

Testimony Before the New York State Senate Standing Committee on Elections

For a Hearing on:
The New York Voting Rights Act (S7528)

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Thank you for the opportunity to comment on the New York Voting Rights Act (S7528). I'd like to thank Senator Myrie and his staff for providing me this opportunity, and for working so earnestly with me to ensure this bill brings New York in line with the rest of the nation on election data transparency and availability.

I approach this bill not in my work capacity as a political consultant, but as an advocate of good government and open government, though my work has given me the chance to witness our state's failure to adequately provide election data to the public in an easy-to-use and timely manner. Election results at the election district level are not publicly available for all counties, not available at one statewide source, not provided in one easy-to-use format, and often not provided in a timely manner. Election district boundary information, maps, and shapefiles that are up-to-date are hard to find and compile. And some election authorities seek to charge members of the public for what should be public information.

The New York Voting Rights Act will solve many of these issues, and even make New York a nationwide leader in data openness. With the creation of Article 17, Section 208 (Maintenance of Voting and Election Data) of the election law as written in this bill, we have the ability to set a new standard for government transparency.

According to research compiled by Derek Willis of OpenElections, an organization that works to compile election results nationwide at the election district level, only 47 out of 62 county boards of elections in New York posted official election district-level results on their website for the 2018 election.¹ Of the counties that do post these results on their website, "complicating factors" make it so that such results are not standardized in any way. For example, Niagara County's results include candidate totals regardless of party.² As a result, candidates who run on a "fusion ticket," or on multiple party lines, have their vote totals combined by election district, rather than separated by each party line. Niagara County also did not post their results for free on the website, but rather their results had to be requested by email.³

In addition, county boards of elections that post election district-level results online and for free to the public often fail to do so in a timely manner. The most egregious example of this is Monroe County, which did not post its official election district-level results for the 2018 primary and general elections until June 2019, over half a year after general election results were certified, and nearly a year after federal primary results were certified.⁴

¹ This information is available in the "Obtaining Official Precinct-Level Election Results" report published for SPSA 2020 at this link: https://drive.google.com/file/d/1TTAcRd3gGlijgGFp-EzKj_X_Qk1jhXh0/view. All information on the election information collection process for New York is on page five.

² "Obtaining Official Precinct-Level Election Results" by Derek Willis, OpenElections: page 5.

³ "Obtaining Official Precinct-Level Election Results" by Derek Willis, OpenElections: page 5.

⁴ "Obtaining Official Precinct-Level Election Results" by Derek Willis, OpenElections: page 5.

Election results are also not available in one easy-to-use format. Some counties provide their results in electronically-generated PDF files, some provide them in HTML files, and some provide them in spreadsheet files.⁵ For public use, I recommend that all results be provided in a spreadsheet file. In 2018, Open Elections found that they could only receive Nassau County's election district-level results if they complied with a request to pay \$6 via a check in the mail, to which the county board of elections would respond by mailing back the results on a CD.⁶ I personally came across the same exact response from the Suffolk County Board of Elections when requesting 2019 general election results at the election district-level. This should be public data, and nobody should have to pay to receive it. This data should be provided to the public in one easy-to-use, standardized format.

The New York Voting Rights Act would solve these issues. The bill establishes a statewide database, within the State University of New York, of election results at the election district level for every statewide election and every election in every political subdivision, and in electronic format.⁷ The bill gives leeway to the Director of the statewide database to maintain the data in any electronic format, but I believe that whoever fills this position will agree that putting this data in a spreadsheet format is best. The bill would require each election authority to transmit copies of election data, including results at the election district level, to the statewide database upon certification of results and completion of the voter history file, ensuring that data will be sent to the Director and their staff in a timely manner.⁸

Apart from election results, New York lacks a single statewide electronic file (known as a shapefile) of election districts, and many counties fail to provide such a file. In its place, some counties provide static maps or boundary descriptions. Some counties provide no election district boundary information at all, and many fail to update this data for each election, so the maps they provide to the public are now roughly a decade old.

This bill would solve these issues. The New York Voting Rights Act would require the statewide database to include "contemporaneous maps, descriptions of boundaries, and shapefiles for election districts," and, as it does with the election results data, requires election authorities to transmit maps, boundary descriptions, and shapefiles to the statewide database upon certification of results and completion of the voter history file, ensuring timely publication of election district boundary information and shapefiles.⁹

⁵ "Obtaining Official Precinct-Level Election Results" by Derek Willis, OpenElections: page 5.

⁶ "Obtaining Official Precinct-Level Election Results" by Derek Willis, OpenElections: page 5.

⁷ New York Voting Rights Act § 17-208-1, § 17-208-4.

⁸ New York Voting Rights Act § 17-208-8.

⁹ New York Voting Rights Act § 17-208-4, § 17-208-8.

The New York Voting Rights Act also specifically requires that the data collected in the statewide database (except for any data or information that identifies individual voters) be posted online and made available to the public at no cost.¹⁰

There are many other important parts of the data section of this bill that would set New York up to be a leader in data transparency and availability. The creation of the Director position, who must have “doctoral-level expertise in demography, statistical analysis, and electoral systems,” and the ability of the Director to appoint necessary staff, ensures a competent office will handle all of this data.¹¹ The bill requires that records be maintained for “at least the previous twelve year period,” so that recent data will be available soon after the office is created, not just data from elections after the office’s creation.¹² It requires updated estimates of the “total population, voting age population, and citizen voting age population” every year using data from the U.S. Census Bureau, American Community Survey, or comparable public data, with this information “broken down to the election district level” and broken down “by race, ethnicity, and language-minority group,” information that is necessary to other sections of this bill but is also valuable to the public.¹³ It mandates that the database includes election day poll site locations and early voting site locations, as well as each site’s assigned polling place, allowing analysis of voting patterns and the effectiveness of early voting.¹⁴

Additionally, the bill allows the staff at the statewide database to provide “non-partisan technical assistance to political subdivisions, scholars, and the general public seeking to use the resources,” which will not only help the public but will help local election authorities, including county boards of elections, bring their data practices in line with the rest of the state.¹⁵ This is very important, as many election authorities likely do not have the funding or expertise to do this on their own. Perhaps most importantly, it specifically allows the Director to collect “any other data that the Director deems advisable to maintain in furtherance of the purposes of this title,” giving the Director the ability to collect additional important information.¹⁶

This bill is a great first step to catch New York up with the rest of the nation and turn it into a leader for election data availability. However, I do believe that more can be done. Although the bill technically provides the Director the ability to request additional information, I believe the bill should also require that election results provided to the public be broken down at the election district level both by party line, so that vote totals are separated by party for

¹⁰ New York Voting Rights Act § 17-208-6.

¹¹ New York Voting Rights Act § 17-208-1, § 17-208-2, § 17-208-3.

¹² New York Voting Rights Act § 17-208-4.

¹³ New York Voting Rights Act § 17-208-4(A).

¹⁴ New York Voting Rights Act § 17-208-4(C), § 17-208-4(E).

¹⁵ New York Voting Rights Act § 17-208-9.

¹⁶ New York Voting Rights Act § 17-208-4(G).

candidates running on a fusion ticket, and by voting method, to allow for analysis of voting patterns by election-day voting, early voting, and absentee and provisional voting. In addition, the bill states that the data section of this bill (Article 17, Section 208, Maintenance of Voting and Election Data) will take effect three years after its enactment. While I understand that many election authorities will need time and assistance to bring their data practices up to speed, I would advocate that this section of the bill take effect much sooner.

With the passage of this new law, and potentially with further amendments, New York can rid its reputation as one of the worst states in the nation for election data transparency, and lead the way forward for the entire country. As our elections come under attack from hostile forces and public trust in government continues to decline, it is imperative that this committee and the legislature as a whole pass the New York Voting Rights Act.¹⁷

¹⁷ “Public Trust in Government: 1958-2019” by Pew Research Center (<https://www.people-press.org/2019/04/11/public-trust-in-government-1958-2019/>).