least seven days before being adopted.

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

25 7. Notification requirement and safe harbor for judicial actions.  
26 Before commencing a judicial action against a political subdivision  
27 under this section, a prospective plaintiff shall send by certified mail  
28 a written notice to the clerk of the political subdivision, or, if the  
29 political subdivision does not have a clerk, the governing body of the  
30 political subdivision, against which the action would be brought,  
31 asserting that the political subdivision may be in violation of this  
32 title. This written notice shall be referred to as a "NYVRA notification  
33 letter" in this title. For actions against a school district or any  
34 other political subdivision that holds elections governed by the educa-  
35 tion law, the prospective plaintiff shall also send by certified mail a  
36 copy of the NYVRA notification letter to the commissioner of education.

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

40 (b) Before receiving a NYVRA notification letter, or within fifty days  
41 of mailing of a NYVRA notification letter, the governing body of a poli-  
42 tical subdivision may pass a resolution affirming: (i) the political  
43 subdivision's intention to enact and implement a remedy for a potential  
44 violation of this title; (ii) specific steps it will undertake to facil-  
45 itate approval and implementation of such a remedy; and (iii) a schedule  
46 for enacting and implementing such a remedy. Such a resolution shall be  
47 referred to as a "NYVRA resolution" in this title. If a political subdi-  
48 vision passes a NYVRA resolution, a prospective plaintiff shall not  
49 commence an action to enforce this section against the political subdi-  
50 vision within ninety days of the resolution's passage. For actions  
51 against a school district, the commissioner of education may order the  
52 enactment of an NYVRA resolution pursuant to the commissioner's authori-  
53 ty under section three hundred five of the education law.

54 (c) If the governing body of a political subdivision lacks the author-  
55 ity under this title or applicable state law or local laws to enact or  
56 implement a remedy identified in a NYVRA resolution within ninety days

1 after the passage of the NYVRA resolution, or if the political subdivi-  
2 sion is a covered entity as defined under section 17-212 of this title,  
3 the governing body of the political subdivision may undertake the steps  
4 enumerated in the following provisions upon passage of a NYVRA resol-  
5 ution:

6 (i) The governing body of the political subdivision may approve a  
7 proposed remedy that complies with this title and submit such a proposed  
8 remedy to the preclearance commission. Such a submission shall be  
9 referred to as a "NYVRA proposal" in this title.

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

15 (iii) Within forty-five days of receipt of a NYVRA proposal, the civil  
16 rights bureau shall submit a report and recommendation to the preclear-  
17 ance commission as to whether the preclearance commission should grant  
18 or deny approval of the NYVRA proposal.

19 (iv) Within sixty days of receipt of a NYVRA proposal, the preclear-  
20 ance commission shall either grant or deny approval of the NYVRA  
21 proposal.

22 (v) The preclearance commission shall only grant approval to the NYVRA  
23 proposal if it concludes that: (A) the political subdivision may be in  
24 violation of this title; (B) the NYVRA proposal would remedy any poten-  
25 tial violation of this title; (C) the NYVRA proposal is unlikely to  
26 violate the constitution or any federal law; (D) the NYVRA proposal will  
27 not diminish the ability of protected class members to participate in  
28 the political process and to elect their preferred candidates to office;  
29 and (E) implementation of the NYVRA proposal is feasible. The preclear-  
30 ance commission may grant approval to the NYVRA proposal notwithstanding  
31 any other provision of law, including any other state or local law.

32 (vi) If the preclearance commission grants approval, the NYVRA  
33 proposal shall be enacted and implemented immediately, notwithstanding  
34 any other provision of law, including any other state or local law. If  
35 the political subdivision is a covered entity as defined under section  
36 17-212 of this title, there shall be no need for the political subdivi-  
37 sion to also obtain preclearance for the NYVRA proposal pursuant to such  
38 section.

39 (vii) If the preclearance commission denies approval, the NYVRA  
40 proposal shall not be enacted or implemented. The preclearance commis-  
41 sion shall interpose objections explaining its basis and may, in its  
42 discretion, indicate another NYVRA proposal for which it would grant  
43 approval.

44 (viii) If the preclearance commission does not respond, the NYVRA  
45 proposal shall not be enacted or implemented.

46 (d) A political subdivision that has passed a NYVRA resolution may  
47 enter into an agreement with a prospective plaintiff who sends a NYVRA  
48 notification letter providing that such a prospective plaintiff shall  
49 not commence an action to enforce this section against the political  
50 subdivision for an additional ninety days. This written agreement may be  
51 referred to as a "NYVRA extension agreement". The NYVRA extension agree-  
52 ment shall include a requirement that either the political subdivision  
53 shall enact and implement a remedy that complies with this title or the  
54 political subdivision shall pass a NYVRA proposal and submit it to the  
55 civil rights bureau.



1 (e) If, pursuant to a process commenced by a NYVRA notification  
2 letter, a political subdivision enacts or implements a remedy or the  
3 civil rights bureau grants approval to a NYVRA proposal, a prospective  
4 plaintiff who sent the NYVRA notification letter may, within thirty days  
5 of the enactment or implementation of the remedy or approval of the  
6 NYVRA proposal, demand reimbursement for the cost of the work product  
7 generated to support the NYVRA notification letter. A prospective plain-  
8 tiff shall make the demand in writing and shall substantiate the demand  
9 with financial documentation, such as a detailed invoice for demography  
10 services or for the analysis of voting patterns in the political subdi-  
11 vision. A political subdivision may request additional documentation if  
12 the provided documentation is insufficient to corroborate the claimed  
13 costs. A political subdivision shall reimburse a prospective plaintiff  
14 for reasonable costs claimed, or in an amount to which the parties mutu-  
15 ally agree. The cumulative amount of reimbursements to all prospective  
16 plaintiffs, except for actions brought by the attorney general, shall  
17 not exceed forty-three thousand dollars, as adjusted annually to the  
18 consumer price index for all urban consumers, United States city aver-  
19 age, as published by the United States department of labor. To the  
20 extent a prospective plaintiff who sent the NYVRA notification letter  
21 and a political subdivision are unable to come to a mutual agreement,  
22 either party may file a declaratory judgment action to obtain a clarifi-  
23 cation of rights.

24 (f) Notwithstanding the provisions of this subdivision, if the first  
25 day for designating petitions for a political subdivision's next regular  
26 election to select members of its governing board has begun or is sched-  
27 uled to begin within thirty days, or if a political subdivision is sche-  
28 duled to conduct any election within one hundred twenty days, a plain-  
29 tiff alleging any violation of this title may commence a judicial action  
30 against a political subdivision under this section, provided that the  
31 relief sought by such a plaintiff includes preliminary relief for that  
32 election. Prior to or concurrent with commencing such a judicial action,  
33 any such plaintiff shall also submit a NYVRA notification letter to the  
34 political subdivision. If a judicial action commenced under this  
35 provision is withdrawn or dismissed for mootness because the political  
36 subdivision has enacted or implemented a remedy or the civil rights  
37 bureau has granted approval of a NYVRA proposal pursuant to a process  
38 commenced by a NYVRA notification letter, any such plaintiff may only  
39 demand reimbursement pursuant to this subdivision.

40 8. Coalition claims permitted. Members of different protected classes  
41 may file an action jointly pursuant to this chapter if they demonstrate  
42 that the combined voting preferences of the multiple protected classes  
43 are polarized against the rest of the electorate.

44 § 17-208. Assistance for language-minority groups. 1. Political subdi-  
45 visions required to provide language assistance. A board of elections or  
46 a political subdivision that administers elections shall provide  
47 language-related assistance in voting and elections to a language-minor-  
48 ity group in a political subdivision if, based on data from the American  
49 community survey, or data of comparable quality collected by a public  
50 office, that:

51 (a) more than two percent, but in no instance fewer than three hundred  
52 individuals, of the citizens of voting age of a political subdivision  
53 are members of a single language-minority group and are limited English  
54 proficient.

1 (b) more than four thousand of the citizens of voting age of such  
2 political subdivision are members of a single language-minority group  
3 and are limited English proficient.

4 (c) in the case of a political subdivision that contains all or any  
5 part of a Native American reservation, more than two percent of the  
6 Native American citizens of voting age within the Native American reser-  
7 vation are members of a single language-minority group and are limited  
8 English proficient. For the purposes of this paragraph, "Native Ameri-  
9 can" is defined to include any persons recognized by the United States  
10 census bureau or New York as "American Indian" or "Alaska Native".

11 2. Language assistance to be provided. When it is determined that a  
12 board of elections or political subdivision shall provide language  
13 assistance to a particular minority group, such board of elections or  
14 political subdivision shall provide voting materials in the covered  
15 language of an equal quality of the corresponding English language mate-  
16 rials, including registration or voting notices, forms, instructions,  
17 assistance, or other materials or information relating to the electoral  
18 process, including ballots. Whenever any such board of elections or  
19 political subdivision provides any registration or voting notices,  
20 forms, instructions, assistance, or other materials or information  
21 relating to the electoral process, including ballots, in a covered poli-  
22 tical subdivision, it shall provide them in the language of the applica-  
23 ble minority group as well as in the English language, provided that  
24 where the language of the applicable minority group is oral or unwritten  
25 or in the case of some American Indians, if the predominant language is  
26 historically unwritten, the board of elections or political subdivision  
27 is only required to furnish oral instructions, assistance, or other  
28 information relating to registration and voting.

29 3. Action for declaratory judgment for English-only voting materials.  
30 A board of elections or political subdivision that shall provide  
31 language assistance to a particular minority group, which seeks to  
32 provide English-only materials may file an action against the state for  
33 a declaratory judgment permitting such provision. The court shall grant  
34 the requested relief if it finds that the determination was unreasonable  
35 or an abuse of discretion.

36 4. Standing. Any aggrieved persons, organization whose membership  
37 includes or is likely to include aggrieved persons, organization whose  
38 mission would be frustrated by a violation of this section, organization  
39 that would expend resources in order to fulfill its mission as a result  
40 of a violation of this section, or the attorney general may file an  
41 action pursuant to this section in the supreme court of the county in  
42 which the alleged violation of this section occurred.

43 5. This section shall not apply to special districts as defined by  
44 section one hundred two of the real property tax law.

45 § 17-210. Preclearance commission. 1. Preclearance commission. There  
46 is hereby established within the department of law, a preclearance  
47 commission. Such entity shall be responsible for making determinations  
48 on preclearance and other matters as enumerated under this title. Such  
49 determinations shall be based upon the provisions of this title and the  
50 recommendations of the civil rights bureau. This commission shall here-  
51 inafter be referred to as the "preclearance commission" or "commission"  
52 in this title. The commission shall operate and maintain a website for  
53 posting preclearance submissions and decisions to ensure that they are  
54 accessible to the public.

55 2. Preclearance commission structure and membership. (a) The commis-  
56 sion shall consist of three members to be selected as set forth in this

1 section and shall have and exercise the powers and duties set forth in  
2 this title.

3 (b) The governor shall select one member, and the attorney general  
4 shall select one member. Upon their selection both members shall therein  
5 jointly select one member to serve on such commission.

6 (c) To be eligible to serve as a member of the commission an individ-  
7 ual must:

8 (i) be a resident of New York state;

9 (ii) have demonstrated experience representing or working on behalf of  
10 members of protected classes, as defined in this title;

11 (iii) have experience working with members of protected classes, as  
12 defined in this title, in voting in elections in the state of New York,

13 (d) No individual shall be eligible to serve as a member of the  
14 commission who:

15 (i) is currently serving in any elected governmental office or has  
16 within the last five years served in any elected governmental office;

17 (ii) is currently serving on any board of elections; or

18 (iii) is currently holding any official position for a political  
19 party.

20 (e) Members of the commission shall serve staggered terms. The first  
21 member shall be chosen by the attorney general and shall serve a term of  
22 five years, the second member shall be chosen by the governor and shall  
23 serve a term of four years and the third member chosen by the first two  
24 members shall serve a term of three years. All subsequent members of  
25 the commission shall be selected and appointed as described in this  
26 section and shall serve a term of five years, unless selected and  
27 appointed to complete a vacant term.

28 (f) The commission by a majority vote shall elect a chairperson from  
29 among its members to preside over its meetings, other proceedings, and  
30 votes. The chairperson shall serve a one year term.

31 (g) A majority of the members of the commission, conferring in person,  
32 telephonically, by videoconference, or by other means as agreed by the  
33 commission, shall constitute a quorum, and the commission shall have the  
34 power to act by majority vote of the total number of members of the  
35 commission without vacancy.

36 (h) Members of the commission shall be reimbursed for all reasonable  
37 and necessary expenses incurred in the performance of their duties.

38 (i) Members of the commission may be removed for cause by majority  
39 vote of the commission for substantial neglect of duty, misconduct in  
40 office, or inability to discharge the powers or duties of office, after  
41 written notice and opportunity for a reply.

42 (j) Any vacancy occurring on the commission shall be filled within  
43 thirty days of its occurrence, by those who selected the member in such  
44 seat, to complete the vacant term.

45 (k) Nothing in this article shall prevent a member from serving a  
46 second consecutive term unless such person has previously been removed  
47 for cause from said commission.

48 § 17-212. Preclearance. 1. Preclearance. To ensure that the right to  
49 vote is not denied or abridged on account of race, color, or language-  
50 minority group, as a result of the enactment or implementation of a  
51 covered policy, as defined in subdivision two of this section, after the  
52 effective date of this section, the enactment or implementation of a  
53 covered policy by a covered entity, as defined in subdivision three of  
54 this section, shall be subject to preclearance by the civil rights  
55 bureau or by a designated court as set forth in this section.

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

5 (a) Method of election;

6 (b) Form of government;

7 (c) Annexation of a political subdivision;

8 (d) Incorporation of a political subdivision;

9 (e) Consolidation or division of political subdivisions;

10 (f) Removal of voters from enrollment lists or other list maintenance  
11 activities;

12 (g) Number, location, or hours of any election day or early voting  
13 poll site;

14 (h) Dates of elections and the election calendar, except with respect  
15 to special elections;

16 (i) Registration of voters;

17 (j) Assignment of election districts to election day or early voting  
18 poll sites;

19 (k) Assistance offered to members of a language-minority group; and

20 (l) The civil rights bureau may designate additional topics for inclu-  
21 sion in this list pursuant to a rule promulgated under the state admin-  
22 istrative procedure act, if it determines that a new or modified voting  
23 qualification, prerequisite to voting, law, ordinance, standard, prac-  
24 tice, procedure, regulation, or policy concerning such topics may have  
25 the effect of denying or abridging the right to vote on account of race,  
26 color, or language-minority group.

27 3. Covered entity. A "covered entity" shall include: (a) any political  
28 subdivision which, within the previous twenty-five years, has become  
29 subject to a court order or government enforcement action based upon a  
30 finding of any violation of this title, the federal voting rights act,  
31 the fifteenth amendment to the United States constitution, or a voting-  
32 related violation of the fourteenth amendment to the United States  
33 constitution; (b) any political subdivision which, within the previous  
34 twenty-five years, has become subject to at least three court orders or  
35 government enforcement actions based upon a finding of any violation of  
36 any state or federal civil rights law or the fourteenth amendment to the  
37 United States constitution concerning discrimination against members of  
38 a protected class; (c) any county in which, based on data provided by  
39 the division of criminal justice services, the combined misdemeanor and  
40 felony arrest rate of members of any protected class consisting of at  
41 least ten thousand citizens of voting age or whose members comprise at  
42 least ten percent of the citizen voting age population of the county,  
43 exceeds the proportion that the protected class constitutes of the citi-  
44 zen voting age population of the county as a whole by at least twenty  
45 percent at any point within the previous ten years; or (d) any political  
46 subdivision in which, based on data made available by the United States  
47 census, the dissimilarity index of any protected class consisting of at  
48 least twenty-five thousand citizens of voting age or whose members  
49 comprise at least ten percent of the citizen voting age population of  
50 the political subdivision, is in excess of fifty with respect to non-  
51 Hispanic white citizens of voting age within the political subdivision  
52 at any point within the previous ten years. If any covered entity is a  
53 political subdivision in which a board of elections has been estab-  
54 lished, that board of elections shall also be deemed a covered entity.  
55 If any political subdivision in which a board of elections has been  
56 established contains a covered entity fully within its borders, that

1 political subdivision and that board of elections shall both be deemed a  
2 covered entity.

3 4. Preclearance by the attorney general and the preclearance commis-  
4 sion. A covered entity may obtain preclearance for a covered policy from  
5 the preclearance commission pursuant to the following process:

6 (a) The covered entity shall submit the covered policy in writing to  
7 the preclearance commission and the civil rights bureau. If the covered  
8 entity is a county or city board of elections, it shall contemporaneous-  
9 ly provide a copy of the covered policy to the state board of elections.

10 (b) Upon submission of a covered policy for preclearance, as soon as  
11 practicable but no later than within ten days, the commission shall  
12 publish the submission on its website.

13 (c) After publication of a submission, there shall be an opportunity  
14 for members of the public to comment on the submission to the civil  
15 rights bureau within the time periods set forth below. To facilitate  
16 public comment, the commission shall provide an opportunity for members  
17 of the public to sign up to receive notifications or alerts regarding  
18 submission of a covered policy for preclearance.

19 (d) Upon submission of a covered policy for preclearance, the civil  
20 rights bureau shall review the submission and shall, within the time  
21 periods set forth below, provide a report and recommendation to the  
22 commission, which shall include a recommendation as to whether, under  
23 this title, preclearance should be granted or denied to the covered  
24 policy. Such time period shall run concurrent with the time periods for  
25 public comment. The civil rights bureau may not submit its report and  
26 recommendation until the period for public comment is closed. The civil  
27 rights bureau may request more information from a jurisdiction submit-  
28 ting a covered policy at any time during its review to aid in developing  
29 its report and recommendation. The failure to timely comply with reason-  
30 able requests for more information may be grounds for the denial of  
31 preclearance. The civil rights bureau's reports and recommendation shall  
32 be posted publicly on the preclearance commission's website promptly  
33 after they are received by the commission. Provided, however, such  
34 communications between the civil rights bureau and the commission or its  
35 members other than the civil rights bureau's report and recommendation  
36 shall be exempt from public disclosure under article six of the public  
37 officers law. The civil rights bureau may instead opt to grant or deny  
38 preclearance directly without sending a recommendation to the commis-  
39 sion.

40 (e) Upon receipt of the civil rights bureau's report and recommenda-  
41 tion regarding a covered policy submitted for preclearance, the  
42 preclearance commission shall review the covered policy, the civil  
43 rights bureau's report and recommendation, and any public comment, and  
44 shall, within the time periods set forth below, deny or grant preclear-  
45 ance. In determining whether to deny or grant preclearance, the commis-  
46 sion shall give deference to the civil rights bureau's recommendation  
47 under an "arbitrary and capricious" standard of review. In any determi-  
48 nation as to preclearance, the commission shall identify in writing  
49 whether it is approving or rejecting the civil rights bureau's recommen-  
50 dation. If the preclearance commission grants preclearance, it may, in  
51 its discretion, designate preclearance as "preliminary" in which case  
52 the commission may deny preclearance within sixty days following the  
53 receipt of submission of the covered policy.

54 (i) The commission shall grant preclearance only if it determines,  
55 upon review of the civil rights bureau's recommendation, that the  
56 covered policy will not diminish the ability of protected class members

1 to participate in the political process and to elect their preferred  
2 candidates to office. If the commission grants preclearance, the covered  
3 entity may enact or implement the covered policy immediately.

4 (ii) If the commission denies preclearance, the commission shall  
5 interpose objections explaining its basis and the covered policy shall  
6 not be enacted or implemented.

7 (iii) If the commission fails to respond within the time for response  
8 as established in this section, the civil rights bureau's recommendation  
9 on the covered policy shall govern.

10 (iv) If the commission's membership falls below a quorum at any time,  
11 or during any time period that may elapse between the effective date of  
12 this section and the establishment of a quorum on the commission, the  
13 civil rights bureau's recommendation as to whether preclearance should  
14 be granted or denied shall have the force of final preclearance determi-  
15 nation until the commission's quorum is established or restored.

16 (f) The time periods for public comment, civil rights bureau review,  
17 and the decision of the commission to grant or deny preclearance on  
18 submission shall be as follows:

19 (i) For any covered policy concerning the designation or selection of  
20 poll sites or the assignment of election districts to poll sites, wheth-  
21 er for election day or early voting, the period for public comment shall  
22 be five business days. The civil rights bureau shall submit its report  
23 and recommendation to the commission within ten days following the  
24 receipt of such submission and a single commissioner, assigned on a  
25 rotating basis, shall review the submission, the civil rights bureau's  
26 recommendation, and any public comment. Within five days such commis-  
27 sioner shall, either: (A) approve the civil rights bureau's recommenda-  
28 tion; or (B) refer the submission and the civil rights bureau's recom-  
29 mendation to the full commission for a determination as to whether  
30 preclearance shall be denied or granted.

31 (ii) Upon a showing of good cause, the civil rights bureau may receive  
32 an extension of up to twenty days to submit its report and recommenda-  
33 tion to the commission. If the commissioner initially assigned refers  
34 the submission and the civil rights bureau's recommendation to the  
35 commission for a determination, the commission shall deny or grant  
36 preclearance within five days from the date of referral.

37 (iii) For any other covered policy, the period for public comment  
38 shall be ten business days, the civil rights bureau shall submit its  
39 report and recommendation to the commission within forty days, and a  
40 single commissioner, assigned on a rotating basis, shall review the  
41 submission, the civil rights bureau's recommendation, and any public  
42 comment, and shall, within five days, either: (A) approve the civil  
43 rights bureau's recommendation; or (B) refer the submission and the  
44 civil rights bureau's recommendation to the commission for a determi-  
45 nation as to whether preclearance shall be denied or granted. If the  
46 commissioner initially assigned refers the submission and the civil  
47 rights bureau's recommendation to the commission for a determination,  
48 the commission shall deny or grant preclearance within ten days from the  
49 date of referral. In consultation with the civil rights bureau, the  
50 commission may invoke up to two extensions of ninety days each.

51 (iv) The civil rights bureau is hereby authorized to promulgate rules  
52 for an expedited, emergency preclearance process in the event of a  
53 covered policy occurring during or imminently preceding an election as a  
54 result of any disaster within the meaning of section 3-108 of this chap-  
55 ter or other exigent circumstances. Any preclearance granted under this

1 provision shall be designated "preliminary" and the commission may deny  
2 preclearance within sixty days following receipt of the covered policy.

3 (g) Appeal of any denial by the preclearance commission may be heard  
4 in the supreme court for the county of New York or the county of Albany  
5 in a proceeding commenced against the commission, pursuant to article  
6 seventy-eight of the civil practice law and rules, from which appeal may  
7 be taken according to the ordinary rules of appellate procedure. Due to  
8 the frequency and urgency of elections, actions brought pursuant to this  
9 section shall be subject to expedited pretrial and trial proceedings and  
10 receive an automatic calendar preference on appeal.

11 5. Preclearance by a designated court. A covered entity may obtain  
12 preclearance for a covered policy from a court pursuant to the following  
13 process:

14 (a) The covered entity shall submit the covered policy in writing to  
15 the following designated court in the judicial department within which  
16 the covered entity is located: (i) first judicial department: New York  
17 county; (ii) second judicial department: Westchester county; (iii)  
18 third judicial department: Albany county; and (iv) fourth judicial  
19 department: Erie county. If the covered entity is a county or city  
20 board of elections, it shall contemporaneously provide a copy of the  
21 covered policy to the state board of elections.

22 (b) The covered entity shall contemporaneously provide a copy of the  
23 covered policy to the civil rights bureau. The failure of the covered  
24 entity to provide a copy of the covered policy to the civil rights  
25 bureau will result in an automatic denial of preclearance.

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

28 (d) The court shall grant preclearance only if it determines that the  
29 covered policy will not diminish the ability of protected class members  
30 to participate in the political process and to elect their preferred  
31 candidates to office. If the court grants preclearance, the covered  
32 entity may enact or implement the covered policy immediately.

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

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

40 6. Preclearance by public notice and comment. A covered entity may  
41 obtain preclearance for a covered policy through the use of a public  
42 notice and comment period pursuant to the following process:

43 (a) Prior to enacting or seeking to administer any covered policies  
44 under subdivision two of this section the covered entity shall publish  
45 the proposed covered policy change on its official website, along with  
46 an explanation for how the change would not diminish the ability of  
47 protected class members to participate in the political process and to  
48 elect their preferred candidates to office, and publish general notice  
49 of opportunity for public comment on the proposed covered practice. The  
50 covered entity shall also publicize the notice through press releases  
51 and such other media. The covered entity shall notify the civil rights  
52 bureau and the preclearance commission of its intent to use the notice  
53 and comment process to preclear a proposed change.

54 (b) Such notice shall be made at least forty-five days in advance of  
55 the last date prescribed in the notice for public comment.

1 (c) Public comment shall be accepted for a period of no fewer than  
2 thirty days. During this period, the covered entity shall afford inter-  
3 ested persons an opportunity to submit data, views, and arguments in  
4 writing by mail, fax, or email, or through an online public comment  
5 portal on the official website for the locality if one has been estab-  
6 lished.

7 (d) The covered entity shall conduct at least one public hearing  
8 during this period to receive public comment on the proposed covered  
9 practice.

10 (e) The covered entity may make changes to the proposed covered prac-  
11 tice in response to public comment received. In doing so, the revised  
12 covered practice shall be published and public comment shall be accepted  
13 in accordance with this subsection, except the public comment period  
14 shall be no fewer than fifteen days.

15 (f) Following the public comment period or periods prescribed, the  
16 covered entity shall publish the final covered practice, which shall  
17 include a plain English description of the practice and the text of an  
18 ordinance if applicable, giving effect to the practice, maps of proposed  
19 boundary changes, or other relevant materials, and notice that the  
20 covered practice will take effect in thirty days.

21 (g) During this thirty-day waiting period, any person who will be  
22 subject to, or affected by, the covered practice may challenge, in the  
23 supreme court of the locality where the covered practice is to be imple-  
24 mented, the covered practice as having the purpose or effect of dimin-  
25 ishing the ability of protected class members to participate in the  
26 political process and to elect their preferred candidates to office.

27 (h) The preclearance commission or the civil rights bureau may assert  
28 jurisdiction over the proposed change upon receiving notice of the  
29 covered entity's intent to use the notice and comment process any time  
30 before the close of the public comment period. A single member may  
31 assert jurisdiction.

32 7. Failure to seek or obtain preclearance. If any covered entity  
33 enacts or implements a covered policy without seeking preclearance  
34 pursuant to this section, or enacts or implements a covered policy  
35 notwithstanding the denial of preclearance, either the civil rights  
36 bureau or any other party with standing to bring an action under this  
37 title may bring an action to enjoin the covered policy and to seek sanc-  
38 tions against the political subdivision and officials in violation.

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

44 (b) The commission or civil rights bureau may only initiate a lookback  
45 review of covered policies that were enacted or implemented by a covered  
46 jurisdiction on or after the date on which this title takes effect and  
47 prior to the effective date of this section.

48 (c) In order to initiate a lookback review, the commission or civil  
49 rights bureau must provide notice to a covered entity of its decision to  
50 review a covered policy enacted or implemented by that covered entity.  
51 Upon receipt of such notice, the covered entity shall submit the covered  
52 policy in writing to the preclearance commission or civil rights bureau  
53 within thirty days.

54 (d) Upon receipt of a covered policy for lookback review, the commis-  
55 sion or civil rights bureau shall publish the submission on its website.  
56 The schedule and procedures for receiving public comment and evaluating



1 a submission through lookback review shall reflect the schedule and  
2 procedures provided by paragraph (f) of subdivision four of this  
3 section, based on the type of policy that is the subject of the  
4 submission.

5 9. Rules and regulations. The civil rights bureau may promulgate such  
6 rules and regulations pursuant to the state administrative procedure act  
7 as are necessary to effectuate the purposes of this section.

8 § 17-214. Right of action against voter intimidation, deception or  
9 obstruction. 1. (a) No person, whether acting under color of law or  
10 otherwise, may engage in acts of intimidation, deception, or obstruction  
11 that affects the right of voters to access the elective franchise.

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

13 (i) established if a person uses or threatens to use any force,  
14 violence, restraint, abduction or duress, or inflicts or threatens to  
15 inflict any injury, damage, harm or loss, or in any other manner prac-  
16 tices intimidation that causes or will reasonably have the effect of  
17 causing any person to vote or refrain from voting in general or for or  
18 against any particular person or for or against any proposition submit-  
19 ted to voters at such election; to place or refrain from placing their  
20 name upon a registry of voters; or to request or refrain from requesting  
21 an absentee ballot; or

22 (ii) established if a person knowingly uses any deceptive or fraudu-  
23 lent device, contrivance or communication, that impedes, prevents or  
24 otherwise interferes with the free exercise of the elective franchise by  
25 any person, or that causes or will reasonably have the effect of causing  
26 any person to vote or refrain from voting in general or for or against  
27 any particular person or for or against any proposition submitted to  
28 voters at such election; to place or refrain from placing their name  
29 upon a registry of voters; or to request or refrain from requesting an  
30 absentee ballot; or

31 (iii) established if a person obstructs, impedes, or otherwise inter-  
32 feres with access to any polling place or elections office, or  
33 obstructs, impedes, or otherwise interferes with any voter in any manner  
34 that causes or will reasonably have the effect of causing any delay in  
35 voting or the voting process, including the canvassing and tabulation of  
36 ballots.

37 2. Standing. Any aggrieved persons, organization whose membership  
38 includes or is likely to include aggrieved persons, organization whose  
39 mission would be frustrated by a violation of this section, organization  
40 that would expend resources in order to fulfill its mission as a result  
41 of a violation of this section, or the attorney general may file an  
42 action pursuant to this section in the supreme court of the county in  
43 which the alleged violation of this section occurred.

44 3. Remedies. Upon a finding of a violation of any provision of this  
45 section, the court shall implement appropriate remedies that are  
46 tailored to remedy the violation, including but not limited to providing  
47 for additional time to cast a ballot that may be counted in the election  
48 at issue. This title gives the court authority to implement remedies  
49 notwithstanding any other provision of state or local law, including any  
50 other state or local law. Any party who shall violate any of the  
51 provisions of the foregoing section or who shall aid the violation of  
52 any of said provisions shall be liable to any prevailing plaintiff party  
53 for damages, including nominal damages for any violation, and compensa-  
54 tory or punitive damages for any intentional violation.

55 § 17-216. Authority to issue subpoenas. In any action or investigation  
56 to enforce any provision of this title, the attorney general shall have

1 the authority to take proof and determine relevant facts and to issue  
2 subpoenas in accordance with the civil practice law and rules.

3 § 17-218. Expedited judicial proceedings and preliminary relief.  
4 Because of the frequency of elections, the severe consequences and irre-  
5 parable harm of holding elections under unlawful conditions, and the  
6 expenditure to defend potentially unlawful conditions that benefit  
7 incumbent officials, actions brought pursuant to this title shall be  
8 subject to expedited pretrial and trial proceedings and receive an auto-  
9 matic calendar preference. In any action alleging a violation of this  
10 section in which a plaintiff party seeks preliminary relief with respect  
11 to an upcoming election, the court shall grant relief if it determines  
12 that: (a) plaintiffs are more likely than not to succeed on the merits;  
13 and (b) it is possible to implement an appropriate remedy that would  
14 resolve the alleged violation in the upcoming election.

15 § 17-220. Attorneys' fees. In any action to enforce any provision of  
16 this title, the court shall allow the prevailing plaintiff party, other  
17 than the state or political subdivision thereof, a reasonable attorneys'  
18 fee, litigation expenses including, but not limited to, expert witness  
19 fees and expenses as part of the costs. A plaintiff will be deemed to  
20 have prevailed when, as a result of litigation, the defendant party  
21 yields much or all of the relief sought in the suit. Prevailing defend-  
22 ant parties shall not recover any costs, unless the court finds the  
23 action to be frivolous, unreasonable, or without foundation.

24 § 17-222. Applicability. The provisions of this title shall apply to  
25 all elections for any elected office or electoral choice within the  
26 state or any political subdivision. The provisions of this title shall  
27 apply notwithstanding any other provision of law, including any other  
28 state law or local law.

29 § 17-224. Severability. If any provision of this title or its applica-  
30 tion to any person, political subdivision, or circumstance is held  
31 invalid, the invalidity shall not affect other provisions or applica-  
32 tions of this title which can be given effect without the invalid  
33 provision or application, and to this end the provisions of this title  
34 are severable.

35 § 5. This act shall take effect immediately; provided, however, that  
36 paragraph (c) of subdivision seven of section 17-206 of the election law  
37 as added by section four of this act shall take effect one year after it  
38 shall have become a law; and provided further, however, that section  
39 17-208 of the election law as added by section four of this act shall  
40 take effect three years after it shall have become a law; and provided  
41 further, however, that section 17-212 of the election law, as added by  
42 section four of this act, shall take effect one year after the attorney  
43 general certifies that the office of the attorney general is prepared to  
44 execute the duties assigned in section four of this act, if after the  
45 expiration of one year the attorney general requires more time to certi-  
46 fy that the office of the attorney general is prepared to execute the  
47 duties assigned in section four of this act, the attorney general, may,  
48 for good cause shown, apply to the governor for such an extension of  
49 time. The governor may grant or deny an extension of up to one year  
50 according to his or her discretion. The attorney general shall notify  
51 the legislative bill drafting commission upon the occurrence of the  
52 enactment of the legislation provided for in section four of this act in  
53 order that the commission may maintain an accurate and timely effective  
54 data base of the official text of the laws of the state of New York in  
55 furtherance of effectuating the provisions of section 44 of the legisla-  
56 tive law and section 70-b of the public officers law.