



ELECTION COMMISSIONERS ASSOCIATION OF THE STATE OF NEW YORK 2019-20 DEMOCRATIC CAUCUS

**Testimony before the New York State Senate
Standing Committee on Elections
Hearing for the New York Voting Right Act, S.7528 (Myrie)
Tuesday March 3, 2020 10am
Dustin M. Czarny, NYSECA Democratic Caucus Chair**

I would like to thank the committee for the invitation to testify today. My name is Dustin M. Czarny. I am a Democratic Elections Commissioner for the Onondaga County Board of Elections and have served in this position since 2013. I am also the Democratic Caucus Chair of the New York State Elections Commissioner Association. In that capacity I represent all the Democratic Commissioners throughout the 62 counties in New York State. I have served as chair of our caucus since 2018.

Ever since the pre-clearance section of the National Voting rights Act was gutted by the Supreme Court voters across the country have faced series of legislative efforts to suppress their vote. Onerous Voter ID laws, reductions of polling places and hours, arbitrary voter purges, and budget reductions to local boards have become common place in many states that were once covered by Section 5 of the VRA. While we have been luck in New York that these forms of suppression have been rebutted at the legislative level, the fact remains that New York citizens are vulnerable. The Federal government has been hamstrung by partisan interests that prevent it from fixing the pre-clearance section of the VRA.

In the wake of Federal inaction New York must act. The voters and citizens of our state need a New York Voting Rights Act in place that reflects our values that we hold dear in New York. A strong and comprehensive NVRA will ensure our citizens are protected from partisan interests that look to endanger their right to vote. We would protect vulnerable communities, empower voting rights activists, and give a clear path for judicial remedy. Most importantly we would be stating clearly that New York is a leader in voting rights and a model for the rest of the nation.

The New York State Elections Commissioner Association has taken no formal stance on the New York voting Rights Act and neither has my Democratic Caucus of commissioners. The opinions and testimony I give today are my own and may not reflect all the members of my caucus or all Elections Commissioners in New York State. However after studying this proposed legislation it is my personal belief that it is vital legislation that poses little administrative burden on local Election Boards and in some cases can serve as a means to resolve differences within the Elections Boards. It can also serve an avenue for voters to properly address decisions made by elections Boards they disagree with in a cost effective and efficient manner.

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New York State Elections Boards are made up of bi—partisan commissioners representing the two major parties in New York State. At this point in history the two parties are the Democratic Party and Republican Party, who routinely receives the two highest vote totals in each gubernatorial election. Commissioners of each party are nominated by the County Committees and approved by the county legislature in their host counties. They serve either 2 or 4 year terms based on the regulations in the county in which they serve. Local Board of Elections staff makeup also follows the bi-partisan structure as well with representatives from both parties shadowing each other to ensure fairness in elections. This pattern follows through down to even the election inspectors themselves as the thousands of polling sites throughout New York.

Understanding how our Election Boards operate is vital to seeing some of the advantages that the New York Voting Rights Act can make possible. The Bi-partisan nature of our local Board of elections is a valuable asset to the New York electoral system. Commissioners must find common ground to make decisions such as polling places, budgets, petition decisions, and ruling s on individual ballots. This compels commissioners to put party ideology aside and make decisions that are best for the voters of their county. This bi-partisan approach prevents local officials in very blue or very red areas of the state from influencing the local board and gives the citizens in every county protection from ideology overshadowing proper election functions.

This system though is not without its set of drawbacks. There is currently no structure in place to easily resolve disputes within Election Boards. If commissioners disagree on polling places, whether Early Voting or on Election Day, the only avenue is for the commissioners to institute costly lawsuits against each other. This is frowned upon by the host counties who have to pay the legal bills and it is time consuming for the commissioners themselves. Often courts themselves are ill-equipped to deal with such matters and may take weeks or months to decide on questions. Often the resolution comes too late to help in the current election. If commissioners do agree on an inadequate solution the voters face the same dilemma.

The NYVRA will help with this dilemma in several ways. By establishing a pre-clearance section it will ensure at-risk communities will have protection and oversight that they lost when the Federal Voting rights act pre-clearance section was neutered. Allowing the Attorney general of New York State authority to monitor and in some cases prevent decisions that could adversely affect these communities will make sure that local governments and Boards of Elections all act with care to these communities. This Pre-clearance section will also give a framework for resolving disputes within the Boards of elections as well.

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Furthermore giving clear guidance to the judiciary on resolving election cases by making it clear that the law favors the ability of qualified voters to cast valid, meaningful ballots and have them counted whenever possible. It will provide efficient and speedy ways for judicial remedies with a clear path for litigants to make their case, especially in fighting vote-dilution and suppression. It provides a civil cause for action against bad actors in our Democracy, thus providing a deterrent to future abuse. It provides protection for non-English speaking citizens and enshrines their rights to get ballots and election information in their native language. Finally it provides a central depository for statistical and demographic data so that voters, activists, and election professionals do not have to waste time and resources in sifting through the various websites and archives of 62 different counties.

As we look toward implementation of this legislation we should make sure that regulations take into account the needs of Boards of Elections. Often the Board of Elections are under time constraints and dealing with unforeseen issues that will be a factor in the determination polling places. Any system of preclearance or oversight should take into account the difficulty many boards face in finding HAVA compliant polling stations in urban, suburban and rural settings. I believe a system with clear instructions can be a benefit for the Boards of Elections overall, but too much of a burden can be a detriment. We should use the 5 year implementation time period to develop a system where it is easy for Boards of Elections to comply and communicate their needs properly.

In conclusion this legislation can play a vital role in the future of New York's electoral system. As we embrace new reforms like Early Voting, Electronic Poll Books, and Universal registration and look forward to future reforms such as no fault absentee, mail in voting, and same-day registration we need a structure in place that will make sure these reforms are properly distributed to the citizens. The NYVRA will ensure that our electoral system can rise to the challenge while ensuring the most vulnerable of our citizens are able to participate in our Democracy.

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