

ASSEMBLY BILL

No. 1814

Introduced by Assembly Member Eng

February 21, 2012

An act to amend Sections 12303 and 14201 of, to add Section 12317 to, and to add Chapter 5 (commencing with Section 12400) to Division 12 of, the Elections Code, relating to voting rights.

LEGISLATIVE COUNSEL'S DIGEST

AB 1814, as introduced, Eng. Voting rights: language assistance.

(1) Existing state and federal laws, including the Voting Rights Act of 1965, require elections officials to provide language assistance to voters with limited English proficiency in order to access voting information and cast their votes at the polling place. Existing law also requires elections officials, under specified circumstances, to make reasonable efforts to recruit elections officials who are fluent in a language used by citizens who lack sufficient skill in English to vote without assistance.

This bill would revise the recruitment provisions to apply to precincts in which the precinct board is required to post translated facsimile ballots and would require a county, not later than 120 days before the first statewide election held in each even-numbered year, to submit a specified report to the Secretary of State describing the county's plan for compliance with state and federal laws enacted to assist voters with limited English proficiency. The bill would require the Secretary of State to post those reports on his or her Internet Web site not later than 90 days prior to each statewide election held in an even-numbered year, and would further require the Secretary of State to issue guidance for a uniform standard report format for this purpose that includes, at a

minimum, specified information that sets forth the county's plan for protecting the rights of voters with limited English proficiency. By increasing the duties of local elections officials, the bill would impose a state-mandated local program.

The bill would also require a county elections official to evaluate complaints filed against precinct board members and would require the Secretary of State to develop a list of the best practices for elections officials and for precinct board member training, as specified. The Secretary of State would also be required to consult with an advisory body composed of specified members for this purpose.

(2) Under existing law, in counties where the Secretary of State has determined that it is appropriate, each precinct board is required to post, in a conspicuous location in the polling place, at least one facsimile copy of the ballot with the ballot measures and ballot instructions printed in Spanish. Existing law also requires the Secretary of State, in determining whether it is appropriate to post the election materials in Spanish or other languages, to determine the number of residents of voting age in each county and precinct who are members of a single language minority, and who lack sufficient skills in English to vote without assistance based on a specified formula or information provided by interested citizens or organizations. Existing law also requires the Secretary of State to make these determinations and findings by January 1 of each year in which the Governor is elected.

This bill would provide that interested citizens or organizations may, alternatively, provide this information to the local elections official and would require the Secretary of State to make these determinations and findings not less frequently than by January 1 of each year in which the Governor is elected and each year following an adjustment of district boundary lines pursuant to Article XXI of the California Constitution and specified provisions of the Elections Code. The bill would apply these provisions to new precincts.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) California is seeing an increasing gap between the state's
4 voting and nonvoting populations. Barriers to voting, such as
5 complicated voting materials and unfamiliar voting procedures,
6 contribute significantly to this gap. In California, there are millions
7 of voters with limited English proficiency. Large numbers of voters
8 continue to be first-time voters who are unfamiliar with the voting
9 process.

10 (b) Federal and state laws require elections officials to provide
11 bilingual voting assistance to these voters, and some cities and
12 counties in California with substantial concentrations of language
13 minorities are subject to federal court decrees pursuant to the
14 Voting Rights Act of 1965 (42 U.S.C. Sec. 1971 et seq.) that
15 require them to provide additional language assistance and
16 translated voting materials. These voting rights laws help the ability
17 of voters with limited English proficiency and first-time voters to
18 overcome barriers to voting.

19 (c) While the vast majority of precinct board members are
20 committed to serving voters on election day, poll monitoring efforts
21 by various organizations have observed a lack of compliance or
22 misapplication of federal and state laws relating to voting rights.
23 Poll monitors have observed polling places failing to provide the
24 required translated voting materials, not having bilingual precinct
25 board members, and failing to provide provisional ballots. As a
26 result of these failures, voters are unable to exercise their right to
27 vote.

28 (d) The Secretary of State has the authority, pursuant to Section
29 12172.5 of the Government Code, to require elections officials to
30 make reports concerning elections in their jurisdictions and assist
31 elections officials in discharging their duties.

32 (e) Increasing compliance with federal and state voting rights
33 laws, and implementing a best practices approach to precinct board
34 member training, will facilitate the ability of voters with limited
35 English proficiency and first-time voters to participate in
36 California's democracy.

37 SEC. 2. Section 12303 of the Elections Code is amended to
38 read:

1 12303. (a) No person who cannot read or write the English
2 language is eligible to act as a member of any precinct board.

3 (b) It is the intent of the Legislature that non-English-speaking
4 citizens, like all other citizens, should be encouraged to vote.
5 Therefore, appropriate efforts should be made to minimize
6 obstacles to voting by citizens who lack sufficient skill in English
7 to vote without assistance.

8 ~~(c) Where the elections official finds that citizens described in~~
9 ~~subdivision (b) approximate 3 percent or more of the voting-age~~
10 ~~residents of a precinct, or in the event that interested citizens or~~
11 ~~organizations provided information which the elections official~~
12 ~~believes indicates a need for voting assistance for qualified citizens~~
13 ~~described in subdivision (b),~~ *In precincts in which the precinct*
14 *board is required to post translated facsimile ballots in accordance*
15 *with the determinations and findings made by the Secretary of*
16 *State pursuant to Section 14201, the elections official shall make*
17 *reasonable efforts to recruit election elections officials who are*
18 *fluent in a the determined language used by citizens described in*
19 *subdivision (b) and in English or languages.* This recruitment shall
20 be conducted through the cooperation of interested citizens and
21 organizations and through voluntarily donated public service
22 notices in the media, including newspapers, radio, and television,
23 particularly those media that serve the non-English-speaking
24 citizens described in subdivision (b).

25 (d) At least 14 days before an election, the elections official
26 shall prepare and make available to the public a list of the precincts
27 to which officials were appointed pursuant to this section, and the
28 language or languages other than English in which they will
29 provide assistance.

30 SEC. 3. Section 12317 is added to the Elections Code, to read:

31 12317. In selecting the members of the precinct board, the
32 elections official shall evaluate complaints filed against precinct
33 board members, and shall excuse those who are found to be
34 unsatisfactory in carrying out their duties in connection with the
35 conduct of the election.

36 SEC. 4. Chapter 5 (commencing with Section 12400) is added
37 to Division 12 of the Elections Code, to read:

CHAPTER 5. LANGUAGE ASSISTANCE

12400. (a) Each county shall submit a report not later than 120 days prior to the first statewide election held in each even-numbered year, as set forth in Section 1001, to the Secretary of State describing the county's plan for compliance with applicable federal and state laws and regulations related to providing voters with language assistance. Not later than 120 days prior to each subsequent statewide election held in an even-numbered year, each county shall submit an update detailing material changes to the plan it submitted for the first election of that year. Federal and state laws and regulations to be addressed by the plan include, but are not limited to, all of the following:

(1) Section 203 (42 U.S.C. Sec. 1973aa-1a) and Section 4(f)(4) (42 U.S.C. Sec. 1973b(f)(4)) of the federal Voting Rights Act of 1965, and the regulations issued by the United States Department of Justice (28 C.F.R. 55.1 to 55.21, inclusive).

(2) Federal Help America Vote Act (42 U.S.C. Sec. 15301 et seq.).

(3) Section 12303.

(4) Section 14201.

(b) The Secretary of State shall issue guidance for a uniform standard report format that will enable each county to comply with this section to report the county's plan for protecting the rights of voters with limited English proficiency. A county shall, at a minimum, include all of the following information in its plan:

(1) The plans for providing translated facsimile copies of ballots with ballot measures and ballot instructions required to be made available at polling places on election day pursuant to Section 14201.

(2) The translated signage and ballot materials to be provided to voters prior to election day and at polling places.

(3) The estimated number of bilingual precinct board members necessary to meet the language needs of voters with limited English proficiency and the planned method to recruit a sufficient number of bilingual precinct board members.

(4) The methodology of assigning bilingual precinct board members to polling places, including the process for determining the need for bilingual voting assistance in additional precincts to meet state and federal language assistance requirements.

(5) A description of the training provided to precinct board members to educate them about compliance with federal and state voting rights laws and regulations and the best practices approach used to assist voters with limited English proficiency, voters with disabilities, and first-time voters, including any draft copies of precinct member training curricula and handbooks.

(6) The plans for conducting outreach to, and education of, voters with limited English proficiency, including electoral activities, the availability of translated materials and bilingual assistance through the display of public notices, the use of media outlets that serve language minorities, and direct contact with organizations that serve language minority populations.

(7) The plans for operating voter hotlines that can adequately respond to telephone calls from voters with limited English proficiency.

(c) Not later than 90 days prior to each statewide election held in an even-numbered year, the Secretary of State shall post on his or her Internet Web site all reports received pursuant to this section.

(d) The Secretary of State shall consult with an advisory body composed of members from voting rights organizations, elections officials, and other groups to develop a list of best practices that elections officials can follow to help them implement the laws referenced in subdivision (a) and implement the Secretary of State's precinct board member training standards issued pursuant to Section 12309.5.

(e) The Secretary of State shall make the best practices developed pursuant to subdivision (d) available to elections officials in a centralized repository and shall post this information on the Secretary of State's Internet Web site. The Secretary of State shall review the best practices annually to determine whether they need to be updated.

SEC. 5. Section 14201 of the Elections Code is amended to read:

14201. (a) (1) The precinct board shall post, in a conspicuous location in the polling place, at least one facsimile copy of the ballot with the ballot measures and ballot instructions printed in Spanish. Facsimile ballots shall also be printed in other languages and posted in the same manner if a significant and substantial need is found by the elections official.

(2) In those counties ~~which~~ *that* are required under the provisions of the federal Voting Rights Act of 1965, as extended by Public Law 94-73, to furnish ballots in other than the English language, the posting of the facsimile ballot in that particular language shall not be required. *However, the Secretary of State shall still make the determinations and findings set forth in subdivision (c) for the languages in those counties.*

(3) This subdivision shall remain in effect until the Secretary of State makes the determinations and findings required by this section.

(b) In counties where the Secretary of State has determined that it is appropriate, each precinct board shall post, in a conspicuous location in the polling place, at least one facsimile copy of the ballot with the ballot measures and ballot instructions printed in Spanish. If the Secretary of State determines that it is appropriate to post the election materials in Spanish in only certain precincts in the county, the material shall be posted in the polling places situated in those precincts. Facsimile ballots shall also be printed in other languages and posted in the same manner if a significant and substantial need is found by the Secretary of State.

(c) In determining whether it is appropriate to post the election materials in Spanish or other languages, the Secretary of State shall determine the number of residents of voting age in each county and precinct who are members of a single language minority, and who lack sufficient skills in English to vote without assistance. If the number of these residents equals 3 percent or more of the voting age residents of a particular county or precinct, or in the event that interested citizens or organizations provide the Secretary of State *or the local elections official* with information ~~which~~ *that* gives the Secretary of State *or the local elections official* sufficient reason to believe *there is* a need for the furnishing of facsimile ballots, the Secretary of State shall find a need to post at least one facsimile copy of the ballot with the ballot measures and ballot instructions printed in Spanish or other applicable language in the affected polling places.

(d) (1) The Secretary of State shall make the determinations and findings set forth in subdivisions (b) and (c) *not less frequently than* by January 1 of each year in which the Governor is elected *and each election year following an adjustment of district boundary*

1 *lines pursuant to Article XXI of the California Constitution and*
2 *Division 21 (commencing with Section 21000).*

3 *(2) In the event that precinct boundary lines are changed or*
4 *altered subsequent to the determinations and findings made*
5 *pursuant to paragraph (1), the duties required under subdivision*
6 *(b) shall apply to any newly drawn precinct that contains all or*
7 *part of the area of a precinct that was originally included in the*
8 *determinations and findings made by the Secretary of State.*

9 (e) In those precincts where ballots printed in a language other
10 than English are available for use by the voters at the polls, the
11 posting of a facsimile ballot in that particular language shall not
12 be required.

13 (f) It is the intent of the Legislature that non-English-speaking
14 citizens, like all other citizens, should be encouraged to vote.
15 Therefore, appropriate efforts should be made on a statewide basis
16 to minimize obstacles to voting by citizens who lack sufficient
17 skill in English to vote without assistance.

18 SEC. 6. If the Commission on State Mandates determines that
19 this act contains costs mandated by the state, reimbursement to
20 local agencies and school districts for those costs shall be made
21 pursuant to Part 7 (commencing with Section 17500) of Division
22 4 of Title 2 of the Government Code.