

Date of Hearing: April 27, 2022

ASSEMBLY COMMITTEE ON ELECTIONS
Isaac G. Bryan, Chair
AB 1631 (Cervantes) – As Amended April 18, 2022

SUBJECT: Elections: elections officials.

SUMMARY: Requires a county elections official to post on the official's internet website the public list of all polling places where multilingual poll workers will be present, and the language or languages other than English in which they will provide assistance. Requires county elections officials to use the internet in their efforts to recruit multilingual poll workers. Makes conforming changes.

EXISTING FEDERAL LAW:

- 1) Requires a state or a political subdivision of a state to provide voting materials in the language of a minority group when that group within the jurisdiction has an illiteracy rate that is higher than the national illiteracy rate, and the number of the United States (US) citizens of voting age in that single language group within the jurisdiction meets at least one of the following:
 - a) Numbers more than 10,000;
 - b) Makes up more than five percent of all voting age citizens; or,
 - c) On an Indian reservation, exceeds five percent of all reservation residents.
- 2) Requires a state or political subdivision of a state to provide voting materials in the language of a minority group if all of the following apply:
 - a) Over five percent of the voting age citizens were, on November 1, 1972, members of a single language minority group;
 - b) Registration and election materials were provided only in English on November 1, 1972; and,
 - c) Fewer than 50 percent of the voting age citizens were registered to vote or voted in the 1972 Presidential election.
- 3) Defines language minorities or language minority groups, for the purposes of the above provisions, to mean persons who are American Indian, Asian American, Alaskan Natives, or of Spanish heritage.

EXISTING STATE LAW:

- 1) Establishes the Secretary of State (SOS) as the chief elections officer of the state and requires that they ensure elections are efficiently conducted and that state election laws are enforced.

- 2) Declares the intent of the Legislature that non-English-speaking citizens, like other citizens, be encouraged to vote and that appropriate efforts be made to minimize obstacles to voting by citizens who lack sufficient skill in English to vote without assistance.
- 3) Requires elections officials to make reasonable efforts to recruit poll workers 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.
- 4) 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 who are fluent in a non-English language and in English were appointed, and the language or languages other than English in which they will provide assistance.
- 5) Requires a member of the precinct board at each polling place to identify the languages spoken by them, other than English, by wearing a name tag, button, sticker, lanyard, or other mechanism, as determined by the county elections official. Requires the text indicating the language skills of the member of the precinct board to be in the non-English language or languages spoken by that member.
- 6) Requires county elections officials, within 150 days following each statewide general election, to report to the SOS the number of individuals recruited to serve as members of precinct boards, including the number of individuals recruited who are fluent in each language required to be represented under state and federal laws. Requires the SOS to issue uniform standard reporting guidelines and post all county reports received under their internet website within 180 days following each statewide general election.
- 7) Authorizes an elections official to appoint a pupil, who is a lawful permanent resident of the US, to serve as a precinct board member, as specified.
- 8) Requires the SOS to establish a Language Accessibility Advisory Committee (LAAC) to advise and assist the SOS with implementation of federal and state laws relating to access to the electoral process by low English proficiency voters, as specified.

FISCAL EFFECT: Unknown. State-mandated local program; contains reimbursement direction.

COMMENTS:

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

One of the amazing things about California is our diversity, including linguistic diversity. At least 220 languages are spoken in our state, and 44 percent of Californians speak a language other than English at home. Given this diversity, we must ensure that our state's elections systems are able to serve lawfully registered California voters, regardless of what language they speak. Under existing law, county registrars are strongly encouraged to provide polling place workers who speak a language other than English at certain precincts in which the population who speak that language meets an existing statutory threshold. County registrars are also required to make a list of these precincts with multilingual poll

workers available to the public, but in practice, there is inconsistency about whether this list is posted online.

AB 1631 will help improve the accessibility of the ballot to California voters who speak a language other than English by requiring that this list of precincts be posted online at the county registrar's website. Requiring this information to be posted online will also help bring our elections laws up to date with our modern, internet-driven world. This bill is but one part of a much larger effort to improve the accessibility of our elections systems for voters who do not speak English. I look forward to continuing to work on this larger project of reforms in the coming years.

- 2) **Federal Voting Rights Act of 1965:** The 15th Amendment to the US 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 203 and 4(f)(4) require that when a covered state or political subdivision "[p]rovides registration or voting notices, forms, instructions, assistance, or other materials or 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."

In 2013, the US Supreme Court in *Shelby County v. Holder* invalidated the coverage formula that is used to determine the jurisdictions that are subject to the language requirements in Section 4(f)(4) of the VRA, and the VRA has not been amended since that time to create a new coverage formula. Accordingly, while Section 4(f)(4) remains a part of the VRA, no jurisdictions currently are required to provide language assistance under its provisions. The California jurisdictions that likely would have been required to provide language assistance pursuant to Section 4(f)(4) under the existing coverage formula, however, are required to provide language assistance under Section 203 or under state law to at least some precincts within those jurisdictions.

- 3) **New Census Data:** On December 8, 2021, the US Census Bureau released its most recent determination of minority language requirements under Section 203 of the VRA. These determinations, updated every 5 years, affect federal requirements for providing voting materials and other assistance during elections for certain language minority groups within California and across the US. Pursuant to Section 203, the state of California is required to provide bilingual voting assistance to Spanish speakers. Additionally, pursuant to Section 203, 28 of California's 58 counties are individually required to provide bilingual voting assistance to Spanish speakers, and nine counties (Alameda, Contra Costa, 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.

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 31, 2021 memo from the SOS's office, the SOS contracted with the California Statewide Database (SWDB) at University of California (UC) Berkeley to determine which precincts have reached the three percent threshold. The SWDB relied upon a special tabulation provided by the Census Data Review Board to determine which precincts met the three percent threshold for single language minorities. According to the memo, due to stricter Census Privacy Disclosure Rules, counties saw a major reduction in languages that meet the three percent threshold. The memo encouraged counties to work with their community groups to determine if a need exists for any of the previously covered languages and that to consider the need of their communities before eliminating languages that were previously covered.

On March 1, 2022, the SOS's office subsequently sent out another memo reinstating prior precinct minority language determinations, in addition to the new determinations included in the December 31, 2021 memo. According to the memo, the SOS found sufficient reason to believe that it was necessary to reinstate minority language assistance determinations that were made in 2017 and 2020 in order to ensure that communities have access to language assistance services.

Below is a breakdown of the counties that have additional languages required under state law. According to the SOS's website, the chart below is based upon 2016 and 2020 precinct information and data, as previously provided by the SWDB at UC Berkeley. The languages are reinstated languages as of February 28, 2022, for elections conducted on June 7, 2022, and thereafter. The requirements provided below will remain in place through December 31, 2025 and the next determinations will be issued by January 1, 2026. The italicized languages are new requirements as of January 1, 2020 and the bolded languages are reinstated languages as of February 28, 2022, for elections conducted on June 7, 2022, and thereafter. (These language requirements are in addition to language assistance that is required under Section 203 of the VRA.)

Alameda: **Burmese, Cambodian/Khmer, Hindi, Korean, Laotian, Mien, Mongolian,**

Panjabi, Telugu

Alpine: None

Amador: **Spanish**

Butte: **Hmong, Spanish**

Calaveras: **Spanish**

Colusa: None
 Contra Costa: **Filipino, Hindi, Korean, Laotian, Nepali, Panjabi, Tamil, Telugu, Vietnamese**
 Del Norte: **Spanish**
 El Dorado: **Chinese, Spanish**
 Fresno: **Cambodian/Khmer, Chinese, Filipino, Hmong, Korean, Laotian, Panjabi, Vietnamese**
 Glenn: None
 Humboldt: **Hmong, Spanish**
 Imperial: None
 Inyo: **Spanish**
 Kern: Filipino, Panjabi
 Kings: **Filipino**
 Lake: **Spanish**
 Lassen: Spanish
 Los Angeles: Armenian, **Bengali, Burmese, Farsi, Gujarati, Hindi, Indonesian, Japanese, Khmer, Mongolian, Persian, Russian, Telugu, Thai**
 Madera: **Panjabi**
 Marin: *Chinese*, Spanish, Vietnamese
 Mariposa: **Filipino, Spanish**
 Mendocino: Spanish
 Merced: **Chinese, Hmong, Mien, Panjabi**
 Modoc: **Spanish**
 Mono: Spanish
 Monterey: **Filipino, Korean, Vietnamese**
 Napa: **Filipino**
 Nevada: Spanish
 Orange: **Filipino, Gujarati, Hindi, Japanese, Persian**
 Placer: **Filipino, Korean, Panjabi, Spanish**
 Plumas: **Spanish**
 Riverside: Chinese, **Filipino, Korean, Vietnamese**
 Sacramento: **Filipino, Hindi, Hmong, Japanese, Korean, Laotian, Mien, Panjabi, Telugu, Urdu**
 San Benito: None
 San Bernardino: Chinese, **Filipino, Indonesian, Korean, Vietnamese, Thai**
 San Diego: **Arabic, Japanese, Korean, Laotian**
 San Francisco: **Burmese, Filipino, Japanese, Korean, Thai, Vietnamese**
 San Joaquin: Chinese, **Cambodian/Khmer, Filipino, Hindi, Hmong, Laotian, Panjabi, Urdu, Vietnamese**
 San Luis Obispo: **Filipino, Spanish**
 San Mateo: **Burmese, Japanese, Korean, Hindi**
 Santa Barbara: Chinese, **Filipino, Korean**
 Santa Clara: **Cambodian/Khmer, Gujarati, Hindi, Japanese, Korean, Nepali, Panjabi, Tamil, Telugu**
 Santa Cruz: Spanish
 Shasta: **Spanish**
 Sierra: **Spanish**
 Siskiyou: Spanish
 Solano: **Filipino, Spanish**

Sonoma: **Cambodian/Khmer, Filipino, Vietnamese**

Stanislaus: **Cambodian/Khmer, Panjabi, Syriac**

Sutter: **Filipino, Panjabi, Spanish**

Tehama: Spanish

Trinity: None

Tulare: **Burmese, Filipino, Laotian**

Tuolumne: **Spanish**

Ventura: **Chinese, Filipino, Gujarati, Vietnamese**

Yolo: **Chinese, Korean, Panjabi, Spanish**

Yuba: **Hmong, Spanish**

- 4) **Multilingual Poll Workers and Previous Legislation:** In 2003, the Legislature approved and the Governor signed SB 610 (Escutia), Chapter 530, Statutes of 2003, which required the SOS to appoint a task force "to study and recommend uniform guidelines for the training" of election poll workers. The Task Force consisted of the chief elections officers of the two largest counties, the two smallest counties, and two other county elections officers selected by the SOS. The Task Force included eight other members with elections expertise, including members of community-based organizations and citizens familiar with different ethnic, cultural, and disabled populations.

The standards were revised this year to reflect lessons learned and changes in state law that have taken effect since the original standards were published in 2006. Specifically, the guidelines recommend county elections officials to have a diverse poll worker workforce and broaden and/or continue their poll worker recruitment efforts to ensure a representative group diverse in age, ethnicity, disabilities, and language fluency.

Additionally, in 2017 the Legislature passed and the Governor signed AB 918 (Bonta), Chapter 845, Statutes of 2017, also known as the California Voting for All Act, which updated the language service requirements for county elections officials and established a new reporting process directing the SOS to collect data related to the recruitment of bilingual poll workers from county officials, among other provisions. Specifically, AB 918 requires county elections officials to report to the SOS the number of individuals recruited to serve as poll workers, including the number of election officials recruited who are fluent in each language required to be represented in accordance with state and federal law, as specified, requires the SOS to issue uniform standard reporting guidelines, and requires the SOS to post all county reports received on their website within 180 days following each statewide general election.

Accordingly, the SOS conducted a survey of county elections officials regarding their recruitment of bilingual poll workers for the November 6, 2018 general election. According to the SOS's Bilingual Poll Worker Recruitment Report issued in May of 2019, 54 of California's 58 counties provided support for 30 different languages through their bilingual poll worker programs. The most widely served language in the state was Spanish and 54 counties reported working to recruit poll workers that were able to assist voters in Spanish. The report states that the next most widely served languages were Filipino (30 counties serving either Tagalog and/or Ilocano), Chinese (19 counties), and Vietnamese and Korean (16 counties for each).

According to the report, the 54 counties that worked to recruit bilingual poll workers

responded in the survey that they had commitments from a reported 28,254 bilingual poll workers and of that approximately 22,823 poll workers reported for their service on election day which resulted in nearly 81% of recruits completing their service across all languages.

Counties were also asked to provide information regarding some of the different methods they used to recruit bilingual poll workers. Under current law, county elections officials are permitted to recruit students and non-voters to serve as poll workers in order to recruit additional bilingual poll workers. Accordingly, the report states that counties reported that 984 legal permanent residents were recruited to provide bilingual support at polling places across the state and that 5,531 student poll workers were recruited to act as bilingual poll workers. Additionally, at least 11,486 poll workers were recruited through other county efforts or programs. Some of these programs include recruitment of county workers from other departments, targeting college campuses, and paying extra help workers to serve as bilingual support.

Finally, the report states that under advisement from the state LAAC, the SOS survey included the opportunity for counties to provide details regarding any technological solutions that were deployed to provide language support. The report states that at least 18 county officials reported using telephonic translations technology to provide additional language support. Most of these technological solutions involve 3-party telephone calls, though some of the cutting-edge translations technologies take advantage of applications like Facetime to allow video enabled translations calls.

- 5) **Arguments in Support:** In support of a prior version of this bill, the California Pan-Ethnic Health Network wrote:

As an organization and network of advocates, we acknowledge the need to provide equitable access to information in order to promote civic engagement and participation. The California Department of Justice notes, “More than 200 languages and dialects are spoken here, and according to the US Census Bureau (2015), almost 44% of California households speak a language other than English, and nearly seven million Californians (19%) report speaking English ‘less than very well’.” Therefore, it is vital to provide in-language communications and information for all constituents from the vastly diverse communities across the state.

Additionally, it is important to explicitly mandate readily accessible public notices in the ways that most constituents currently source their news and information: the internet. Posting relevant language access materials directly to county election websites provides a central location for constituents to be fully informed of the ways they can exercise their right to vote and be [equitably] supported in doing so.

- 6) **Related Legislation:** SB 1131 (Newman), requires a county elections official, upon application of an election worker, to make confidential that worker’s residence address, telephone number, and email address appearing on the affidavit of registration, and prohibits the names of precinct board members from being listed when posting information about precinct board members at polling places, as specified. SB 1131 passed out of the Senate Elections & Constitutional Amendments

Committee on a 4-0 vote and is set to be heard in the Senate Judiciary Committee on April 26, 2022.

REGISTERED SUPPORT / OPPOSITION:

Support

California Association of Nonprofits
California Latino Legislative Caucus (prior version)
California Pan-Ethnic Health Network (prior version)

Opposition

None on file.

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