

Date of Hearing: April 5, 2017

ASSEMBLY COMMITTEE ON ELECTIONS AND REDISTRICTING

Evan Low, Chair

AB 918 (Bonta) – As Amended March 29, 2017

SUBJECT: California Voting for All Act.

SUMMARY: Significantly expands the availability and accessibility of facsimile ballots in languages other than English in situations where such facsimile ballots are required to be made available pursuant to existing law. Specifically, **this bill:**

- 1) Requires a county elections official, within 150 days following each statewide general election, to report to the Secretary of State (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. Requires the SOS to issue uniform standard reporting guidelines. Requires the SOS to post all county reports received on his or her Internet Web site within 180 days following each statewide general election.
- 2) Requires a poll worker who speaks a language in addition to English, if that language is one in which the county is required to provide language assistance under state or federal law to wear a name tag, button, sticker, lanyard, or other mechanism, as determined by the county elections official, that indicates the language(s) other than English that are spoken by the poll worker. Requires the text indicating the language skills of the poll worker to be in the non-English language or languages spoken by that person.
- 3) Permits a voter to request that a facsimile copy of his or her ballot in the language of his or her preference be sent to him or her by regular mail or electronic mail if the voter lives in a precinct that requires a facsimile copy of the ballot in that language to be posted at the polling place under existing law. Requires the elections official to include in the county voter information guide and with vote by mail (VBM) materials, in all of the languages in which the county is required to provide facsimile copies of ballots, information about how to request a facsimile copy of a ballot. Allows a voter to request a facsimile copy of a ballot from the county, up to four days before election day, by phone, mail, online, or when requesting a VBM ballot.
- 4) Requires a county elections official to prepare the requested facsimile copies required above no later than 14 days before election day. Requires requests received by the county elections official 14 days or more before election day to be processed by the 14th day prior to election day. Requires requests received by the county elections official after the 14th day prior to election day but on or before the fourth day prior to election day to be processed by the fourth day prior to election day. Provides that these provisions do not limit an elections official from distributing facsimile copies of the ballot more widely than as required by these provisions.
- 5) Requires information regarding the languages in which poll workers can assist voters to be publicly posted at each polling place on the day of each election. Requires the information to be provided in English and all of the languages spoken by the poll workers.

- 6) Increases, from one to two, the number of facsimile ballots and related instructions required to be posted in Spanish or other languages in which the SOS has determined 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. Requires one facsimile copy of the ballot to be posted in a conspicuous location in the polling place and at least one to be made available for voters at the polling place to use as a reference when casting a private ballot. Requires a facsimile copy of the ballot available for voters to use in casting a private ballot to be sufficiently distinct in appearance from a regular ballot to prevent voters from attempting to vote on the facsimile copy.
- 7) Requires a county elections official, if the SOS determines that the number of voting age residents in a precinct who are members of a single language minority and who lack sufficient skills in English to vote without assistance exceeds 20 percent of the voting age residents in that precinct, to provide at least four facsimile copies of the ballot in the language of that language minority. Requires one copy to be posted in a conspicuous location in the polling place and at least three made available for voters at the polling place to use as a reference when casting a private ballot.
- 8) Requires poll workers, in polling places where facsimile copies of the ballot are necessary, to be trained on the purpose and proper handling of the facsimile copies of the ballot and be prepared to inform voters of the existence of the facsimile copies of the ballot as appropriate.
- 9) Requires a sign near the index of registration, in polling places where facsimile copies of the ballot are necessary, to inform voters of the existence of the facsimile copies of the ballot. Requires the sign to be in English and in the language or languages of the facsimile copies available in that polling place.
- 10) Requires county elections officials to provide information on the county elections Internet Web site identifying all polling places in the county and the languages of ballot facsimile copies that will be available to voters at each polling place. Requires explanatory information pertaining to the list of polling places, but not the list itself, to be available in all languages in which the county provides facsimile copies of the ballot.
- 11) Requires a county elections official to include text in the county voter information guide that refers voters with language needs to the portion of the county Internet Web site containing the information specified above. Requires the text to be in all languages in which the county provides facsimile copies of the ballot.
- 12) Requires a county that conducts all-mail ballot elections using vote centers, instead of polling places, pursuant to the California Voter's Choice Act, to abide by the provisions of this bill relating to the availability and accessibility of non-English facsimile ballots and the public posting of voter information. Additionally, requires a county elections official, before mailing a voter's VBM ballot, to determine a voter's language preference. Requires the county elections official, if the voter has a known preference for a language in which the county will provide facsimile copies of the ballot, to send to the voter by regular mail or electronic mail a facsimile copy of the ballot in that language prior to election day. Requires the facsimile copy of the ballot to be sufficiently distinct in appearance from a regular ballot to prevent voters from attempting to vote on the facsimile copy.

- 13) Requires a county elections official to provide information on the county elections Internet Web site and in the county voter information guide informing voters that a voter who is unable to mark a ballot may bring up to two individuals to the polls to assist them in voting. Requires the information to be available in all languages for which the county has requirements in accordance with existing law.
- 14) Requires a county elections official, if a county selects and adopts a new electronic voting machine system after January 1, 2018, to offer a votable, translated electronic ballot in lieu of every facsimile ballot required by the provisions of this bill and to ensure that the votable, translated electronic ballot is offered in the same way as, and publicized in a similar manner to, the translated ballots required by federal law. Provides that a county elections official who meets these requirements is not required to comply with the other provisions of this bill related to facsimile ballots.
- 15) Makes conforming and technical 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 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 SOS as the chief elections officer of the state and requires that he or she ensure elections are efficiently conducted and that state election laws are enforced.
- 2) Declares intent of the Legislature that non-English-speaking citizens, like other citizens, should be encouraged to vote and that appropriate efforts should be made to minimize obstacles to voting by citizens who lack sufficient skill in English to vote without assistance.
- 3) Requires the 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. Requires county elections officials, for each specified precinct in their county, 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.
- 4) 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.
- 5) Requires, in counties where the SOS has determined it is appropriate, at least one copy of the ballot with ballot measures and ballot instructions printed in Spanish to be posted in a conspicuous location in the polling place. Requires the ballot to be posted in other languages if a significant and substantial need is found by the SOS.
- 6) Provides that in determining whether it is appropriate to require a county to post a copy of the ballot at the precinct in a language other than English, the SOS shall find a need to post such translated copies of the ballot if 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.
- 7) Requires the SOS to establish a Language Accessibility Advisory Committee, as specified.

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

COMMENTS:

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

California is home to 6.8 million individuals who are limited-English proficient (LEP). While Section 203 of the Federal Voting Rights Act guarantees language access protections for many limited-English proficient voters, roughly 550,000 Latinos and Asian Americans who are limited-English proficient live in counties not covered by Section 203, and thus rely on state law for language access in voting. However, California's current language access requirements are not

sufficient to provide meaningful language assistance to limited-English proficient in-person voters, provide zero assistance for many limited-English proficient vote-by-mail voters, and lack any reporting or oversight mechanisms. As California continues to diversify, the state must update its laws in order to have an inclusive and representative democracy.

AB 918 would make California the nationwide leader in providing language assistance to limited-English proficient voters. As the state with the most immigrant voters and the most limited-English voters, California has an obligation to be on the leading edge of providing language assistance in elections. No American should be denied the privilege and duty of voting because of a language barrier. AB 918 is a common sense method to create greater civic engagement and ensure all citizens can fully participate in our democracy.

AB 918 will reduce the current barriers to voting that communities across California experience by offering stronger language assistance to voters. This bill would ensure that translated copies of ballots are available to voters, and that poll workers are trained on proper handling of the translated ballots. It will also require counties to put translated information in sample ballots, put translated signage in polling places to inform voters about the languages spoken by poll workers, and make translated ballots available to vote-by-mail voters. Moreover, AB 918 would require counties to file a report after every statewide general election documenting their performance recruiting bilingual poll workers and require the Secretary of State to post such report on his/her website.

- 2) **Voting Rights Act of 1965:** The 15th Amendment to the United States 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."

- 3) **New Census Data:** On December 5, 2016, the U.S. Census Bureau released its most recent determination of minority language requirements under Section 203 of the VRA. Pursuant to Section 203, the State of California is required to provide bilingual voting assistance to Spanish speakers. Additionally, pursuant to Section 203, 26 of California's 58 counties are individually required to provide bilingual voting assistance to Spanish speakers, and 10 counties (Alameda, Contra Costa, Del Norte, 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 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 that were covered in California at the time 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

- 4) **Vote by Mail Voters:** In practice, many county elections officials provide services to voters who need language assistance. County elections officials will mail translated sample ballot pamphlets to voters who request language materials, provide assistance to voters with limited English proficiency in their language on election day and at most polling places throughout the county, as well as provide a toll free number voters may call to request translated election materials be mailed to them that include polling place locations, bilingual voter registration cards, translated VBM applications, and sample ballot pamphlets.

This bill requires a county elections official to provide new services to voters in an effort to make voting by mail more convenient for voters with limited English proficiency.

- 5) **SB 450 Counties:** Last year the Legislature passed and the Governor signed SB 450 (Allen), Chapter 832, Statutes of 2016, which significantly changed the way in which elections will be conducted. Specifically, SB 450 permits counties to conduct elections in which every voter is mailed a ballot and voter centers and ballot drop-off locations are available prior to and on election day, in lieu of operating polling places for the election, subject to certain conditions. This bill requires a county that conducts its elections in accordance with SB 450 to abide by the provisions of this bill related to the availability and accessibility of non-English facsimile ballots and the public posting of voter information, as specified. Additionally, this bill requires a county elections official, before mailing a voter's VBM ballot, to determine a voter's language preference and requires the county elections official, if the voter has a known preference for a language in which the county will provide facsimile copies of the ballot, to send the voter by regular mail or electronic mail a facsimile copy of the ballot in that language prior to election day, as specified.
- 6) **New Electronic Voting System Requirement:** This bill requires a county elections official, if a county selects and adopts a new electronic voting machine after January 1, 2018, to offer a votable, translated electronic ballot in lieu of every facsimile ballot required by the provisions of this bill, as specified. Under existing law, a ballot is generally defined as one or more cards that are printed with the names of the candidates and the ballot titles of measures to be voted on by marking the designated area. Neither the term "electronic ballot" nor the term "votable, translated electronic ballot" are defined in current law or in this bill. The author may wish to consider amendments to clarify the meaning of the term "votable, translated electronic ballot."

Furthermore, if a county elections official decides to purchase a new electronic voting machine, this bill requires the county elections official to replace the facsimile copy of a ballot with a votable, translated electronic ballot, as specified. This requirement could be costly for certain counties that would be required to replace a facsimile copy of a ballot with a votable, translated electronic ballot in every precinct.

- 7) **Arguments in Support:** The sponsor of this bill, Asian American Advancing Justice – California, writes:

In the 2014 General Election, just 18 percent of eligible Asian Americans and 17 percent of eligible Latinos turned out to vote compared to 40 percent of eligible non-Asian Americans and Latinos. Voters' language needs contribute to these stark turnout disparities. Of California's Asian American immigrants, 46 percent speak English less than very well, and of California's Latinos, 34 percent speak English less than very well. Without adequate language assistance, these diverse communities face barriers to voting.

The vast majority of Californians who need language assistance when voting receive it under Section 203 of the federal Voting Rights Act. However, California currently fails the hundreds of thousands of limited-English proficient residents who live in counties not covered by Section 203, and who instead receive language access protections under the terms of state law, which only

requires the posting of a facsimile ballot and encourages the recruitment of bilingual poll workers. These requirements are not sufficient to provide meaningful language assistance to limited-English proficient in-person voters, provide zero assistance for limited-English proficient vote-by-mail voters, and lack any reporting or oversight mechanisms.

The California Voting for All Act would ensure that translated copies of ballot are available to a wider range of voters and that poll workers are properly trained on those translated ballots. AB 918 also allows for voters to request a translated facsimile ballot. Furthermore, this bill ensures translated signage in polling places to inform voters about the languages spoken by poll workers. AB 918 would require counties to file a report after every statewide general election documenting their performance recruiting bilingual poll workers.

- 8) **Previous Legislation:** AB 614 (Eng) from 2007, would have required counties to report to the SOS on their compliance with various state and federal laws related to providing voters with language assistance, as specified. AB 614 was vetoed by Governor Schwarzenegger. In his veto message, the Governor stated that "Such a report would be of limited value and would place an unnecessary strain on the state's limited resources."

REGISTERED SUPPORT / OPPOSITION:

Support

Asian Americans Advancing Justice – California (Sponsor)
American Civil Liberties Union of California
Asian Law Alliance
Asian Pacific Environmental Network
Asian Resources, Inc.
Bend the Arc: A Jewish Partnership for Justice
California Common Cause
Chinese for Affirmative Action
Chinese Progressive Association
Lawyers' Committee for Civil Rights of the San Francisco Bay Area
Mi Familia Vota
Southeast Asia Resource Action Center
18MillionRising.org

Opposition

None on file.

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