

Date of Hearing: April 29, 2015

ASSEMBLY COMMITTEE ON ELECTIONS AND REDISTRICTING

Sebastian Ridley-Thomas, Chair

AB 1443 (Chau) – As Amended March 26, 2015

SUBJECT: Voters: language accessibility.

SUMMARY: Requires the Secretary of State (SOS) to establish a Language Accessibility Advisory Committee, as specified. Specifically, **this bill:**

- 1) Requires the SOS to establish a Language Accessibility Advisory Committee.
- 2) Requires the Language Accessibility Advisory Committee to consist of the SOS and his or her designee or designees and additional members appointed by the SOS.
- 3) Requires the appointees to either have demonstrated language accessibility experience or be a county elections official.
- 4) Requires the SOS to consult with and consider the recommendations of the committee.
- 5) Requires the committee to serve in an advisory capacity to the SOS.

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. 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.
- 4) Requires elections officials to make reasonable efforts to recruit election officials 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, 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. 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.

FISCAL EFFECT: Unknown

COMMENTS:

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

Nearly 16 million California voters receive materials in a variety of required primary languages such as Spanish, Chinese, Hindi, Japanese, Khmer, Korean, Tagalog, Thai, and Vietnamese. Language accessible elections materials may include registration forms, voting notices, voting instructions, ballots, sample ballots, polling place notices, and voter information pamphlets. AB 1443 establishes in the Office of the Secretary of State

a committee of appointed specialists to advise state and local elections officials on best practices to address language accessibility needs of voters.

- 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 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 Voting Rights Act, 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

In an effort to improve the voting experience for California's diverse electorate, this bill establishes and codifies in the Elections Code the Language Accessibility Advisory Committee. The Language Accessibility Advisory Committee is required to be comprised of language experts and elections officials to advise the SOS. According to the sponsor of this bill, this committee will advise the SOS on best practices, review translated materials, and provide important perspectives from California's language minority communities.

4) **Arguments in Support:** In support, the Greenlining Institute, writes:

Federal and State laws contain numerous requirements for state and local elections officials to accommodate language accessibility for the state's voting electorate. Many interested citizens and organizations agree that these laws provide a starting point for improving the voting experience along language accessibility lines.

Nearly 16 million California voters receive materials in a variety of required primary languages such as Spanish, Chinese, Hindi, Japanese, Khmer, Korean, Tagalog, and Vietnamese... Language accessibility issues and challenges grow over time and change from one election to the next. While the law provides a list of covered voters, the law is silent on methods or best practices to serve the multiple language needs of voters.

REGISTERED SUPPORT / OPPOSITION:

Support

Secretary of State Alex Padilla (sponsor)

American Civil Liberties Union of California

Asian Americans Advancing Justice – Los Angeles

Center for Asian Americans United for Self Empowerment

Greenlining Institute

National Association of Latino Elected and Appointed Officials Education Fund

Voz Interpreting

Opposition

None on file.

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