

# STATE OF NEW YORK

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1046--D

2021-2022 Regular Sessions

## IN SENATE

January 6, 2021

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Introduced by Sens. MYRIE, BAILEY, BIAGGI, BRESLIN, BRISPORT, BROUK, CLEARE, COMRIE, COONEY, FELDER, GAUGHRAN, GIANARIS, GOUNARDES, HINCHEY, HOYLMAN, JACKSON, KAPLAN, KAVANAGH, KENNEDY, KRUEGER, LIU, MANNION, MAY, MAYER, PARKER, RAMOS, REICHLIN-MELNICK, RIVERA, SALAZAR, SANDERS, SEPULVEDA, SERRANO, STAVISKY -- read twice and ordered printed, and when printed to be committed to the Committee on Elections -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Elections in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported favorably from said committee and committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported favorably from said committee and committed to the Committee on Rules -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the election law, in relation to establishing the John R. Lewis Voting Rights Act of New York, establishing rights of action for denying or abridging of the right of any member of a protected class to vote, 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.

LBD02423-19-2

1 VIOLATIONS OF THE ELECTIVE FRANCHISE

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

4 [~~VIOLATIONS 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 any protected class consisting of at least twenty-  
18 five thousand citizens of voting age or whose members comprise at least  
19 ten percent of the citizen voting age population, the percent of members  
20 of that protected class that are actual voters is at least twenty-five  
21 percent lower than the percent of citizens of voting age that are not  
22 members of that protected class that are actual voters.

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

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

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

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

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

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

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

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

55 5. Remedies. (a) Upon a finding of a violation of any provision of  
56 this section, the court shall implement appropriate remedies that are

1 tailored to remedy the violation. Remedies may include, but shall not be  
2 limited to:

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

4 (ii) an alternative method of election;

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

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

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

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

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

16 (viii) additional voting hours or days;

17 (ix) additional polling locations;

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

19 (xi) ordering of special elections;

20 (xii) requiring expanded opportunities for voter registration;

21 (xiii) requiring additional voter education;

22 (xiv) modifying the election calendar;

23 (xv) the restoration or addition of persons to registration lists; or  
24 (xvi) retaining jurisdiction for such period of time on a given matter  
25 as the court may deem appropriate, during which no redistricting plan  
26 shall be enforced unless and until the court finds that such plan does  
27 not have the purpose of diluting the right to vote on the basis of  
28 protected class membership, or in contravention of the voting guarantees  
29 set forth in this title, except that the court's finding shall not bar a  
30 subsequent action to enjoin enforcement of such redistricting plan.

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

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

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

1 ish-speaking communities, to explain the districting or redistricting  
2 process and to encourage public participation.

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

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

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

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

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

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

1 sion is a covered entity as defined under section 17-212 of this title,  
2 the governing body of the political subdivision may undertake the steps  
3 enumerated in the following provisions upon passage of a NYVRA resolu-  
4 tion:

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

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

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

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

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

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

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

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

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

55 (e) If, pursuant to a process commenced by a NYVRA notification  
56 letter, a political subdivision enacts or implements a remedy or the

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

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

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

42 § 17-208. Assistance for language-minority groups. 1. Political subdivi-  
43 visions required to provide language assistance. A board of elections or  
44 a political subdivision that administers elections shall provide  
45 language-related assistance in voting and elections to a language-minor-  
46 ity group in a political subdivision if, based on data from the American  
47 community survey, or data of comparable quality collected by a public  
48 office, that:

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

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

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

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

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

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

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

42 § 17-210. Preclearance commission. 1. Preclearance commission. There  
43 is hereby established within the department of law, a preclearance  
44 commission. Such entity shall be responsible for making determinations  
45 on preclearance and other matters as enumerated under this title. Such  
46 determinations shall be based upon the provisions of this title and the  
47 recommendations of the civil rights bureau. This commission shall here-  
48 inafter be referred to as the "preclearance commission" or "commission"  
49 in this title. The commission shall operate and maintain a website for  
50 posting preclearance submissions and decisions to ensure that they are  
51 accessible to the public.

52 2. Preclearance commission structure and membership. (a) The commis-  
53 sion shall consist of three members to be selected as set forth in this  
54 section and shall have and exercise the powers and duties set forth in  
55 this title.

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

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

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

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

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

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

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

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

16 (iii) is currently holding any official position for a political  
17 party.

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

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

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

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

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

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

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

46 § 17-212. Preclearance. 1. Preclearance. To ensure that the right to  
47 vote is not denied or abridged on account of race, color, or language-  
48 minority group, as a result of the enactment or implementation of a  
49 covered policy, as defined in subdivision two of this section, after the  
50 effective date of this section, the enactment or implementation of a  
51 covered policy by a covered entity, as defined in subdivision three of  
52 this section, shall be subject to preclearance by the civil rights  
53 bureau or by a designated court as set forth in this section.

54 2. Covered policies. A "covered policy" shall include any new or modi-  
55 fied voting qualification, prerequisite to voting, law, ordinance, stan-

1 standard, practice, procedure, regulation, or policy concerning any of the  
2 following topics:

- 3 (a) Method of election;  
4 (b) Form of government;  
5 (c) Annexation of a political subdivision;  
6 (d) Incorporation of a political subdivision;  
7 (e) Consolidation or division of political subdivisions;  
8 (f) Removal of voters from enrollment lists or other list maintenance  
9 activities;  
10 (g) Number, location, or hours of any election day or early voting  
11 poll site;  
12 (h) Dates of elections and the election calendar, except with respect  
13 to special elections;  
14 (i) Registration of voters;  
15 (j) Assignment of election districts to election day or early voting  
16 poll sites;  
17 (k) Assistance offered to members of a language-minority group; and  
18 (l) The civil rights bureau may designate additional topics for inclu-  
19 sion in this list pursuant to a rule promulgated under the state admin-  
20 istrative procedure act, if it determines that a new or modified voting  
21 qualification, prerequisite to voting, law, ordinance, standard, prac-  
22 tice, procedure, regulation, or policy concerning such topics may have  
23 the effect of denying or abridging the right to vote on account of race,  
24 color, or language-minority group.

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

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

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

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

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

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

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

52 (i) The commission shall grant preclearance only if it determines,  
53 upon review of the civil rights bureau's recommendation, that the  
54 covered policy will not diminish the ability of protected class members  
55 to participate in the political process and to elect their preferred

1 candidates to office. If the commission grants preclearance, the covered  
2 entity may enact or implement the covered policy immediately.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

54 (c) Public comment shall be accepted for a period of no fewer than  
55 thirty days. During this period, the covered entity shall afford inter-  
56 ested persons an opportunity to submit data, views, and arguments in

1 writing by mail, fax, or email, or through an online public comment  
2 portal on the official website for the locality if one has been estab-  
3 lished.

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

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

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

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

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

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

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

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

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

51 (d) Upon receipt of a covered policy for lookback review, the commis-  
52 sion or civil rights bureau shall publish the submission on its website.  
53 The schedule and procedures for receiving public comment and evaluating  
54 a submission through lookback review shall reflect the schedule and  
55 procedures provided by paragraph (f) of subdivision four of this

1 section, based on the type of policy that is the subject of the  
2 submission.

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

6 § 17-214. Right of action against voter intimidation, deception or  
7 obstruction. 1. (a) No person, whether acting under color of law or  
8 otherwise, may engage in acts of intimidation, deception, or obstruction  
9 that affects the right of voters to access the elective franchise.

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

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

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

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

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

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

53 § 17-216. Authority to issue subpoenas. In any action or investigation  
54 to enforce any provision of this title, the attorney general shall have  
55 the authority to take proof and determine relevant facts and to issue  
56 subpoenas in accordance with the civil practice law and rules.

1 § 17-218. Expedited judicial proceedings and preliminary relief.  
2 Because of the frequency of elections, the severe consequences and irre-  
3 parable harm of holding elections under unlawful conditions, and the  
4 expenditure to defend potentially unlawful conditions that benefit  
5 incumbent officials, actions brought pursuant to this title shall be  
6 subject to expedited pretrial and trial proceedings and receive an auto-  
7 matic calendar preference. In any action alleging a violation of this  
8 section in which a plaintiff party seeks preliminary relief with respect  
9 to an upcoming election, the court shall grant relief if it determines  
10 that: (a) plaintiffs are more likely than not to succeed on the merits;  
11 and (b) it is possible to implement an appropriate remedy that would  
12 resolve the alleged violation in the upcoming election.

13 § 17-220. Attorneys' fees. In any action to enforce any provision of  
14 this title, the court shall allow the prevailing plaintiff party, other  
15 than the state or political subdivision thereof, a reasonable attorneys'  
16 fee, litigation expenses including, but not limited to, expert witness  
17 fees and expenses as part of the costs. A plaintiff will be deemed to  
18 have prevailed when, as a result of litigation, the defendant party  
19 yields much or all of the relief sought in the suit. Prevailing defend-  
20 ant parties shall not recover any costs, unless the court finds the  
21 action to be frivolous, unreasonable, or without foundation.

22 § 17-222. Applicability. The provisions of this title shall apply to  
23 all elections for any elected office or electoral choice within the  
24 state or any political subdivision. The provisions of this title shall  
25 apply notwithstanding any other provision of law, including any other  
26 state law or local law.

27 § 17-224. Severability. If any provision of this title or its applica-  
28 tion to any person, political subdivision, or circumstance is held  
29 invalid, the invalidity shall not affect other provisions or applica-  
30 tions of this title which can be given effect without the invalid  
31 provision or application, and to this end the provisions of this title  
32 are severable.

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