

# STATE OF NEW YORK

1046

2021-2022 Regular Sessions

## IN SENATE

January 6, 2021

Introduced by Sen. MYRIE -- read twice and ordered printed, and when printed to be committed to the Committee on Elections

AN ACT to amend the election law, in relation to establishing the John R. Lewis Voting Rights Act of New York, establishing rights of action for denying or abridging of the right of any member of a protected class to vote, establishing and maintaining a statewide database of voting and election data, providing assistance to language-minority groups, requiring certain political subdivisions to receive preclearance for potential violations of the NYVRA, and creating civil liability for voter intimidation

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

Section 1. This act shall be known and may be cited as the "John R. Lewis Voting Rights Act of New York (NYVRA)".

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

### VIOLATIONS OF THE ELECTIVE FRANCHISE

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

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

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

### TITLE 2

#### JOHN R. LEWIS VOTING RIGHTS ACT OF NEW YORK

Section 17-200. Legislative purpose and statement of public policy.

17-202. Interpretation of laws related to elective franchise.

17-204. Definitions.

17-206. Rights of action.

17-208. Maintenance of voting and election data.

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

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17-210. Assistance for language-minority groups.

17-212. Preclearance.

17-214. Right of action against voter intimidation, deception or obstruction.

17-216. Attorneys' fees.

17-218. Applicability.

17-220. Severability.

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

1. Encourage participation in the elective franchise by all eligible voters to the maximum extent; and

2. Ensure that eligible voters who are members of racial, ethnic, and language-minority groups shall have an equal opportunity to participate in the political processes of the state of New York, and especially to exercise the elective franchise.

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

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

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

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

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

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

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

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

17 7. "Federal voting rights act" means the federal Voting Rights Act of  
18 1965, 52 U.S.C. § 10301 et seq.

19 8. The "civil rights bureau" means the civil rights bureau of the  
20 office of the attorney general.

21 § 17-206. Rights of action. 1. Right of action against voter  
22 suppression. (a) No voting qualification, prerequisite to voting, law,  
23 ordinance, standard, practice, procedure, regulation, or policy shall be  
24 enacted or implemented by any board of elections or political subdivi-  
25 sion in a manner that results in a denial or abridgement of the right of  
26 any member of a protected class to vote.

27 (b) A violation is established if, based on the totality of the  
28 circumstances, members of a protected class have less opportunity than  
29 other members of the electorate to participate in the political process  
30 or elect candidates or electoral choices preferred by members of the  
31 protected class.

32 (c) Circumstances that may be considered include, but are not limited  
33 to, the extent to which members of a protected class have been elected  
34 to office in the state or political subdivision and the extent to which  
35 members of a protected class in the state or political subdivision vote  
36 at lower rates than other members of the electorate.

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

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

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

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

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

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

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

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

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

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

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

36 4. Remedies. (a) Upon a finding of a violation of any provision of  
37 this section, the court shall implement appropriate remedies that are  
38 tailored to remedy the violation. Remedies may include, but shall not be  
39 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) increasing the size of the governing body;  
46 (vi) moving the dates of elections to be concurrent with the primary  
47 or general election dates for state, county, or city office as estab-  
48 lished in section eight of article three or section eight of article  
49 thirteen of the constitution;  
50 (vii) additional voting hours or days;  
51 (viii) additional polling locations;  
52 (ix) additional means of voting such as voting by mail;  
53 (x) ordering of special elections;  
54 (xi) requiring expanded opportunities for voter registration;  
55 (xii) requiring additional voter education;  
56 (xiii) modifying the election calendar; or



1     (xiv) the restoration or addition of persons to registration lists.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19 (e) If, pursuant to a process commenced by a NYVRA notification  
20 letter, a political subdivision enacts or implements a remedy or the  
21 civil rights bureau grants approval to a NYVRA proposal, a prospective  
22 plaintiff who sent the NYVRA notification letter may, within thirty days  
23 of the enactment or implementation of the remedy or approval of the  
24 NYVRA proposal, demand reimbursement for the cost of the work product  
25 generated to support the NYVRA notification letter. A prospective plain-  
26 tiff shall make the demand in writing and shall substantiate the demand  
27 with financial documentation, such as a detailed invoice for demography  
28 services or for the analysis of voting patterns in the political subdivi-  
29 vision. A political subdivision may request additional documentation if  
30 the provided documentation is insufficient to corroborate the claimed  
31 costs. A political subdivision shall reimburse a prospective plaintiff  
32 for reasonable costs claimed, or in an amount to which the parties mutu-  
33 ally agree, within forty-five days of receiving the written demand,  
34 except that if more than one prospective plaintiff is entitled to  
35 reimbursement, the political subdivision shall reimburse the prospective  
36 plaintiffs in the order in which they sent NYVRA notification letters  
37 and the forty-five day time period described herein shall apply only to  
38 reimbursement of the first prospective plaintiff who sent a written  
39 notice. The cumulative amount of reimbursements to all prospective  
40 plaintiffs, except for actions brought by the attorney general, shall  
41 not exceed forty-three thousand dollars, as adjusted annually to the  
42 consumer price index for all urban consumers, United States city aver-  
43 age, as published by the United States department of labor.

44 (f) Notwithstanding the provisions of this subdivision, if the first  
45 day for designating petitions for a political subdivision's next regular  
46 election to select members of its governing board has begun or is sched-  
47 uled to begin within thirty days, or if a political subdivision is sche-  
48 duled to conduct any election within one hundred twenty days, a plain-  
49 tiff alleging that the mode of election or districting or redistricting  
50 plan in effect for that election will violate this title may commence a  
51 judicial action against a political subdivision under this section,  
52 provided that the relief sought by such a plaintiff includes preliminary  
53 relief for that election. Prior to or concurrent with commencing such a  
54 judicial action, any such plaintiff shall also submit a NYVRA notifica-  
55 tion letter to the political subdivision. If a judicial action commenced  
56 under this provision is withdrawn or dismissed for mootness because the



1 political subdivision has enacted or implemented a remedy or the civil  
2 rights bureau has granted approval of a NYVRA proposal pursuant to a  
3 process commenced by a NYVRA notification letter, any such plaintiff may  
4 only demand reimbursement pursuant to this subdivision.

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

17 § 17-208. Maintenance of voting and election data. 1. Establishment  
18 of a statewide database. There shall be established within the state  
19 university of New York a repository of the data necessary to assist the  
20 state and all political subdivisions with evaluating whether and to what  
21 extent existing laws and practices with respect to voting and elections  
22 are consistent with the public policy expressed in this title, imple-  
23 menting best practices in voting and elections to achieve the purposes  
24 of this title, and to investigate potential infringements upon the right  
25 to vote. This repository shall be referred to as the "statewide data-  
26 base" in this title.

27 2. Director of the statewide database. The operation of the statewide  
28 database shall be the responsibility of the director of the statewide  
29 database, hereinafter referred to in this title as the "director", who  
30 shall be a member of the faculty of the state university of New York  
31 with doctoral-level expertise in demography, statistical analysis, and  
32 electoral systems. The director shall be appointed by the governor.

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

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

38 (a) Estimates of the total population, voting age population, and  
39 citizen voting age population by race, ethnicity, and language-minority  
40 group, broken down to the election district level on a year-by-year  
41 basis for every political subdivision in the state, based on data from  
42 the United States census bureau, American community survey, or data of  
43 comparable quality collected by a public office.

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

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

49 (d) Contemporaneous maps, descriptions of boundaries, and shapefiles  
50 for election districts.

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

54 (f) Districting or redistricting plans for every election in every  
55 political subdivision.

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

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

7 6. Data on race, ethnicity, and language-minority groups. The state-  
8 wide database shall prepare any estimates made pursuant to this section  
9 by applying the most advanced, peer-reviewed, and validated methodol-  
10 ogies.

11 7. Calculation and publication of political subdivisions required to  
12 provide assistance to language-minority groups. On or before February  
13 twenty-eighth, two thousand twenty-three and every third year thereaft-  
14 er, the statewide database shall publish on its web site and transmit to  
15 the state board of elections for dissemination to the county boards of  
16 elections and for the state education department a list of political  
17 subdivisions required pursuant to this section to provide assistance to  
18 members of language-minority groups and each language in which those  
19 political subdivisions are required to provide assistance. The boards of  
20 elections shall transmit the list described herein to all political  
21 subdivisions within their jurisdiction.

22 8. Duty to send data and information to statewide database. Upon the  
23 certification of election results and the completion of the voter histo-  
24 ry file after each election, each election authority shall transmit  
25 copies of: (a) election results at the election district level; (b)  
26 contemporaneous voter registration lists; (c) voter history files; (d)  
27 maps, descriptions, and shapefiles for election districts; and (e) lists  
28 of election day poll site and early voting sites and lists, shapefiles,  
29 or descriptions of the election districts assigned to each election day  
30 poll site or early voting site. As used in this subdivision, the term  
31 "election authority" refers to the agency primarily responsible for  
32 maintaining the records listed in subdivision four of this section and  
33 include any board of election, as well as general purpose local govern-  
34 ments or special purpose local governments that administer their own  
35 elections or maintain their own voting and election records.

36 9. Technical assistance to political subdivisions. Staff at the state-  
37 wide database may provide non-partisan technical assistance to political  
38 subdivisions, scholars, and the general public seeking to use the  
39 resources of the statewide database.

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

44 § 17-210. 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 the director determines, based  
49 on data from the American community survey, or data of comparable quali-  
50 ty collected by a public office, that:

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

55 (b) more than four thousand of the citizens of voting age of such  
56 political subdivision are members of a single language-minority group

1 and speak English "less than very well" according to the American commu-  
2 nity survey; or

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

11 2. Language assistance to be provided. When the director determines  
12 that a board of elections or political subdivision shall provide  
13 language assistance to a particular minority group, such board of  
14 elections or political subdivision shall provide voting materials in the  
15 covered language of an equal quality of the corresponding English  
16 language materials, including registration or voting notices, forms,  
17 instructions, assistance, or other materials or information relating to  
18 the electoral process, including ballots. Whenever any such board of  
19 elections or political subdivision provides any registration or voting  
20 notices, forms, instructions, assistance, or other materials or informa-  
21 tion relating to the electoral process, including ballots, in a covered  
22 political subdivision, it shall provide them in the language of the  
23 applicable minority group as well as in the English language, provided  
24 that where the language of the applicable minority group is oral or  
25 unwritten or in the case of some American Indians, if the predominant  
26 language is historically unwritten, the board of elections or political  
27 subdivision is only required to furnish oral instructions, assistance,  
28 or other 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 notwithstanding the determination of the  
33 director, may file an action against the state for a declaratory judg-  
34 ment permitting such provision. The court shall grant the requested  
35 relief if it finds that the determination of the director was unreason-  
36 able or an abuse of discretion.

37 § 17-212. Preclearance. 1. Preclearance. To ensure that the right to  
38 vote is not denied or abridged on account of race, ethnicity, or  
39 language-minority group, as a result of the enactment or implementation  
40 of a covered policy, as defined in subdivision two of this section,  
41 after the effective date of this section, the enactment or implementa-  
42 tion of a covered policy by a covered entity, as defined in subdivision  
43 three of this section, shall be subject to preclearance by the civil  
44 rights bureau or by a designated court as set forth in this section.

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

49 (a) Districting or redistricting;  
50 (b) Method of election;  
51 (c) Form of government;  
52 (d) Annexation of a political subdivision;  
53 (e) Incorporation of a political subdivision;  
54 (f) Consolidation or division of political subdivisions;  
55 (g) Removal of voters from enrollment lists or other list maintenance  
56 activities;

1 (h) Number, location, or hours of any election day or early voting  
2 poll site;

3 (i) Dates of elections and the election calendar, except with respect  
4 to special elections;

5 (j) Registration of voters;

6 (k) Assignment of election districts to election day or early voting  
7 poll sites;

8 (l) Assistance offered to members of a language-minority group;

9 (m) Changes to the governmental powers of elected officials; and

10 (n) The civil rights bureau may designate additional topics for inclu-  
11 sion in this list pursuant to a rule promulgated under the state admin-  
12 istrative procedure act, if it determines that a new or modified voting  
13 qualification, prerequisite to voting, law, ordinance, standard, prac-  
14 tice, procedure, regulation, or policy concerning such topics may have  
15 the effect of denying or abridging the right to vote on account of race,  
16 ethnicity, or language-minority group.

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

51 4. Preclearance by civil rights bureau. A covered entity may obtain  
52 preclearance for a covered policy from the civil rights bureau pursuant  
53 to the following process:

54 (a) The covered entity shall submit the covered policy in writing to  
55 the civil rights bureau of the office of the attorney general. If the  
56 covered entity is a county or city board of elections, it shall contem-

poraneously provide a copy of the covered policy to the state board of elections.

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

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

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

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

(c) The civil rights bureau shall grant preclearance only if it determines that the covered policy will not diminish the ability of minority groups to participate in the political process and to elect their preferred candidates to office. If the civil rights bureau grants preclearance, the covered entity may enact or implement the covered policy immediately.

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

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

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

(g) The civil rights bureau may promulgate such rules and regulations pursuant to the state administrative procedure act as are necessary to effectuate the purposes of this subdivision.

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

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

(b) The covered entity shall contemporaneously provide a copy of the covered policy to the civil rights bureau. The failure of the covered



1 entity to provide a copy of the covered policy to the civil rights  
2 bureau will result in an automatic denial of preclearance.

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

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

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

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

17 6. Failure to seek or obtain preclearance. If any covered entity  
18 enacts or implements a covered policy without seeking preclearance  
19 pursuant to this section, or enacts or implements a covered policy  
20 notwithstanding the denial of preclearance, either the civil rights  
21 bureau or any other party with standing to bring an action under this  
22 title may bring an action to enjoin the covered policy and to seek sanc-  
23 tions against the political subdivision and officials in violation.

24 § 17-214. Right of action against voter intimidation, deception or  
25 obstruction. 1. No person, whether acting under color of law or other-  
26 wise, may engage in acts of intimidation, deception, or obstruction that  
27 affects the right of voters to access the elective franchise. A  
28 violation of this subdivision shall be:

29 (a) established if a person uses or threatens to use any force,  
30 violence, restraint, abduction or duress, or inflicts or threatens to  
31 inflict any injury, damage, harm or loss, or in any other manner prac-  
32 tices intimidation that causes or will reasonably have the effect of  
33 causing any person to vote or refrain from voting in general or for or  
34 against any particular person or for or against any proposition submit-  
35 ted to voters at such election; to place or refrain from placing their  
36 name upon a registry of voters; or to request or refrain from requesting  
37 an absentee ballot; or

38 (b) established if a person uses any deceptive or fraudulent device,  
39 contrivance or communication, that impedes, prevents or otherwise inter-  
40 feres with the free exercise of the elective franchise by any person, or  
41 that causes or will reasonably have the effect of causing any person to  
42 vote or refrain from voting in general or for or against any particular  
43 person or for or against any proposition submitted to voters at such  
44 election; to place or refrain from placing their name upon a registry of  
45 voters; or to request or refrain from requesting an absentee ballot; or

46 (c) established if a person obstructs, impedes, or otherwise inter-  
47 feres with access to any polling place or elections office, or  
48 obstructs, impedes, or otherwise interferes with any voter in any manner  
49 that causes or will reasonably have the effect of causing any delay in  
50 voting or the voting process, including the canvassing and tabulation of  
51 ballots.

52 2. Standing. Any aggrieved persons, organization whose membership  
53 includes or is likely to include aggrieved persons, organization whose  
54 mission would be frustrated by a violation of this section, organization  
55 that would expend resources in order to fulfill its mission as a result  
56 of a violation of this section, or the attorney general may file an

1 action pursuant to this section in the supreme court of the county in  
2 which the alleged violation of this section occurred.

3 3. Remedies. Upon a finding of a violation of any provision of this  
4 section, the court shall implement appropriate remedies that are  
5 tailored to remedy the violation, including but not limited to providing  
6 for additional time to cast a ballot that may be counted in the election  
7 at issue. This title gives the court authority to implement remedies  
8 notwithstanding any other provision of state or local law, including any  
9 other state or local law. Any party who shall violate any of the  
10 provisions of the foregoing section or who shall aid the violation of  
11 any of said provisions shall be liable to any prevailing plaintiff party  
12 for damages, including nominal damages for any violation, and compensa-  
13 tory or punitive damages for any intentional violation.

14 § 17-216. Attorneys' fees. In any action to enforce any provision of  
15 this title, the court shall allow the prevailing plaintiff party, other  
16 than the state or political subdivision thereof, a reasonable attorneys'  
17 fee, litigation expenses including, but not limited to, expert witness  
18 fees and expenses as part of the costs. A plaintiff will be deemed to  
19 have prevailed when, as a result of litigation, the defendant party  
20 yields much or all of the relief sought in the suit. Prevailing defend-  
21 ant parties shall not recover any costs, unless the court finds the  
22 action to be frivolous, unreasonable, or without foundation.

23 § 17-218. Applicability. The provisions of this title shall apply to  
24 all elections for any elected office or electoral choice within the  
25 state or any political subdivision. The provisions of this title shall  
26 apply notwithstanding any other provision of law, including any other  
27 state law or local law.

28 § 17-220. Severability. If any provision of this title or its applica-  
29 tion to any person, political subdivision, or circumstance is held  
30 invalid, the invalidity shall not affect other provisions or applica-  
31 tions of this title which can be given effect without the invalid  
32 provision or application, and to this end the provisions of this title  
33 are severable.

34 § 5. This act shall take effect immediately; provided, however, that  
35 sections 17-208 and 17-210 of the election law as added by section four  
36 of this act shall take effect three years after it shall have become a  
37 law; and provided further, however, that section 17-212 of the election  
38 law, as added by section four of this act, shall take effect one year  
39 after the attorney general certifies that the office of the attorney  
40 general is prepared to execute the duties assigned in section four of  
41 this act, if after the expiration of one year the attorney general  
42 requires more time to certify that the office of the attorney general is  
43 prepared to execute the duties assigned in section four of this act, the  
44 attorney general, may, for good cause shown, apply to the governor for  
45 such an extension of time. The governor may grant or deny an extension  
46 of up to one year according to his or her discretion. The attorney  
47 general shall notify the legislative bill drafting commission upon the  
48 occurrence of the enactment of the legislation provided for in section  
49 four of this act in order that the commission may maintain an accurate  
50 and timely effective data base of the official text of the laws of the  
51 state of New York in furtherance of effectuating the provisions of  
52 section 44 of the legislative law and section 70-b of the public offi-  
53 cers law.