

Date of Hearing: July 1, 2015

ASSEMBLY COMMITTEE ON ELECTIONS AND REDISTRICTING

Sebastian Ridley-Thomas, Chair

SB 366 (Nguyen) – As Introduced February 24, 2015

SENATE VOTE: 37-0

SUBJECT: Ballot materials: translations.

SUMMARY: Expands the pool of qualified translators and interpreters available to county elections officials for translating voting materials, as specified. Specifically, **this bill** deletes provisions of law that require an elections official, when providing a Spanish translation of a candidate statement or translations of ballot measures and ballot instructions included in the sample ballot, to select a person to provide the translation from the list of approved translators and interpreters of the superior court of the county or from an institution accredited by the Western Association of Schools and Colleges (WASC), and instead requires an elections official to select a person to provide the translation who is one of the following:

- 1) A certified and registered interpreter on the Judicial Council Master List;
- 2) An interpreter categorized as "certified" or "professionally qualified" by the Administrative Office of the United States Courts;
- 3) From an institution accredited by a regional or national accrediting agency recognized by the United States Secretary of Education;
- 4) A current voting member in good standing of the American Translators Association; or,
- 5) A current member in good standing of the American Association of Language Specialists.

EXISTING LAW:

- 1) Declares intent of the Legislature that non-English-speaking citizens, like other citizens, should be encouraged to vote and therefore appropriate efforts should be made to minimize obstacles to voting by citizens who lack sufficient skill in English to vote without assistance.
- 2) Requires the Secretary of State (SOS), by January 1 of each year in which the Governor is elected, 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. For each specified precinct in their county, elections officials are required to do the following:
 - a) Translate a facsimile ballot and related instructions in the specified language(s); and,
 - b) Post the translation(s) in a conspicuous location in the appropriate polling place.
- 3) Requires the elections official to select a person to provide the translation of ballot measures and ballot instructions from the list of approved translators and interpreters of the superior court of the county or from an institution accredited by the WASC.

- 4) Requires an elections official to send to each voter, together with the sample ballot, a voter's pamphlet which contains the written statements of each candidate, as specified. Requires the elections official to provide a Spanish translation of the written statement for those candidates who wish to have one. Requires the elections official to select a person to provide that translation from the list of approved Spanish language translators and interpreters of the superior court of the county or from an institution accredited by the WASC.

FISCAL EFFECT: None. This bill is keyed non-fiscal by the Legislative Counsel.

COMMENTS:

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

Current California law requires the translation of ballots and other elections material into languages other than English. This is an important part of making the voting process fair and open, and making more accessible to voters whose first language is not English. However, current law gives local elections officials very limited choices in who they may contract with to translate these materials.

The Elections Code currently authorizes county elections officials to use translators from only two sources: translators approved the Superior Court of their county or translators from an institution accredited by the Western Association of Schools and Colleges (WASC). WASC is an institution approved by the US Secretary of Education to accredit colleges and universities in California, Hawaii and some US territories such as Guam and American Samoa. This limited range of options can lead to unnecessary costs and time delays, especially when multiple elections officials contract with the same vendor.

SB 366 expands the pool of qualified translators, giving elections officials much needed flexibility. Instead of just local court certified translators the bill authorizes the use of any California state or Federal court certified translators, and instead of just translators from WASC accredited institutions the bill authorizes the use of translators from any similarly accredited institution across the country. In addition, translators who are members in good standing of either the American Translators Association or the American Association of Language Specialists, two professional associations known internationally as leaders in the translation industry, would be authorized for use by elections officials. All translators that would be approved for use by this bill are held to the same or better standards as the translators already approved under current law. Creating these additional options for elections officials will help prevent potential backlogs and give them access to better and more cost effective translators throughout California and the country, allowing for a more efficient use of public money and resources.

- 2) **Current Practice:** Current law requires an elections official, if a candidate who requests to have his or her candidate statement which is included in the sample ballot be translated into Spanish, to translate the candidate statement using a translator or interpreter from two of the following resources: 1) a list of approved translators and interpreters of the superior court of the county in which they serve, or 2) approved translators or interpreters from an institution accredited by WASC. Moreover, current law requires an elections official to use either of these two resources when selecting a translator or interpreter to translate ballot measures and

ballot instructions as required under state and federal law. WASC is an institution approved by the United States Secretary of Education to accredit colleges and universities in California, Hawaii and some US territories such as Guam and American Samoa.

This bill expands the list of qualified and certified translators to translate ballots and voting materials and requires an elections official to select a translator from the following: 1) a certified and registered interpreter on the Judicial Council Master List; 2) an interpreter categorized as "certified" or "professionally qualified" by the Administrative Office of the United States Courts; 3) from an institution accredited by a regional or national accrediting agency recognized by the United States Secretary of Education; 4) a current voting member in good standing of the American Translators Association, or 5) a current member in good standing of the American Association of Language Specialists.

- 3) **New Census Data:** On October 13, 2011, the United States Census Bureau released a notice of determination of minority language status following the 2010 census. Pursuant to Section 203 of the Voting Rights Act of 1965 (VRA), 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 December 30, 2013 memo from the SOS's office, the SOS contracted with U.C. Berkeley to determine which precincts have reached the three percent threshold in the nine languages covered in California under federal law (Spanish, Chinese, Hindi, Japanese, Khmer, Korean, Tagalog, Thai, and Vietnamese). According to the memo, based on the analysis 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. 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 breakdown of the counties that have additional languages required under state law (new languages are indicated in bold). According to the SOS's memo, these requirements will remain in place through December 31, 2017.

Statewide: Spanish

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

Alpine: None

Amador: **Spanish**

Butte: Spanish

Calaveras: **Spanish**

Colusa: Spanish
Contra Costa: Spanish, Chinese, Tagalog, **Japanese, Korean, Vietnamese**
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, Chinese**
Mariposa: **Spanish**
Mendocino: Spanish, **Chinese**
Merced: Spanish
Modoc: Spanish
Mono: Spanish
Monterey: Spanish, Korean, Tagalog, **Chinese, Vietnamese**
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, Hindi**
San Francisco: Spanish, Chinese, Korean, Tagalog, Vietnamese, **Japanese**
San Joaquin: Spanish, Chinese, Tagalog, Vietnamese, **Khmer, Hindi**
San Luis Obispo: Spanish, **Tagalog**
San Mateo: Spanish, Chinese, Japanese, Tagalog, **Hindi**
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, **Hindi, Khmer**
Sutter: Spanish, **Hindi**
Tehama: Spanish
Trinity: **Spanish**

Tulare: Spanish, Tagalog

Tuolumne: **Spanish**

Ventura: Spanish, Chinese, Tagalog, **Hindi**

Yolo: Spanish, Chinese, **Tagalog, Hindi**

Yuba: Spanish

The limited translator and interpreter options available make it challenging for county elections officials to comply with state and federal laws. According to the proponents, in many instances, multiple county elections officials are contracting with the same vendor which, as a practical effect, results in unnecessary costs and time delays. This bill will provide flexibility and options to elections officials to comply with current law and meet the needs of California's diverse voting electorate.

- 4) **Previous Legislation:** AB 2003 (Fong) of 2013, would have allowed the county elections official to select an accredited translator registered with the American Translators Association to provide, among other things, the translation of ballot measures and ballot instructions. AB 2003 was never heard in this committee.
- 5) **Arguments in Support:** In support of this bill, the California Association of Clerks and Election Officials, writes:

Currently election officials may only use translators from a local Superior Court or those certified by a single association of colleges and universities. By adding translators certified by other accrediting agencies to the list of qualified translators, election officials will be able to reduce costs and time delays in getting balloting materials to voters. This bill gives needed flexibility and options to election officials across the state in meeting the needs of California's diverse voting populations.

REGISTERED SUPPORT / OPPOSITION:

Support

California Association of Clerks and Election Officials
Voz Interpreting

Opposition

None on file.

Analysis Prepared by: Nichole Becker / E. & R. / (916) 319-2094