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Legislative
Council
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MEMORANDUM

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April 13, 2006

TO: Representative David Schultheis
FROM: Susan Liddle, Principal Analyst II, 303-866-2408
SUBJECT: Bilingual Ballots in Colorado

This memorandum responds to your question about whether election ballots in Colorado are available in languages other than English. You also wanted to know the cost of publishing these materials.

Federal Law Regarding Bilingual Election Materials

The federal Voting Rights Act of 1965 requires certain jurisdictions to print ballots and other election materials in a minority language as well as in English, and to have oral translation assistance available at the polls where the need exists. The federal law defines "voting materials" as registration or voting notices, forms, instructions, assistance, or other materials or information relating to the electoral process, including ballots. Covered jurisdictions are determined by the U.S. Census Bureau after each census based on a formula set out in the Voting Rights Act. The most recent determinations were made on July 26, 2002. Covered language minorities are limited to American Indians, Asian Americans, Alaskan Natives, and Spanish-heritage citizens.

The act¹ currently requires bilingual ballots in political subdivisions where:

- ◆ more than 5 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;
- ◆ more than 10,000 of the citizens of voting age of such political subdivision are members of a single language minority and are limited-English proficient; or
- ◆ in the case of a political subdivision that contains all or any part of an Indian reservation, more than 5 percent of the American Indian or Alaska Native citizens of voting age within the Indian reservation are members of a single language minority and are limited-English proficient;

and

- ◆ the illiteracy rate of the citizens in the language minority as a group is higher than the national illiteracy rate.

The requirements of the act apply to currently covered jurisdictions until August 6, 2007, unless extended by Congress. Termination of coverage prior to that date requires a declaratory judgment in a U.S. District Court that the illiteracy rate of the applicable minority group is equal to or less than the national illiteracy rate.

Applicability of the Federal Voting Rights Act in Colorado

Ten Colorado counties fall under the Voting Rights Act provision which sets forth the requirements for certain states and political subdivisions to conduct elections in the language of certain language minority groups in addition to conducting them in English. Eight Colorado counties have a Spanish language requirement, while Ute and Navajo are the language minority groups in the other two counties. The two basic standards by which compliance is measured are:

- ◆ Materials and assistance must be provided in a way designed to allow members of applicable language minority groups to be effectively informed of and participate effectively in voting-connected activities; and
- ◆ Covered jurisdictions must take all reasonable steps to achieve that goal.

Eight counties — Alamosa, Conejos, Costilla, Crowley, Denver, Otero, Rio Grande, and Saguache — fall under these requirements based on the following two criteria:

- ◆ More than 5 percent of their voting-age citizens are of Spanish heritage; and
- ◆ the illiteracy rate of those citizens is higher than the national illiteracy rate.

¹ Section 203 of the federal Voting Rights Act.

The remaining two counties — La Plata and Montezuma — are covered by the federal requirements because they contain all or a part of an Indian reservation:

- ◆ in which more than 5 percent of the voting age American Indian citizens belong to a single language minority group and are limited-English proficient; and
- ◆ the illiteracy rate of those language minority citizens is higher than the national illiteracy rate.

For some jurisdictions, such as La Plata and Montezuma Counties, an unwritten American Indian language may represent the minority language requirement. In such cases, federal law requires only oral assistance and publicity in regard to the electoral process.

Types of activities and elections covered. Federal requirements apply to all stages of the electoral process, including providing "any registration or voting notices, forms, instructions, assistance, or other materials or information relating to the electoral process, including ballots" (28 C.F.R. 55.15). The minority language provisions of the act pertain to voting in any type of election, including primary, general, or special elections, and including an election conducted by a county that relates to federal or state offices or issues, as well as county offices or issues. Political subdivisions, such as municipalities or school districts, that may be within a covered jurisdiction and that may hold elections are subject to the same requirements as the covered jurisdiction. In multi-county districts, bilingual requirements may be applied on a county-by-county basis. Minority language materials and assistance are not required in counties that are not covered by the act.

Written materials. A covered jurisdiction must determine which written materials must be provided in a minority language. The law requires jurisdictions to publish in a minority language only those election materials that are provided to the electorate generally. Materials furnished in a minority language must be clear, complete, and accurate.

Cost of Meeting the Requirements of the Federal Voting Rights Act

State publication requirements. Section 1 (7.3) of Article V of the Colorado Constitution, and Section 1-40-124, Colorado Revised Statutes, require the Legislative Council Staff to publish the text and titles of all statewide measures that will be on the ballot in at least one legal newspaper in each county in the state. A Spanish translation of the text and titles are published in the newspapers in the eight counties that have the Spanish language requirement under the federal Voting Rights Act. Since the Ute and Navajo language are not considered written languages, Legislative Council is not required to publish in those languages. In addition, the Legislative Council Staff prepares the ballot information booklet (often referred to as the Blue Book) which is translated and made available in the eight counties with the Spanish language requirement. Table 1 details the state's publication and translation costs for the 2004 and 2005 elections.

Table 1. State Translation and Publication Costs

Activity	2004	2005
Translation of ballot analyses and text and titles of all statewide measures into Spanish	\$9,200	\$2,815
Publication of Spanish text and ballot titles of statewide measures in legal newspapers in the eight counties subject to the federal Voting Rights Act	16 newspapers — \$31,243.70	17 newspapers — \$10,397.00

County costs. Staff contacted the ten counties subject to the federal Voting Rights Act for cost information pursuant to this request, but did not receive responses from all of the counties within the time frame for this request. Two counties subject to the Spanish language requirements indicated that much of the translation is done "in-house" with the assistance of county employees. One county indicated that since it has always provided bilingual election materials, costs based on translation are not broken out. In addition, Montezuma County confirmed that written election materials are not provided in either Ute or Navajo, but that the County Clerk hires election judges who speak Ute to be at polling places on the reservation, and that she has access to Navajo translators as well. More information about how counties comply with the law will be provided as it becomes available.