S T A T E O F N E W Y O R K

1529

2009-2010 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2009

Introduced by M. of A. COLTON, JACOBS, CYMBROWITZ, MAISEL, BROOK-KRASNY, J. RIVERA, P. RIVERA, WEINSTEIN, PHEFFER -- Multi-Sponsored by -- M. of A. AUBRY, DIAZ, GREENE, GUNTHER, HEASTIE, JOHN -- 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 ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Legislative findings and declaration of policy. The legislature finds that, through 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 legislature declares that, in order to enforce the guarantees of the United States Constitution, it is necessary to eliminate such discrimination by prohibiting these practices, and by prescribing other remedial devices.

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

S 3-505. BILINGUAL VOTING MATERIALS REQUIREMENT. 1. GENERALLY. BEFORE AUGUST SIXTH, TWO THOUSAND TWELVE, NO COVERED STATE OR POLITICAL SUBDIVISION SHALL PROVIDE VOTING MATERIALS ONLY IN THE ENGLISH LANGUAGE.

2. COVERED STATES AND POLITICAL SUBDIVISIONS. (A) GENERALLY. A STATE OR POLITICAL SUBDIVISION IS A COVERED STATE OR POLITICAL SUBDIVISION FOR THE PURPOSES OF THIS SECTION IF THE DIRECTOR OF THE CENSUS DETERMINES, BASED ON CENSUS DATA, THAT:

(1) MORE THAN FIVE PERCENT OF THE CITIZENS OF VOTING AGE OF SUCH STATE OR POLITICAL SUBDIVISION ARE MEMBERS OF A SINGLE LANGUAGE MINORITY AND ARE LIMITED-ENGLISH PROFICIENT; OR

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

LBD03970-01-9

(2) MORE THAN TEN THOUSAND OF THE CITIZENS OF VOTING AGE OF SUCH POLITICAL SUBDIVISION ARE MEMBERS OF A SINGLE LANGUAGE MINORITY AND ARE LIMITED-ENGLISH PROFICIENT.

(B) EXCEPTION. THE PROHIBITIONS OF THIS SECTION DO NOT APPLY IN ANY POLITICAL SUBDIVISION THAT HAS LESS THAN FIVE PERCENT VOTING AGE LIMITED-ENGLISH PROFICIENT CITIZENS OF EACH LANGUAGE MINORITY WHICH COMPRISES OVER FIVE PERCENT OF THE STATEWIDE LIMITED-ENGLISH PROFICIENT POPULATION OF VOTING AGE CITIZENS, UNLESS THE POLITICAL SUBDIVISION IS A COVERED POLITICAL SUBDIVISION INDEPENDENTLY FROM ITS STATE.

3. DEFINITIONS. AS USED IN THIS SECTION:

(A) THE TERM "VOTING MATERIALS" MEANS REGISTRATION OR VOTING NOTICES, FORMS, INSTRUCTIONS, ASSISTANCE, OR OTHER MATERIALS OR INFORMATION RELATING TO THE ELECTORAL PROCESS, INCLUDING BALLOTS;

(B) THE TERM "LIMITED-ENGLISH PROFICIENT" MEANS UNABLE TO SPEAK OR UNDERSTAND ENGLISH ADEQUATELY ENOUGH TO PARTICIPATE IN THE ELECTORAL PROCESS;

(C) THE TERM "CITIZENS" MEANS CITIZENS OF THE UNITED STATES; AND

(D) THE TERM "ILLITERACY" MEANS THE FAILURE TO COMPLETE THE FIFTH PRIMARY GRADE.

4. SPECIAL RULE. THE DETERMINATIONS OF THE DIRECTOR OF THE CENSUS UNDER THIS SECTION SHALL BE EFFECTIVE UPON PUBLICATION IN THE FEDERAL REGISTER AND SHALL NOT BE SUBJECT TO REVIEW IN ANY COURT.

5. REQUIREMENT OF VOTING NOTICES, FORMS, INSTRUCTIONS, ASSISTANCE, OR OTHER MATERIALS AND BALLOTS IN MINORITY LANGUAGE. WHENEVER ANY STATE OR POLITICAL SUBDIVISION SUBJECT TO THE PROHIBITION OF THIS SECTION PROVIDES ANY REGISTRATION OR VOTING NOTICES, FORMS, INSTRUCTIONS, ASSISTANCE, OR OTHER MATERIALS OR INFORMATION RELATING TO THE ELECTORAL PROCESS, INCLUDING BALLOTS, IT SHALL PROVIDE THEM IN THE LANGUAGE OF THE APPLICABLE MINORITY GROUP AS WELL AS IN THE ENGLISH LANGUAGE. PROVIDED, THAT WHERE THE LANGUAGE OF THE APPLICABLE MINORITY GROUP IS ORAL OR UNWRITTEN OR IN THE CASE OF ALASKAN NATIVES AND AMERICAN INDIANS, IF THE PREDOMINANT LANGUAGE IS HISTORICALLY UNWRITTEN, THE STATE OR POLITICAL SUBDIVISION IS ONLY REQUIRED TO FURNISH ORAL INSTRUCTIONS, ASSISTANCE, OR OTHER INFORMATION RELATING TO REGISTRATION AND VOTING.

6. ACTION FOR DECLARATORY JUDGMENT PERMITTING ENGLISH-ONLY MATERIALS. ANY STATE OR POLITICAL SUBDIVISION SUBJECT TO THE PROHIBITION OF THIS SECTION, WHICH SEEKS TO PROVIDE ENGLISH-ONLY REGISTRATION OR VOTING MATERIALS OR INFORMATION, INCLUDING BALLOTS, MAY FILE AN ACTION AGAINST THE UNITED STATES IN THE UNITED STATES DISTRICT COURT FOR A DECLARATORY JUDGMENT PERMITTING SUCH PROVISION. THE COURT SHALL GRANT THE REQUESTED RELIEF IF IT DETERMINES THAT THE ILLITERACY RATE OF THE APPLICABLE LANGUAGE MINORITY GROUP WITHIN THE STATE OR POLITICAL SUBDIVISION IS EQUAL TO OR LESS THAN THE NATIONAL ILLITERACY RATE.

S 3. This act shall take effect on the first of January next succeeding the date on which it shall have become a law.