

STATE OF NEW YORK

6678--C

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 -- 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

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

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

LBD02423-18-2

1 VIOLETIONS OF THE ELECTIVE FRANCHISE

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

4 [~~VIOLETIONS OF~~] PROTECTING THE ELECTIVE FRANCHISE

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

7 TITLE 2

8 JOHN R. LEWIS VOTING RIGHTS ACT OF NEW YORK

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

10 17-202. Interpretation of laws related to elective franchise.

11 17-204. Definitions.

12 17-206. Rights of action.

13 17-208. Assistance for language-minority groups.

14 17-210. Preclearance commission.

15 17-212. Preclearance.

16 17-214. Right of action against voter intimidation, deception or
17 obstruction.

18 17-216. Authority to issue subpoenas.

19 17-218. Expedited judicial proceedings and preliminary relief.

20 17-220. Attorneys' fees.

21 17-222. Applicability.

22 17-224. Severability.

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

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

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

38 § 17-202. Interpretation of laws related to elective franchise. In
39 further recognition of the protections for the right to vote provided by
40 the constitution of the state of New York, statutes, rules and regu-
41 lations, and local laws or ordinances related to the elective franchise
42 shall be construed liberally in favor of (a) protecting the right to
43 cast an effective ballot; (b) ensuring that eligible voters are not
44 impaired in registering to vote or voting including having their votes
45 counted, and (c) ensuring equitable access with regard to race, color,
46 and language-minority groups to opportunities to register to vote and to
47 vote. The authority to prescribe or maintain voting or elections poli-
48 cies and practices cannot be so exercised as to unnecessarily deny or
49 abridge the right to vote. Policies and practices that burden the right
50 to vote must be narrowly tailored to promote a compelling policy justi-
51 fication that must be supported by substantial evidence.

52 § 17-204. Definitions. For the purposes of this title:

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

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

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

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

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

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

39 7. "Federal voting rights act" means the federal Voting Rights Act of
40 1965, 52 U.S.C. § 10301 et seq.

41 8. The "civil rights bureau" means the civil rights bureau of the
42 office of the attorney general.

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

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

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

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

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

11 (c) For political subdivisions where either the primary or general
12 election is held on a date that is not concurrent with the primary or
13 general election dates for state, county, or city office as established
14 in section eight of article three or section eight of article thirteen
15 of the constitution, and in state law, there shall be a presumption that
16 the date of election results in the denial or abridgement of the right
17 to vote where for three consecutive general elections in which there is
18 at least one contested race for an office, the number of actual voters
19 in each contested election is less than twenty-five percent of the total
20 number of votes cast in the most recent general election for the presi-
21 dency of the United States by voters in the political subdivision, or in
22 which, for any protected class consisting of at least twenty-five thou-
23 sand citizens of voting age or whose members comprise at least ten
24 percent of the citizen voting age population, the percent of members of
25 that protected class that are actual voters is at least twenty-five
26 percent lower than the percent of citizens of voting age that are not
27 members of that protected class that are actual voters.

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

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

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

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

49 (c) In assessing whether voting patterns of members of the protected
50 class within the political subdivision are racially polarized or whether
51 candidates or electoral choices preferred by members of the protected
52 class would usually be defeated: (i) elections conducted prior to the
53 filing of an action pursuant to this subdivision are more probative than
54 elections conducted after the filing of the action; (ii) evidence
55 concerning elections for members of the governing body of the political
56 subdivision are more probative than evidence concerning other elections;

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

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

53 4. Standing. Any aggrieved person, organization whose membership
54 includes or is likely to include aggrieved persons, organization whose
55 mission would be frustrated by a violation of this section, organization
56 that would expend resources in order to fulfill its mission as a result

1 of a violation of this section, or the attorney general may file an
2 action pursuant to this section in the supreme court of the county in
3 which the political subdivision is located.

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

8 (i) a district-based method of election;

9 (ii) an alternative method of election;

10 (iii) new or revised districting or redistricting plans;

11 (iv) elimination of staggered elections so that all members of the
12 governing body are elected on the same date;

13 (v) reasonably increasing the size of the governing body;

14 (vi) moving the dates of elections to be concurrent with the primary
15 or general election dates for state, county, or city office as estab-
16 lished in section eight of article three or section eight of article
17 thirteen of the constitution;

18 (vii) transferring authority for conducting the political subdivi-
19 sion's elections to the board of elections for the county in which the
20 political subdivision is located;

21 (viii) additional voting hours or days;

22 (ix) additional polling locations;

23 (x) additional means of voting such as voting by mail;

24 (xi) ordering of special elections;

25 (xii) requiring expanded opportunities for voter registration;

26 (xiii) requiring additional voter education;

27 (xiv) modifying the election calendar;

28 (xv) the restoration or addition of persons to registration lists; or

29 (xvi) retaining jurisdiction for such period of time on a given matter
30 as the court may deem appropriate, during which no redistricting plan
31 shall be enforced unless and until the court finds that such plan does
32 not have the purpose of diluting the right to vote on the basis of
33 protected class membership, or in contravention of the voting guarantees
34 set forth in this title, except that the court's finding shall not bar a
35 subsequent action to enjoin enforcement of such redistricting plan.

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

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

55 (a) Before drawing a draft districting or redistricting plan or plans
56 of the proposed boundaries of the districts, the political subdivision

1 shall hold at least two public hearings over a period of no more than
2 thirty days, at which the public is invited to provide input regarding
3 the composition of the districts. Before these hearings, the political
4 subdivision may conduct outreach to the public, including to non-Engl-
5 ish-speaking communities, to explain the districting or redistricting
6 process and to encourage public participation.

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

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

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

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

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

1 (c) If the governing body of a political subdivision lacks the author-
2 ity under this title or applicable state law or local laws to enact or
3 implement a remedy identified in a NYVRA resolution within ninety days
4 after the passage of the NYVRA resolution, or if the political subdivi-
5 sion is a covered entity as defined under section 17-212 of this title,
6 the governing body of the political subdivision may undertake the steps
7 enumerated in the following provisions upon passage of a NYVRA resol-
8 ution:

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

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

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

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

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

35 (vi) If the preclearance commission grants approval, the NYVRA
36 proposal shall be enacted and implemented immediately, notwithstanding
37 any other provision of law, including any other state or local law. If
38 the political subdivision is a covered entity as defined under section
39 17-212 of this title, there shall be no need for the political subdivi-
40 sion to also obtain preclearance for the NYVRA proposal pursuant to such
41 section.

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

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

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

1 political subdivision shall pass a NYVRA proposal and submit it to the
2 civil rights bureau.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5 (a) Method of election;

6 (b) Form of government;

7 (c) Annexation of a political subdivision;

8 (d) Incorporation of a political subdivision;

9 (e) Consolidation or division of political subdivisions;

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

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

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

16 (i) Registration of voters;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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