

Date of Hearing: May 7, 2013

ASSEMBLY COMMITTEE ON ELECTIONS AND REDISTRICTING
Paul Fong, Chair
AB 817 (Bonta) – As Amended: April 29, 2013

SUBJECT: Elections officials.

SUMMARY: Authorizes county elections officials to appoint a person who is a lawful permanent resident of the United States (U.S.) and who is otherwise eligible to register to vote, except for his or her lack of U.S. citizenship, to serve as a precinct board member. Specifically, this bill: Provides that in order to promote civic engagement among residents of the state and to provide additional members of precinct boards, an elections official may appoint not more than five nonvoters per precinct to serve as precinct board members. Permits a nonvoter to be appointed, notwithstanding their lack of eligibility to vote, if the nonvoter possesses the following qualifications:

- 1) Is a lawful permanent resident of the U.S.; and,
- 2) Is otherwise eligible to register to vote pursuant to existing law except for his or her lack of U.S. citizenship.

EXISTING LAW:

- 1) Provides that a person is entitled to register to vote if that person is be a U.S. citizen, a resident of California, not in prison or on parole for the conviction of a felony, and at least 18 years of age at the time of the next election.
- 2) Requires a member of a precinct board to be a voter of the state, except if the precinct board member is a pupil.
- 3) Provides that in order to provide for greater awareness of the election process, the rights and responsibilities of voters, and the importance of participating in the electoral process, as well as to provide additional members of precinct boards, an elections official may appoint no more than five pupils per precinct to serve under the direct supervision of precinct board members designated by the elections official. Prohibits a pupil appointed to serve as a precinct board member from tallying votes. Provides that a pupil may be appointed, notwithstanding his or her lack of eligibility to vote, subject to the approval of the governing board of the educational institution in which the pupil is enrolled, if the pupil possesses the following qualifications:
 - a) Is at least 16 years of age at the time of the election to which he or she is serving as a member of the precinct board;
 - b) Is a U.S. citizen or will be a citizen at the time of the election to which he or she is serving as a member of the precinct board;

- c) Is a pupil in good standing attending a public or private secondary educational institution; and,
 - d) Is a pupil who has a grade point average of at least 2.5 on a 4.0 scale.
- 4) Requires elections officials to make reasonable efforts to recruit election officers who are fluent in a language if three percent or more of the voting age residents in any precinct are fluent in that language and lack sufficient skill in English to vote without assistance. Requires an elections official, at least 14 days before an election, to prepare and make available to the public a list of the precincts to which officials were appointed as described above and the language or languages other than English in which they will provide assistance.
- 5) Requires each precinct board to post, in a conspicuous location in the polling place, at least one copy of the ballot with ballot measures and ballot instructions printed in Spanish in counties where the Secretary of State (SOS) has determined it is appropriate. Requires the ballot to be posted in other languages if a significant and substantial need is found by the SOS.

FISCAL EFFECT: Keyed non-fiscal by Legislative Counsel.

COMMENTS:

- 1) Purpose of the Bill: According to the author:

Over 2.6 million eligible voters in California are not yet fully proficient in English, including 47% of eligible voters who are naturalized. Without language assistance, these citizens face challenges in asserting their right to vote and casting an informed ballot. This assistance includes the recruitment of bilingual individuals to serve as poll workers on Election Day. Many voters with language barriers rely on bilingual poll workers to navigate the voting process.

However, for large counties or counties with new language obligations, the task of recruiting bilingual poll workers can be daunting. As the diversity of the state increases, new tools are needed to ensure that language assistance is available at the polling place and in the voter registration process. AB 817 addresses this need by expanding the pool of available bilingual speakers to serve as poll workers and other election volunteers. AB 817 seeks to replicate the successful high school student poll worker program which a number of counties have used to bolster their poll worker recruitment. AB 817 does not impose any mandates on counties.

- 2) Voting Rights Act of 1965: The 15th Amendment to the U.S. Constitution provides, in part, "[t]he right of citizens of the United States to vote shall not be denied or abridged by the United States or by any state on account of race, color, or previous condition of servitude." Additionally, the 15th Amendment authorizes Congress to enact legislation to enforce its provisions.

Congress determined that the existing federal anti-discrimination laws were not sufficient to overcome the resistance by state officials to enforce the 15th Amendment. As a result,

Congress passed and President Johnson signed the Voting Rights Act of 1965 (VRA). The VRA provides, among other provisions, that "[n]o voting qualification or prerequisite to voting, or standard, practice, or procedure shall be imposed or applied by any State or political subdivision to deny or abridge that right of any citizen of the United States to vote on account of race or color."

In 1975, Congress adopted the language minority provisions of Sections 4(f)(4) and 203 of the VRA. Congress extended these provisions in 1982, 1992, and 2006. Sections 4(f)(4) and 203 of the VRA require certain jurisdictions with significant populations of voting age citizens who belong to a language minority community to provide voting materials in a language other than English. These determinations are based on data from the most recent Census.

Specifically, Sections 4(f)(4) and 203 require that when a covered state or political subdivision "[p]rovides registration or voting notices, forms, instructions, assistance, or other materials of information relating to the electoral process, including ballots, it shall provide them in the language of the applicable minority group as well as in the English language."

- 3) New Census Data: On October 13, 2011, the U.S. Census Bureau released a notice of determination of minority language status following the 2010 census. Pursuant to Section 203, the State of California is required to provide bilingual voting assistance to Spanish speakers. Additionally, pursuant to Section 203, 27 of California's 58 counties are individually required to provide bilingual voting assistance to Spanish speakers, and eight counties (Alameda, Los Angeles, Orange, Sacramento, San Diego, San Francisco, San Mateo, and Santa Clara) are required to provide voting materials in at least one language other than English and Spanish. Pursuant to Section 4(f)(4) of the VRA, three counties are required to provide bilingual voting assistance to Spanish speakers, though two of those counties are also required to provide assistance pursuant to Section 203. In total, 28 of California's 58 counties are required to provide voting materials in at least one language other than English.

In addition, existing state law requires the SOS, in each gubernatorial election year, to determine the precincts where three percent or more of the voting age residents are members of a single language minority and lack sufficient skills in English to vote without assistance. According to a January 4, 2013, memo from the SOS's office, the SOS has contracted with U.C. Berkeley for a preliminary analysis of county language requirements for the June 2014 gubernatorial primary election. According to the memo, based on a preliminary analysis of the data, the SOS has determined that most counties show an increase in the number of precincts with individuals who speak the nine languages that are covered in California under federal law (Spanish, Chinese, Hindi, Japanese, Khmer, Korean, Tagalog, Thai, and Vietnamese). Depending on the data, the county elections officials will be required to translate a copy of the ballot and related instructions into the languages indicated and post them at the appropriate polling places.

Below is a preliminary breakdown of the counties that will have additional languages required under state law (new languages are indicated in bold).

Statewide: Spanish

Alameda: Chinese, Spanish, Tagalog, Vietnamese, **Hindi, Japanese, Khmer, Korean**

Amador: **Spanish**
Alpine: None
Butte: Spanish
Calaveras: **Spanish**
Colusa: Spanish
Contra Costa: Spanish, Chinese, Tagalog, **Japanese, Korean**
Del Norte: Spanish
El Dorado: Spanish, Tagalog
Fresno: Spanish, **Chinese, Japanese, Khmer**
Glenn: Spanish
Humboldt: Spanish
Imperial: Spanish
Inyo: Spanish
Kern: Spanish, Tagalog
Kings: Spanish, Tagalog
Lake: Spanish
Lassen: Spanish
Los Angeles: Spanish, Chinese, Hindi, Japanese, Khmer, Korean, Tagalog, Thai, Vietnamese
Madera: Spanish
Marin: Spanish, Vietnamese, **Korean**
Mariposa: **Spanish**
Mendocino: Spanish, **Chinese**
Merced: Spanish
Modoc: Spanish
Mono: Spanish
Monterey: Spanish, Korean, Tagalog, **Chinese**
Napa: Spanish, Tagalog, **Chinese**
Nevada: Spanish
Orange: Spanish, Chinese, Japanese, Korean, Tagalog, Vietnamese, **Khmer**
Placer: Spanish, **Tagalog**
Plumas: **Spanish**
Riverside: Spanish, Tagalog, **Chinese, Korean, Vietnamese**
Sacramento: Spanish, Chinese, Tagalog, Vietnamese, **Hindi, Japanese, Korean**
San Benito: Spanish
San Bernardino: Chinese, Korean, Tagalog, Vietnamese, **Khmer**
San Diego: Spanish, Chinese, Japanese, Spanish, Tagalog, Vietnamese, **Khmer, Korean**
San Francisco: Spanish, Chinese, Korean, Tagalog, Vietnamese, **Japanese**
San Joaquin: Spanish, Chinese, Tagalog, Vietnamese, **Khmer**
San Luis Obispo: Spanish, **Tagalog**
San Mateo: Spanish, Chinese, Japanese, Tagalog, **Korean**
Santa Barbara: Spanish, Tagalog, **Chinese**
Santa Clara: Spanish, Chinese, Japanese, Korean, Tagalog, Vietnamese, **Hindi, Khmer**
Santa Cruz: Spanish, **Chinese, Tagalog**
Shasta: Spanish
Sierra: **Spanish**
Siskiyou: Spanish
Solano: Spanish, Tagalog, **Chinese**
Sonoma: Spanish
Stanislaus: Spanish

Sutter: Spanish, **Hindi**
Tehama: Spanish
Trinity: **Spanish**
Tulare: Spanish, Tagalog
Tuolumne: **Spanish**
Ventura: Spanish, Chinese, Tagalog
Yolo: Spanish, Chinese, **Tagalog**
Yuba: Spanish

- 4) Standard for Bilingual Precinct Workers: Existing law requires an elections official to make reasonable efforts to recruit elections officers who are fluent in a language if three percent or more of the voting age residents in the precinct are fluent in that language and lack sufficient skill in English to vote without assistance. Additionally, existing law requires each precinct board to post a copy of the ballot in a language other than English at the polling place if the SOS determines that the number of residents of voting age in the precinct who are members of a single language minority and who lack sufficient skills in English to vote without assistance equals three percent or more of the voting age residents in the precinct. The author contends that due to the new language obligations, as shown above, it may be challenging for county elections officials to find elections officers who are fluent in the new languages to assist voters.
- 5) Students Serve as Precinct Board Members: Existing law allows a high school student to serve as a precinct board member, despite his or her lack of eligibility to vote, as long as the student is 16 years old at the time of the election, is a U.S. citizen at the time of the election, is in good standing at his or her high school, and has a grade point average of at least 2.5. County elections officials are allowed to recruit up to five student poll workers at each precinct. The provisions of this bill are similar to the requirements in place for student poll workers. This bill seeks to promote civic engagement among residents of the state and provide for additional precinct board members by allowing the elections official to appoint up to five nonvoters per precinct to serve as precinct board members. A nonvoter may be appointed, despite his or her lack of eligibility to vote, as long as the nonvoter is a lawful permanent resident of the U.S. and is otherwise eligible to register to vote, except for his or her lack of U.S. citizenship.

Current law, however, prohibits student precinct board members from tallying votes. This bill does not apply that same prohibition to nonvoters. In order to be consistent, the committee may wish to consider whether nonvoters should be prohibited from tallying votes.

- 6) Technical Amendment: This bill, which permits a nonvoter to be appointed to serve as a precinct board member as long he or she is a lawful permanent resident of the U.S. and is otherwise eligible to register to vote, except for his or her lack of U.S. citizenship, does not define the term lawful permanent resident, nor does it refer back to an existing code section in which the term is defined. While the term is fairly self-explanatory, it may be helpful to reference existing law. The committee staff recommends amending the bill as follows:

On page 3, lines 7, after the word "States," insert the following:

", in accordance with the provisions of Section 245A of the federal Immigration and Nationality Act."

- 7) Arguments in Support: The National Association of Latino Elected and Appointed Officials, a co-sponsor of this measure, writes in support:

Latino voters and all California voters would benefit from the civic integration promoted by AB 817. The population of Californians who are not yet fully proficient in English is diverse and widespread. Currently, there are more than 2.6 million eligible Californians who identify as limited-English proficient, from Del Norte County in Northern California to San Diego County in Southern California.

Nearly half (48.3%) of these citizens are Latino. AB 817 would ensure that limited-English proficient citizens can cast an informed ballot and allows future citizens to serve their community...

For the first time in California history, nearly the entire state – 57- 58 California counties – will be required to provide some form of language assistance to limited-English proficient voters. AB 817 would help these jurisdictions comply with federal and state law by enabling them to recruit from a much larger pool of potential bilingual poll workers. Additionally, AB 817 would ensure all eligible voters can participate fully in the electoral process regardless of their English proficiency and also promote civic integration of future California voters.

- 8) Previous Legislation: SB 1233 (Padilla) of 2012, would have required the title and summary of proposed statewide ballot measures to be translated into the applicable languages covered in that county. SB 1233 was vetoed by Governor Brown. In his veto message, Governor Brown stated that "[t]he provisions of this bill are well intended...however, they add substantial burdens to the petition process without commensurate benefit."

AB 1814 (Eng) of 2012, would have required counties to submit a report to the SOS describing the county's plan for compliance with state and federal laws enacted to assist voters with limited English proficiency, no later than 120 days before the first statewide election, among other provisions. AB 1814 was held on suspense in the Senate Appropriations Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

Asian Law Caucus (co-sponsor)
Asian Pacific American Legal Center (co-sponsor)
National Association of Latino Elected and Appointed Officials (co-sponsor)
American Civil Liberties Union of California
API Equality – Northern California
Asian American Center for Advancing Justice
Asian Americans for Civil Rights and Equality
Asian Pacific Environmental Network
API-Equality-LA
California Association of Clerks and Election Officials
California Immigrant Policy Center
Center for Asian Americans United for Self Empowerment
Chinese for Affirmative Action
Filipina Women’s Network
Filipino American Service Group, Inc.
Gay Asian Pacific Alliance
Greenlining Institute
Khmer Girls in Action
Korean Resource Center
Koreatown Immigrant Workers Alliance
League of Women Voters of California
Little Tokyo Service Center
Search To Involve Pilipino Americans
South Asian Network
Tenderloin Housing Clinic
Tenderloin Neighborhood Development Corporation
Thai Community Development Center

Opposition

None on file.

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