# STATE OF NEW YORK

1722--A

2023-2024 Regular Sessions

# IN ASSEMBLY

January 20, 2023

Introduced by M. of A. ZINERMAN, DINOWITZ, WALKER, SILLITTI, TAYLOR, BURGOS, FALL, LEVENBERG, SIMON, AUBRY, JEAN-PIERRE, DE LOS SANTOS, TAPIA, NOVAKHOV -- read once and referred to the Committee on Election Law -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the election law, in relation to the form in which a proposed amendment to the constitution or other question provided by law to be submitted to a statewide vote shall be submitted to the people for their approval

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

Section 1. Section 1-104 of the election law is amended by adding a new subdivision 40 to read as follows:

**40. (a) The term "plain language" when applied to any statement of the form in which a proposed amendment to the constitution or other question provided by law to be submitted to a statewide vote appears on the ballot shall mean a statement which, in addition to satisfying the requirements set forth in paragraph d of subdivision one of section 4-108 of this chapter: (i) scores no higher than eighth grade or "good", as indicated by a score of a nine on the automated reading index as calculated pursuant to the formula set forth in paragraph (b) of this subdivision, (ii) contains no more than one passive sentence, (iii) avoids the use of semicolons, using multiple sentences as necessary, and (iv) does not contain any double negatives.**

**(b) The automated reading index shall be calculated according to the following formula:**

**(i) Divide the number of characters by the number of words and multiply that number by 4.71.**

**(ii) Divide the number of words by the number of sentences and multiply that number by 0.5.**

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

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(iii) Add the results from subparagraphs (i) and (ii) of this paragraph.

(iv) Subtract 21.43 from the result of subparagraph (iii) of this paragraph and round to the nearest whole number.

§ 2. Paragraphs a and d of subdivision 1 and subdivisions 2 and 3 of section 4-108 of the election law, paragraph d of subdivision 1 and subdivision 2 as amended by chapter 136 of the laws of 1978 and subdivision 3 as added by chapter 234 of the laws of 1976, are amended and four new subdivisions 4, 5, 6 and 7 are added to read as follows:

a. Whenever any proposed amendment to the constitution or other question provided by law to be submitted to a statewide vote shall be submitted to the people for their approval, the state board of elections at least three months prior to the general election at which such amendment, proposition or question is to be submitted, shall transmit to each county board of elections a certified copy of the text of each amendment, proposition or question and a statement of the form in which it is to be submitted as approved after public comment has been received and reviewed pursuant to paragraph d of this subdivision.

d. In addition to the text, such transmittal shall contain an abstract of such proposed amendment, proposition or question, prepared by the state board of elections [~~concisely stating the purpose and effect thereof in a clear and coherent manner using words with common and everyday meanings~~] in plain language as defined in subdivision forty of section 1-104 of this chapter and satisfying the requirements set forth in subdivision two of this section. At least four months prior to the general election at which such amendment, proposition or question is to be submitted, the state board of elections shall publicly release and submit for public comment the proposed form in which the amendment, proposition or question is to be submitted to the people. The public shall have no less than fifteen days to submit comments on the proposed form in which the amendment, proposition or question is to be submitted to the voters. The state board of elections shall review and consider all comments before finalizing the statement of the form in which the proposed amendment, proposition or question is to be submitted for approval by the people.

2. The form in which the proposed amendment, proposition or question is to be submitted shall consist [~~of~~] only [~~an abbreviated title indicating generally and briefly, and in a clear and coherent manner using words with common and every-day meanings, the subject matter of the amendment, proposition or question~~] of the following:

a. a brief descriptive title of up to fifteen words, which describes the topic, goal or outcome of the ballot proposal written in plain language;

b. a summary of the text of the ballot proposal of up to thirty words, written in plain language, that describes the change in policy to be adopted and not the legal mechanism; and

c. a statement of what a "Yes" or "No" vote means of up to thirty words, written in plain language that identifies the practical outcome of each election result and not the legal mechanism. The ballot proposal language may consist of multiple sentences.

If more than one such amendment, proposition or question is to be voted upon at such election, each such amendment, proposition or question respectively shall be separately and consecutively numbered.

3. The attorney general shall advise in the preparation of [~~such abstract and~~] such form of submission, and such recommendations shall be in plain language.

4. a. The state board of elections shall prominently publish on its website at least four months prior to the general election at which a ballot proposal shall appear, the proposed form of the ballot proposal and abstract. There shall be a public comment period of at least fifteen days subsequent to such publication.

b. The state board of elections shall review and consider public comments before adopting the final form of the ballot proposal and abstract. The state board of elections shall also publish on its website the automated readability index score calculated pursuant to subdivision six of this section for each form of question and abstract.

c. The score shall require no higher than an eighth grade reading level (a score of eight on the automated readability index), unless the state board of elections shall state the basis for its determination that the plain language requirements of this section are met.

5. For the purposes of this section, plain language shall mean the form of the ballot proposal and abstract:

a. shall be written in easily comprehended, concise language;

b. shall not contain more the one passive sentence;

c. shall not use semicolons, using multiple sentences as necessary; and

d. shall not contain double negatives.

6. To evaluate compliance with the plain language requirements of this section, the state board of elections shall calculate an automated readability index score, separately, for each statewide form of ballot proposal and abstract. The automated readability index score shall be calculated according to the following formula:

a. divide the number of characters (excluding spaces) by the number of words and multiply that number by 4.71;

b. divide the number of words by the number of sentences and multiply that number by 0.5;

c. add the results of paragraphs a and b of this subdivision;

d. subtract 21.43 from the result of paragraph c of this subdivision and round to the nearest whole number.

7. No specific automated readability index score shall be required; provided, however, the state board of elections shall use best efforts to score at an eighth grade reading level or below and meet the definition of plain language in subdivision five of this section. In addition, the state board of elections shall expend their best efforts not to exceed the word limits in subdivision two of this section but may do so when plain language clarity is improved thereby.

§ 3. Subdivision 2 of section 4-116 of the election law, as amended by chapter 60 of the laws of 1993, is amended to read as follows:

2. The state board of elections shall publish once in the week preceding any election at which proposed constitutional amendments or other propositions or questions are to be submitted to the voters of the state an abstract of such amendment or question, a brief statement of the law or proceedings authorizing such submission, a statement that such submission will be made and the form satisfying the requirements of paragraph d of subdivision one of section 4-108 of this article in which it is to be submitted. No later than two months prior to the general election at which such amendment, proposition or question is to be submitted, such information shall be prominently displayed on the state board of elections' website and on the website of every county board of elections which maintains a website.

§ 4. Section 4-116 of the election law is amended by adding a new subdivision 4 to read as follows:

**4. No later than two months prior to the general election at which any statewide ballot proposal is to be submitted to the people, the state board of elections and all local boards of elections shall publish on their websites the information required to be published pursuant to subdivision two of this section.**

§ 5. This act shall take effect on the first of January next succeeding the date on which it shall have become a law.