

STATE OF NEW YORK

3730

2017-2018 Regular Sessions

IN ASSEMBLY

January 30, 2017

Introduced by M. of A. COLTON, CYMBROWITZ, RIVERA -- Multi-Sponsored by
-- M. of A. ABBATE, AUBRY, GUNTHER -- read once and referred to the
Committee on Election Law

AN ACT to amend the election law, in relation to providing bilingual
voting materials

The People of the State of New York, represented in Senate and Assem-
bly, do enact as follows:

1 Section 1. Legislative findings and declaration of policy. The legis-
2 lature finds that, through the use of various practices and procedures,
3 citizens of language minorities have been effectively excluded from
4 participation in the electoral process. Among other factors, the denial
5 of the right to vote of such minority group citizens is ordinarily
6 directly related to the unequal educational opportunities afforded them
7 resulting in high illiteracy and low voting participation. The legisla-
8 ture declares that, in order to enforce the guarantees of the United
9 States Constitution, it is necessary to eliminate such discrimination by
10 prohibiting these practices, and by prescribing other remedial devices.

11 § 2. The election law is amended by adding a new section 3-505 to read
12 as follows:

13 § 3-505. Bilingual voting materials requirement. 1. Generally. Before
14 August sixth, two thousand eighteen, no covered state or political
15 subdivision shall provide voting materials only in the English language.

16 2. Covered states and political subdivisions. (a) Generally. A state
17 or political subdivision is a covered state or political subdivision for
18 the purposes of this section if the director of the census determines,
19 based on census data, that:

20 (1) more than five percent of the citizens of voting age of such state
21 or political subdivision are members of a single language minority and
22 are limited-English proficient; or

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 (2) more than ten thousand of the citizens of voting age of such poli-
2 tical subdivision are members of a single language minority and are
3 limited-English proficient.

4 (b) Exception. The prohibitions of this section do not apply in any
5 political subdivision that has less than five percent voting age limit-
6 ed-English proficient citizens of each language minority which comprises
7 over five percent of the statewide limited-English proficient population
8 of voting age citizens, unless the political subdivision is a covered
9 political subdivision independently from its state.

10 3. Definitions. As used in this section:

11 (a) The term "voting materials" means registration or voting notices,
12 forms, instructions, assistance, or other materials or information
13 relating to the electoral process, including ballots;

14 (b) The term "limited-English proficient" means unable to speak or
15 understand English adequately enough to participate in the electoral
16 process;

17 (c) The term "citizens" means citizens of the United States; and

18 (d) The term "illiteracy" means the failure to complete the fifth
19 primary grade.

20 4. Special rule. The determinations of the director of the census
21 under this section shall be effective upon publication in the Federal
22 Register and shall not be subject to review in any court.

23 5. Requirement of voting notices, forms, instructions, assistance, or
24 other materials and ballots in minority language. Whenever any state or
25 political subdivision subject to the prohibition of this section
26 provides any registration or voting notices, forms, instructions,
27 assistance, or other materials or information relating to the electoral
28 process, including ballots, it shall provide them in the language of the
29 applicable minority group as well as in the English language. Provided,
30 that where the language of the applicable minority group is oral or
31 unwritten or in the case of Alaskan natives and American Indians, if the
32 predominant language is historically unwritten, the state or political
33 subdivision is only required to furnish oral instructions, assistance,
34 or other information relating to registration and voting.

35 6. Action for declaratory judgment permitting English-only materials.
36 Any state or political subdivision subject to the prohibition of this
37 section, which seeks to provide English-only registration or voting
38 materials or information, including ballots, may file an action against
39 the United States in the United States District Court for a declaratory
40 judgment permitting such provision. The court shall grant the requested
41 relief if it determines that the illiteracy rate of the applicable
42 language minority group within the state or political subdivision is
43 equal to or less than the national illiteracy rate.

44 § 3. This act shall take effect on the first of January next succeed-
45 ing the date on which it shall have become a law.