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Briefing



Translating the Vote: The Impact of the Language Minority Provision of the Voting Rights Act

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In 1975, 10 years after its passage, Congress amended the Voting Rights Act to ensure that every American — regardless of their grasp of the English language — had access to the electoral process.

Congress amended the Act to include the “Language Minority Provision” (sections 203 and 4(f)(4)), after lawmakers stated:

“[T]hrough the use of various practices and procedures, citizens of language minorities have been effectively excluded from participation in the electoral process. Among other factors, the denial of the right to vote of such minority group citizens is ordinarily directly related to the unequal educational opportunities afforded them resulting in high illiteracy and low voting participation. The Congress declares that, in order to enforce the guarantees of the fourteenth and fifteenth amendments to the United States Constitution, it is necessary to eliminate such discrimination by prohibiting these practices, and by prescribing other remedial devices.”¹

The Language Minority Provision was reauthorized in 1982 and again in 1992.

The provision created a unique formula to determine whether political jurisdictions would be required to offer voting materials, from

ballots to education materials to registration forms and assistance at the polls, not only in English but also a variety of minority languages within four language groups: American Indian, Asian American, Alaskan Natives or Spanish heritage.

Covered jurisdictions are determined by the U.S. Census Bureau, with the most recent determinations made in July 2002. Now, 21 years after the passage of sections 203 and 4(f)(4), almost 300 political jurisdictions in 31 states are required to offer voting materials in more than 25 different languages.

Although the number of foreign-born persons entering the United States dropped by 24 percent in 2004 from an all-time high in 2000, more than one million foreign-born persons continue to enter the U.S. each year.² Between 1996 and 2005, over 6.6 million people became naturalized U.S. citizens, more than double the three million who naturalized between 1986 and 1995.³ In 2005, 712,527 naturalization applications were processed with the U.S. Citizenship and Immigration Services — now a division of the Department of Homeland Security — granting citizenship to more than 600,000 people.⁴

In this, the 14th Election Reform Briefing, *electionline.org* explores the impact of the Language Minority Provision, not only on the growing electorate, but also on the administration of elections.

While the implementation of sections 203 and 4(f)(4) has potentially opened up the voting process to millions of new voters, it has also created a unique set of challenges for those who administer elections.

Even as leaders of minority-language organizations praise the ability to offer voting materials in multiple languages, election officials in some of the affected jurisdictions ponder the impact of implementing — or in some cases side-stepping — the federal requirements.

The report also comes at an auspicious time. The national debate over immigration has reached a fever pitch in this election year, and less than two months ago, Congress debated reauthorizing the Voting Rights Act.

The language provision of the Voting Rights Act was set to expire in 2007, but after debate throughout the summer, the language provision was included in the Voting Rights Act Reauthorization and Amendments Act of 2006 that was signed by President George W. Bush on July 27.

The Reauthorization Act of 2006 extends the language requirement provisions for certain states and political jurisdictions to provide voting materials in multiple languages for the next 25 years.



Executive Summary

The documents most often provided in languages other than English are voter registration forms (24 states), followed by absentee ballot application forms (11 states) and information on filing administrative complaints (five states).

Four states — Arizona, California, New Mexico and Texas — are covered by entirely by section 203 with regard to Spanish. All four of these states provide some, but not all of their election information online in Spanish. Seven states with jurisdictions covered by section 203— Louisiana, Mississippi, Montana, Nevada, North Dakota, South Dakota and Utah — do not provide information on their Web sites in any other language. However, some of the individual jurisdictions within these states do provide information on their individual county or city Web sites in the required languages; and in some instances, section 203 applies only to American Indian spoken languages.

Litigation and Legislation

The U.S. Department of Justice has been aggressive in pursuing litigation against jurisdictions that fail to comply with section 203. Most recently DOJ filed suit in eight jurisdictions including Boston and Springfield, Mass. In most cases, the offending jurisdiction reaches a compromise with DOJ and the department settles the suit before reaching the courtroom. Initially, Boston Mayor Thomas Menino (D) decided to challenge the lawsuit, but like many other jurisdictions, the city eventually settled with the federal government.

In some states, the question of whether the federal mandate trumps state law is unanswered. In Utah, which has an English-only provision for all government documents, state officials recently opted to stop producing voting materials in Spanish because they said the federal mandate no longer applied because of the English-only law. In California, where the mandate applies to the entire state with relation to the Spanish-language materials, the 9th Circuit Court of Appeals is considering whether or not voter-led initiative petitions fall under section 203 or not.

Reauthorization of sections 203 and 4(f)(4) were part of the debate this summer on Capitol Hill over reauthorization of the entire Voting Rights Act. Although both sections eventually breezed to renewal by Congress utterly unchanged, some provisions of the act caused grumblings from some quarters that its requirements were unnecessary or cumbersome. A group of about 80 Congressmen attempted to have the Act amended to strip the language provisions. But the House Rules Committee refused to allow consideration and the Voting Rights Act Reauthorization and Amendments Act of 2006 was approved and signed by President George W. Bush. The Reauthorization Act extends the language provision requirements for 25 years.



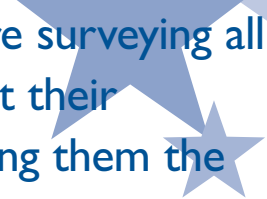
How It Works

In 1975, Congress amended the Voting Rights Act to include section 203 (c) and Section 4(f)(4), both of which require jurisdictions to provide ballots and assistance in minority languages. The provisions were initially adopted for a period of 10 years and have been extended several times including most recently in late July for an additional 25 years (see page 14).

Under section 4(f)(4), a jurisdiction is covered only if the U.S. Attorney General and the Director of the Census determine it meets all three of the following requirements: over 5 percent of the voting-age citizens on Nov. 1, 1972 were members of a single language minority group; the U.S. Attorney General finds that elections materials were provided in English only on Nov. 1, 1972; and the Director of the Census determines that fewer than 50 percent of voting-age citizens were registered to vote on Nov. 1, 1972 or that fewer than 50 percent voted in the November 1972 presidential election.

Jurisdictions mandated to comply with section 203(c) must provide minority language ballots “where there are more than 10,000 or over 5 percent of the total voting age citizens in a single political subdivision who are members of a single minority language group, have depressed literacy rates and do not speak English very well.”

Section 4(f)(4) targets jurisdictions with more serious problems of



Until we hear otherwise, we’re surveying all of our voters to find out what their preference is and then affording them the opportunity to vote in that language if they would like.

—Lynda Sisson, assistant county auditor,
Yakima County, Washington

voting discrimination against language minorities, including evidence that language minorities have been subjected to physical, economic and political intimidation when they sought to participate in the political process.⁵

Determination for compliance with both sections is based on the most recent Census figures. Following the 2002 Census report, 296 jurisdictions in 30 states fall under section 203 and are now required by law to offer ballots in languages including Spanish, Chinese and Filipino.

Spanish is the predominant language, triggering coverage in 84.2 percent of jurisdictions. In addition, Spanish language assistance must be provided statewide in Arizona, California, New Mexico and Texas. American Indian coverage is the second most common (16 percent) language.⁶ However, within the American Indian-language coverage there are more than 17 unique languages.

Faced with offering materials in multiple languages, local jurisdictions have approached the task in a variety

of ways. In 2002, after being contacted by the U.S. Department of Justice (DOJ), the Yakima County, Wash. auditor’s office sent out notices — in English and Spanish — to all registered voters asking that they return a postage-paid postcard if they would like to request their ballot in Spanish.

“We half way expected it, but didn’t really know for sure until we were contacted by the Justice Department in late July,” said Lynda Sisson, assistant county auditor the county. “Until we hear otherwise, we’re surveying all of our voters to find out what their preference is and then affording them the opportunity to vote in that language if they would like. We have over 500 people who have requested the Spanish language ballots.”⁷

Despite the controversy surrounding them, new electronic voting equipment in some jurisdictions has made implementation of section 203 easier and less costly than for those jurisdictions that rely on paper ballots. The electronic machines are equipped to handle a variety of languages.



Section 203 Jurisdictions

In the Washington, D.C. suburb of Montgomery County, Md., the county elections staff knew the demographics were changing. They anticipated the mandate and were already providing many materials in both Spanish and English.

“Now we [not only] have a ballot that you can read and hear in Spanish, but [we have] all the other elements, all the posters that go to the polling places,” said Margaret Jurgensen, the county’s election director. “We print up a specimen ballot that has historically been four to six pages. But this year we had to include voting instructions and do everything in English and Spanish and we now have a specimen ballot that is 28 pages long and needs to be mailed to all of our registered voters.”⁸

The Voting Rights Act mandate is not cut and dry though. For instance, according to Census data, the Kenai Peninsula Borough in Alaska is required to offer their ballots in English and Sugestun, a native language spoken only in one village. The village is only accessible by air or water and does not have a voting precinct. Voters mail in their ballots. Because of the unique situation, two native Sugestun speakers are available in the village to assist voters with any ballot questions.

When Linda Murphy, who was clerk of the borough, heard from DOJ in 2002, she said she was taken by surprise because she knew of no one in the village that only spoke Sugestun, a language that has only been written for about a dozen years and was developed phonetically.

In July 2002, the U.S. Department of Justice informed 296 jurisdictions that they must comply with section 203 of the Voting Rights Act and provide ballots, voter education and assistance at the polls in a foreign language. That represented an increase of 16 jurisdictions over the previous Census figures. From Chinese to Vietnamese to Spanish to Apache, counties, boroughs, parishes, cities and towns in 30 states must offer ballots in more than 25 languages other than English. Some jurisdictions must offer their ballots in more than two languages. For instance, Los Angeles County must provide materials in six languages.

State	Jurisdictions	State	Jurisdictions
Alaska	14	Montana	2
Arizona	12	Nebraska	2
California	24	Nevada	6
Colorado	10	New Jersey	7
Connecticut	7	New Mexico	27
Florida	10	New York	7
Hawaii	2	North Dakota	2
Idaho	5	Oklahoma	2
Illinois	2	Oregon	1
Kansas	6	Pennsylvania	1
Louisiana	1	Rhode Island	2
Maryland	1	South Dakota	18
Massachusetts	6	Texas	104
Michigan	1	Utah	1
Mississippi	9	Washington	4

“I didn’t think we had any sort of problems and I received a letter from the First Chief that they were not requesting it,” Murphy said. “I wrote back to the Department of Justice on Aug. 17 setting all of this forward and telling them what we do for all of our elections anyway, and also letting [DOJ] know that it was my intent to continue with this.”⁹

The law has run into other questions of interpretation. In Utah, an English-only law for government documents has raised questions

about whether or not the federal legislation applies. Problems arose when elections officials sent out voter education materials — in Spanish and English — explaining the state’s new touch-screen voting machines. After riling anti-illegal immigration activists and some state officials, officials in the Elections Office announced they would only produce Spanish translations if ordered to do so by DOJ.

“We did it in a good-faith gesture to the Feds because we are using their

money on this,” said Joe Demma, chief of staff for Lt. Gov. Gary Herbert (D). “But because of the ambiguity on whether Utah meets the second language trigger, we are going to wait until we are notified by the Department of Justice.”¹⁰

In California, where Spanish-language ballots must be provided statewide, questions have arisen as to whether or not citizen-lead initiative petitions must be translated for voters who speak another language as well. Initially a three-judge panel of the U.S. 9th Circuit Court of Appeals ruled that petitions had to be printed in languages that voters can understand. Opponents said the requirement would make it more difficult for citizens who want to engage in the political process.

Conny McCormack, Los Angeles County registrar-recorder/clerk said the multilingual requirement would, “add time delays, be more costly and complex.”¹¹

“There is a potential for misinterpretation and legal challenges to the wording. It’s certainly not going to be simple if this ends up being a legal requirement,” McCormack said.¹²

The 9th Circuit decided to stay the first decision and submit the question to a larger panel for reconsideration.

Poll workers

Section 203 of the Voting Rights Act requires that jurisdictions covered by the threshold of voters who speak languages other than English provide voting assistance to voters in their native tongue. To

elections officials, that means employing unique strategies to find poll workers who can not only work long hours for little pay, but also have the language skills necessary to help non-English speakers at the polls.

Many elections officials said they use the same practices for recruiting poll workers with diverse language skills as they do for all poll workers, including radio, newspaper and television ads, public service announcements, handing out literature, attending community meetings and word of mouth from other poll workers.

Some, however, have taken more aggressive approaches.

Yvonne Reed, public information officer for the Maricopa County, Ariz. elections and county recorder’s office, said that her office takes a proactive approach to recruiting bilingual poll workers in their everyday duties. When residents contact the county recorder after a move or request a voter registration form, they’re asked if they speak languages other than English and are sent information about becoming a poll worker.²⁴

Maricopa County has been using a “community network,” according to Tammy Patrick, an elections federal compliance officer for the county. Over the last year, the county has been leading monthly open forums that include voters with disabilities, American Indian community leaders and members from Hispanic organizations. Through the forum, the county has spread the word about

election law changes. Meetings about specific topics, such as voter ID requirements, have had higher turnout and Patrick said that the program has been “very successful.”²⁵

Valle del Sol is a part of Maricopa County elections’ community network and runs programs that train participants for leadership roles, according to Anita Luera, vice president of corporate relations and leadership development. Since January, Valle del Sol she said has been making a concerted effort to share information about opportunities to work at the polls. “We can get that info out to a good segment of the Latino community.”

Luera also said that Maricopa County elections “consulted with us to go over their Spanish language materials” and has been very helpful about providing materials and information, particularly related to early voting and Proposition 200.²⁶

Similarly, the elections department in Suffolk County, Mass. (Boston) has an advisory committee that includes executive directors and employees from community organizations that help find poll workers with language skills, Helen Wong, language coordinator said.

Wong’s outreach to the Office of New Bostonians, Boston Housing Authority, Office of Neighborhood Services and more than 100 different ethnic media outlets have helped recruit poll workers. Many poll workers have come to Wong after seeing her posts on Craigslist, a community classified ad Web

Litigation

Although section 203, which requires minority language assistance in some jurisdictions, has been enforced through lawsuits since its inception in 1975, in the past two years at least eight lawsuits have been filed by the U.S. Department of Justice (DOJ).

The lawsuits have sought to enforce compliance in jurisdictions throughout the country including in cities and counties in Massachusetts, Ohio, Mississippi, Texas, California, Arizona and Georgia.

A 2005 action against the city of Boston represented “textbook” section 203 enforcement. The city was cited for failing to provide materials, translators and bilingual assistance to citizens, as well as “improperly influencing, coercing, or ignoring the ballot choices’ of Hispanic and Asian-American voters.”

DOJ called on the city government to come up with a plan to fix the problems and to allow the federal government to send observers through the 2007 election.¹³

In response, Mayor Thomas Menino (D) decided to fight the allegation. At the same time, however, he formed an election panel days later to study whether the city needed more bilingual poll workers.

Menino’s decision to challenge DOJ riled several voting-rights advocates, including John Bonifaz of the Boston-based National Voting Rights Institute. “The response should be, ‘How do we change that?’ not, ‘Let’s fight that,’” he said.¹⁴

Glenn Magpantay, staff attorney for the New-York-based Asian-American Legal Defense Fund, agreed.

“Why would the city fight?” he said. “The goal is to ensure that every citizen has the right to vote and those votes are counted.”¹⁵

By mid-September 2005, however, DOJ settled the lawsuit after the city relented. Boston officials agreed to translate all election materials into Spanish, Chinese and Vietnamese, to provide more training for poll workers and to allow election observers through 2007.¹⁶

Recent reports from the city however, indicated that the issue has not been completely solved.

Magpantay said the city failed to translate candidates’ names into Asian languages on ballots. A spokesman for Secretary of State William Galvin (D) said translating names “was not part of the agreement” with DOJ.¹⁷ However, Galvin announced in late September that he is launching an investigation into that month’s primary.

Boston was not the only city in Massachusetts to face a DOJ lawsuit. In early August, Springfield was sued for failing to provide translated election materials or enough bilingual poll workers.

“The right to vote is a fundamental guarantee for all American citizens,” said Wan J. Kim, assistant attorney general for the Civil Rights Division. “In light of the serious problems faced by minority language citizen voters in Springfield, we hope that city officials and the Justice Department can reach an agreement quickly to implement remedial measures in time for the 2006 federal elections.”¹⁸

The city settled with DOJ by the end of the month, agreeing to hire a Hispanic voting coordinator, agreeing to host federal election observers through 2009, provide translated material and hire 57 bilingual poll workers by the primary and 95 by the general election, a marked increase from the 37 bilingual poll workers working in the last election.¹⁹

DOJ monitors will be in Boston as well, with federal employees on hand to “gather information concerning compliance.”²⁰

Meaghan Maher, a spokeswoman for Menino, said that there are more than 1,600 poll workers staffing 253 locations citywide, including 300 interpreters who speak Chinese, Vietnamese, Spanish, Portuguese, Cape Verdean Creole, Somali, Russian and Haitian.²¹ Springfield, meanwhile hired 73 bilingual poll workers for the primary, 16 more than required.²²

However, despite DOJ’s pursuit of section 203 violators, a report released in late September by the National Association of Latino Elected and Appointed Officials (NALEO) found that more half of 190 respondents in 24 states said they had personally experienced discrimination while running for or even holding office.

“The Latino community is proud of the progress we have made toward achieving full political participation and representation in the last three decades,” Rosalind Gold, senior director of Policy, Research and Advocacy at NALEO said in a statement. “However, it is clear from our study’s findings that our nation still has more work to do. For 40 years, the Voting Rights Act has been a powerful tool to combat many of the problems our community still confronts. To sustain future Latino political progress, it is critical that the president and the Department of Justice must vigorously enforce the act.”

State Election Web Site Language Availability

State	Jurisdiction(s) covered by Section 203 of the Voting Rights Act	Web site offers materials in other languages	Languages	Materials
Alabama	No	No	N/A	N/A
Alaska	Yes	Yes	Tagalog	Voter registration form, voter pamphlet
Arizona	Yes	Yes	Spanish	Voter registration form, dates and deadlines, upcoming election information, previous elections information, voter registration statistics, information about overseas voting, information about HAVA, county contact information, the administrative complaint process and laws and legislation
Arkansas	No	Yes	Spanish	Voter registration form
California	Yes	Yes	Spanish, Chinese, Japanese, Korean, Tagalog and Vietnamese	Voter pamphlet, absentee ballot application form, multi-lingual voter services link, voter complaint form, state HAVA plan, voter registration form (Spanish only)
Colorado	Yes	Yes	Spanish	Voter registration form, absentee ballot application form
Connecticut	Yes	Yes	Spanish	Voter registration form, absentee ballot application form, voter ID requirements, voter registration, voter's bill of rights, rights as a voter with a disability
District of Columbia	No	Yes**	German, Spanish, French, Greek, Portuguese, Italian	The Web site can be translated into the listed languages, however forms that the translated sites are linked to are not translated.
Delaware	No	No	N/A	N/A
Florida	Yes	Yes	Spanish, Creole	Voter registration form (Spanish), state HAVA plan (Spanish and Creole)
Georgia	No	Yes	Spanish	Voter registration form, absentee ballot application form
Hawaii	Yes	Yes	Chinese, Japanese, Ilocano, Korean	Voter registration form, absentee ballot application form, factsheets including information about provisional voting, information about upcoming elections and other election-related topics (factsheets not in Korean)
Idaho	Yes	Yes	Spanish	Accessible voting and other public service announcements
Illinois	Yes	Yes	Spanish	Voter registration form
Indiana	No	Yes	Spanish	Voter registration form, voter's bill of rights, voter education video, voting system videos, photo ID guide
Iowa	No	Yes	Spanish, Vietnamese, Laotian, Bosnian	Voter registration form, absentee ballot application form (not in Bosnian)
Kansas	Yes	Yes	Spanish	Voter registration form, voter rights and responsibilities, notice to voters, voter instructions
Kentucky	No	Yes**	German, Spanish, French, Japanese Italian, Chinese	The Web site can be translated into the listed languages; however forms that the translated sites are linked to are not translated.
Louisiana	Yes	No*	N/A	N/A
Maine	No	No	N/A	N/A
Maryland	Yes	Yes	Spanish	Voter registration form, absentee ballot application form
Massachusetts	Yes	Yes	Spanish	Absentee ballot application form, voter information
Michigan	Yes	Yes	Spanish	Voter registration form, absentee ballot application form
Minnesota	No	Yes	Hmong, Spanish, Somali, Russian, Vietnamese	Voter registration form
Mississippi	Yes	No*	N/A	N/A
Missouri	No	No	N/A	N/A
Montana	Yes	No*	N/A	N/A
Nebraska	Yes	Yes	Spanish	Voter registration form, absentee ballot application form
Nevada	Yes	No - see below	N/A	N/A
Nevada - Clark County*	Yes	Yes	Spanish	Web site translated into Spanish - including but not limited to voter registration information, candidate information, election results, election 2006 information
New Hampshire	No	No	N/A	N/A

State Election Web Site Language Availability

State	Jurisdiction(s) covered by Section 203 of the Voting Rights Act	Web site offers materials in other languages	Languages	Materials
New Jersey	Yes	Yes	Spanish	Absentee ballot application form
New Mexico	Yes	Yes	Spanish	HAVA administrative complaint procedure, HAVA administrative complaint form*
New York	Yes	Yes	Spanish	Voter registration form
North Carolina	No - but covered by Section 4(f)(4)	Yes	Spanish	Voter registration form, voter registration instructions polling place accesibility information
North Dakota	Yes	No*	N/A	N/A
Ohio	No	Yes	Spanish	The Your Vote Counts Web site: Voting machine instructions, voter registration instructions, absentee voting instructions
Oklahoma	Yes	Yes	Spanish	Voter information, voter registration instructions, absentee voting instructions
Oregon	Yes	Yes	Spanish	Voter registration form, voter registration information, voter guide including voter's pamphlet including information about candidates in upcoing elections
Pennsylvania	Yes	Yes	Spanish	Voting machine instructions, information about county alternative language accessibility resources, provisional ballot status check, elections information poster, HAVA complaint procedure and form
Rhode Island	Yes	Yes	Spanish	Voter registration form
South Carolina	No	Yes	Spanish	Voting machine instructions
South Dakota	Yes	No*	N/A	N/A
Tennessee	No	No	N/A	N/A
Texas	Yes	Yes	Spanish	Voter registration form, voter registration requirements, online change of name and address, HAVA administrative complaint form, general information on voting, services available to voters with special needs, early voting information, information on and voter educaton Web sites
Utah	Yes	No*	N/A	N/A
Vermont	No	No	N/A	N/A
Virginia	No	Yes	Spanish	Spanish language translation of national voter registration form
Washington	Yes	Yes	Spanish, Chinese for most information plus voter registration forms in Spanish, Chinese, Cambodian, Korean, Laotian, Russina and Vietnamese	Candidate's guide to getting your information to voters, voter rights and repsonsibilities, information on filing for elective office, military and overseas voters, political parties in Washington, FAQ on vote-by-mail, ID and other polling place procedures, elections and voting FAQ pamphlet, an observer's guide to elections pamphlet, voter registration forms in Spanish, Chinese, Cambodian, Korean, Laotian, Russina and Vietnamese plus an option on the home page to translate the Web site into Spanish, French, German, Italian, Japanese, Russian
West Virginia	No	No	N/A	N/A
Wisconsin	No	No	N/A	N/A
Wyoming	No	No	N/A	N/A

Notes: Jurisdictions covered by section 203 in LA, MS, MT, NV (except one county), ND, SD and UT are all for American Indian languages.

Clark County, Nevada's Web site is also provided in Spanish.

Washington D.C.'s BOEE and Kentucky's SoS Web sites can be translated into the listed languages; however, forms that the translated sites are linked to are not translated.



please see the chart on page 10.)


The most common language is Spanish, with 29 of the 31 Web sites offering Spanish-language material. Of those, 23 offer Spanish as the only language other than English, while in six, there is at least one additional language typically Chinese, Japanese, Korean, Tagalog, Llocano, Vietnamese, Creole, Hmong, Somali, Russian and Cambodian.

States vary in what information they provide and in what languages it is provided. The most common document provided in languages other than English is the state's voter registration form, provided in 24 states.

Eleven states provide absentee ballot application forms in another language.

Five states provide information on filing administrative complaints in another language.

Washington, which has three jurisdictions that must provide material in Spanish and one that must provide material in Chinese, has an election Web site through the secretary of state's office that offers information in both of languages. The information includes a candidate's guide to getting information to voters, voter rights and responsibilities, information on filing for elective office, information for military and overseas voters, questions on vote-by-mail, ID and other polling place procedures, elections and voting "frequently asked questions" pamphlet and an observer's guide to Washington elections pamphlet.



Seven states with jurisdictions covered by section 203 of the Voting Rights Act do not provide information on their state Web sites in other languages.

The state also offers voter registration forms online in Spanish, Chinese, Cambodian, Korean, Laotian, Russian and Vietnamese as well as offers an option to translate the Web site into Spanish, French, German, Italian, Japanese and Russian.³⁴

Arizona, the only state that allows voters to register online from any computer, provides the service in Spanish as well.³⁵

Other states provide more basic information or forms. Five states provide only voter registration forms in a language other than English.

Seven states with jurisdictions covered by section 203 of the Voting Rights Act do not provide information on their state Web sites in other languages – Louisiana, Mississippi, Montana, Nevada, North Dakota, South Dakota and Utah. However, the one county in Nevada covered by the act – Clark County – provides this information in Spanish on its county election Web site.

The other six states' covered jurisdictions are all American Indian languages. According to guidance provided to local officials from the U.S. Attorney General, some of these languages are unwritten and therefore only need oral assistance.

"Many of the languages used by language minority groups, for example, by some American Indians and Alaskan Natives, are unwritten" the guidance document states. "With respect to any such language, only oral assistance and publicity are required. Even though a written form for a language may exist, a language may be considered unwritten if it is not commonly used in a written form. It is the responsibility of the covered jurisdiction to determine whether a language should be considered written or unwritten."³⁶

A recent survey found that of responding jurisdictions, 6.2 percent provide only oral language assistance and two-thirds of these are covered for Alaskan Native or American Indian languages.³⁷

Eight states not required to provide minority language assistance do so regardless on state election Web sites – Arkansas, Georgia, Indiana, Iowa, Minnesota, Ohio, South Carolina and Virginia.

Several of these states provide materials in multiple languages. In Minnesota, voter registration forms are available in Hmong, Spanish, Somali, Russian and Vietnamese.³⁸ In Iowa voter registration forms are available in Spanish, Vietnamese, Laotian and Bosnian.³⁹

Springtime pro-immigration rally on the National Mall in Washington, D.C.
Photo: Bryan Weaver.

Outreach

Each year, more than half a million foreign-born persons become U.S. citizens.⁴⁰ However, unlike the Motor Voter law, where new drivers are automatically given the option to register to vote, there are no laws requiring that new citizens be given the option to register to vote on the day of their swearing-in ceremony.

Although some advocacy groups have representatives stationed outside of courthouses with voter registration forms in-hand, over the past nine years, millions of new citizens and potential new voters have needed to find a way to register to vote.⁴¹

Voter registration drives and get-out-the-vote campaigns by organizations, both political parties and nonpartisan groups within the community have helped many of these new citizens get registered, as has providing registration materials in multiple languages.

National nonpartisan organizations, such as the League of Women Voters⁴² and the National Council of La Raza⁴³ offer registration materials in Spanish as well as English. On its Web site, the Democratic National Committee provides a voter registration form in Spanish and in English. The Republican National Committee only offers its version of the form in English.⁴⁴

Each state has its own voter registration guidelines, with the exception of North Dakota, which does not have voter registration. All states and the District of Columbia,



except North Dakota and Wyoming, which is prohibited by state law, accept the National Mail Voter Registration Form. The form is available in English and in Spanish.

Even though springtime pro-immigration rallies were about people from all countries, most of the attention focused on the Latino community. Advocates within the Latino community used the success of these rallies — and the subsequent failure of planned Labor Day rallies — as a catalyst to launch scores of voter registration drives.

“The message from the community was to switch gears,” Antonio Gonzalez, president of the Los Angeles-based Southwest Voter Registration Project said. “Now is not the time for mass mobilizations of immigrants who don’t have the right to vote...It’s time to get out the vote.”⁴⁶

The Southwest Voter Registration Project launched a total of 50 voter registration drives in California, Texas, New Mexico and Colorado in early September with an additional 100 voter registration and get-out-the-vote drives kicking off in October with a

goal of increasing the number of registered Latino voters from about 8 million to 10 million.

Despite the optimism, a review by *The Associated Press* of voter registration figures from Chicago, Denver, Houston, Atlanta and other major urban areas found no voter boom.⁴⁷

“I was anticipating a huge jump in registrations — I didn’t see it,” said Jess Cervantes, a California political operative whose company analyzes Hispanic voting trends. “When you have an emotional response, it takes time to evolve.”⁴⁸

Some activists acknowledge that their groups have yet to master the nuances of voter registration drives — something typically done face-to-face and often more complex than organizing a rally.

Outreach efforts have not just been limited to the Latino community in the United States. As the Asian American population grows — 12 percent of the eligible voting population in the state of California for instance — so do the efforts to get those citizens registered to vote.

“Our bilingual voter registration efforts are yielding record numbers

of Asian American voters in the immigrant community,” said David Lee, executive director of the Chinese American Voters Education Committee.⁴⁹

Although American Indian voter participation has traditionally lagged behind other ethnic groups, recent successful voter registration drives aimed at the Native population has helped boost those numbers with 10,000 new American Indian voters registered in Washington State in 2004 and a record number of American Indians participating in the 2004 election cycle in Arizona and New Mexico.⁵⁰

Legislation

Notwithstanding sentiment to water down its provisions on language requirements and pre-clearance for election rules by some states, the Voting Rights Act of 1965 eventually breezed to renewal in Congress utterly unchanged and by a wide margin.

But in the process, it revealed a rift among Republicans, who in the midst of a broader and growing debate over immigration, stalled the eventual passage.

The temporary provisions of the act, which must be renewed every 10 years, remained intact, despite grumbling from some quarters that its requirements were unnecessary or cumbersome.

Pre-clearance requirements – whereby election changes in nine states and in counties and localities in seven more states must be approved by the U.S. Department

of Justice – faced some criticism from mostly Southern Republicans, as did a provision mandating translators at polling places in jurisdictions which fall under the provisions of Section 203.

Rep. Steve King, R-Iowa, led the ultimately unsuccessful charge against the translator provision, arguing that it should be an issue of local choice, not federal law, whether to assist non-English speakers at the polls.

“Lifting the federal mandate simply gives localities back the power to determine if they will spend taxpayer dollars on voting materials in other languages,” King wrote in a July press release. “Foreign language ballots divide our nation by language and increase the chance for error and fraud, compromising our voting process. Voters who need help in the voting booth may bring an interpreter into the voting booth, under current federal law. Every citizen deserves to cast an informed ballot, and this is the right approach for voters who have difficulty understanding voting materials in English.”⁵¹

King’s efforts succeeded at least in delaying the renewal of the act. The initially unified front of Republicans who pledged to renew the act under the direction of House Speaker J. Dennis Hastert, R-Ill., instead split over the language provisions, with 80 House Republicans signing a letter penned by King objecting to the VRA’s requirement to print

ballots in foreign languages or provide interpreters.⁵²

They were rebuffed, however, when the House Rules Committee refused to allow consideration of King’s amendment to strip the language provisions. Rep. Charles Whitlow Norwood Jr., R-Ga., a King ally, said the move was a “gigantic mistake,” adding the American people want “an English speaking nation.”⁵³

Less than a month later, the debate was over when President George W. Bush hosted a July Rose Garden signing ceremony of the renewed VRA, with both language provisions and pre-clearance sections both untouched and intact.

“We renew a bill that helped bring a community on the margins into the life of American democracy,” Bush said at the ceremony. “My administration will vigorously enforce the provisions of this law, and we will defend it in court.”



Methodology

Research for the report was gleaned through the use of first and secondary sources, including U.S. Department of Justice documents, state election division Web sites, news accounts, interviews with election officials, press materials from members of Congress, Justice Department officials and representatives of non-governmental organizations with an interest in multilingual election processes.

All sources are cited below in the endnotes.

The opinions expressed by election officials, lawmakers and other interested parties in this document do not reflect the views of non-partisan, non-advocacy *electionline.org* or the Election Reform Information Project.

All questions concerning research should be directed to Sean Greene, research director, at 202-338-9860 or M. Mindy Moretti, senior writer 202-388-9861.

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Briefing

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