

**Assembly Bill No. 614**

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Passed the Assembly September 11, 2007

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*Chief Clerk of the Assembly*

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Passed the Senate September 10, 2007

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*Secretary of the Senate*

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This bill was received by the Governor this \_\_\_\_\_ day  
of \_\_\_\_\_, 2007, at \_\_\_\_\_ o'clock \_\_\_\_M.

\_\_\_\_\_  
*Private Secretary of the Governor*

CHAPTER \_\_\_\_\_

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 614, Eng. Voting rights: language assistance.

(1) Existing state and federal law, 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 where the elections official is required to post translated facsimile ballots and would require a county, not later than 120 days before the first statewide election held in every even-numbered year, beginning with the November 4, 2008, statewide election to submit a specified report to the Secretary of State on its compliance with state and federal laws enacted to assist voters with limited English proficiency. The bill would require the Secretary of State to post all reports on the Secretary of State’s official Internet Web site 90 days prior to the statewide election and that the Secretary of State 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 these voters. By increasing the duties of local elections officials, the bill would impose a state-mandated local program.

The bill would also require the elections official to evaluate complaints filed against precinct board members and would require the Secretary of State, commencing January 1, 2009, to develop a list of the best practices for election 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) Existing law requires, among other things, that 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 in determining whether it is appropriate to post the election materials in Spanish or other languages, the Secretary of State 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 the new precinct.

(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.

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

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

(a) California is seeing an increasing gap between the state's voting and nonvoting population. Barriers to voting such as complicated voting materials and unfamiliar voting procedures contribute significantly to this gap. In California, there are millions

of voters with limited English proficiency. Large numbers of voters continue to be first-time voters who are unfamiliar with the voting process.

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

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

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

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

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

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

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

(c) In precincts where the Secretary of State has made a determination of need pursuant to subdivision (c) of Section 14201, the elections official shall make reasonable efforts to recruit elections officials who are fluent in the determined language or languages. This recruitment shall be conducted through the cooperation of interested citizens and organizations and through voluntarily donated public service notices in the media, including newspapers, radio, and television, particularly those media that serve the non-English-speaking citizens described in subdivision (b).

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

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

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

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

#### CHAPTER 5. LANGUAGE ASSISTANCE

12400. (a) Every county shall submit one report 120 days prior to the first statewide election held in every even-numbered year, as set forth in Section 1001, beginning with the statewide election held on November 4, 2008, to the Secretary of State on its compliance with applicable federal and state laws and regulations related to providing voters with language assistance. One hundred twenty days prior to subsequent statewide elections held in subsequent even-numbered years, every county shall submit an update detailing material changes from the plan it submitted for the first election of that year. Federal and state laws and regulations 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, incl.).

(2) Federal Help America Vote Act (42 U.S.C. Sec. 15301 and following).

(3) Section 12303.

(4) Section 14201.

(b) The Secretary of State shall issue guidance for a uniform standard report format that will enable counties to comply with the requirements of 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:

(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) 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 and education to 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) Ninety days prior to the statewide election, the Secretary of State shall post all reports received on the Secretary of State's official Internet Web site.

(d) Commencing January 1, 2009, 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 for 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 available to elections officials in a centralized repository and post this information on the Secretary of State's official 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 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 gives the Secretary of State or the local elections official sufficient reason to believe 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 lines pursuant to Article XXI of the California Constitution and Division 21 (commencing with Section 21000).

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

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

(f) It is the intent of the Legislature that non-English-speaking citizens, like all other citizens, should be encouraged to vote. Therefore, appropriate efforts should be made on a statewide basis



to minimize obstacles to voting by citizens who lack sufficient skill in English to vote without assistance.

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













Approved \_\_\_\_\_, 2007

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*Governor*