



PROPOSED RESOLUTION 24-15

Certification and Approval of the Abstract and Form of Submission of State Constitutional Amendment Related to Adding Certain Protections to The State Bill of Rights

WHEREAS, pursuant to Article XIX § 1 of the State Constitution, State Constitutional Amendments must be passed by two separately elected State Legislatures and then “each proposed amendment or amendments [must be submitted] to the people for approval in such manner and at such times as the legislature shall prescribe;” and

WHEREAS, A State Constitutional Amendment related to adding certain protections to the State Bill of Rights was passed by two separately elected State Legislatures; and

WHEREAS, the Amendment provides that such “amendment be submitted to the people for approval at the general election to be held in the year 2024 in accordance with provisions of the election law;” and

WHEREAS, section 4-108(1) of the Election Law provides: “the state board of elections at least three months prior to the general election at which such amendment...is to be submitted, shall transmit to each county board of elections a certified copy of the text of each amendment...and a statement of the form in which it is to be submitted(;)” and

WHEREAS, Board staff prepared an abstract and form of the question, and, as required by law, such proposed form of submission and abstract were timely published on the website of the Board, and public comments having thereby been received and considered during a public comment period exceeding the fifteen days required by law;

NOW THEREFORE BE IT RESOLVED: that the Co-Executive Directors are authorized to sign the Certification, attached hereto, which certifies the "abstract

of proposal" and "form of the submission" of the State Constitutional Amendment related to adding certain protections to the State Bill of Rights; and

BE IT FURTHER RESOLVED, that State Board of Elections staff is authorized to transmit to each county board of elections a certified copy of the form of the submission; further, staff is authorized to publish the abstract of the proposal consistent with section 4-116(2) of the Election Law.

ABSTRACT OF PROPOSAL NUMBER ONE, A PROPOSITION

ADDS CERTAIN PROTECTIONS TO THE STATE BILL OF RIGHTS

This proposal amends Article 1, Section 11 of the New York State Constitution. It prohibits any person, business, or organization, as well as state and local governments from discrimination pursuant to law. The current protections in the Constitution cover race, color, creed, and religion.

The proposal will add ethnicity, national origin, age, disability, and sex, sexual orientation, gender identity, gender expression, pregnancy, pregnancy outcomes, and reproductive healthcare and autonomy.

The amendment allows laws to prevent or undo past discrimination.

FORM OF SUBMISSION OF PROPOSAL NUMBER ONE, A PROPOSITION

ADDS CERTAIN PROTECTIONS TO THE STATE BILL OF RIGHTS

Adds anti-discrimination provisions to State Constitution. Covers ethnicity, national origin, age, disability, and sex, including sexual orientation, gender identity and pregnancy. Also covers reproductive healthcare and autonomy.

A "YES" vote puts these protections against discrimination in the New York State Constitution.

A "NO" vote leaves these protections out of the State Constitution.

TEXT OF PROPOSAL NUMBER ONE, A PROPOSITION

ADDS CERTAIN PROTECTIONS TO THE STATE BILL OF RIGHTS

Adds anti-discrimination provisions to State Constitution. Covers ethnicity, national origin, age, disability, and sex, including sexual orientation, gender identity and pregnancy. Also covers reproductive healthcare and autonomy.

A “YES” vote puts these protections against discrimination in the New York State Constitution.

A “NO” vote leaves these protections out of the State Constitution.

Automated Readability Index: 14

While the Automated Readability Index of the Proposition is higher than the statutory goal of 8, the enacting legislation for the Proposition includes a list of protected classes, all of which would be added to the Constitution if approved. These terms must all be included in the Proposition language to ensure voters are fully informed of the proposed additions.

Best efforts have been made to reduce ARI wherever possible. It is worth noting that Article 1, Section 11 of the New York State Constitution scores at 16 in its current form, even without the proposed additions to the list of protected classes.

Given the foregoing, the ARI score of 14 represents the New York State Board of Elections’ best efforts to present the details of the proposed constitutional amendment to the voters in plain language pursuant to the provisions of Election Law 4-108.

ABSTRACT OF PROPOSAL NUMBER ONE, A PROPOSITION

ADDS CERTAIN PROTECTIONS TO THE STATE BILL OF RIGHTS

This proposal amends Article 1, Section 11 of the New York State Constitution. It prohibits any person, business, or organization, as well as state and local governments from discrimination pursuant to law. The current protections in the Constitution cover race, color, creed, and religion.

The proposal will add ethnicity, national origin, age, disability, and sex, sexual orientation, gender identity, gender expression, pregnancy, pregnancy outcomes, and reproductive healthcare and autonomy.

The amendment allows laws to prevent or undo past discrimination.

Automated Readability Index: 15

While the Automated Readability Index of this abstract is higher than the statutory goal of 8, the enacting legislation for the Proposition includes a list of protected classes, all of which would be added to the Constitution if approved. These terms must all be included in the abstract to ensure voters are fully informed of the proposed additions. Definitions have been expanded to ensure there is no ambiguity relating to any of the terms within.

Best efforts have been made to reduce ARI wherever possible. It is worth noting that Article 1, Section 11 of the New York State Constitution scores at 16 in its current form, even without the proposed additions to the list of protected classes.

Given the foregoing, the ARI score of 15 represents the New York State Board of Elections' best efforts to present the details of the proposed constitutional amendment to the voters in plain language pursuant to the provisions of Election Law 4-108.

JUSTIFICATION

Election Law 4-108(4)(a) mandates that the New York State Board of Elections (“NYSBOE”) prominently publish the proposed form of ballot proposal and abstract for constitutional amendments four (4) months before the election to provide for public comment. Pursuant to Election Law 4-108(2), the form of the ballot proposal consists of the following:

- a. A descriptive title of up to fifteen words, which describes the topic, goal, or outcome of the ballot question in plain language;
- b. A summary of the text ballot proposal of up to thirty words, written in plain language, that describes the change in policy to be adopted and not the legal mechanism; and
- c. A statement of what a YES or NO vote means in up to thirty words written in plain language that identifies the practical outcome of each election result and not the legal mechanism.

Election Law 4-108(4)(b) clarifies that “plain language” shall also mean scoring no higher than eight (8) on the Automated Readability Index (ARI) when possible.

The proposed form of the ballot proposal and abstract represent best efforts to present the question to the public in a concise and sufficiently descriptive manner, while striving to reduce the ARI score to its lowest possible level under the circumstances.

A. Descriptive Title

The proposed title is both sufficiently descriptive and in plain language, specifying that the ballot proposal adds protections for certain groups to Article I of the State Constitution; namely, the Bill of Rights. These include not only protections against discrimination, but also a guarantee of equal protection under the laws of the State.

B. Summary of the Text Ballot Proposal

The language of the summary is taken nearly verbatim from the enacting legislation. The proposed amendment adds a number of classes to the existing list of protected classes in the State of New York. However, with regard to “sex,” the proposed amendment clarifies that this word is inclusive of sexual orientation, gender identity, gender expression, pregnancy, pregnancy outcomes, and reproductive healthcare and autonomy. The legislation does not

expand upon the other additions to the list of protected classes, which include ethnicity, national origin, age, and disability.

The language in the enacting legislation is as concise as possible while fully describing the effect of the proposed constitutional change. The proposed summary strives for the same goal of conciseness and clarity. To put anything else in front of the voters would only serve to confuse the public and/or distract from the clearly stated purpose of the Legislature.

C. “YES/NO” Statement

The practical outcome of the proposed amendment is stated in plain language within the proposed “YES/NO” statement. A yes vote adds protected classes to the existing list of protected classes. A no vote, therefore, would leave the list unchanged.

D. Automated Readability Index (ARI)

While the ARI of the ballot proposal and abstract as presented is higher than the statutory goal of 8, the enacting legislation includes a list of protected classes, all of which would be added to the State Constitution if approved. These terms must be included in their entirety to ensure voters are fully informed of the impact of the proposal.

Best efforts have been made to reduce ARI wherever possible. It is worth noting that Article 1, Section 11 of the New York State Constitution scores at 16 in its current form, even without the proposed additions to the list of protected classes.

Given the foregoing, the ARI score of 14 for the ballot proposal and 15 for the abstract represent best efforts to present the details of the proposed constitutional amendment to the voters in plain language pursuant to all relevant statutory provisions.