

# 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 -- 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 the elective fran-  
14 chise.

15 17-204. Definitions.

16 17-206. Prohibitions on voter disfranchisement.

17 17-208. Assistance for language-minority groups.

18 17-210. Preclearance.

19 17-212. Prohibition against voter intimidation, deception or  
20 obstruction.

21 17-214. Authority to issue subpoenas.

22 17-216. Expedited judicial proceedings and preliminary relief.

23 17-218. Attorneys' fees.

24 17-220. Applicability.

25 17-222. 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 the elective franchise.  
42 In further recognition of the protections for the right to vote provided  
43 by the constitution of the state of New York, all statutes, rules and  
44 regulations, and local laws or ordinances related to the elective fran-  
45 chise shall be construed liberally in favor of (a) protecting the right  
46 of voters to have their ballot cast and counted; (b) ensuring that  
47 eligible voters are not impaired in registering to vote, and (c) ensur-  
48 ing voters of race, color, and language-minority groups have equitable  
49 access to fully participate in the electoral process in registering to  
50 vote and voting. The authority to prescribe or maintain voting or  
51 elections policies and practices cannot be so exercised as to unneces-  
52 sarily deny or abridge the right to vote. Policies and practices that

1 burden the right to vote must be narrowly tailored to promote a compel-  
2 ling policy justification that must be supported by substantial  
3 evidence.

4 § 17-204. Definitions. For the purposes of this title:

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

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

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

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

32 5. "Protected class" means a class of eligible voters who are members  
33 of a race, color, or language-minority group.

34 5-a. "Language minorities" or "language-minority group" means persons  
35 who are American Indian, Asian American, Alaskan Natives or of Spanish  
36 heritage.

37 6. "Racially polarized voting" means voting in which there is a diver-  
38 gence in the candidate, political preferences, or electoral choice of  
39 members in a protected class from the candidates, or electoral choice of  
40 the rest of the electorate.

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

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

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

49 10. "Deceptive or fraudulent device, contrivance, or communication"  
50 means one that contains false information pertaining to: (a) the time,  
51 place, and manner of any election; (b) the qualifications or  
52 restrictions on voter eligibility for such election; or (c) a statement  
53 of endorsement by any specifically named person, political party, or  
54 organization.

55 § 17-206. Prohibitions on voter disenfranchisement. 1. Prohibition  
56 against voter suppression. (a) No voting qualification, prerequisite to

1 voting, law, ordinance, standard, practice, procedure, regulation, or  
2 policy shall be enacted or implemented by any board of elections or  
3 political subdivision in a manner that results in a denial or abridge-  
4 ment of the right of members of a protected class to vote.

5 (b) A violation of paragraph (a) of this subdivision shall be estab-  
6 lished upon a showing that, based on the totality of the circumstances,  
7 members of a protected class have less opportunity than the rest of the  
8 electorate to elect candidates of their choice or influence the outcome  
9 of elections.

10 2. Prohibition against vote dilution. (a) No board of elections or  
11 political subdivision shall use any method of election, having the  
12 effect of impairing the ability of members of a protected class to elect  
13 candidates of their choice or influence the outcome of elections, as a  
14 result of vote dilution.

15 (b) A violation of paragraph (a) of this subdivision shall be estab-  
16 lished upon a showing that a political subdivision:

17 (i) used an at-large method of election and either: (A) voting  
18 patterns of members of the protected class within the political subdivi-  
19 sion are racially polarized; or (B) under the totality of the circum-  
20 stances, the ability of members of the protected class to elect candi-  
21 dates of their choice or influence the outcome of elections is impaired;  
22 or

23 (ii) used a district-based or alternative method of election and that  
24 candidates or electoral choices preferred by members of the protected  
25 class would usually be defeated, and either: (A) voting patterns of  
26 members of the protected class within the political subdivision are  
27 racially polarized; or (B) under the totality of the circumstances, the  
28 ability of members of the protected class to elect candidates of their  
29 choice or influence the outcome of elections is impaired; or

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

53 3. In determining whether, under the totality of the circumstances, a  
54 violation of subdivision one or two of this section has occurred,  
55 factors that may be considered shall include, but not be limited to: (a)  
56 the history of discrimination in or affecting the political subdivision;

1 (b) the extent to which members of the protected class have been elected  
2 to office in the political subdivision; (c) the use of any voting quali-  
3 fication, prerequisite to voting, law, ordinance, standard, practice,  
4 procedure, regulation, or policy that may enhance the dilutive effects  
5 of the election scheme; (d) denying eligible voters or candidates who  
6 are members of the protected class to processes determining which groups  
7 of candidates receive access to the ballot, financial support, or other  
8 support in a given election; (e) the extent to which members of the  
9 protected class contribute to political campaigns at lower rates; (f)  
10 the extent to which members of a protected class in the state or poli-  
11 tical subdivision vote at lower rates than other members of the elector-  
12 ate; (g) the extent to which members of the protected class are disad-  
13 vantaged in areas including but not limited to education, employment,  
14 health, criminal justice, housing, land use, or environmental  
15 protection; (h) the extent to which members of the protected class are  
16 disadvantaged in other areas which may hinder their ability to partic-  
17 ipate effectively in the political process; (i) the use of overt or  
18 subtle racial appeals in political campaigns; (j) a significant lack of  
19 responsiveness on the part of elected officials to the particularized  
20 needs of members of the protected class; and (k) whether the political  
21 subdivision has a compelling policy justification that is substantiated  
22 and supported by evidence for adopting or maintaining the method of  
23 election or the voting qualification, prerequisite to voting, law, ordi-  
24 nance, standard, practice, procedure, regulation, or policy. Nothing in  
25 this subdivision shall preclude any additional factors from being  
26 considered, nor shall any specified number of factors be required in  
27 establishing that such a violation has occurred.

28 4. Standing. Any aggrieved person, organization whose membership  
29 includes aggrieved persons or members of a protected class, organization  
30 whose mission, in whole or in part, is to ensure voting access and such  
31 mission would be hindered by a violation of this section, or the attor-  
32 ney general may file an action against a political subdivision pursuant  
33 to this section in the supreme court of the county in which the poli-  
34 tical subdivision is located.

35 5. Remedies. (a) Upon a finding of a violation of any provision of  
36 this section, the court shall implement appropriate remedies to ensure  
37 that voters of race, color, and language-minority groups have equitable  
38 access to fully participate in the electoral process, which may include,  
39 but shall not be limited to:

- 40 (i) a district-based method of election;  
41 (ii) an alternative method of election;  
42 (iii) new or revised districting or redistricting plans;  
43 (iv) elimination of staggered elections so that all members of the  
44 governing body are elected on the same date;  
45 (v) reasonably increasing the size of the governing body;  
46 (vi) moving the dates of regular elections to be concurrent with the  
47 primary or general election dates for state, county, or city office as  
48 established in section eight of article three or section eight of arti-  
49 cle thirteen of the constitution, unless the budget in such political  
50 subdivision is subject to direct voter approval pursuant to part two of  
51 article five or article forty-one of the education law;  
52 (vii) transferring authority for conducting the political subdivi-  
53 sion's elections to the board of elections for the county in which the  
54 political subdivision is located;  
55 (viii) additional voting hours or days;  
56 (ix) additional polling locations;



1 (x) additional means of voting such as voting by mail;  
2 (xi) ordering of special elections;  
3 (xii) requiring expanded opportunities for voter registration;  
4 (xiii) requiring additional voter education;  
5 (xiv) modifying the election calendar;  
6 (xv) the restoration or addition of persons to registration lists; or  
7 (xvi) retaining jurisdiction for such period of time on a given matter  
8 as the court may deem appropriate, during which no redistricting plan  
9 shall be enforced unless and until the court finds that such plan does  
10 not have the purpose of diluting the right to vote on the basis of  
11 protected class membership, or in contravention of the voting guarantees  
12 set forth in this title, except that the court's finding shall not bar a  
13 subsequent action to enjoin enforcement of such redistricting plan.

14 (b) The court shall consider proposed remedies by any parties and  
15 interested non-parties, but shall not provide deference or priority to a  
16 proposed remedy offered by the political subdivision. The court shall  
17 have the power to require a political subdivision to implement remedies  
18 that are inconsistent with any other provision of law where such incon-  
19 sistent provision of law would preclude the court from ordering an  
20 otherwise appropriate remedy in such matter.

21 6. Procedures for implementing new or revised districting or redis-  
22 tricting plans. The governing body of a political subdivision with the  
23 authority under this title and all applicable state and local laws to  
24 enact and implement a new method of election that would replace the  
25 political subdivision's at-large method of election with a district-  
26 based or alternative method of election, or enact and implement a new  
27 districting or redistricting plan, shall undertake each of the steps  
28 enumerated in this subdivision, if proposed subsequent to receipt of a  
29 NYVRA notification letter, as defined in subdivision seven of this  
30 section, or the filing of a claim pursuant to this title or the federal  
31 voting rights act.

32 (a) Before drawing a draft districting or redistricting plan or plans  
33 of the proposed boundaries of the districts, the political subdivision  
34 shall hold at least two public hearings over a period of no more than  
35 thirty days, at which the public is invited to provide input regarding  
36 the composition of the districts. Before these hearings, the political  
37 subdivision may conduct outreach to the public, including to non-Engl-  
38 ish-speaking communities, to explain the districting or redistricting  
39 process and to encourage public participation.

40 (b) After all draft districting or redistricting plans are drawn, the  
41 political subdivision shall publish and make available for release at  
42 least one draft districting or redistricting plan and, if members of the  
43 governing body of the political subdivision would be elected in their  
44 districts at different times to provide for staggered terms of office,  
45 the potential sequence of such elections. The political subdivision  
46 shall also hold at least two additional hearings over a period of no  
47 more than forty-five days, at which the public shall be invited to  
48 provide input regarding the content of the draft districting or redis-  
49 tricting plan or plans and the proposed sequence of elections, if appli-  
50 cable. The draft districting or redistricting plan or plans shall be  
51 published at least seven days before consideration at a hearing. If the  
52 draft districting or redistricting plan or plans are revised at or  
53 following a hearing, the revised versions shall be published and made  
54 available to the public for at least seven days before being adopted.

55 (c) In determining the final sequence of the district elections  
56 conducted in a political subdivision in which members of the governing

1 body will be elected at different times to provide for staggered terms  
2 of office, the governing body shall give special consideration to the  
3 purposes of this title, and it shall take into account the preferences  
4 expressed by members of the districts.

5 7. Notification requirement and safe harbor for judicial actions.  
6 Before commencing a judicial action against a political subdivision  
7 under this section, a prospective plaintiff shall send by certified mail  
8 a written notice to the clerk of the political subdivision, or, if the  
9 political subdivision does not have a clerk, the governing body of the  
10 political subdivision, against which the action would be brought,  
11 asserting that the political subdivision may be in violation of this  
12 title. This written notice shall be referred to as a "NYVRA notification  
13 letter" in this title. For actions against a school district or any  
14 other political subdivision that holds elections governed by the educa-  
15 tion law, the prospective plaintiff shall also send by certified mail a  
16 copy of the NYVRA notification letter to the commissioner of education.

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

20 (b) Before receiving a NYVRA notification letter, or within fifty days  
21 of mailing of a NYVRA notification letter, the governing body of a poli-  
22 tical subdivision may pass a resolution affirming: (i) the political  
23 subdivision's intention to enact and implement a remedy for a potential  
24 violation of this title; (ii) specific steps the political subdivision  
25 will undertake to facilitate approval and implementation of such a reme-  
26 dy; and (iii) a schedule for enacting and implementing such a remedy.  
27 Such a resolution shall be referred to as a "NYVRA resolution" in this  
28 title. If a political subdivision passes a NYVRA resolution, such poli-  
29 tical subdivision shall have ninety days after such passage to enact and  
30 implement such remedy, during which a prospective plaintiff shall not  
31 commence an action to enforce this section against the political subdi-  
32 vision. For actions against a school district, the commissioner of  
33 education may order the enactment of a NYVRA resolution pursuant to the  
34 commissioner's authority under section three hundred five of the educa-  
35 tion law.

36 (c) If the governing body of a political subdivision lacks the author-  
37 ity under this title or applicable state law or local laws to enact or  
38 implement a remedy identified in a NYVRA resolution, or fails to enact  
39 or implement a remedy identified in a NYVRA resolution, within ninety  
40 days after the passage of the NYVRA resolution, or if the political  
41 subdivision is a covered entity as defined under section 17-210 of this  
42 title, the governing body of the political subdivision shall undertake  
43 the steps enumerated in the following provisions:

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

48 (ii) Prior to passing a NYVRA proposal, the political subdivision  
49 shall hold at least one public hearing, at which the public shall be  
50 invited to provide input regarding the NYVRA proposal. Before this  
51 hearing, the political subdivision may conduct outreach to the public,  
52 including to non-English-speaking communities, to encourage public  
53 participation.

54 (iii) Within forty-five days of receipt of a NYVRA proposal, the civil  
55 rights bureau shall grant or deny approval of the NYVRA proposal.

1 (iv) The civil rights bureau shall only grant approval to the NYVRA  
2 proposal if it concludes that: (A) the political subdivision may be in  
3 violation of this title; (B) the NYVRA proposal would remedy any poten-  
4 tial violation of this title; (C) the NYVRA proposal is unlikely to  
5 violate the constitution or any federal law; (D) the NYVRA proposal  
6 would not diminish the ability of protected class members to participate  
7 in the political process and to elect their preferred candidates to  
8 office; and (E) implementation of the NYVRA proposal is feasible.

9 (v) If the civil rights bureau grants approval, the NYVRA proposal  
10 shall be enacted and implemented immediately, notwithstanding any other  
11 provision of law, including any other state or local law.

12 (vi) If the political subdivision is a covered entity as defined under  
13 section 17-210 of this title, the political subdivision shall not be  
14 required to obtain preclearance for the NYVRA proposal pursuant to such  
15 section upon approval of the NYVRA proposal by the civil rights bureau.

16 (vii) If the civil rights bureau denies approval, the NYVRA proposal  
17 shall not be enacted or implemented. The civil rights bureau shall  
18 explain the basis for such denial and may, in its discretion, make  
19 recommendations for an alternative remedy for which it would grant  
20 approval.

21 (viii) If the civil rights bureau does not respond, the NYVRA proposal  
22 shall not be enacted or implemented.

23 (d) A political subdivision that has passed a NYVRA resolution may  
24 enter into an agreement with the prospective plaintiff providing that  
25 such prospective plaintiff shall not commence an action pursuant to this  
26 section against the political subdivision for an additional ninety days.  
27 Such agreement shall include a requirement that either the political  
28 subdivision shall enact and implement a remedy that complies with this  
29 title or the political subdivision shall pass a NYVRA proposal and  
30 submit it to the civil rights bureau.

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

54 (f) Notwithstanding the provisions of this subdivision, in the event  
55 that the first day for designating petitions for a political subdivi-  
56 sion's next regular election to select members of its governing board



1 has begun or is scheduled to begin within thirty days, or in the event  
2 that a political subdivision is scheduled to conduct any election within  
3 one hundred twenty days, a plaintiff alleging any violation of this  
4 title may commence a judicial action against a political subdivision  
5 under this section, provided that the relief sought by such a plaintiff  
6 includes preliminary relief for that election. Prior to or concurrent  
7 with commencing such a judicial action, any such plaintiff shall also  
8 submit a NYVRA notification letter to the political subdivision. In the  
9 event that a judicial action commenced under this provision is withdrawn  
10 or dismissed for mootness because the political subdivision has enacted  
11 or implemented a remedy or the civil rights bureau has granted approval  
12 of a NYVRA proposal pursuant to a process commenced by a NYVRA notifica-  
13 tion letter, any such plaintiff may only demand reimbursement pursuant  
14 to this subdivision.

15 8. Coalition claims permitted. Members of different protected classes  
16 may file an action jointly pursuant to this title in the event that they  
17 demonstrate that the combined voting preferences of the multiple  
18 protected classes are polarized against the rest of the electorate.

19 § 17-208. Assistance for language-minority groups. 1. Political subdi-  
20 visions required to provide language assistance. A board of elections or  
21 a political subdivision that administers elections shall provide  
22 language-related assistance in voting and elections to a language-minor-  
23 ity group in a political subdivision if, based on data from the American  
24 community survey, or data of comparable quality collected by a public  
25 office, that:

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

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

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

40 2. Language assistance to be provided. A board of elections or poli-  
41 tical subdivision required to provide language assistance to a partic-  
42 ular language-minority group pursuant to this section shall provide  
43 voting materials in the covered language of an equal quality of the  
44 corresponding English language materials, including registration or  
45 voting notices, forms, instructions, assistance, or other materials or  
46 information relating to the electoral process, including ballots. Any  
47 registration or voting notices, forms, instructions, assistance, or  
48 other materials or information relating to the electoral process,  
49 including ballots, in a covered political subdivision, shall be provided  
50 in the language of the applicable language-minority group as well as in  
51 the English language, provided that where the language of the applicable  
52 language-minority group is historically oral or unwritten, the board of  
53 elections or political subdivision shall only be required to furnish  
54 oral instructions, assistance, or other information relating to regis-  
55 tration and voting.

1 3. Action for declaratory judgment for English-only voting materials.  
2 A board of elections or political subdivision subject to the require-  
3 ments of this section which seeks to provide English-only materials may  
4 file an action against the state for a declaratory judgment permitting  
5 such provision. The court shall grant the requested relief if it finds  
6 that the determination was unreasonable or an abuse of discretion.

7 4. Standing. Any aggrieved persons, organization whose membership  
8 includes aggrieved persons or members of a protected class, organization  
9 whose mission, in whole or in part, is to ensure voting access and such  
10 mission would be hindered by a violation of this section, or the attor-  
11 ney general may file an action pursuant to this section in the supreme  
12 court of the county in which the alleged violation of this section  
13 occurred.

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

16 § 17-210. Preclearance. 1. Preclearance. To ensure that the right to  
17 vote is not denied or abridged on account of race, color, or language-  
18 minority group, the enactment or implementation of a covered policy by a  
19 covered entity, as defined in subdivisions two and three of this section  
20 respectively, shall be subject to preclearance by the civil rights  
21 bureau or by a designated court as set forth in this section.

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

- 26 (a) Method of election;
- 27 (b) Form of government;
- 28 (c) Annexation of a political subdivision;
- 29 (d) Incorporation of a political subdivision;
- 30 (e) Consolidation or division of political subdivisions;
- 31 (f) Removal of voters from enrollment lists or other list maintenance  
32 activities;
- 33 (g) Number, location, or hours of any election day or early voting  
34 poll site;
- 35 (h) Dates of elections and the election calendar, except with respect  
36 to special elections;
- 37 (i) Registration of voters;
- 38 (j) Assignment of election districts to election day or early voting  
39 poll sites;
- 40 (k) Assistance offered to members of a language-minority group; and
- 41 (l) Any additional topics designated by the civil rights bureau pursu-  
42 ant to a rule promulgated under the state administrative procedure act,  
43 upon a determination by the civil rights bureau that a new or modified  
44 voting qualification, prerequisite to voting, law, ordinance, standard,  
45 practice, procedure, regulation, or policy concerning such topics may  
46 have the effect of denying or abridging the right to vote on account of  
47 race, color, or language-minority group.

48 3. Covered entity. A "covered entity" shall include: (a) any political  
49 subdivision which, within the previous twenty-five years, has become  
50 subject to a court order or government enforcement action based upon a  
51 finding of any violation of this title, the federal voting rights act,  
52 the fifteenth amendment to the United States constitution, or a voting-  
53 related violation of the fourteenth amendment to the United States  
54 constitution; (b) any political subdivision which, within the previous  
55 twenty-five years, has become subject to at least three court orders or  
56 government enforcement actions based upon a finding of any violation of

1 any state or federal civil rights law or the fourteenth amendment to the  
2 United States constitution concerning discrimination against members of  
3 a protected class; (c) any county in which, based on data provided by  
4 the division of criminal justice services, the combined misdemeanor and  
5 felony arrest rate of members of any protected class consisting of at  
6 least ten thousand citizens of voting age or whose members comprise at  
7 least ten percent of the citizen voting age population of the county,  
8 exceeds the proportion that the protected class constitutes of the citi-  
9 zen voting age population of the county as a whole by at least twenty  
10 percent at any point within the previous ten years; or (d) any political  
11 subdivision in which, based on data made available by the United States  
12 census, the dissimilarity index of any protected class consisting of at  
13 least twenty-five thousand citizens of voting age or whose members  
14 comprise at least ten percent of the citizen voting age population of  
15 the political subdivision, is in excess of fifty with respect to non-  
16 Hispanic white citizens of voting age within the political subdivision  
17 at any point within the previous ten years. If any covered entity is a  
18 political subdivision in which a board of elections has been estab-  
19 lished, that board of elections shall also be deemed a covered entity.  
20 If any political subdivision in which a board of elections has been  
21 established contains a covered entity fully within its borders, that  
22 political subdivision and that board of elections shall both be deemed a  
23 covered entity.

24 4. Preclearance by the attorney general. A covered entity may obtain  
25 preclearance for a covered policy from the civil rights bureau pursuant  
26 to the following process:

27 (a) The covered entity shall submit the covered policy in writing to  
28 the civil rights bureau. If the covered entity is a county or city board  
29 of elections, it shall contemporaneously provide a copy of the covered  
30 policy to the state board of elections.

31 (b) Upon submission of a covered policy for preclearance, as soon as  
32 practicable but no later than within ten days, the civil rights bureau  
33 shall publish the submission on its website.

34 (c) After publication of a submission, there shall be an opportunity  
35 for members of the public to comment on the submission to the civil  
36 rights bureau within the time periods set forth below. To facilitate  
37 public comment, the civil rights bureau shall provide an opportunity for  
38 members of the public to sign up to receive notifications or alerts  
39 regarding submission of a covered policy for preclearance.

40 (d) Upon submission of a covered policy for preclearance, the civil  
41 rights bureau shall review the covered policy, and any public comment,  
42 and shall, within the time periods set forth below, provide a report and  
43 determination as to whether, under this title, preclearance should be  
44 granted or denied to the covered policy. Such time period shall run  
45 concurrent with the time periods for public comment. The civil rights  
46 bureau shall not make such determination until the period for public  
47 comment is closed. The civil rights bureau may request additional infor-  
48 mation from a covered entity at any time during its review to aid in  
49 developing its report and recommendation. The failure to timely comply  
50 with reasonable requests for more information may be grounds for the  
51 denial of preclearance. The civil rights bureau's reports and determi-  
52 nation shall be posted publicly on its website.

53 (e) In any determination as to preclearance, the civil rights bureau  
54 shall identify in writing whether it is approving or rejecting the  
55 covered policy; provided, however, that the civil rights bureau may, in  
56 its discretion, designate preclearance as "preliminary" in which case

1 the civil rights bureau may deny preclearance within sixty days follow-  
2 ing the receipt of submission of the covered policy.

3 (i) The civil rights bureau shall grant preclearance only if it deter-  
4 mines that the covered policy will not diminish the ability of protected  
5 class members to participate in the political process and to elect their  
6 preferred candidates to office. If the civil rights bureau grants  
7 preclearance, the covered entity may enact or implement the covered  
8 policy immediately.

9 (ii) If the civil rights bureau denies preclearance, the civil rights  
10 bureau shall interpose objections explaining its basis and the covered  
11 policy shall not be enacted or implemented.

12 (iii) If the civil rights bureau fails to respond within the required  
13 time frame as established in this section, the covered policy shall be  
14 deemed precleared and the covered entity may enact or implement such  
15 covered policy.

16 (f) The time periods for public comment, civil rights bureau review,  
17 and the determination of the civil rights bureau to grant or deny  
18 preclearance on 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 review the covered  
23 policy, including any public comment, and make a determination to deny  
24 or grant preclearance for such covered policy within fifteen days  
25 following the receipt of such covered policy.

26 (ii) Upon a showing of good cause, the civil rights bureau may receive  
27 an extension of up to twenty days to make a determination pursuant to  
28 this paragraph.

29 (iii) For any other covered policy, the period for public comment  
30 shall be ten business days. The civil rights bureau shall review the  
31 covered policy, including any public comment, within fifty-five days  
32 following the receipt of such covered policy and make a determination to  
33 deny or grant preclearance for such covered policy. The civil rights  
34 bureau may invoke up to two extensions of ninety days each.

35 (iv) The civil rights bureau is hereby authorized to promulgate rules  
36 for an expedited, emergency preclearance process in the event of a  
37 covered policy occurring during or imminently preceding an election as a  
38 result of any disaster within the meaning of section 3-108 of this chap-  
39 ter or other exigent circumstances. Any preclearance granted under this  
40 provision shall be designated "preliminary" and the civil rights bureau  
41 may deny preclearance within sixty days following receipt of the covered  
42 policy.

43 (g) Appeal of any denial by the civil rights bureau may be heard in  
44 the supreme court for the county of New York or the county of Albany in  
45 a proceeding commenced against the civil rights bureau, pursuant to  
46 article seventy-eight of the civil practice law and rules, from which  
47 appeal may be taken according to the ordinary rules of appellate proce-  
48 dure. Due to the frequency and urgency of elections, actions brought  
49 pursuant to this section shall be subject to expedited pretrial and  
50 trial proceedings and receive an automatic calendar preference on  
51 appeal.

52 5. Preclearance by a designated court. A covered entity may obtain  
53 preclearance for a covered policy from a court pursuant to the following  
54 process:

55 (a) The covered entity shall submit the covered policy in writing to  
56 the following designated court in the judicial department within which

1 the covered entity is located: (i) first judicial department: New York  
2 county; (ii) second judicial department: Westchester county; (iii)  
3 third judicial department: Albany county; and (iv) fourth judicial  
4 department: Erie county. If the covered entity is a county or city  
5 board of elections, it shall contemporaneously provide a copy of the  
6 covered policy to the state board of elections.

7 (b) The covered entity shall contemporaneously provide a copy of the  
8 covered policy to the civil rights bureau. The failure of the covered  
9 entity to provide a copy of the covered policy to the civil rights  
10 bureau will result in an automatic denial of preclearance.

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

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

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

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

25 6. Failure to seek or obtain preclearance. If any covered entity  
26 enacts or implements a covered policy without seeking preclearance  
27 pursuant to this section, or enacts or implements a covered policy  
28 notwithstanding the denial of preclearance, either the civil rights  
29 bureau or any other party with standing to bring an action under this  
30 title may bring an action to enjoin the covered policy and to seek sanc-  
31 tions against the political subdivision and officials in violation.

32 7. Rules and regulations. The civil rights bureau may promulgate such  
33 rules and regulations as are necessary to effectuate the purposes of  
34 this section.

35 § 17-212. Prohibition against voter intimidation, deception or  
36 obstruction. 1. (a) No person, whether acting under color of law or  
37 otherwise, may engage in acts of intimidation, deception, or obstruction  
38 that affects the right of voters to access the elective franchise.

39 (b) A violation of paragraph (a) this subdivision shall be established  
40 if:

41 (i) a person uses or threatens to use any force, violence, restraint,  
42 abduction or duress, or inflicts or threatens to inflict any injury,  
43 damage, harm or loss, or in any other manner practices intimidation that  
44 causes or will reasonably have the effect of causing any person to vote  
45 or refrain from voting in general or for or against any particular  
46 person or for or against any proposition submitted to voters at such  
47 election; to place or refrain from placing their name upon a registry of  
48 voters; or to request or refrain from requesting an absentee ballot; or

49 (ii) a person knowingly uses any deceptive or fraudulent device,  
50 contrivance or communication, that impedes, prevents or otherwise inter-  
51 feres with the free exercise of the elective franchise by any person, or  
52 that causes or will reasonably have the effect of causing any person to  
53 vote or refrain from voting in general or for or against any particular  
54 person or for or against any proposition submitted to voters at such  
55 election; to place or refrain from placing their name upon a registry of  
56 voters; or to request or refrain from requesting an absentee ballot; or



1 (iii) a person obstructs, impedes, or otherwise interferes with access  
2 to any polling place or elections office, or obstructs, impedes, or  
3 otherwise interferes with any voter in any manner that causes or will  
4 reasonably have the effect of causing any delay in voting or the voting  
5 process, including the canvassing and tabulation of ballots.

6 2. Standing. Any aggrieved persons, organization whose membership  
7 includes aggrieved persons or members of a protected class, organization  
8 whose mission, in whole or in part, is to ensure voting access and such  
9 mission would be hindered by a violation of this section, or the attor-  
10 ney general may file an action pursuant to this section in the supreme  
11 court of the county in which the alleged violation of this section  
12 occurred.

13 3. Remedies. Upon a finding of a violation of any provision of this  
14 section, the court shall implement appropriate remedies that are  
15 tailored to remedy the violation, including but not limited to providing  
16 for additional time to cast a ballot that may be counted in the election  
17 at issue. Any party who shall violate any of the provisions of the  
18 foregoing section or who shall aid the violation of any of said  
19 provisions shall be liable to any prevailing plaintiff party for  
20 damages, including nominal damages for any violation, and compensatory  
21 or punitive damages for any intentional violation.

22 § 17-214. Authority to issue subpoenas. In any action or investigation  
23 to enforce any provision of this title, the attorney general shall have  
24 the authority to take proof and determine relevant facts and to issue  
25 subpoenas in accordance with the civil practice law and rules.

26 § 17-216. Expedited judicial proceedings and preliminary relief.  
27 Because of the frequency of elections, the severe consequences and irre-  
28 parable harm of holding elections under unlawful conditions, and the  
29 expenditure to defend potentially unlawful conditions that benefit  
30 incumbent officials, actions brought pursuant to this title shall be  
31 subject to expedited pretrial and trial proceedings and receive an auto-  
32 matic calendar preference. In any action alleging a violation of this  
33 section in which a plaintiff party seeks preliminary relief with respect  
34 to an upcoming election, the court shall grant relief if it determines  
35 that: (a) plaintiffs are more likely than not to succeed on the merits;  
36 and (b) it is possible to implement an appropriate remedy that would  
37 resolve the alleged violation in the upcoming election.

38 § 17-218. Attorneys' fees. In any action to enforce any provision of  
39 this title, the court shall allow the prevailing plaintiff party, other  
40 than the state or political subdivision thereof, a reasonable attorneys'  
41 fee, litigation expenses including, but not limited to, expert witness  
42 fees and expenses as part of the costs. A plaintiff will be deemed to  
43 have prevailed when, as a result of litigation, the defendant party  
44 yields much or all of the relief sought in the suit. Prevailing defend-  
45 ant parties shall not recover any costs, unless the court finds the  
46 action to be frivolous, unreasonable, or without foundation.

47 § 17-220. Applicability. The provisions of this title shall apply to  
48 all elections for any elected office or electoral choice within the  
49 state or any political subdivision. The provisions of this title shall  
50 apply notwithstanding any other provision of law, including any other  
51 state law or local law; provided, however, that school districts and  
52 libraries shall continue to conduct their elections under the education  
53 law, subject to and not inconsistent with the provisions of this title,  
54 to ensure voters of race, color, and language-minority groups have equi-  
55 table access to fully participate in the electoral process.

1 § 17-222. Severability. If any provision of this title or its applica-  
2 tion to any person, political subdivision, or circumstance is held  
3 invalid, the invalidity shall not affect other provisions or applica-  
4 tions of this title which can be given effect without the invalid  
5 provision or application, and to this end the provisions of this title  
6 are severable.

7 § 5. This act shall take effect immediately; provided, however, that  
8 paragraph (c) of subdivision seven of section 17-206 of the election law  
9 as added by section four of this act shall take effect one year after it  
10 shall have become a law; and provided further, however, that section  
11 17-208 of the election law as added by section four of this act shall  
12 take effect three years after it shall have become a law; and provided  
13 further, however, that section 17-210 of the election law, as added by  
14 section four of this act, shall take effect one year after the attorney  
15 general certifies that the office of the attorney general is prepared to  
16 execute the duties assigned in section four of this act, if after the  
17 expiration of one year the attorney general requires more time to certi-  
18 fy that the office of the attorney general is prepared to execute the  
19 duties assigned in section four of this act, the attorney general, may,  
20 for good cause shown, apply to the governor for such an extension of  
21 time. The governor may grant or deny an extension of up to one year  
22 according to his or her discretion. The attorney general shall notify  
23 the legislative bill drafting commission upon the occurrence of the  
24 enactment of the legislation provided for in section four of this act in  
25 order that the commission may maintain an accurate and timely effective  
26 data base of the official text of the laws of the state of New York in  
27 furtherance of effectuating the provisions of section 44 of the legisla-  
28 tive law and section 70-b of the public officers law.