

# STATE OF NEW YORK

10357

## IN ASSEMBLY

May 20, 2024

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Walker) --  
read once and referred to the Committee on Election Law

AN ACT to amend the election law, in relation to voting rights; to amend chapter 226 of the laws of 2022 amending the election law relating 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, in relation to making technical changes; and to repeal certain provisions of the election law relating to voting rights

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

1 Section 1. Subdivision 5 of section 17-204 of the election law, as  
2 added by chapter 226 of the laws of 2022, is amended to read as follows:  
3 5. "Protected class" means a class of [~~eligible voters~~] individuals  
4 who are members of a race, color, or language-minority group, including  
5 individuals who are members of a minimum reporting category that has  
6 ever been officially recognized by the United States census bureau.  
7 § 2. Subdivision 10 of section 17-204 of the election law is REPEALED.  
8 § 3. Subparagraph (ii) of paragraph (b) of subdivision 2 of section  
9 17-206 of the election law, as added by chapter 226 of the laws of 2022,  
10 is amended to read as follows:  
11 (ii) used a district-based or alternative method of election and that  
12 candidates or electoral choices preferred by members of the protected  
13 class would usually be defeated, and either: (A) voting patterns of  
14 members of the protected class within the political subdivision are  
15 racially polarized; or (B) under the totality of the circumstances, the  
16 ability of members of the protected class to elect candidates of their  
17 choice or influence the outcome of elections is impaired[~~to~~].  
18 § 4. The opening paragraph of subdivision 7 of section 17-206 of the  
19 election law, as added by chapter 226 of the laws of 2022, is amended to  
20 read as follows:

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

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1 Notification requirement and safe harbor for judicial actions. Before  
2 commencing a judicial action against a political subdivision under this  
3 section, a prospective plaintiff shall send by certified mail a written  
4 notice to the clerk of the political subdivision, or, if the political  
5 subdivision does not have a clerk, the governing body of the political  
6 subdivision, against which the action would be brought, asserting that  
7 the political subdivision may be in violation of this title. This writ-  
8 ten notice shall be referred to as a "NYVRA notification letter" in this  
9 title. The NYVRA notification letter shall specify the potential  
10 violation or violations alleged and shall contain a statement of facts  
11 to support such allegation; provided, however, that failure to so speci-  
12 fy shall not be a basis for dismissal of such judicial action, but may  
13 affect the calculation of reimbursement pursuant to paragraph (e) of  
14 this subdivision. The prospective plaintiff shall also send by first  
15 class mail or email a copy of the NYVRA notification letter to the civil  
16 rights bureau. For actions against a school district or any other poli-  
17 tical subdivision that holds elections governed by the education law,  
18 the prospective plaintiff shall also send by certified mail a copy of  
19 the NYVRA notification letter to the commissioner of education.

20 § 5. Paragraph (b) of subdivision 7 of section 17-206 of the election  
21 law, as added by chapter 226 of the laws of 2022, is amended to read as  
22 follows:

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

41 § 6. Subparagraph (i) of paragraph (c) of subdivision 7 of section  
42 17-206 of the election law, as added by chapter 226 of the laws of 2022,  
43 is amended to read as follows:

44 (i) The governing body of the political subdivision may approve a  
45 proposed remedy that complies with this title and submit such a proposed  
46 remedy to the civil rights bureau no later than one hundred twenty days  
47 after the passage of the NYVRA resolution. Such a submission shall be  
48 referred to as a "NYVRA proposal" in this title.

49 § 7. Subparagraph (iii) of paragraph (c) of subdivision 7 of section  
50 17-206 of the election law, as added by chapter 226 of the laws of 2022,  
51 is amended to read as follows:

52 (iii) Within [~~forty-five~~ sixty] days of receipt of a NYVRA proposal,  
53 the civil rights bureau shall grant or deny approval of the NYVRA  
54 proposal. The civil rights bureau may invoke an extension of up to twen-  
55 ty days to review the proposal.

1 § 8. Subparagraph (iv) of paragraph (c) of subdivision 7 of section  
2 17-206 of the election law, as added by chapter 226 of the laws of 2022,  
3 is amended to read as follows:

4 (iv) The civil rights bureau shall only grant approval to the NYVRA  
5 proposal if it concludes that: (A) the political subdivision may be in  
6 violation of this title; (B) the NYVRA proposal would remedy any poten-  
7 tial violation of this title cited in the NYVRA notification letter and  
8 would not give rise to any other violation of this title; (C) the NYVRA  
9 proposal is unlikely to violate the constitution or any relevant federal  
10 law; and (D) [~~the NYVRA proposal would not diminish the ability of~~  
11 ~~protected class members to participate in the political process and to~~  
12 ~~elect their preferred candidates to office, and (E)] implementation of  
13 the NYVRA proposal is feasible.~~

14 § 9. Subdivision 3 of section 17-210 of the election law, as added by  
15 chapter 226 of the laws of 2022, is amended to read as follows:

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

51 § 10. Subparagraph (ii) of paragraph (f) of subdivision 4 of section  
52 17-210 of the election law, as added by chapter 226 of the laws of 2022,  
53 is amended to read as follows:

54 (ii) [~~Upon a showing of good cause, the~~] The civil rights bureau may  
55 [~~receive~~] invoke an extension of up to twenty days to make a determi-

1 nation pursuant to this paragraph, if the civil rights bureau determines  
2 that good cause exists for such extension.

3 § 11. Subdivision 7 of section 17-210 of the election law, as added by  
4 chapter 226 of the laws of 2022, is amended to read as follows:

5 7. [~~Rules and regulations. The civil rights bureau may promulgate such~~  
6 ~~rules and regulations as are necessary to effectuate the purposes of~~  
7 ~~this section.~~] Notification. (a) Any political subdivision that becomes  
8 subject to a court order or government enforcement action as provided in  
9 paragraph (a) or (b) of subdivision three of this section shall notify  
10 the civil rights bureau within thirty days of the issuance of such order  
11 or enforcement action.

12 (b) Any political subdivision that becomes involved in litigation  
13 concerning voting shall notify the civil rights bureau within thirty  
14 days of the commencement of such litigation.

15 (c) No more than thirty days after publication of a list of covered  
16 entities by the civil rights bureau, each covered entity included in  
17 such list shall notify the civil rights bureau of the name, email  
18 address, and telephone number of an individual with the authority to  
19 submit covered policies for preclearance on behalf of the covered enti-  
20 ty. Each such covered entity shall notify the civil rights bureau within  
21 thirty days of any material change to the information required pursuant  
22 to this paragraph.

23 § 12. Subparagraph (ii) of paragraph (b) of subdivision 1 of section  
24 17-212 of the election law, as amended by chapter 481 of the laws of  
25 2023, is amended to read as follows:

26 (ii) a person knowingly uses any deceptive or fraudulent device,  
27 contrivance or communication~~[r]~~ that (A) pertains to: (1) the time,  
28 place, or manner of any election; (2) the qualifications or restrictions  
29 on voter eligibility for such election; (3) any voter's eligibility to  
30 vote in any election; (4) the consequences for voting or failing to vote  
31 in any election; or (5) a statement of endorsement by any specifically  
32 named person, political party, or organization; and (B) impedes,  
33 prevents or otherwise interferes with the free exercise of the elective  
34 franchise by any person, or ~~that~~ causes or will reasonably have the  
35 effect of causing any person to vote or refrain from voting in general  
36 or for or against any particular person or for or against any proposi-  
37 tion submitted to voters at such election; to place or refrain from  
38 placing their name upon a registry of voters; or to request or refrain  
39 from requesting an early mail or absentee ballot; or

40 § 13. Section 17-214 of the election law, as added by chapter 226 of  
41 the laws of 2022, is amended to read as follows:

42 § 17-214. Enforcement. 1. Enforcement by the attorney general. If the  
43 civil rights bureau concludes that a submission by a political subdivi-  
44 sion or any other party is insufficient to complete its review, the  
45 civil rights bureau may request that the party provide additional infor-  
46 mation, and the time periods for review provided in this title shall  
47 recommence upon receipt of such information. If such information is not  
48 provided, such time periods for review shall not apply.

49 2. Authority to issue subpoenas. In any action or investigation to  
50 enforce any provision of this title, the attorney general shall have the  
51 authority to take proof and determine relevant facts and to issue  
52 subpoenas in accordance with the civil practice law and rules.

53 3. Preclearance. Covered entities shall provide information relevant  
54 to preclearance to the civil rights bureau upon request.

55 § 14. Section 17-216 of the election law, as added by chapter 226 of  
56 the laws of 2022, is amended to read as follows:

1 § 17-216. 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]~~ title in which a plaintiff party seeks preliminary relief with  
9 respect to an upcoming election, the court shall grant relief if it  
10 determines that: (a) plaintiffs are more likely than not to succeed on  
11 the merits; and (b) it is possible to implement an appropriate remedy  
12 that would resolve the alleged violation in the upcoming election.

13 § 15. The election law is amended by adding a new section 17-219 to  
14 read as follows:

15 § 17-219. Rules and regulations. The civil rights bureau may promul-  
16 gate such rules and regulations as may be necessary to effectuate the  
17 purposes of this title.

18 § 16. Section 5 of chapter 226 of the laws of 2022 amending the  
19 election law relating to establishing the John R. Lewis Voting Rights  
20 Act of New York, establishing rights of action for denying or abridging  
21 of the right of any member of a protected class to vote, providing  
22 assistance to language-minority groups, requiring certain political  
23 subdivisions to receive preclearance for potential violations of the  
24 NYVRA, and creating civil liability for voter intimidation, as amended  
25 by chapter 169 of the laws of 2023, is amended to read as follows:

26 § 5. This act shall take effect July 1, 2023; provided that section  
27 17-208 of the election law as added by section four of this act shall  
28 take effect three years after it shall have become a law; and provided  
29 further, however, that section 17-210 of the election law, as added by  
30 section four of this act, shall take effect one year after the attorney  
31 general certifies that the office of the attorney general is prepared to  
32 execute the duties assigned in section four of this act, and further  
33 provided that if after the expiration of one year following such certifi-  
34 cation the attorney general requires more time to [~~certify that the~~  
35 ~~office of the attorney general is prepared to~~] execute the duties  
36 assigned in section four of this act, the attorney general, may, for  
37 good cause shown, apply to the governor for such an extension of time.  
38 The governor may grant or deny an extension of up to one year according  
39 to his or her discretion. The attorney general shall notify the legisla-  
40 tive bill drafting commission upon the occurrence of the enactment of  
41 the legislation provided for in section four of this act in order that  
42 the commission may maintain an accurate and timely effective data base  
43 of the official text of the laws of the state of New York in furtherance  
44 of effectuating the provisions of section 44 of the legislative law and  
45 section 70-b of the public officers law.

46 § 17. This act shall take effect immediately; provided, however, that  
47 the amendments to section 17-210 of the election law made by sections  
48 nine, ten and eleven of this act shall take effect on the same date and  
49 in the same manner as such section takes effect pursuant to section 5 of  
50 chapter 226 of the laws of 2022; provided, further, that section 17-219  
51 of the election law as added by section fifteen of this act shall be  
52 deemed to have been in full force and effect on the same date as chapter  
53 226 of the laws of 2022 took effect; and provided, further, that the  
54 amendments to section 5 of chapter 226 of the laws of 2022 made by  
55 section sixteen of this act shall be deemed to have been in full force  
56 and effect on the same date as such chapter was enacted.