

Date of Hearing: April 29, 2015

ASSEMBLY COMMITTEE ON ELECTIONS AND REDISTRICTING

Sebastian Ridley-Thomas, Chair

AB 683 (Low) – As Amended March 24, 2015

SUBJECT: Online ballot materials: accessibility.

SUMMARY: Requires the Visually Impaired Voter Assistance Advisory Board (Board) to make additional recommendations to the Secretary of State (SOS) for improving the accessibility of election materials made available over the Internet, as specified. Specifically, **this bill:**

- 1) Requires the Board to make recommendations to the SOS for improving accessibility of election materials made available over the Internet, including the state ballot pamphlet, the sample ballot and notice of polling place, the voter pamphlet, and any associated materials. Requires the Board, in making recommendations, to consider the following:
 - a) Nonvisual accessibility for the blind and visually impaired, in a manner that provides the same opportunity for access as provided to other voters who are not disabled; and,
 - b) Recommendations from representatives of blind consumer organizations, experts in accessible software and hardware design, and any other individual or organization the SOS or the Board determines to be appropriate.
- 2) Requires the online version of the state ballot pamphlet to conform to the most current, ratified standards under Section 508 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794d), as amended, and the Web Content Accessibility Guidelines (WCAG) 2.0 adopted by the World Wide Web Consortium for accessibility. Permits the SOS to implement recommendations of the Board made pursuant to the provisions of this bill.
- 3) Requires county and city elections officials that make the sample ballot, voter pamphlet, notice of polling place and associated materials accessible on the county's or city's Internet Web site to conform to the most current, ratified standards under Section 508 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794d), as amended, and the WCAG 2.0 adopted by the World Wide Web Consortium for accessibility. Permits an elections official to implement recommendations of the Board made pursuant to the guidelines promulgated by the SOS related to the accessibility of polling places by the physically handicapped.

EXISTING LAW:

- 1) Provides that it is the intent of the Legislature to promote the fundamental right to vote of visually impaired individuals, and to make efforts to improve public awareness of the availability of ballot pamphlet audio recordings and improve their delivery to these voters.
- 2) Requires the SOS to establish the Board. Requires the Board to consist of the SOS or his or her designee and the following membership, appointed by the SOS:
 - a) A representative from the State Advisory Council in Libraries; and,
 - b) One member from each of three private organizations. Requires two of the organizations to be representative of organizations for blind persons in the state.

- 3) Requires the Board to do all of the following:
 - a) Establish guidelines for reaching as many visually impaired persons as practical;
 - b) Make recommendations to the SOS for improving the availability and accessibility of ballot pamphlet audio recordings and their delivery to visually impaired voters;
 - c) Increase the distribution of public service announcements identifying the availability of ballot pamphlet audio recordings at least 45 days before any federal, state, or local election; and,
 - d) Promote the SOS's toll-free voter registration telephone line for citizens needing voter registration information, including information for those who are visually handicapped, and the toll-free telephone service regarding the California State Library and regional library service for the visually impaired.
- 4) Prohibits a member of the Board from receiving compensation. Provides that each member shall be reimbursed for his or her reasonable and necessary expenses in connection with service on the Board.
- 5) Requires the SOS to produce an audio recorded version of the state ballot pamphlet. Requires the audio recorded version to be made available in quantities to be determined by the SOS and contain information concerning each statewide measure, as specified.
- 6) Requires the SOS to make available the complete state ballot pamphlet over the Internet. Requires the online version of the state ballot pamphlet to contain certain voter information, as specified.

FISCAL EFFECT: Unknown

COMMENTS:

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

In 2010, legislation was passed to allow county and city officials to provide election information in an electronic format via email or by making them accessible on their internet web site. While some counties and cities have adopted this process, many counties and the state do not provide election information in accessible forms for voters with disabilities. Audio recordings of voter pamphlets or sample ballots are sometimes available but there is little, if any, candidate information available in an accessible format. This is especially true for local elections where candidate information or ballot issues are not accessible.

AB 683 will provide accessible voting information, so people with disabilities can use their own accessible technologies to research candidates and issues that appear on their ballot. AB 683 will help voters with disabilities educate themselves and allow them to [be] better participants in our democracy.

- 2) **Visually Impaired Voter Assistance Act of 1989:** Current law required the SOS to establish the Board in 1989. One of the main purposes of the Board is to establish guidelines

for reaching as many visually impaired individuals as practical and make recommendations to the SOS for improving the availability and accessibility of ballot pamphlet audio recordings and their delivery to visually impaired voters. However, according to the SOS's office, the Board is not currently functioning and has been incorporated into the SOS's Statewide Voting Accessibility Advisory Committee (VAAC).

- 3) **Voting Accessibility Advisory Committee:** On the state level, the SOS has established the statewide VAAC, which is designed to advise, assist, and provide recommendations to the SOS's office on how voters with disabilities can vote independently and privately. For instance, VAAC members have been influential in assisting with numerous projects, including the polling place accessibility guidelines. VAAC members have also helped raise awareness of disability issues through their involvement in the development of the voter accessibility survey and production of the polling place accessibility surveyor training video.

On the local level, some county elections officials have established local voting accessibility advisory committees to help advise and assist on local election issues. For example, Los Angeles County established a local VAAC in 2006 to assist the registrar-recorder/county clerk in implementing innovative strategies and improving accessibility and participation in the election process for individuals within the full spectrum of disabilities.

- 4) **Voter Materials Online:** On the state level, existing law requires the SOS to make the state ballot pamphlet available over the Internet, as specified. In addition, current law requires the SOS to establish processes that enable a voter to opt out of receiving by mail the state ballot pamphlet and instead receive it in an electronic format or an electronic notification making the pamphlet available by means of online access. This requirement, however, is not operational until the SOS certifies that the state has a statewide voter database, also known as VoteCal. According to SOS, VoteCal is expected to be operational in June 2016.

On the local level, current law permits county elections officials to provide voter materials online. Specifically, existing law permits county elections officials to establish procedures designed to permit a voter to opt out of receiving his or her sample ballot, voter pamphlet, notice of polling place, and associated materials by mail, and instead obtain them electronically via email or by accessing them on the county's Internet Web site, as specified.

- 5) **New Electronic and Information Technology Requirements:** This bill requires information made available over the Internet to comply with standards under Section 508 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794d) and the WCAG 2.0 adopted by the World Wide Web Consortium for accessibility.

Section 508 of the federal Rehabilitation Act requires federal agencies' electronic and information technology be accessible to people with disabilities, including employees and members of the public. Specifically, Section 508 establishes requirements for any electronic and information technology developed, maintained, procured, or used by the federal government.

The WCAG 2.0 covers a wide range of recommendations for making web content more accessible. The objective of the guidelines is to make content accessible to a wider range of people with disabilities, including blindness and low vision, deafness and hearing loss, learning disabilities, cognitive limitations, limited movement, speech disabilities,

photosensitivity and combinations of these. WCAG 2.0 was developed in cooperation with individuals and organizations around the world, with a goal of providing a shared standard for web content accessibility that meets the needs of individuals, organizations, and governments internationally. WCAG 2.0 builds on WCAG 1.0 and is designed to apply broadly to different web technologies now and in the future, and to be testable with a combination of automated testing and human evaluation.

According to the SOS's office, the SOS's Internet Web site mostly complies with Section 508 of the federal Rehabilitation Act, however, it is unclear whether the SOS's Internet Web site currently complies with the WCAG 2.0 adopted by the World Wide Web Consortium for accessibility.

A search by committee staff revealed that some county elections official's Internet Web sites may comply, to a certain extent, with the online accessibility standards of the World Wide Web Consortium, however, according to a county elections official's representative, county elections officials are required to comply with the Americans with Disabilities Act, but compliance with Section 508 of the federal Rehabilitation Act does not extend to counties. As a result, this bill would require those counties that do make voter materials accessible online to abide by new technology guidelines outlined in this bill. Would the new technology standards in this bill be a disincentive for counties to provide voter materials online?

Moreover, the online accessibility standards required in this bill, particularly the WCAG 2.0, are very specific. Theoretically, as technology changes and evolves, so too would the online accessibility standards and guidelines. As a result, the committee may wish to consider whether it is prudent to place specific standards and guidelines in statute and instead require the technology requirements to be broader.

- 6) **Arguments in Support:** Disability Rights California has a position of support, with reservations, on this bill. In its letter, the organization writes:

In order to provide access to voter information materials on the internet, it is critical that materials are accessible to people with disabilities and internet sites comply with access requirements. This bill will take steps to help improve access for people with visual impairments. While we applaud increasing access for people with visual impairments, we are concerned that access concerns for other disabilities are not being addressed, such as people who are deaf and people with intellectual disabilities. People who are deaf need material in American Sign Language and people with intellectual disabilities need material that is in plain language and a website that is easy to understand and navigate. Is the plan to set up boards and committees for each disability community? It seems a better approach would be to set up one board or committee to make recommendations to improve disability access to voting and ensure that board or committee has appropriate staffing. Further, as far as [Disability Rights California] knows, the Visually Impaired Voter Assistance Board is not currently a functional board, even though the statute created it in 1989.

REGISTERED SUPPORT / OPPOSITION:

Support

Disability Rights California (with reservations)

Opposition

None on file.

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