

JM

CHAPTER 226

LAWS OF 2022

W/APPROVAL #8

SENATE BILL 1046E

ASSEMBLY BILL _____

STATE OF NEW YORK

1046--E

2021-2022 Regular Sessions

IN SENATE

January 6, 2021

Introduced by Sens. MYRIE, BAILEY, BIAGGI, BRESLIN, BRISPORT, BROUK, CLEARE, COMRIE, COONEY, FELDER, GAUGHRAN, GIANARIS, GONARDES, HINCHEY, HOYLMAN, JACKSON, KAPLAN, KAVANAGH, KENNEDY, KRUEGER, LIU, MANNION, MAY, MAYER, PARKER, RAMOS, REICHLIN-MELNICK, RIVERA, SALAZAR, SANDERS, SEPULVEDA, SERRANO, STAVISKY, THOMAS -- 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

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

Ald 78E/Walker

DATE RECEIVED BY GOVERNOR:

6/17/2022

ACTION MUST BE TAKEN BY:

6/29/2022

DATE GOVERNOR'S ACTION TAKEN:

6/20/22

SENATE VOTE ___Y ___N

HOME RULE MESSAGE ___Y ___N

DATE _____

ASSEMBLY VOTE ___Y ___N

DATE _____

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06/02/22 S1046-E Assembly Vote Yes: 106 No : 43

05/31/22 S1046-E Senate Vote Aye: 43 Nay: 20

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Floor Votes:

06/02/22 S1046-E Assembly Vote Yes: 106 No : 43

Yes	Abbate	Yes	Abinanti	Yes	Anderson	No	Angelino
No	Ashby	Yes	Aubry	No	Barclay	Yes	Barnwell
Yes	Barrett	Yes	Benedetto	Yes	Bichotte Hermelyn	No	Blankenbush
No	Brabenec	Yes	Braunstein	Yes	Bronson	No	Brown E
No	Brown K	Yes	Burdick	Yes	Burgos	Yes	Burke
Yes	Buttenschon	No	Byrne	No	Byrnes	Yes	Cahill
Yes	Carroll	Yes	Chandler- Waterman	Yes	Clark	Yes	Colton
Yes	Conrad	Yes	Cook	Yes	Cruz	Yes	Cunningham
Yes	Cusick	Yes	Cymbrowitz	Yes	Darling	Yes	Davila
Yes	De Los Santos	No	DeStefano	Yes	Dickens	Yes	Dilan
Yes	Dinowitz	No	DiPietro	No	Durso	Yes	Eichenstein
Yes	Englebright	Yes	Epstein	Yes	Fahy	Yes	Fall
Yes	Fernandez	No	Fitzpatrick	Yes	Forrest	No	Friend
Yes	Frontus	Yes	Galef	Yes	Gallagher	No	Gallahan
No	Gandolfo	Yes	Gibbs	No	Giglio JA	No	Giglio JM
Yes	Glick	Yes	Gonzalez-Rojas	No	Goodell	Yes	Gottfried
Yes	Griffin	Yes	Gunther A	No	Hawley	Yes	Hevesi
Yes	Hunter	Yes	Hyndman	Yes	Jackson	Yes	Jacobson
Yes	Jean-Pierre	No	Jensen	Yes	Jones	Yes	Joyner
Yes	Kelles	Yes	Kim	No	Lalor	Yes	Lavine
No	Lawler	No	Lemondes	Yes	Lucas	Yes	Lunsford
Yes	Lupardo	Yes	Magnarelli	Yes	Mamdani	No	Manktelow
Yes	McDonald	No	McDonough	Yes	McMahon	Yes	Meeks
No	Mikulin	No	Miller B	Yes	Mitaynes	No	Montesano
No	Morinello	Yes	Niou	Yes	Nolan	No	Norris
Yes	O'Donnell	Yes	Otis	No	Palmesano	Yes	Paulin
Yes	Peoples-Stokes	Yes	Pheffer Amato	Yes	Pretlow	Yes	Quart
No	Ra	Yes	Rajkumar	Yes	Ramos	No	Reilly
Yes	Reyes	Yes	Rivera J	Yes	Rivera JD	Yes	Rosenthal D
Yes	Rosenthal L	Yes	Rozic	No	Salka	ER	Santabarbara
Yes	Sayegh	No	Schmitt	Yes	Seawright	Yes	Septimo
Yes	Sillitti	Yes	Simon	No	Simpson	No	Smith
No	Smullen	Yes	Solages	Yes	Steck	Yes	Stern
Yes	Stirpe	No	Tague	No	Tannousis	Yes	Tapia
Yes	Taylor	Yes	Thiele	Yes	Vanel	No	Walczyk

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Yes Walker	Yes Wallace	No Walsh	Yes Weinstein
Yes Weprin	Yes Williams	Yes Woerner	Yes Zebrowski K
Yes Zinerman	Yes Mr. Speaker		

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Floor Votes:

05/31/22 S1046-E Senate Vote Aye: 43 Nay: 20

Aye Addabbo	Nay Akshar	Aye Bailey	Aye Biaggi
Nay Borrello	Nay Boyle	Aye Breslin	Aye Brisport
Aye Brooks	Aye Brouk	Aye Cleare	Aye Comrie
Aye Cooney	Aye Felder	Nay Gallivan	Aye Gaughran
Aye Gianaris	Aye Gounardes	Nay Griffo	Aye Harckham
Nay Helming	Aye Hinchey	Aye Hoylman	Aye Jackson
Nay Jordan	Aye Kaminsky	Aye Kaplan	Aye Kavanagh
Aye Kennedy	Aye Krueger	Nay Lanza	Aye Liu
Aye Mannion	Nay Martucci	Nay Mattera	Aye May
Aye Mayer	Aye Myrie	Nay Oberacker	Nay O'Mara
Nay Ortt	Nay Palumbo	Aye Parker	Aye Persaud
Aye Ramos	Nay Rath	Aye Reichlin-Melnick	Nay Ritchie
Aye Rivera	Aye Ryan	Aye Salazar	Aye Sanders
Aye Savino	Aye Sepulveda	Nay Serino	Aye Serrano
Aye Skoufis	Aye Stavisky	Nay Stec	Aye Stewart-Cousins
Nay Tedisco	Aye Thomas	Nay Weik	



STATE OF NEW YORK
EXECUTIVE CHAMBER
ALBANY 12224

APPROVAL #8
CHAPTER #226

June 20, 2022

MEMORANDUM filed with Senate Bill 1046-E, entitled:

"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 "

APPROVED

The John R. Lewis New York Voting Rights Act reaffirms New York State's commitment to ensuring that voters, particularly voters of color who have been more frequently disenfranchised, have free and unimpeded access to the polls. It builds upon years of progressive voting reforms in New York, and ensures that the state continues to move toward being a national leader in voting rights. As the federal government fails to fulfill its duty to uphold voting rights across the nation, it is now incumbent upon states to step-up and step-in, and this legislation ensures voting rights will be protected in New York.

This legislation requires that voting regulations, local laws and ordinances throughout the state must be construed liberally by courts in favor of protecting the right of voters to have their ballot cast and counted. The legislation creates new prohibitions against voter intimidation, deception or obstruction.

The legislation also provides several important new protections for eligible voters who are members of any race, color, or language-minority group. Language-minority groups are defined as people who are American Indian, Asian American, Alaskan Natives or of Spanish heritage. These voters will be protected under this legislation from voter dilution and voter suppression. Vote dilution is prohibited under this legislation when a method of election impairs the ability of members of a protected class to elect the candidate of their choice or influence the outcome of an election. Voter suppression is prohibited when a policy is enacted or implemented in a manner that results in a denial or abridgement of the right of members of a protected class to vote.

The legislation further requires language-assistance be provided to language-minority groups, greatly expanding on the requirements of the federal Voting Rights Act.

It also builds upon the federal Voting Rights Act's vital preclearance scheme, which was gutted by the U.S. Supreme Court in *Shelby County v. Holder*. Now in New York, certain covered localities will be required to clear changes to election law practices before they can proceed to implementation.

Several provisions of this legislation as drafted are effective immediately, giving local governments and election officials no opportunity to prepare for implementation before certain requirements set in. Additionally, the legislation will impose new financial obligations on the counties, towns, villages and boards of education to comply with the legislation, as well as on the Office of the Attorney General, who will be primarily responsible for implementing the complex provisions of this legislation, and for enforcing the legislation's new voting rights protections.

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Therefore, I have reached an agreement with the Legislature to modify the effective date of this legislation until July 1, 2023. Postponing the effective date will give the state and localities the opportunity to identify implementation and financial challenges, and ensure that state and local units of government can properly turn this legislation into a law that fully benefits all New York's voters when it becomes active.

Based upon that agreement, I am pleased to sign this historic piece of legislation into law.

A handwritten signature in black ink that reads "Kathy Hochul". The signature is written in a cursive style with a large initial 'K' and a long, sweeping underline.

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**NEW YORK STATE SENATE
INTRODUCER'S MEMORANDUM IN SUPPORT
submitted in accordance with Senate Rule VI. Sec 1**

BILL NUMBER: S1046E

SPONSOR: MYRIE

TITLE OF BILL:

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

PURPOSE:

The purpose of the act is to encourage participation in the elective franchise by all eligible voters to the maximum extent, to ensure that eligible voters who are members of racial, ethnic, and language-minority groups shall have an equal opportunity to participate in the political processes of the State of New York, and especially to exercise the elective franchise; to improve the quality and availability of demographic and election data; and to protect eligible voters against intimidation and deceptive practices.

SUMMARY OF PROVISIONS:

§§ 17-200 through 17-204 contains the legislative purpose and statement of public policy, interpretation of laws related to elective franchise and definitions. It recognizes that the voting protections provided by the Constitution of the State of New York "substantially" exceed those provided by the Constitution of the United States and conjoins those protections with the constitutional guarantees of equal protection, freedom of expression, and freedom of association and sets itself against the denial or abridgment of the voting rights of members of a race, color, or language-minority group.

Additionally, the bill clarifies the standard of review for policies, practices, and laws which burden the right to vote and states that any statutes related to the elective franchise shall be construed liberally in favor of protecting the right to cast an effective ballot. The bill also establishes definitions. Those include methods of election (such as At-large, District-based, and Alternative) and electoral terms (such as "political subdivision," "protected class," "racially polarized voting," "Government enforcement action," "preclearance commission," and "deceptive or fraudulent device, contrivance, or communication").

The bill also creates two new rights of action for vote suppression and vote dilution and provides clarity on how these can be proven in court. It provides standards to evaluate the "totality of the circumstances" and establishes that justifications for challenged policies must be supported by substantial evidence. Remedies will be fashioned by court. A non-exhaustive list of suggested remedies includes a new method of

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elections, increasing the size of the governing body, moving the dates of elections (unless the budget in such political subdivision is subject to direct voter approval pursuant to Article 5 or Article 41 of the Education Law), additional voting hours or days, additional polling locations, or additional means of voting such as voting by mail.

The bill also contains notification requirements and provides a safe harbor for judicial actions. So that political jurisdictions can make necessary amendments to proposed election changes without needing to litigate in court.

The NYVRA ensures that language assistance will be provided in areas with large enough populations of minority language groups who are limited English proficient.

The NYVRA sets out two mechanisms for seeking preclearance, including administrative, and judicial preclearance. This section also establishes which policies are covered by the bill, and how jurisdictions would qualify for preclearance coverage. Jurisdictions covered under this section must preclear all voting and election law changes through either the Attorney General's Civil Rights Bureau or a specified State Supreme Court.

The bill also creates a right of action against voter intimidation, deception and obstruction, setting out prohibited conduct, who has standing to sue, and the remedies for a violation of this section.

The NYVRA grants the Attorney General the authority to issue subpoenas and to hold fact-finding hearings to enforce this act. It also provides for expedited judicial proceedings and recovery of attorney's fees.

Finally, this bill establishes that it applies to all elections for any elected office in New York State or New York's political subdivisions; provided, however, that school districts and libraries shall continue to conduct their elections under the Education Law, subject to and not inconsistent with the provisions of this title, to ensure voters of race, color, and language-minority groups have equitable access to fully participate in the electoral process.

JUSTIFICATION:

The John R. Lewis New York Voting Rights Act provides an opportunity for this state to provide strong protections for the franchise at a time when voter suppression is on the rise, vote dilution remains prevalent, and the future of the federal voting rights act is uncertain due to a federal judiciary that is increasingly hostile to the protection of the franchise.

Although its record on voting has improved recently, New York has an extensive history of discrimination against racial, ethnic, and language minority groups in voting. The result is a persistent gap between white and non-white New Yorkers in political participation and elected representation. According to data from the U.S. census bureau, registration and turnout rates for non-Hispanic white New Yorkers led Asian, Black, and Hispanic New Yorkers-the latter two groups by particularly wide margins.

New York will not be the first state to pass its own voting rights act. California has had a state voting rights act since 2001 and over the past two decades, the CVRA has been highly effective at increasing opportunities for minority voters to elect their candidates of choice to local government: bodies and to elect more minority candidates to local offices. In 2018, Washington state also passed its own voting rights

act. But both the Washington and California state voting rights acts are limited to addressing vote dilution in at-large elections. The New York Voting rights act builds upon the demonstrated track record of success in California and Washington, as well as the historic success of the federal voting rights act by offering the most comprehensive state law protections for the right to vote in the United States. The law will address both a wide variety of long-overlooked infringements on the right to vote and also make New York a robust national leader in voting rights at a time when too many other states are trying to restrict access to the franchise.

LEGISLATIVE HISTORY:

Senate: 2021: Died in Elections Committee
2020: S7528A (Myrie) - Died in Elections Committee
Assembly: 2021: A6678A (Walker) - Died in Elections Committee.
2020: New Bill. A10841A (Walker) - Died in Elections Committee.

FISCAL IMPLICATIONS:

To be determined.

LOCAL FISCAL IMPLICATIONS:

To be determined.

EFFECTIVE DATE:

This act shall take effect immediately; provided, however, that sections 17208 and 17-210 of the election law as added by section four of this act shall take effect three years after it shall have become a law; and provided further, however, that section 17-212 of the election law, as added by section four of this act, shall take effect one year after the attorney general certifies that the office of the attorney general is prepared to execute the duties assigned in section four of this act, if after the expiration of one year the attorney general requires more time to certify that the office of the attorney general is prepared to execute the duties assigned in section four of this act, the attorney general, may, for good cause shown, apply to the governor for such an extension of time. The governor may grant or deny an extension of up to one year according to his or her discretion. The attorney general shall notify the legislative bill drafting commission upon the occurrence of the enactment of the legislation provided for in section four of this act in order that the commission may maintain an accurate and timely effective data base of the official text of the laws of the state of New York in furtherance of effectuating the provisions of section 44 of the legislative law and section 70-b of the public officers law.

DIVISION OF THE BUDGET BILL MEMORANDUM

Session Year 2022

SENATE:
No. S1046E

ASSEMBLY:
No. A6678E

Primary Sponsor: MYRIE

Sponsor: WALKER

Law: Election Law

Sections: Various

Division of the Budget recommendation on the above bill:

APPROVE:

NO OBJECTION: X

1. Subject and Purpose:

This bill would amend Election Law as it relates to voter suppression and dilution. Specifically, it would establish protections against voter intimidation and deception, improves language access for non-English speaking citizens, and requires local boards of elections to obtain pre-clearance from the Attorney General before changing any policies or procedures related to elections administration.

This bill will take effect July 1, 2023 (per a Chapter Amendment negotiated by Chamber and the Legislature).

2. Budget Implications:

The Attorney General (AG) would need an additional \$3 million in operational resources to cover the cost of 15-20 FTEs and various nonpersonal service expenses to effectively administer a pre-clearance program as obligated in this bill. This cost would be a hit to the State's Financial Plan. It is also likely local boards of elections will see increased costs associated with language access provisions, submission of pre-clearance requests to the AG, and legal defense costs should legal action be brought by voters claiming voting rights violations.

3. Recommendation:

Additional resources would need to be added to the AG's FY 2024 budget to accommodate this legislation. Pending the addition of these funds, the Division of the Budget has no objection to this bill.



THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK / ALBANY, NY 12234

Counsel and Deputy Commissioner for Legal Affairs
Tel. 518-474-6400
Fax 518-474-1940

June 3, 2022

TO: Counsel to the Governor

FROM: Daniel Morton-Bentley

SUBJECT: S.1046E

RECOMMENDATION: No Objection

REASON FOR RECOMMENDATION:

The State Education Department (SED) has no objection to this bill, which, among other things, amends the Election Law to establish rights of actions for denying or abridging the right of any member of a protected class to vote. While primarily directed at entities governed by the Election Law, it also includes school districts and school district libraries.

Additional clarification regarding the effect of this bill on school and library district elections and votes may be necessary. School and library district elections and school district budget, capital and merger/consolidation votes are primarily governed by the Education Law. Unlike most elections, they operate on a unique statutory timeline and are non-partisan (except for two large city school districts).

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Andrew Pallotta
President
Jolene T. DiBrango
Executive Vice President
Ronald Gross
Second Vice President
J. Philippe Abraham
Secretary-Treasurer

June 17, 2022

Ms. Elizabeth Fine, Esq.
Counsel to the Governor
Executive Chamber
State Capitol
Albany, New York 12224

RE: S.1046-E (Myrie) 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.

Dear Ms. Fine:

On behalf of NYSUT, I am writing to express my opposition to the above referenced legislation.

While the intent of this legislation is commendable, as written, it could negatively impact students and school districts outside of New York City. For this reason, NYSUT opposes this legislation in its current form. However, to address these issues, NYSUT recommends including chapter amendments to this bill to remove school districts from being subject to its provisions.

A system governing school elections was established in education law, which currently prescribes voting processes for school board elections, budget votes and other electoral activities as they relate to the operation of a school district. These elections are administered and overseen by the New York State Commissioner of Education, which ensures that they are free from political influence and interference.

While amendments to the bill included on the eve of its passage sought to mitigate the impact it would have on school districts, there remain several unanswered questions as to how school budgets and operations could be impacted if a complaint is filed. This legislation seeks to apply remedies to school votes outside of the education law, which already provides a system by which complaints are to be addressed and resolved. This bill fails to take into consideration the impact a complaint to a school budget vote could have on the start of a new fiscal year, which could negatively impact student services and academics.

School districts outside of the Big 5 School Districts — New York City, Yonkers, Rochester, Buffalo and Syracuse — hold their school board elections and school budget votes on the same day and on the same ballot. Syracuse, Rochester, Buffalo and Yonkers vote only for their school boards. If there is a challenge to a school board election in one of the 700+ districts outside of the Big 5 School Districts, that would also apply to the school budget vote, as the vote is cast on the same ballot.

NYSUT has a long history of supporting the expansion and protection of voting rights and voter access. Working in New York State and across the country, NYSUT has supported the expansion of voter access, worked to increase voter education and assisted with voter registration drives throughout New York and beyond. Our support for greater voter access and increased protections for the electoral process is without question.

However, NYSUT's analysis of this legislation has determined that if schools were subjected to the remedies outlined in this proposal, it would be immensely disruptive to the students by potentially upending school board elections, school budget votes, referendums for school mergers and votes for school capital projects. Additionally, under this proposal, school districts across the state could be required to completely undo their board election processes, including changing voting dates for school boards and school budgets, and be forced into a school district election ward system. This would be highly problematic for schools in every corner of the state, including areas that have no history voter suppression or issues of any kind with their current system of electing school board representatives or locally funding school operations.

As this bill relates to school districts, it is a solution looking for a problem, while failing to recognize the existing processes under which school elections must adhere. Primarily, school board elections fall under the state education law, not the state election law. These elections are non-partisan, with the candidates running for volunteer, unpaid positions for the sole purpose of ensuring that the students in their communities receive the quality education they are guaranteed under the State Constitution.

If there are actual, recognized instances of voter suppression, irregularities or anomalies in school districts in New York — other than the unique case in East Ramapo — which has been remedied by exercising the existing process in law used to handle such matters, NYSUT would support legislation tailored for specific school districts on a case-by-case basis. However, placing all schools in a “one-size-fits-all” proposal, especially when it upends the existing system that has been working well, and relocates schools into a section of law under which they have never been, is the wrong approach and will have far-reaching consequences for students, their families, educators and school districts throughout the state.

For the above-mentioned reasons, New York State United Teachers urges the Governor to veto this legislation in its current form or seek chapter amendments to hold school districts harmless from its provisions.

Sincerely,



Alithia Rodriguez-Rolon
Director of Legislation

PS/AB/
6/17/2022

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New York State School Boards Association

Better School Boards Lead to Better Student Performance

24 Century Hill Drive, Suite 200
Latham, New York 12110-2125

Tel: 518.783.0200 | Fax: 518.783.0211
www.nyssba.org

June 18, 2022

The Honorable Kathy Hochul
Governor of New York State
NYS Capitol Building
Albany, NY 12244

Re: S.1046-E, Myrie / A.6678-E, Walker
Relates to the John Lewis Voting Rights Act

Dear Governor Hochul,

The New York State School Boards Association *opposes* the current version of the above referenced legislation and urges your veto.

If enacted, this bill would establish rights of action for denying or abridging of the right of any member of a protected class to vote, provide assistance to language-minority groups, require certain political subdivisions to receive preclearance for potential violations and create civil liability for voter intimidation. The bill would apply to counties, cities, towns, villages, school districts or any other district organized pursuant to state or local law.

NYSSBA has no objection to the broader goal of the legislation, which is to help ensure a voting system in our state that is free, fair and provides for equal opportunities and access for all voters. School boards are among the closest elected positions to our local communities, comprised of volunteers dedicated to improving the educational outcomes of millions of students throughout the state. With school budgets that are also subject to voter approval, school boards and school districts are amongst the most direct public participation systems in our state.

School board elections and school budget votes are governed by state Education Law. This structure has been in place for generations, reflecting the inherent differences between school votes and those for local and state offices, which are governed by state Election Law. Generally, elections under Election Law are conducted by county boards of elections, while elections and votes under Education Law are conducted by school districts themselves, following strict rules and procedures.

NYSSBA appreciates some of the late amendments that were made to the bill prior to its passage, which attempted to address questions raised around school vote dates and general level of turnout in our elections. However, under its current version, the bill still creates numerous conflicts, ambiguities and inconsistencies for school districts. The bill makes clear that school district votes and elections would still be governed by state Education Law, but continues to include a plethora of potential actions and requirements within Election Law that have no basis, or authority, under state Education Law. These issues were noted on the floor when the bill was voted on by both the Senate and the Assembly.

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The bill provides that a violation of any single provision of the act would require an appropriate remedy or remedies to be applied. The bill includes a list of 16 specific potential remedies. While the bill provides for these potential remedies under Election Law, school board elections and budget votes are authorized and directed under Education Law. At a minimum, this could require remedies that do not have a clear process for implementation under Education Law. At a maximum, there would be inherent conflict when a remedy would require an action that is not authorized, or is prohibited, under Education Law.

While the current version of the bill states that school district votes would continue to be conducted under Education Law, it further states that a court "...shall have the power to require a political subdivision to implement remedies that are inconsistent with any other provision of law..." There are a number of listed remedies where this would seem to create inherent conflict between Election Law and Education Law. One remedy would require a new or revised redistricting (i.e., ward) plan. School districts and school boards generally do not have the authority to use or operate under districting of any kind. The purpose of election districts under the Education Law is only to create additional polling locations. Another remedy would increase the size of the governing body (school board). The size of the school board - either three, five, seven or nine seats - is specifically set in Education Law, based on the type of school district and changes are subject to voter approval. Another remedy would require transferring authority for conducting school district elections to the respective county board of elections. However, scores of school districts across the state span at least two different counties, making the perspectives of administration, and voting, unknown.

Further, Education Law does not require all school districts to provide for "personal registration." For districts with personal registration, a qualified voter can register to vote in the school election through either the district or through the board of elections. However, for districts without personal registration (sometimes referred to as "poll registration") voters need only to present themselves at the district poll location with proof of residence and qualification to vote. This presents potential conflicts with multiple provisions within the bill. First, one potential remedy would require additional polling locations. However, school districts without personal registration have no legal authority, through Education Law, to create multiple polling locations (as there would be no system to protect against multiple votes by an individual). Second, for districts without personal registration, and for districts with personal registration where a voter registers directly with the school district, it is not clear how voter demographic information (i.e., protected class status) would be determined in a consistent way, if at all.

Lastly, while the bill seemingly focuses on school board elections, all school districts outside of the Big 5 (New York City, Buffalo, Rochester, Syracuse and Yonkers) also must place their annual budget before voters, per Education Law. That vote is held concurrently with the school board elections on the third Tuesday in May. It is not clear how, or if, the bill contemplates the necessity of that vote. The date for that vote is important by itself, as the school district fiscal year begins July 1. The prospects of moving that vote date would create serious problems for school district budgets.

While NYSSBA sees multiple challenges and complications with regard to the implementation and application of this bill for school districts, we commend the sponsors for their efforts to make New York a nationwide leader in protecting the right to vote and equal access to the franchise. We stand ready to work with all parties to ensure voters in all of our school districts can, and do, exercise that right and responsibility.

Therefore, NYSSBA *opposes* the above referenced legislation in its current form and urges your veto.
For additional information, please contact NYSSBA Governmental Relations at 518-783-0200.

Sincerely,



Brian C. Fessler
Director of Governmental Relations

CC:

Senator Zellnor Myrie
Assembly Member Latrice Walker
Elizabeth Fine
Terrance Pratt
Dan Fuller
Michael Mastroianni
Michael Smingler



June 13, 2022

The Honorable Kathy Hochul
Governor of New York State
NYS State Capitol Building
Albany, NY 12224

**RE: Support the Enactment of the John R. Lewis Voting Rights Act Of New York (S.1046E/
A.6678E)**

Dear Governor Hochul:

On behalf of the National Association of Latino Elected and Appointed Officials (NALEO) Educational Fund, LatinoJustice PRLDEF, and Dominicanos USA (DUSA), we are writing to express our strong support for the John R. Lewis Voting Rights Act of New York (NYVRA), a bill that would strengthen New York's democracy by helping to ensure that Latinos and all of New York's electorate would have a fair opportunity to make their voices heard at the ballot box. If enacted, this measure would build on the successful state voting rights acts already enacted in California, Washington, Oregon, and Virginia to provide underserved communities and voters of color the most comprehensive voter protections in the country. For these reasons, we urge you to sign the NYVRA into law.

While the New York State's Constitution recognizes political participation as the bedrock of our democratic system of governance, the state has often failed to protect the voting rights of underrepresented populations. The NYVRA includes several important and effective approaches to protecting Latinos and other voters of color from discrimination in the electoral process.

I. The NYVRA's Preclearance Requirement

The NYVRA has several components that are particularly essential given the current policy climate and the barriers to political participation faced by Latino New Yorkers. First, it adopts a state "preclearance" process modeled after that set forth in the federal Voting Rights Act (VRA), but which was significantly weakened by the U.S. Supreme Court's 2013 Shelby v. Holder decision. Before the decision, Bronx, Kings, and New York Counties were required to submit changes to voting laws and practices for federal review before implementation. Elsewhere around the state, jurisdictions were on notice that repeated or egregious discriminatory action could attract a request that a court order similar systematic monitoring. The preclearance process also deterred discriminatory voting changes from being proposed in the first place, and in sum, it proved very successful, halting thousands of problematic proposals and helping to achieve significant advances toward parity in voter participation and electoral outcomes.

The Shelby decision essentially invalidated the VRA coverage formula for determining which jurisdictions were subject to the preclearance process, and left millions of New Yorkers and voters of color throughout the country without the ability to stop voting discrimination before it occurred. For example, ahead of the presidential primary in the spring of 2016, the New York City Board of Elections engaged in two separate

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voter purges that lead to the removal of voters from the registration rolls, including more than 117,000 voters in Brooklyn. By some reports, this purge had a disproportionate impact on Latino voters. Federal preclearance protections under the VRA would have likely prevented the implementation of this detrimental practice.

Congress has failed to pass legislation restoring the federal VRA to its full strength, and the NYVRA's preclearance process would help provide many of the safeguards against discriminatory practices once provided by the VRA, in a targeted manner. The NYVRA would require certain New York jurisdictions to obtain state preclearance for any changes to specific election and voting laws, policies, or practices. The measures requiring preclearance are generally those which have been historically used to discriminate against voters of color in the state, or which have a significant potential for such discrimination. Jurisdictions can obtain preclearance from certain state courts, or from a state commission, which must obtain a recommendation from the New York Attorney General's Civil Rights Bureau. Given the absence of strong federal voting rights protections, the NYVRA's state preclearance process would provide New York with a much-needed tool to deter or block discriminatory measures against Latinos and other voters of color in the state.

II. Strengthening Language Assistance

The NYVRA would strengthen the language assistance provided to eligible New Yorkers throughout the voting and registration process. According to the U.S. Census Bureau's 2020 American Community Survey (5-year estimates), 1.2 million New York voting-age citizens are not yet fully fluent in English. From research and our work with New York voters, we know that many are new to the electoral process, or otherwise face language barriers to full participation in the state's elections. For example, NALEO Educational Fund and its partners in the Election Protection Coalition received voters' reports on Election Day in 2018 of missing or inadequate in-language materials and interpreters at multiple locations in Queens and Brooklyn, following a pattern we observed in the 2016 general election and previous cycles. In subsequent elections, NALEO Educational Fund has continued to receive reports of problems with language assistance, including shortages of Spanish-language interpreters at poll sites in New York City. While the federal VRA includes some language assistance requirements for jurisdictions, the NYVRA would strengthen the scope of the assistance required, and help ensure that the required assistance is actually provided.

III. Combatting Discriminatory Election Systems

The NYVRA would also make it easier to combat election systems (such as at-large elections) which as a result of vote dilution, impair the ability of voters of color to choose accountable and responsive elected representatives. While these systems can be challenged under the federal VRA, this litigation can be extremely expensive and time-consuming. The NYVRA enables challenges to be brought under circumstances which allow those fighting discriminatory practices to surmount some of the obstacles in the VRA. In New York, at-large election systems have prevented many Latinos from having a meaningful voice in the electoral process, and the NYVRA would provide a remedy for this discrimination.

IV. Other Voting Rights Protections

The NYVRA includes several other voting rights protections for Latinos. By making private citizens civilly liable for intimidation or deception of voters, this bill extends the reach of and fills a critical gap in existing voting rights law. The legislation also brings New York in line with many other states by providing for a canon of liberal judicial construction of election laws in favor of voter enfranchisement, which will ensure that in any circumstances, the law favors the ability of qualified voters to cast valid, meaningful ballots and have them counted whenever possible.

The Honorable Governor Hochul
June 13, 2022
Page 3

Ultimately, the NYVRA contains a comprehensive set of protections that would help ensure equitable access to the fundamental right to vote for Latinos and other electorates of color in New York. Latinos are New York's second-largest population group, and the state cannot have a robust and vibrant democracy if discriminatory policies and measures create unfair barriers to Latino participation. According to data from the U.S. Census Bureau, Latino participation rates have persistently lagged behind those of non-Hispanic Whites; in November 2020, slightly over half (55 percent) of eligible Latinos cast ballots, compared to over two-thirds (69 percent) of eligible non-Hispanic Whites. Discriminatory practices contribute to this disparity, and the NYVRA would be a major step forward to help close the participation gap.

The enactment of the NYVRA would provide an unprecedented opportunity for New York to demonstrate unparalleled leadership in safeguarding the right to vote, fighting unfair voting practices and election systems, and promoting an inclusive treatment of Latinos in the electoral process. For these reasons, we support the NYVRA and urge you to sign it into law.

Sincerely,

Dominicanos USA (DUSA)

LatinoJustice PRLDEF

NALEO Educational Fund

000019



June 17, 2022

The Honorable Kathy Hochul
Governor of New York State
New York State Capitol Building
Albany, NY 12224

RE: The John R. Lewis Voting Rights Act of New York (S.1046B/A.6678B)

Dear Governor Hochul:

LatinoJustice PRLDEF (“LatinoJustice”) respectfully urges you to immediately sign the John R. Lewis Voting Rights Act of New York (“NYVRA”) as approved by the state legislature earlier this month. With an increasing number of voter suppression efforts being enacted across the country, New York stands in a unique and opportune moment to lead in enacting legislation that will expand and protect the voting rights of all New Yorkers, and particularly Latino voters.

Since the November 2020 elections, we have seen states across the nation enact restrictive voting laws that impose additional barriers and hurdles for voters of color who want to exercise their constitutional right. Between regressive legislation and the dismantling of the federal voting rights by the courts, voters across the country now have fewer protections. The NYVRA will stand as a beacon to fight against these antidemocratic practices and will create protections far stronger than those that exist on a federal level. The NYVRA will ensure that New York voters are not encumbered by policies or practices that seek to hamper their ability to vote.

Of particular interest to LatinoJustice, and the Latino communities we serve, are provisions to expand *language access* included in the current version of the NYVRA. While New York shares in a rich diversity of culture and language, language minorities have long faced an inadequate number of bilingual poll site workers, and mistranslation of election materials. The NYVRA’s expansion of language access beyond the provisions of the federal Voting Rights Act will further protect voters who are not fluent English speakers from practices that ultimately prevent their ability to cast a vote. For these non-English-speaking voters, signing the NYVRA into law as written will mean that language will no longer be an additional barrier to the ballot.

We would like to respectfully remind you that in your State of the State address, you made a commitment to “advance legislation establishing a state-level voting rights act that will...improve language access for voters.” Recognizing that language access is vital to New Yorkers, you pledged to

...build on and improve language access services for limited English proficient New Yorkers...will establish a permanent Office for Language Access — just the second such

000020

office in the country, to Hawaii - that will be charged with coordinating and overseeing implementation of the statewide language access policy... will also commit to the codification of a statewide language access policy, and the new Office for Language Access will provide important assistance in developing and implementing a strongest-in-the-nation language access law.

The NYVRA's language access provision furthers your stated public goal of guaranteeing language access at every intersection of the lives of New Yorkers not fluent in English. As the Supreme Court highlighted in *Wesberry v. Sanders*, "no right is more precious in a free country than that of having a voice in the election of those who make the laws...other rights, even the most basic, are *illusory* if the right to vote is undermined. Our Constitution leaves no room for *classification of people* in a way that unnecessarily abridges this right."²³

Language should no longer serve to classify who gets *access to the franchise* in New York. As such, LatinoJustice PRLDEF calls upon you to immediately sign and enact the John R. Lewis Voting Rights Act of New York without amendment or further delay.

Fulvia Vargas-De Leon
Associate Counsel
LatinoJustice PRLDEF
212.219.3360
fvargasdeleon@latinojustice.org

000021



**UNITED
NEIGHBORHOOD
HOUSES**

45 Broadway, 22nd Floor, New York, NY 10006
212-967-0322 | www.unhny.org

June 8, 2022

The Honorable Kathy Hochul
Governor of New York State
Capitol Building
Albany, NY 12224

Dear Governor Hochul,

On behalf of United Neighborhood Houses (UNH), a policy and social change organization that represents 45 neighborhood settlement houses in New York, I write to respectfully ask you to sign several bills into law that will have a positive impact on settlement houses and the people they serve. UNH advocates for policies and practices that support settlement houses and strengthen neighborhoods, including on topics such as neighborhood affordability, child care access, youth development, and the justice system, among others.

With the conclusion of the 2022 legislative session, UNH urges you to sign the following four bills into law:

- **Decouple Work Hours from Hours of Care: S.6655A (Brisport) / A.7661 (Hevesi)** - Decouples hours a parent must work from the hours child care can be provided, allowing access for people who work part time or have rotating work schedules.
- **24 Month Eligibility: S.9029A (Ramos) / A.10209A (Lunsford)** - Permits local social service districts to authorize families to receive child care assistance for up to 24 months between eligibility determinations.
- **NYCHA Eligibility for NICIP: S.3520 (Bailey) / A.7831 (Anderson)** - Makes community centers located in NYCHA developments eligible to apply for and receive funds from the Nonprofit Infrastructure Capital Improvement Program (NICIP). This year's State Budget included \$50 million for NICIP.
- **John R. Lewis Voting Rights Act of New York: S.1046E (Myrie) / A.6678E (Walker)** - Establishes rights of action for denying or abridging the right of any member of a protected class to vote, establishes and maintains a statewide database of voting and election data, provides assistance to language-minority groups, and creates civil liability for voter intimidation.

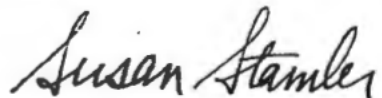
In addition, we thank you for swiftly signing the package of gun violence prevention bills, especially S.4116A (Hoylman) / A.7926A (L. Rosenthal) to require semiautomatic pistols sold in the State to be capable of microstamping technology, which helps identify the source of the firearm when a bullet cartridge is found at a crime scene.

000022

I am respectfully including memos of support on each of these bills with more details and the settlement house perspective.

Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script that reads "Susan Stamler". The signature is written in black ink and is positioned below the word "Sincerely,".

Susan Stamler
Executive Director

CC: Elizabeth Fine, Counsel to the Governor

000023



**UNITED
NEIGHBORHOOD
HOUSES**

45 Broadway | 22nd Floor | New York, NY 10006
(212) 967-0322 | www.unhny.org

Memorandum in Support
S.1046E (Myrie) / A.6678E (Walker)
The John R. Lewis Voting Rights Act of New York

United Neighborhood Houses (UNH) supports the John R. Lewis Voting Rights Act of New York, S.1046E (Myrie) / A.6678E (Walker), which would protect the voting rights of New Yorkers and serve as the most comprehensive state law to combat voter suppression in the nation.

Since the November 2020 election, at least 49 states have proposed more than 400 laws that would restrict voting rights by limiting mail-in voting, creating stricter ID requirements, reducing voting hours, and more. These proposed changes disproportionately affect racial minorities, low-income communities, and individuals and families with limited English proficiency. The John R. Lewis Voting Rights Act of New York would fight back against these racist and xenophobic policies by establishing protections for voter registration, casting ballots, ballot counting, and more.

This bill would ensure that all eligible voters are encouraged to participate in the political process to the fullest extent, and will not be denied these rights based on belonging to a race, color, or language-minority group. This includes registering to vote, casting a ballot, and ensuring that votes are counted. It also ensures equitable access to the process of registering to vote. The bill aims to fight voter suppression by prohibiting the implementation of any type of voting qualifications, prerequisite to voting, ordinance, law, or policy that would cause unequal opportunity for some members of a community. It prohibits the use of methods of election that would hinder the ability of all eligible members of a community to vote in the way of their choosing, or would impact the outcome of an election. In order to ensure that all political subdivisions are consistently practicing these policies, the state would create a statewide database to track and evaluate the extent to which they are following policy guidelines, and investigate any infringements of voting rights. The bill includes several rights of action if any parts of the bill are violated, including lining out specific remedies the courts may implement in the case of a violation.

UNH has led efforts to expand and protect the franchise for decades, most recently supporting State reforms such as early voting and automatic voter registration, and in New York City leading the campaign to allow legal permanent residents to vote in municipal elections. UNH also leads extensive nonpartisan Get Out The Vote efforts with settlement houses each year, working to register and turnout more individuals. All of these efforts are rooted in a philosophy that civic engagement strengthens communities. With strong voter participation we can elect the people who develop policies that more accurately represent the interests of their communities. With the national political climate threatening the right to vote, the John R. Lewis Voting Rights Act of New York will ensure that for years to come all New Yorkers will be represented equally and be heard in government.

Contact: Tara Klein at tklein@unhny.org

UNH is a policy and social change organization representing 45 neighborhood settlement houses that reach 765,000 New Yorkers from all walks of life. A progressive leader for more than 100 years, UNH is stewarding a new era for New York's settlement house movement. We mobilize our members and their communities to advocate for good public policies and promote strong organizations and practices that keep neighborhoods resilient and thriving for all New Yorkers. UNH leads advocacy and partners with our members on a broad range of issues including civic and community engagement, neighborhood affordability, healthy aging, early childhood education, adult literacy, and youth development.

000024

June 16, 2022

The Honorable Kathy Hochul
Governor of New York State
NYS State Capitol Building
Albany, NY 12224

RE: THE JOHN R. LEWIS VOTING RIGHTS ACT OF NEW YORK (S.1046 / A.6678)

Dear Governor Hochul:

We write to urge you to immediately sign into law as written the John R. Lewis Voting Rights Act of New York (NYVRA).

The legislature has delivered the nation's strongest and most comprehensive state voting rights act to date. Now it is time for you to honor the commitment you made in your State of the State policy book to root out discrimination against voters of color in New York and make the state a national leader on voting rights. Both New York and the nation need your leadership at this pivotal moment for our democracy.

Today, voters of color across the country face the greatest assault on their rights since Jim Crow. Dozens of states have moved backwards since voters of color made their voices heard in 2020. But the Senate and the Assembly have bucked this trend by passing the NYVRA, positioning New York to be a beacon of hope. The NYVRA offers a model for how states can protect the "precious, almost sacred" right to vote, as the late Rep. John Lewis has described it.

You recognized the need and the opportunity for New York to lead, and you committed to do so, in your *State of the State 2022: A New Era for New York*:¹

In contrast to [the] troubling [national] trend, New York State has made significant progress in expanding voting rights in recent years...but more work remains to be done. Practices that suppress voter turnout can still be found in our elections, and the legacy of voter suppression can be seen in the persistent gap between white and non-white New York voter participation: in the November 2020 general election, approximately 69 percent of eligible non-Hispanic white voters cast their ballots, compared to approximately 63 percent of eligible Black voters, 55 percent of eligible Hispanic voters, and 52 percent of eligible Asian voters.

¹ Governor Kathy Hochul, *State of the State 2022: A New Era for New York* (January 2022) at 221-22, available at <https://www.governor.ny.gov/sites/default/files/2022-01/2022StateoftheStateBook.pdf>.

While other states around the country continue their efforts to block access to the ballot box, **Governor Hochul will cement New York State's position as a national leader on voting rights protections. This year, she will advance legislation establishing a state-level voting rights act** that will enhance protections against voter suppression and vote dilution, establish new protections against voter intimidation and deception, improve language access for voters, and require boards of elections in jurisdictions with a history of civil rights violations to obtain preclearance for changes to election-related policies and practices.

The NYVRA does exactly what you described. The legislature has taken up your call to action. We urge you to ask for the strong and comprehensive NYVRA the legislature passed to be delivered for your signature without delay, and to fulfill the promise you made to New Yorkers in January.

Since this landmark legislation is a top New York voting rights priority for the undersigned civil and voting rights organizations, we look forward to celebrating a historic victory for civil and voting rights with you when you sign the NYVRA into law.

Now is New York's time to lead.

Sincerely,

ADL NY/NJ (Anti-Defamation League)
A Little Piece of Light
Asian American Legal Defense and Education Fund
Bethlehem Morning Voice Huddle
Brennan Center for Justice at NYU School of Law
Brooklyn Voters Alliance
Campaign Legal Center
Center for Law and Social Justice at Medgar Evers College
Central Queens Independent Democrats (CQuID)
Centro Corazon de Maria
Chinese-American Planning Council (CPC)
Citizen Action of New York
Citizens Union
College and Community Fellowship
CommonCause/NY
Community Service Society of New York
Concerned Families of Westchester
Demos
Downstate New York ADAPT
Dutchess County Progressive Action Alliance

000026

Empire State Indivisible
End Citizens United / Let America Vote Action Fund
FairVote Action
Faith in New York
FPWA
Generation Vote
Hope's Door
J Street New York
LatinoJustice PRLDEF
League of Women Voters of NYS
Let NY. Vote
March On / Future Coalition
NAACP Legal Defense and Educational Fund, Inc. (LDF)
NALEO Educational Fund
National Action Network
National Association of Social Workers, New York State
National Council of Jewish Women New York
New York Civic Engagement Table
New York Civil Liberties Union
New York County Lawyers' Association
New York Democratic Lawyers Council
New York Immigration Coalition
North American Climate, Conservation and Environment(NACCE)
People For the American Way
Progressive Schenectady
Reinvent Albany
Rockland Women's Political Caucus
SMART Legislation
Stand Up America
The Leadership Conference on Civil and Human Rights
The Workers Circle
True Blue New York
UAW Region 9A
Unity Fellowship of Christ Church-NYC
VOCAL-NY
Westchester for Change
Women Creating Change
YMCA of Greater New York

000027

Megan Meyers

From: Andrew Gardner <Andrew_Gardner/NYEC@chamber.state.ny.us>
Sent: Friday, June 3, 2022 9:56 AM
To: Legislative Secretary
Subject: Correspondence [Sylvester, Yolanda] #1064163C

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Ms. Yolanda Sylvester


Addressed to: Governor

Email Subject: S.01046E Relates to the John R Lewis Voting Rights Act of New York

Issue 1 82022 Legislation

Correspondence Number: 1064163C
Date Of Correspondence: 06/02/2022
Date Received: 06/02/2022
Date Entered: 06/02/2022
Referred To: Legislative Secretary
Date Referred:

Routing History:

06/03/2022 09:56 AM (Routed By --> Andrew Gardner) (Routed Via Outside Agency Email to --> Legislative Secretary) For Your Information

Incoming Correspondence:

Hi Governor Hochul,

I encourage you to not sign this bill. Why not support New York's right to vote that is already on the books? As

000028

a Black American, I have no problem with 1 vote, 1 candidate and know the outcome on the same day. This legislation overhauls our local election. Please Governor, maintain our republic.

000029

Megan Meyers

From: Andrew Gardner <Andrew_Gardner/NYEC@chamber.state.ny.us>
Sent: Monday, July 18, 2022 1:45 PM
To: Legislative Secretary
Subject: Correspondence [JOYCE, Eleanor] #1075700C

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Ms. Eleanor JOYCE



Addressed to: Governor

Email Subject: Support S1046A/A6678 (Myrie/Walker)

Issue 1 82022 Legislation

Correspondence Number: 1075700C
Date Of Correspondence: 07/16/2022
Date Received: 07/16/2022
Date Entered: 07/16/2022
Referred To: Legislative Secretary
Date Referred:

Routing History:

07/18/2022 01:44 PM (Routed By --> Andrew Gardner) (Routed Via Outside Agency Email to --> Legislative Secretary) For Your Information

Incoming Correspondence:

Governor Hochul,

I am writing you today to urge you to support S1046A/A6678 (Myrie/Walker), which would protect free and

fair elections in New York State.

The federal government has abdicated its responsibility to protect free and fair elections, at a time when voter intimidation and suppression seem to be increasingly prevalent in the United States.

Free and fair elections constitute the foundational bedrock of our democracy and deserve protection. This should not constitute partisan debate but be a clarion call for all lawmakers.

Further the enactment of protections will instill in the people of New York, confidence about the viability of the system.

California has enacted state level voter protections which have been effective and valuable. So, there should be no concern about state-level efforts.

I urge you to support the John R. Lewis Voting Rights Act of New York, S1046A/A6678 (Myrie/Walker).

Denise Gagnon

C226

From: Andrew Gardner <Andrew_Gardner/NYEC@chamber.state.ny.us>
Sent: Wednesday, June 22, 2022 9:48 AM
To: Legislative Secretary
Subject: Correspondence [Solmazer, Omer] #1068530C

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Mr. Omer Solmazer



Addressed to: Governor

Email Subject: Support S1046A/A6678 (Myrie/Walker)

Issue 1 82022 Legislation

Correspondence Number: 1068530C
Date Of Correspondence: 06/20/2022
Date Received: 06/20/2022
Date Entered: 06/20/2022
Referred To: Legislative Secretary
Date Referred:

Routing History:

06/22/2022 09:47 AM (Routed By --> Andrew Gardner) (Routed Via Outside Agency Email to --> Legislative Secretary) For Your Information

Incoming Correspondence:

Governor Hochul,

I'm a human being who is losing hope after decades of inaction.

I am writing you today to urge you to support S1046A/A6678 (Myrie/Walker), which would protect free and fair elections in New York State.

The federal government has abdicated its responsibility to protect free and fair elections, at a time when voter intimidation and suppression seem to be increasingly prevalent in the United States.

Free and fair elections constitute the foundational bedrock of our democracy and deserve protection. This should not constitute partisan debate but be a clarion call for all lawmakers.

Further the enactment of protections will instill in the people of New York, confidence about the viability of the system.

California has enacted state level voter protections which have been effective and valuable. So, there should be no concern about state-level efforts.

I urge you to support the John R. Lewis Voting Rights Act of New York, S1046A/A6678 (Myrie/Walker).

Denise Gagnon

C226

From: Andrew Gardner <Andrew_Gardner/NYEC@chamber.state.ny.us>
Sent: Tuesday, June 28, 2022 10:40 AM
To: Legislative Secretary
Subject: Correspondence [Blaskowitz, Frank] #1070724C

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Mr. Frank Blaskowitz



Addressed to: Governor

Email Subject: Support S1046A/A6678 (Myrie/Walker)

Issue 1 82022 Legislation

Correspondence Number: 1070724C
Date Of Correspondence: 06/25/2022
Date Received: 06/25/2022
Date Entered: 06/25/2022
Referred To: Legislative Secretary
Date Referred:

Routing History:

06/28/2022 10:39 AM (Routed By --> Andrew Gardner) (Routed Via Outside Agency Email to --> Legislative Secretary) For Your Information

Incoming Correspondence:

Governor Hochul,

I'm a father who just wants a livable future for me and my generation.

1
000034

I am writing you today to urge you to support S1046A/A6678 (Myrie/Walker), which would protect free and fair elections in New York State.

The federal government has abdicated its responsibility to protect free and fair elections, at a time when voter intimidation and suppression seem to be increasingly prevalent in the United States.

Free and fair elections constitute the foundational bedrock of our democracy and deserve protection. This should not constitute partisan debate but be a clarion call for all lawmakers.

Further the enactment of protections will instill in the people of New York, confidence about the viability of the system.

California has enacted state level voter protections which have been effective and valuable. So, there should be no concern about state-level efforts.

I urge you to support the John R. Lewis Voting Rights Act of New York, S1046A/A6678 (Myrie/Walker).

Denise Gagnon

C226

From: Andrew Gardner <Andrew_Gardner/NYEC@chamber.state.ny.us>
Sent: Thursday, June 30, 2022 10:06 AM
To: Legislative Secretary
Subject: Correspondence [Meenan, Brandon] #1071794C

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Mr. Brandon Meenan



Addressed to: Governor

Email Subject: The John R. Lewis Voting Rights Act

Issue 1 82022 Legislation

Correspondence Number: 1071794C
Date Of Correspondence: 06/29/2022
Date Received: 06/29/2022
Date Entered: 06/29/2022
Referred To: Legislative Secretary
Date Referred:

Routing History:

06/30/2022 10:05 AM (Routed By --> Andrew Gardner) (Routed Via Outside Agency Email to --> Legislative Secretary) For Your Information

Incoming Correspondence:

Dear Gov. Hochul

New York has an extensive history of voter suppression and discriminatory practices that leave racial, ethnic, and language minority groups disenfranchised. These practices include barriers to registration and voting, racial

gerrymandering and other forms of vote dilution, voter purges, moving and/or closing poll sites, limited access to language assistance, and more.

We must ensure that every New Yorker's right to vote is protected and strengthened.

The John R. Lewis Voting Rights Act (S1046/A6678) will:

- ?Make taking legal action against voter suppression and racial vote dilution more possible and more effective;
- ?Require local boards of election to get preclearance from the state attorney general before making changes that could limit voter access;
- ?Expand language assistance for language minority voters;
- ?Make election data clearer and more accessible;
- ?Strengthen every New Yorker's right to vote; and
- ?Strengthen laws against voter intimidation

The federal Voting Rights Act of 1965 is landmark achievement for civil rights that has expanded and protected access to the ballot across the country, but it is under attack by a U.S. Supreme Court that is stocked with Trump appointees. In the face of this threat at the federal level, and given the disenfranchisement taking place in New York to this day, our state needs its own Voting Rights Act.

Voting is the foundation of democracy. It is the right we exercise to protect all others.

I urge you to pass the John R. Lewis Voting Rights Act to ensure every New Yorker has the right to a fair vote.

Sincerely,

Brandon Meenan

[REDACTED]

[REDACTED]

Denise Gagnon

C224

From: Andrew Gardner <Andrew_Gardner/NYEC@chamber.state.ny.us>
Sent: Wednesday, August 10, 2022 11:34 AM
To: Legislative Secretary
Subject: Correspondence [Ellis, Stephanie] #1081707C

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Ms. Stephanie Ellis



Addressed to: Governor

Email Subject: Support S1046A/A6678 (Myrie/Walker)

Issue 1 82022 Legislation

Correspondence Number: 1081707C
Date Of Correspondence: 08/09/2022
Date Received: 08/09/2022
Date Entered: 08/09/2022
Referred To: Legislative Secretary
Date Referred:

Routing History:

08/10/2022 11:33 AM (Routed By --> Andrew Gardner) (Routed Via Outside Agency Email to --> Legislative Secretary) For Your Information

Incoming Correspondence:

Governor Hochul,

I'm a small business owner who is angry about the lack of action on climate.

000038

I am writing you today to urge you to support S1046A/A6678 (Myrie/Walker), which would protect free and fair elections in New York State.

The federal government has abdicated its responsibility to protect free and fair elections, at a time when voter intimidation and suppression seem to be increasingly prevalent in the United States.

Free and fair elections constitute the foundational bedrock of our democracy and deserve protection. This should not constitute partisan debate but be a clarion call for all lawmakers.

Further the enactment of protections will instill in the people of New York, confidence about the viability of the system.

California has enacted state level voter protections which have been effective and valuable. So, there should be no concern about state-level efforts.

I urge you to support the John R. Lewis Voting Rights Act of New York, S1046A/A6678 (Myrie/Walker).

Denise Gagnon

C226

From: Andrew Gardner <Andrew_Gardner/NYEC@chamber.state.ny.us>
Sent: Tuesday, August 2, 2022 3:44 PM
To: Legislative Secretary
Subject: Correspondence [CULLEN, MICHELLE] #1079789C

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Mr. MICHELLE CULLEN



Addressed to: Governor

Email Subject: Support S1046A/A6678 (Myrie/Walker)

Issue 1 82022 Legislation

Correspondence Number: 1079789C
Date Of Correspondence: 08/01/2022
Date Received: 08/01/2022
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Referred To: Legislative Secretary
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Routing History:

08/02/2022 03:43 PM (Routed By --> Andrew Gardner) (Routed Via Outside Agency Email to --> Legislative Secretary) For Your Information

Incoming Correspondence:

Governor Hochul,

I'm a grandmother who fears for my family in a warming world.

1
000040

I am writing you today to urge you to support S1046A/A6678 (Myrie/Walker), which would protect free and fair elections in New York State.

The federal government has abdicated its responsibility to protect free and fair elections, at a time when voter intimidation and suppression seem to be increasingly prevalent in the United States.

Free and fair elections constitute the foundational bedrock of our democracy and deserve protection. This should not constitute partisan debate but be a clarion call for all lawmakers.

Further the enactment of protections will instill in the people of New York, confidence about the viability of the system.

California has enacted state level voter protections which have been effective and valuable. So, there should be no concern about state-level efforts.

I urge you to support the John R. Lewis Voting Rights Act of New York, S1046A/A6678 (Myrie/Walker).

Denise Gagnon

From: Andrew Gardner <Andrew_Gardner/NYEC@chamber.state.ny.us>
Sent: Tuesday, August 2, 2022 3:43 PM
To: Legislative Secretary
Subject: Correspondence [CULLEN, MICHELLE] #1079788C

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*** Please Do Not Reply to this e-mail Message.***
*** Any questions regarding this correspondence should be directed to the staff person listed below as the 'Please Respond To' contact. ***

Mr. MICHELLE CULLEN



Addressed to: Governor

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STATE OF NEW YORK

1046--E

2021-2022 Regular Sessions

IN SENATE

January 6, 2021

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, THOMAS -- 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 -- 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)".

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

LBD02423-24-2

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

4 VIOLETIONS OF THE ELECTIVE FRANCHISE

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

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

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

10 TITLE 2

11 JOHN R. LEWIS VOTING RIGHTS ACT OF NEW YORK

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

13 17-202. Interpretation of laws related to the elective fran-
14 chise.

15 17-204. Definitions.

16 17-206. Prohibitions on voter disfranchisement.

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

18 17-210. Preclearance.

19 17-212. Prohibition against voter intimidation, deception or
20 obstruction.

21 17-214. Authority to issue subpoenas.

22 17-216. Expedited judicial proceedings and preliminary relief.

23 17-218. Attorneys' fees.

24 17-220. Applicability.

25 17-222. Severability.

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

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

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

41 § 17-202. Interpretation of laws related to the elective franchise.
42 In further recognition of the protections for the right to vote provided
43 by the constitution of the state of New York, all statutes, rules and
44 regulations, and local laws or ordinances related to the elective fran-
45 chise shall be construed liberally in favor of (a) protecting the right
46 of voters to have their ballot cast and counted; (b) ensuring that
47 eligible voters are not impaired in registering to vote, and (c) ensur-
48 ing voters of race, color, and language-minority groups have equitable
49 access to fully participate in the electoral process in registering to
50 vote and voting. The authority to prescribe or maintain voting or
51 elections policies and practices cannot be so exercised as to unneces-
52 sarily deny or abridge the right to vote. Policies and practices that

1 burden the right to vote must be narrowly tailored to promote a compel-
2 ling policy justification that must be supported by substantial
3 evidence.

4 § 17-204. Definitions. For the purposes of this title:

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

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

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

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

32 5. "Protected class" means a class of eligible voters who are members
33 of a race, color, or language-minority group.

34 5-a. "Language minorities" or "language-minority group" means persons
35 who are American Indian, Asian American, Alaskan Natives or of Spanish
36 heritage.

37 6. "Racially polarized voting" means voting in which there is a diver-
38 gence in the candidate, political preferences, or electoral choice of
39 members in a protected class from the candidates, or electoral choice of
40 the rest of the electorate.

41 7. "Federal voting rights act" means the federal Voting Rights Act of
42 1965, 52 U.S.C. § 10301 et seq., as amended.

43 8. The "civil rights bureau" means the civil rights bureau of the
44 office of the attorney general.

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

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

55 § 17-206. Prohibitions on voter disenfranchisement. 1. Prohibition
56 against voter suppression. (a) No voting qualification, prerequisite to

1 voting, law, ordinance, standard, practice, procedure, regulation, or
2 policy shall be enacted or implemented by any board of elections or
3 political subdivision in a manner that results in a denial or abridge-
4 ment of the right of members of a protected class to vote.

5 (b) A violation of paragraph (a) of this subdivision shall be estab-
6 lished upon a showing that, based on the totality of the circumstances,
7 members of a protected class have less opportunity than the rest of the
8 electorate to elect candidates of their choice or influence the outcome
9 of elections.

10 2. Prohibition against vote dilution. (a) No board of elections or
11 political subdivision shall use any method of election, having the
12 effect of impairing the ability of members of a protected class to elect
13 candidates of their choice or influence the outcome of elections, as a
14 result of vote dilution.

15 (b) A violation of paragraph (a) of this subdivision shall be estab-
16 lished upon a showing that a political subdivision:

17 (i) used an at-large method of election and either: (A) voting
18 patterns of members of the protected class within the political subdivi-
19 sion are racially polarized; or (B) under the totality of the circum-
20 stances, the ability of members of the protected class to elect candi-
21 dates of their choice or influence the outcome of elections is impaired;
22 or

23 (ii) used a district-based or alternative method of election and that
24 candidates or electoral choices preferred by members of the protected
25 class would usually be defeated, and either: (A) voting patterns of
26 members of the protected class within the political subdivision are
27 racially polarized; or (B) under the totality of the circumstances, the
28 ability of members of the protected class to elect candidates of their
29 choice or influence the outcome of elections is impaired; or

30 (c) For the purposes of demonstrating that a violation of paragraph
31 (a) of this subdivision has occurred, evidence shall be weighed and
32 considered as follows: (i) elections conducted prior to the filing of an
33 action pursuant to this subdivision are more probative than elections
34 conducted after the filing of the action; (ii) evidence concerning
35 elections for members of the governing body of the political subdivision
36 are more probative than evidence concerning other elections; (iii)
37 statistical evidence is more probative than non-statistical evidence;
38 (iv) where there is evidence that more than one protected class of
39 eligible voters are politically cohesive in the political subdivision,
40 members of each of those protected classes may be combined; (v) evidence
41 concerning the intent on the part of the voters, elected officials, or
42 the political subdivision to discriminate against a protected class is
43 not required; (vi) evidence that voting patterns and election outcomes
44 could be explained by factors other than racially polarized voting,
45 including but not limited to partisanship, shall not be considered;
46 (vii) evidence that sub-groups within a protected class have different
47 voting patterns shall not be considered; (viii) evidence concerning
48 whether members of a protected class are geographically compact or
49 concentrated shall not be considered, but may be a factor in determining
50 an appropriate remedy; and (ix) evidence concerning projected changes in
51 population or demographics shall not be considered, but may be a factor,
52 in determining an appropriate remedy.

53 3. In determining whether, under the totality of the circumstances, a
54 violation of subdivision one or two of this section has occurred,
55 factors that may be considered shall include, but not be limited to: (a)
56 the history of discrimination in or affecting the political subdivision;

1 (b) the extent to which members of the protected class have been elected
2 to office in the political subdivision; (c) the use of any voting quali-
3 fication, prerequisite to voting, law, ordinance, standard, practice,
4 procedure, regulation, or policy that may enhance the dilutive effects
5 of the election scheme; (d) denying eligible voters or candidates who
6 are members of the protected class to processes determining which groups
7 of candidates receive access to the ballot, financial support, or other
8 support in a given election; (e) the extent to which members of the
9 protected class contribute to political campaigns at lower rates; (f)
10 the extent to which members of a protected class in the state or poli-
11 tical subdivision vote at lower rates than other members of the elector-
12 ate; (g) the extent to which members of the protected class are disad-
13 vantaged in areas including but not limited to education, employment,
14 health, criminal justice, housing, land use, or environmental
15 protection; (h) the extent to which members of the protected class are
16 disadvantaged in other areas which may hinder their ability to partic-
17 ipate effectively in the political process; (i) the use of overt or
18 subtle racial appeals in political campaigns; (j) a significant lack of
19 responsiveness on the part of elected officials to the particularized
20 needs of members of the protected class; and (k) whether the political
21 subdivision has a compelling policy justification that is substantiated
22 and supported by evidence for adopting or maintaining the method of
23 election or the voting qualification, prerequisite to voting, law, ordi-
24 nance, standard, practice, procedure, regulation, or policy. Nothing in
25 this subdivision shall preclude any additional factors from being
26 considered, nor shall any specified number of factors be required in
27 establishing that such a violation has occurred.

28 4. Standing. Any aggrieved person, organization whose membership
29 includes aggrieved persons or members of a protected class, organization
30 whose mission, in whole or in part, is to ensure voting access and such
31 mission would be hindered by a violation of this section, or the attor-
32 ney general may file an action against a political subdivision pursuant
33 to this section in the supreme court of the county in which the poli-
34 tical subdivision is located.

35 5. Remedies. (a) Upon a finding of a violation of any provision of
36 this section, the court shall implement appropriate remedies to ensure
37 that voters of race, color, and language-minority groups have equitable
38 access to fully participate in the electoral process, which may include,
39 but shall not be limited to:

- 40 (i) a district-based method of election;
41 (ii) an alternative method of election;
42 (iii) new or revised districting or redistricting plans;
43 (iv) elimination of staggered elections so that all members of the
44 governing body are elected on the same date;
45 (v) reasonably increasing the size of the governing body;
46 (vi) moving the dates of regular elections to be concurrent with the
47 primary or general election dates for state, county, or city office as
48 established in section eight of article three or section eight of arti-
49 cle thirteen of the constitution, unless the budget in such political
50 subdivision is subject to direct voter approval pursuant to part two of
51 article five or article forty-one of the education law;
52 (vii) transferring authority for conducting the political subdivi-
53 sion's elections to the board of elections for the county in which the
54 political subdivision is located;
55 (viii) additional voting hours or days;
56 (ix) additional polling locations;

1 (x) additional means of voting such as voting by mail;
2 (xi) ordering of special elections;
3 (xii) requiring expanded opportunities for voter registration;
4 (xiii) requiring additional voter education;
5 (xiv) modifying the election calendar;
6 (xv) the restoration or addition of persons to registration lists; or
7 (xvi) retaining jurisdiction for such period of time on a given matter
8 as the court may deem appropriate, during which no redistricting plan
9 shall be enforced unless and until the court finds that such plan does
10 not have the purpose of diluting the right to vote on the basis of
11 protected class membership, or in contravention of the voting guarantees
12 set forth in this title, except that the court's finding shall not bar a
13 subsequent action to enjoin enforcement of such redistricting plan.

14 (b) The court shall consider proposed remedies by any parties and
15 interested non-parties, but shall not provide deference or priority to a
16 proposed remedy offered by the political subdivision. The court shall
17 have the power to require a political subdivision to implement remedies
18 that are inconsistent with any other provision of law where such incon-
19 sistent provision of law would preclude the court from ordering an
20 otherwise appropriate remedy in such matter.

21 6. Procedures for implementing new or revised districting or redis-
22 tricting plans. The governing body of a political subdivision with the
23 authority under this title and all applicable state and local laws to
24 enact and implement a new method of election that would replace the
25 political subdivision's at-large method of election with a district-
26 based or alternative method of election, or enact and implement a new
27 districting or redistricting plan, shall undertake each of the steps
28 enumerated in this subdivision, if proposed subsequent to receipt of a
29 NYVRA notification letter, as defined in subdivision seven of this
30 section, or the filing of a claim pursuant to this title or the federal
31 voting rights act.

32 (a) Before drawing a draft districting or redistricting plan or plans
33 of the proposed boundaries of the districts, the political subdivision
34 shall hold at least two public hearings over a period of no more than
35 thirty days, at which the public is invited to provide input regarding
36 the composition of the districts. Before these hearings, the political
37 subdivision may conduct outreach to the public, including to non-Engl-
38 ish-speaking communities, to explain the districting or redistricting
39 process and to encourage public participation.

40 (b) After all draft districting or redistricting plans are drawn, the
41 political subdivision shall publish and make available for release at
42 least one draft districting or redistricting plan and, if members of the
43 governing body of the political subdivision would be elected in their
44 districts at different times to provide for staggered terms of office,
45 the potential sequence of such elections. The political subdivision
46 shall also hold at least two additional hearings over a period of no
47 more than forty-five days, at which the public shall be invited to
48 provide input regarding the content of the draft districting or redis-
49 tricting plan or plans and the proposed sequence of elections, if appli-
50 cable. The draft districting or redistricting plan or plans shall be
51 published at least seven days before consideration at a hearing. If the
52 draft districting or redistricting plan or plans are revised at or
53 following a hearing, the revised versions shall be published and made
54 available to the public for at least seven days before being adopted.

55 (c) In determining the final sequence of the district elections
56 conducted in a political subdivision in which members of the governing

1 body will be elected at different times to provide for staggered terms
2 of office, the governing body shall give special consideration to the
3 purposes of this title, and it shall take into account the preferences
4 expressed by members of the districts.

5 7. Notification requirement and safe harbor for judicial actions.
6 Before commencing a judicial action against a political subdivision
7 under this section, a prospective plaintiff shall send by certified mail
8 a written notice to the clerk of the political subdivision, or, if the
9 political subdivision does not have a clerk, the governing body of the
10 political subdivision, against which the action would be brought,
11 asserting that the political subdivision may be in violation of this
12 title. This written notice shall be referred to as a "NYVRA notification
13 letter" in this title. For actions against a school district or any
14 other political subdivision that holds elections governed by the educa-
15 tion law, the prospective plaintiff shall also send by certified mail a
16 copy of the NYVRA notification letter to the commissioner of education.

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

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

36 (c) If the governing body of a political subdivision lacks the author-
37 ity under this title or applicable state law or local laws to enact or
38 implement a remedy identified in a NYVRA resolution, or fails to enact
39 or implement a remedy identified in a NYVRA resolution, within ninety
40 days after the passage of the NYVRA resolution, or if the political
41 subdivision is a covered entity as defined under section 17-210 of this
42 title, the governing body of the political subdivision shall undertake
43 the steps enumerated in the following provisions:

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. Such a submission shall be referred
47 to as a "NYVRA proposal" in this title.

48 (ii) Prior to passing a NYVRA proposal, the political subdivision
49 shall hold at least one public hearing, at which the public shall be
50 invited to provide input regarding the NYVRA proposal. Before this
51 hearing, the political subdivision may conduct outreach to the public,
52 including to non-English-speaking communities, to encourage public
53 participation.

54 (iii) Within forty-five days of receipt of a NYVRA proposal, the civil
55 rights bureau shall grant or deny approval of the NYVRA proposal.

1 (iv) The civil rights bureau shall only grant approval to the NYVRA
2 proposal if it concludes that: (A) the political subdivision may be in
3 violation of this title; (B) the NYVRA proposal would remedy any poten-
4 tial violation of this title; (C) the NYVRA proposal is unlikely to
5 violate the constitution or any federal law; (D) the NYVRA proposal
6 would not diminish the ability of protected class members to participate
7 in the political process and to elect their preferred candidates to
8 office; and (E) implementation of the NYVRA proposal is feasible.

9 (v) If the civil rights bureau grants approval, the NYVRA proposal
10 shall be enacted and implemented immediately, notwithstanding any other
11 provision of law, including any other state or local law.

12 (vi) If the political subdivision is a covered entity as defined under
13 section 17-210 of this title, the political subdivision shall not be
14 required to obtain preclearance for the NYVRA proposal pursuant to such
15 section upon approval of the NYVRA proposal by the civil rights bureau.

16 (vii) If the civil rights bureau denies approval, the NYVRA proposal
17 shall not be enacted or implemented. The civil rights bureau shall
18 explain the basis for such denial and may, in its discretion, make
19 recommendations for an alternative remedy for which it would grant
20 approval.

21 (viii) If the civil rights bureau does not respond, the NYVRA proposal
22 shall not be enacted or implemented.

23 (d) A political subdivision that has passed a NYVRA resolution may
24 enter into an agreement with the prospective plaintiff providing that
25 such prospective plaintiff shall not commence an action pursuant to this
26 section against the political subdivision for an additional ninety days.
27 Such agreement shall include a requirement that either the political
28 subdivision shall enact and implement a remedy that complies with this
29 title or the political subdivision shall pass a NYVRA proposal and
30 submit it to the civil rights bureau.

31 (e) If, pursuant to a process commenced by a NYVRA notification
32 letter, a political subdivision enacts or implements a remedy or the
33 civil rights bureau grants approval to a NYVRA proposal, a prospective
34 plaintiff who sent the NYVRA notification letter may, within thirty days
35 of the enactment or implementation of the remedy or approval of the
36 NYVRA proposal, demand reimbursement for the cost of the work product
37 generated to support the NYVRA notification letter. A prospective plain-
38 tiff shall make the demand in writing and shall substantiate the demand
39 with financial documentation, such as a detailed invoice for demography
40 services or for the analysis of voting patterns in the political subdivi-
41 sion. A political subdivision may request additional documentation if
42 the provided documentation is insufficient to corroborate the claimed
43 costs. A political subdivision shall reimburse a prospective plaintiff
44 for reasonable costs claimed, or in an amount to which the parties mutu-
45 ally agree. The cumulative amount of reimbursements to all prospective
46 plaintiffs, except for actions brought by the attorney general, shall
47 not exceed forty-three thousand dollars, as adjusted annually to the
48 consumer price index for all urban consumers, United States city aver-
49 age, as published by the United States department of labor. To the
50 extent a prospective plaintiff who sent the NYVRA notification letter
51 and a political subdivision are unable to come to a mutual agreement,
52 either party may file a declaratory judgment action to obtain a clarifi-
53 cation of rights.

54 (f) Notwithstanding the provisions of this subdivision, in the event
55 that the first day for designating petitions for a political subdivi-
56 sion's next regular election to select members of its governing board

1 has begun or is scheduled to begin within thirty days, or in the event
2 that a political subdivision is scheduled to conduct any election within
3 one hundred twenty days, a plaintiff alleging any violation of this
4 title may commence a judicial action against a political subdivision
5 under this section, provided that the relief sought by such a plaintiff
6 includes preliminary relief for that election. Prior to or concurrent
7 with commencing such a judicial action, any such plaintiff shall also
8 submit a NYVRA notification letter to the political subdivision. In the
9 event that a judicial action commenced under this provision is withdrawn
10 or dismissed for mootness because the political subdivision has enacted
11 or implemented a remedy or the civil rights bureau has granted approval
12 of a NYVRA proposal pursuant to a process commenced by a NYVRA notifica-
13 tion letter, any such plaintiff may only demand reimbursement pursuant
14 to this subdivision.

15 8. Coalition claims permitted. Members of different protected classes
16 may file an action jointly pursuant to this title in the event that they
17 demonstrate that the combined voting preferences of the multiple
18 protected classes are polarized against the rest of the electorate.

19 § 17-208. Assistance for language-minority groups. 1. Political subdivi-
20 sions required to provide language assistance. A board of elections or
21 a political subdivision that administers elections shall provide
22 language-related assistance in voting and elections to a language-minor-
23 ity group in a political subdivision if, based on data from the American
24 community survey, or data of comparable quality collected by a public
25 office, that:

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

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

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

40 2. Language assistance to be provided. A board of elections or poli-
41 tical subdivision required to provide language assistance to a partic-
42 ular language-minority group pursuant to this section shall provide
43 voting materials in the covered language of an equal quality of the
44 corresponding English language materials, including registration or
45 voting notices, forms, instructions, assistance, or other materials or
46 information relating to the electoral process, including ballots. Any
47 registration or voting notices, forms, instructions, assistance, or
48 other materials or information relating to the electoral process,
49 including ballots, in a covered political subdivision, shall be provided
50 in the language of the applicable language-minority group as well as in
51 the English language, provided that where the language of the applicable
52 language-minority group is historically oral or unwritten, the board of
53 elections or political subdivision shall only be required to furnish
54 oral instructions, assistance, or other information relating to regis-
55 tration and voting.

1 3. Action for declaratory judgment for English-only voting materials.
2 A board of elections or political subdivision subject to the require-
3 ments of this section which seeks to provide English-only materials may
4 file an action against the state for a declaratory judgment permitting
5 such provision. The court shall grant the requested relief if it finds
6 that the determination was unreasonable or an abuse of discretion.

7 4. Standing. Any aggrieved persons, organization whose membership
8 includes aggrieved persons or members of a protected class, organization
9 whose mission, in whole or in part, is to ensure voting access and such
10 mission would be hindered by a violation of this section, or the attor-
11 ney general may file an action pursuant to this section in the supreme
12 court of the county in which the alleged violation of this section
13 occurred.

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

16 § 17-210. Preclearance. 1. Preclearance. To ensure that the right to
17 vote is not denied or abridged on account of race, color, or language-
18 minority group, the enactment or implementation of a covered policy by a
19 covered entity, as defined in subdivisions two and three of this section
20 respectively, shall be subject to preclearance by the civil rights
21 bureau or by a designated court as set forth in this section.

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

26 (a) Method of election;

27 (b) Form of government;

28 (c) Annexation of a political subdivision;

29 (d) Incorporation of a political subdivision;

30 (e) Consolidation or division of political subdivisions;

31 (f) Removal of voters from enrollment lists or other list maintenance
32 activities;

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

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

37 (i) Registration of voters;

38 (j) Assignment of election districts to election day or early voting
39 poll sites;

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

41 (l) Any additional topics designated by the civil rights bureau pursu-
42 ant to a rule promulgated under the state administrative procedure act,
43 upon a determination by the civil rights bureau that a new or modified
44 voting qualification, prerequisite to voting, law, ordinance, standard,
45 practice, procedure, regulation, or policy concerning such topics may
46 have the effect of denying or abridging the right to vote on account of
47 race, color, or language-minority group.

48 3. Covered entity. A "covered entity" shall include: (a) any political
49 subdivision which, within the previous twenty-five years, has become
50 subject to a court order or government enforcement action based upon a
51 finding of any violation of this title, the federal voting rights act,
52 the fifteenth amendment to the United States constitution, or a voting-
53 related violation of the fourteenth amendment to the United States
54 constitution; (b) any political subdivision which, within the previous
55 twenty-five years, has become subject to at least three court orders or
56 government enforcement actions based upon a finding of any violation of

1 any state or federal civil rights law or the fourteenth amendment to the
2 United States constitution concerning discrimination against members of
3 a protected class; (c) any county in which, based on data provided by
4 the division of criminal justice services, the combined misdemeanor and
5 felony arrest rate of members of any protected class consisting of at
6 least ten thousand citizens of voting age or whose members comprise at
7 least ten percent of the citizen voting age population of the county,
8 exceeds the proportion that the protected class constitutes of the citi-
9 zen voting age population of the county as a whole by at least twenty
10 percent at any point within the previous ten years; or (d) any political
11 subdivision in which, based on data made available by the United States
12 census, the dissimilarity index of any protected class consisting of at
13 least twenty-five thousand citizens of voting age or whose members
14 comprise at least ten percent of the citizen voting age population of
15 the political subdivision, is in excess of fifty with respect to non-
16 Hispanic white citizens of voting age within the political subdivision
17 at any point within the previous ten years. If any covered entity is a
18 political subdivision in which a board of elections has been estab-
19 lished, that board of elections shall also be deemed a covered entity.
20 If any political subdivision in which a board of elections has been
21 established contains a covered entity fully within its borders, that
22 political subdivision and that board of elections shall both be deemed a
23 covered entity.

24 4. Preclearance by the attorney general. A covered entity may obtain
25 preclearance for a covered policy from the civil rights bureau pursuant
26 to the following process:

27 (a) The covered entity shall submit the covered policy in writing to
28 the civil rights bureau. If the covered entity is a county or city board
29 of elections, it shall contemporaneously provide a copy of the covered
30 policy to the state board of elections.

31 (b) Upon submission of a covered policy for preclearance, as soon as
32 practicable but no later than within ten days, the civil rights bureau
33 shall publish the submission on its website.

34 (c) After publication of a submission, there shall be an opportunity
35 for members of the public to comment on the submission to the civil
36 rights bureau within the time periods set forth below. To facilitate
37 public comment, the civil rights bureau shall provide an opportunity for
38 members of the public to sign up to receive notifications or alerts
39 regarding submission of a covered policy for preclearance.

40 (d) Upon submission of a covered policy for preclearance, the civil
41 rights bureau shall review the covered policy, and any public comment,
42 and shall, within the time periods set forth below, provide a report and
43 determination as to whether, under this title, preclearance should be
44 granted or denied to the covered policy. Such time period shall run
45 concurrent with the time periods for public comment. The civil rights
46 bureau shall not make such determination until the period for public
47 comment is closed. The civil rights bureau may request additional infor-
48 mation from a covered entity at any time during its review to aid in
49 developing its report and recommendation. The failure to timely comply
50 with reasonable requests for more information may be grounds for the
51 denial of preclearance. The civil rights bureau's reports and determi-
52 nation shall be posted publicly on its website.

53 (e) In any determination as to preclearance, the civil rights bureau
54 shall identify in writing whether it is approving or rejecting the
55 covered policy; provided, however, that the civil rights bureau may, in
56 its discretion, designate preclearance as "preliminary" in which case

1 the civil rights bureau may deny preclearance within sixty days follow-
2 ing the receipt of submission of the covered policy.

3 (i) The civil rights bureau shall grant preclearance only if it deter-
4 mines that the covered policy will not diminish the ability of protected
5 class members to participate in the political process and to elect their
6 preferred candidates to office. If the civil rights bureau grants
7 preclearance, the covered entity may enact or implement the covered
8 policy immediately.

9 (ii) If the civil rights bureau denies preclearance, the civil rights
10 bureau shall interpose objections explaining its basis and the covered
11 policy shall not be enacted or implemented.

12 (iii) If the civil rights bureau fails to respond within the required
13 time frame as established in this section, the covered policy shall be
14 deemed precleared and the covered entity may enact or implement such
15 covered policy.

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

19 (i) For any covered policy concerning the designation or selection of
20 poll sites or the assignment of election districts to poll sites, wheth-
21 er for election day or early voting, the period for public comment shall
22 be five business days. The civil rights bureau shall review the covered
23 policy, including any public comment, and make a determination to deny
24 or grant preclearance for such covered policy within fifteen days
25 following the receipt of such covered policy.

26 (ii) Upon a showing of good cause, the civil rights bureau may receive
27 an extension of up to twenty days to make a determination pursuant to
28 this paragraph.

29 (iii) For any other covered policy, the period for public comment
30 shall be ten business days. The civil rights bureau shall review the
31 covered policy, including any public comment, within fifty-five days
32 following the receipt of such covered policy and make a determination to
33 deny or grant preclearance for such covered policy. The civil rights
34 bureau may invoke up to two extensions of ninety days each.

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

43 (g) Appeal of any denial by the civil rights bureau may be heard in
44 the supreme court for the county of New York or the county of Albany in
45 a proceeding commenced against the civil rights bureau, pursuant to
46 article seventy-eight of the civil practice law and rules, from which
47 appeal may be taken according to the ordinary rules of appellate proce-
48 dure. Due to the frequency and urgency of elections, actions brought
49 pursuant to this section shall be subject to expedited pretrial and
50 trial proceedings and receive an automatic calendar preference on
51 appeal.

52 5. Preclearance by a designated court. A covered entity may obtain
53 preclearance for a covered policy from a court pursuant to the following
54 process:

55 (a) The covered entity shall submit the covered policy in writing to
56 the following designated court in the judicial department within which

1 the covered entity is located: (i) first judicial department: New York
2 county; (ii) second judicial department: Westchester county; (iii)
3 third judicial department: Albany county; and (iv) fourth judicial
4 department: Erie county. If the covered entity is a county or city
5 board of elections, it shall contemporaneously provide a copy of the
6 covered policy to the state board of elections.

7 (b) The covered entity shall contemporaneously provide a copy of the
8 covered policy to the civil rights bureau. The failure of the covered
9 entity to provide a copy of the covered policy to the civil rights
10 bureau will result in an automatic denial of preclearance.

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

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

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

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

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

32 7. Rules and regulations. The civil rights bureau may promulgate such
33 rules and regulations as are necessary to effectuate the purposes of
34 this section.

35 § 17-212. Prohibition against voter intimidation, deception or
36 obstruction. 1. (a) No person, whether acting under color of law or
37 otherwise, may engage in acts of intimidation, deception, or obstruction
38 that affects the right of voters to access the elective franchise.

39 (b) A violation of paragraph (a) this subdivision shall be established
40 if:

41 (i) a person uses or threatens to use any force, violence, restraint,
42 abduction or duress, or inflicts or threatens to inflict any injury,
43 damage, harm or loss, or in any other manner practices intimidation that
44 causes or will reasonably have the effect of causing any person to vote
45 or refrain from voting in general or for or against any particular
46 person or for or against any proposition submitted to voters at such
47 election; to place or refrain from placing their name upon a registry of
48 voters; or to request or refrain from requesting an absentee ballot; or

49 (ii) a person knowingly uses any deceptive or fraudulent device,
50 contrivance or communication, that impedes, prevents or otherwise inter-
51 feres with the free exercise of the elective franchise by any person, or
52 that causes or will reasonably have the effect of causing any person to
53 vote or refrain from voting in general or for or against any particular
54 person or for or against any proposition submitted to voters at such
55 election; to place or refrain from placing their name upon a registry of
56 voters; or to request or refrain from requesting an absentee ballot; or

1 (iii) a person obstructs, impedes, or otherwise interferes with access
2 to any polling place or elections office, or obstructs, impedes, or
3 otherwise interferes with any voter in any manner that causes or will
4 reasonably have the effect of causing any delay in voting or the voting
5 process, including the canvassing and tabulation of ballots.

6 2. Standing. Any aggrieved persons, organization whose membership
7 includes aggrieved persons or members of a protected class, organization
8 whose mission, in whole or in part, is to ensure voting access and such
9 mission would be hindered by a violation of this section, or the attor-
10 ney general may file an action pursuant to this section in the supreme
11 court of the county in which the alleged violation of this section
12 occurred.

13 3. Remedies. Upon a finding of a violation of any provision of this
14 section, the court shall implement appropriate remedies that are
15 tailored to remedy the violation, including but not limited to providing
16 for additional time to cast a ballot that may be counted in the election
17 at issue. Any party who shall violate any of the provisions of the
18 foregoing section or who shall aid the violation of any of said
19 provisions shall be liable to any prevailing plaintiff party for
20 damages, including nominal damages for any violation, and compensatory
21 or punitive damages for any intentional violation.

22 § 17-214. Authority to issue subpoenas. In any action or investigation
23 to enforce any provision of this title, the attorney general shall have
24 the authority to take proof and determine relevant facts and to issue
25 subpoenas in accordance with the civil practice law and rules.

26 § 17-216. Expedited judicial proceedings and preliminary relief.
27 Because of the frequency of elections, the severe consequences and irre-
28 parable harm of holding elections under unlawful conditions, and the
29 expenditure to defend potentially unlawful conditions that benefit
30 incumbent officials, actions brought pursuant to this title shall be
31 subject to expedited pretrial and trial proceedings and receive an auto-
32 matic calendar preference. In any action alleging a violation of this
33 section in which a plaintiff party seeks preliminary relief with respect
34 to an upcoming election, the court shall grant relief if it determines
35 that: (a) plaintiffs are more likely than not to succeed on the merits;
36 and (b) it is possible to implement an appropriate remedy that would
37 resolve the alleged violation in the upcoming election.

38 § 17-218. Attorneys' fees. In any action to enforce any provision of
39 this title, the court shall allow the prevailing plaintiff party, other
40 than the state or political subdivision thereof, a reasonable attorneys'
41 fee, litigation expenses including, but not limited to, expert witness
42 fees and expenses as part of the costs. A plaintiff will be deemed to
43 have prevailed when, as a result of litigation, the defendant party
44 yields much or all of the relief sought in the suit. Prevailing defend-
45 ant parties shall not recover any costs, unless the court finds the
46 action to be frivolous, unreasonable, or without foundation.

47 § 17-220. Applicability. The provisions of this title shall apply to
48 all elections for any elected office or electoral choice within the
49 state or any political subdivision. The provisions of this title shall
50 apply notwithstanding any other provision of law, including any other
51 state law or local law; provided, however, that school districts and
52 libraries shall continue to conduct their elections under the education
53 law, subject to and not inconsistent with the provisions of this title,
54 to ensure voters of race, color, and language-minority groups have equi-
55 table access to fully participate in the electoral process.

1 § 17-222. Severability. If any provision of this title or its applica-
2 tion to any person, political subdivision, or circumstance is held
3 invalid, the invalidity shall not affect other provisions or applica-
4 tions of this title which can be given effect without the invalid
5 provision or application, and to this end the provisions of this title
6 are severable.

7 § 5. This act shall take effect immediately; provided, however, that
8 paragraph (c) of subdivision seven of section 17-206 of the election law
9 as added by section four of this act shall take effect one year after it
10 shall have become a law; and provided further, however, that section
11 17-208 of the election law as added by section four of this act shall
12 take effect three years after it shall have become a law; and provided
13 further, however, that section 17-210 of the election law, as added by
14 section four of this act, shall take effect one year after the attorney
15 general certifies that the office of the attorney general is prepared to
16 execute the duties assigned in section four of this act, if after the
17 expiration of one year the attorney general requires more time to certi-
18 fy that the office of the attorney general is prepared to execute the
19 duties assigned in section four of this act, the attorney general, may,
20 for good cause shown, apply to the governor for such an extension of
21 time. The governor may grant or deny an extension of up to one year
22 according to his or her discretion. The attorney general shall notify
23 the legislative bill drafting commission upon the occurrence of the
24 enactment of the legislation provided for in section four of this act in
25 order that the commission may maintain an accurate and timely effective
26 data base of the official text of the laws of the state of New York in
27 furtherance of effectuating the provisions of section 44 of the legisla-
28 tive law and section 70-b of the public officers law.
