

AMENDED IN ASSEMBLY MAY 25, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1814

Introduced by Assembly Member Eng
(Coauthors: Assembly Members Ammiano, Wieckowski, and Williams)

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 amended, 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~~ *August 1, 2015, and not later than August 1 of each odd-numbered year thereafter*, 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

1 member training, will facilitate the ability of voters with limited
2 English proficiency and first-time voters to participate in
3 California's democracy.

4 SEC. 2. Section 12303 of the Elections Code is amended to
5 read:

6 12303. (a) No person who cannot read or write the English
7 language is eligible to act as a member of any precinct board.

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

13 (c) In precincts in which the precinct board is required to post
14 translated facsimile ballots in accordance with the determinations
15 and findings made by the Secretary of State pursuant to Section
16 14201, the elections official shall make reasonable efforts to recruit
17 elections officials who are fluent in the determined language or
18 languages. This recruitment shall be conducted through the
19 cooperation of interested citizens and organizations and through
20 voluntarily donated public service notices in the media, including
21 newspapers, radio, and television, particularly those media that
22 serve the non-English-speaking citizens described in subdivision
23 (b).

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

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

30 12317. In selecting the members of the precinct board, the
31 elections official shall evaluate complaints filed against precinct
32 board members, and shall excuse those who are found to be
33 unsatisfactory in carrying out their duties in connection with the
34 conduct of the election.

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

CHAPTER 5. LANGUAGE ASSISTANCE

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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 *August 1, 2015, and not later than August 1 of each odd-numbered year thereafter*, 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 assistance.* 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~~

1 the need for bilingual voting assistance in additional precincts to
 2 meet state and federal language assistance requirements.

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

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

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

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

21 (d) The Secretary of State shall consult with an advisory body
 22 composed of members from voting rights organizations, elections
 23 officials, and other groups to develop a list of best practices, *by*
 24 *January 1, 2016*, that elections officials can follow to help them
 25 implement the laws referenced in subdivision (a) and implement
 26 the Secretary of State’s precinct board member training standards
 27 issued pursuant to Section 12309.5.

28 (e) The Secretary of State shall make the best practices
 29 developed pursuant to subdivision (d) available to elections
 30 officials in a centralized repository and shall post this information
 31 on the Secretary of State’s Internet Web site. The Secretary of
 32 State shall review the best practices—~~annually~~ *biennially* to
 33 determine whether they need to be updated.

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

36 14201. (a) (1) The precinct board shall post, in a conspicuous
 37 location in the polling place, at least one facsimile copy of the
 38 ballot with the ballot measures and ballot instructions printed in
 39 Spanish. Facsimile ballots shall also be printed in other languages

1 and posted in the same manner if a significant and substantial need
2 is found by the elections official.

3 (2) In those counties that are required under the provisions of
4 the federal Voting Rights Act of 1965, as extended by Public Law
5 94-73, to furnish ballots in other than the English language, the
6 posting of the facsimile ballot in that particular language shall not
7 be required. However, the Secretary of State shall still make the
8 determinations and findings set forth in subdivision (c) for the
9 languages in those counties.

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

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

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

38 (d) (1) The Secretary of State shall make the determinations
39 and findings set forth in subdivisions (b) and (c) not less frequently
40 than by January 1 of each year in which the Governor is elected

1 and each election year following an adjustment of district boundary
2 lines pursuant to Article XXI of the California Constitution and
3 Division 21 (commencing with Section 21000).

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

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

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

19 SEC. 6. If the Commission on State Mandates determines that
20 this act contains costs mandated by the state, reimbursement to
21 local agencies and school districts for those costs shall be made
22 pursuant to Part 7 (commencing with Section 17500) of Division
23 4 of Title 2 of the Government Code.