# STATE OF NEW YORK

8581

# IN ASSEMBLY

January 12, 2024

Introduced by M. of A. GIBBS -- read once and referred to the Committee on Election Law

AN ACT to amend the election law, in relation to providing a remedy for election disruptions

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

Section 1. The election law is amended by adding a new section 3-109 to read as follows:

**§ 3-109. Disruption; additional time for voting; publicity of remedy. 1. (a) Except as provided in subdivision two of this section, in the event that early voting or election day voting at one or more polling places, or for one or more election districts, is delayed or disrupted prior to the close of polls on any day of election for a duration exceeding fifteen consecutive minutes, the board of elections shall toll, adjust, and extend the scheduled timeframe for voting on that day of election to account for and compensate the lost time for voting at all such impacted polling places or election districts.**

**(b) Pursuant to paragraph (a) of this subdivision, in the event that early voting or election day voting at one or more polling places, or for one or more election districts, is delayed or disrupted, such scheduled timeframe for voting shall be tolled, beginning from the actual time of commencement of the delay or disruption to voting, or, if such actual time cannot be reasonably determined by the board of elections, beginning at the latest from the time a report of such delay or disruption is first electronically transmitted or telephonically communicated to the board of elections. Such tolling shall continue until such time as the delay or disruption to voting has ended and the impacted election districts and polling places have reopened for voting, or the time for the scheduled close of polls on that day of election, whichever occurs first. The scheduled timeframe for voting shall then be adjusted, proportionately, for each such polling place or election district, and extended on that day of election, or, if extending the timeframe for voting at such election districts or polling places on that day of election, or in that location, would be administratively**

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

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impracticable, such additional time for voting shall be scheduled on the next day for voting or a successive day for voting scheduled for the same election, but not later than election day, in the same polling place or, if such polling place is unavailable, at alternative locations that may be designated as polling places pursuant to the provisions of section 4-104 of this chapter and is, to the extent practicable, in close proximity to the delayed or disrupted polling places or election districts, to account for and compensate the lost time at all such impacted polling places or election districts.

(c) In any election district or polling place in which a voting machine or voting system was used prior to a delay or disruption, such machine or system shall be used for the additional time for voting unless found to be inoperable, in which case the provisions of section 7-120 of this chapter shall apply. Except as directed by the board of elections, the original seal on such machines shall not be removed nor shall the machines be unlocked until the reopening of the polls and the board of elections shall provide additional seals as necessary to be used as soon as the polls are closed on such day. The state board of elections shall promulgate rules and/or regulations to ensure the fair, transparent, and uniform administration of this section.

2. (a) By majority vote of the commissioners, the board of elections may determine that the remedy of additional time for voting to account and compensate for the lost time for voting as prescribed by subdivision one of this section would constitute inappropriate or unnecessary relief in light of the particular circumstances of delay or disruption presented at a specific polling place or election district. Such vote shall be taken during a public meeting held for such purpose, shall specify the cause or nature of the delay or disruption, and shall memorialize in writing the results of any such vote and the particular considerations relied upon by the board of elections in reaching a determination that a proportionate extension of time to account and compensate for the lost time at such impacted polling places or election districts would constitute inappropriate or unnecessary relief.

(b) In the event that the board of elections reaches such determination, such board shall electronically or telephonically inform the bipartisan co-executive directors of the state board of elections and the civil rights bureau of the office of the attorney general regarding the circumstances that appear to have caused delay or disruption and an accounting of the polling places or election districts impacted, the respective durations of such delays or disruptions, the results of such vote, the particular circumstances relied upon by the board of elections in reaching a determination that a proportionate extension of time to account and compensate for the lost time at such impacted polling places or election districts would constitute inappropriate or unnecessary relief, any alternative remedial action taken by the board of elections or other individuals or entities, and a description of all related publicity efforts already undertaken or to be undertaken.

3. (a) In the event that the scheduled timeframe for early voting or election day voting at one or more polling places, or for one or more election districts, is extended pursuant to subdivision one of this section, the board of elections shall, with the assistance of the state board of elections, and under the coordination of the state board of elections if necessary, make use of all reasonable means and channels of communications to publicize, forthwith, the remedial action taken with respect to the polling places and/or election districts impacted, indi-

cating in plain language the duration and timeframe of such remedial action, as follows:

(i) electronically or telephonically inform the bipartisan co-executive directors of the state board of elections and the civil rights bureau of the office of the attorney general of the circumstances that appear to have caused the delay or disruption at issue, an accounting of the polling places or election districts impacted and the respective durations of such delays or disruptions, the remedial action taken, and a description of all related publicity efforts already undertaken or to be undertaken;

(ii) electronically or telephonically inform any candidate or committee with candidates or questions appearing on a ballot to be voted upon in any such polling place or election district impacted, or the designated agent of such candidate or committee of the remedial action taken, and including a description of all related publicity efforts already undertaken or to be undertaken;

(iii) electronically or telephonically inform local print and broadcast news media organizations and local non-partisan civic organizations and community-based groups situated within the municipalities impacted or serving segments of the voting public or communities impacted, including media and civic organizations primarily serving prevalent language-minority communities, and including a description of all related publicity efforts already undertaken or to be undertaken; and

(iv) utilize free or paid traditional, website, and social media channels and networks, including official advisory or public notification tools or websites made available by the impacted county or municipalities, and issue electronic mail or phone or text messages directly to impacted voters who have not already voted and who have provided such personal contact information to the board of elections, to inform the voting public residing in the communities served by the impacted polling places or election districts of the remedial action taken and the remaining opportunities to vote.

(b) Pursuant to paragraph (a) of this subdivision, such publicity shall direct attention to any change of the location of impacted polling places or election districts, if applicable, and shall contain such other information as the board of elections shall deem necessary and proper.

4. Action by the board of elections to provide additional time for voting pursuant to subdivision one of this section shall be dispositive and conclusive of the issue of whether a delay or disruption has occurred warranting such remedial action, and any ballots cast by eligible voters during the adjusted remedial timeframe for voting shall not be segregated from other ballots cast by eligible voters or subject to challenge or judicial review on the basis that such ballots were cast out of time; provided, however, that this subdivision shall not prejudice the right of any registered voter eligible to vote at such a delayed or disrupted polling place or election district, or any candidate or committee with candidates or questions appearing on a ballot to be voted upon in any such polling place or election district, to seek independent judicial relief for an order extending the timeframe for voting pursuant to subdivision one of this section, or for review of an adverse agency decision pursuant to subdivision two of this section, pursuant to state or federal law.

§ 2. Subdivision 2 of section 8-100 of the election law, as separately amended by chapter 6 and section 1 of part BBB of chapter 55 of the laws of 2019, is amended to read as follows:

2. Polls shall be open for voting during the following hours: a primary election from six o'clock in the morning until nine o'clock in the evening; the general election from six o'clock in the morning until nine o'clock in the evening; a special election called by the governor pursuant to the public officers law, and, except as otherwise provided by law, every other election, from six o'clock in the morning until nine o'clock in the evening; early voting hours shall be as provided in title six of this article. Early voting times shall be as provided in section 8-600 of this article. **In the event of a delay or disruption to voting, the board of elections is authorized to toll, adjust, and extend the timeframe for voting pursuant to section 3-109 of this chapter.**

§ 3. Section 8-102 of the election law is amended by adding a new subdivision 3 to read as follows:

**3. In the event that early voting or election day voting for one or more election districts or poll sites is delayed or disrupted prior to the close of polls on any day of election for a duration exceeding fifteen consecutive minutes, the polling place coordinator, election district chairperson, or, if such persons are unavailable, any inspector of election, shall immediately notify the board of elections. There shall be a presumption of a violation of subdivision one of section 17-212 of this chapter when any person, by commission or omission, intentionally frustrates the purposes of this section.**

§ 4. Paragraph (f) of subdivision 4 of section 8-600 of the election law, as added by chapter 480 of the laws of 2023, is amended to read as follows:

(f) If the location of an early voting polling place as designated pursuant to paragraph (e) of this subdivision changes prior to such early voting period, notice shall be provided to all affected eligible voters no later than five days prior to such voting period in accordance with the communication plan established pursuant to subdivision five of this section or as soon as practicable if such location change occurs within five days of the commencement of such early voting period; provided, however, no such location change may occur within forty-eight hours of such commencement unless there is any disaster within the meaning of section 3-108 of this chapter **or disruption within the meaning of section 3-109 of this chapter** or a declared state of emergency by the governor or any court of competent jurisdiction in the county where the polling place is located.

§ 5. This act shall take effect October 1, 2024; provided, however, that if this act shall have become a law on or after October 1, 2024 this act shall take effect immediately and shall be deemed to have been in full force and effect on and after October 1, 2024. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.