

STATE OF NEW YORK

3730--A

2017-2018 Regular Sessions

IN ASSEMBLY

January 30, 2017

Introduced by M. of A. COLTON, CYMBROWITZ, RIVERA, WEINSTEIN, CRESPO, WILLIAMS, DE LA ROSA, MOSLEY, BARRON, HARRIS -- Multi-Sponsored by -- M. of A. ABBATE, AUBRY, GUNTHER -- read once and referred to the Committee on Election Law -- recommitted to the Committee on Election Law in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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:

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 nineteen, 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:

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

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

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

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

13 3. Definitions. As used in this section:

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

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

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

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

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

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

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

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