

# Preface<sup>1</sup>

Imagine that you are a registered voter and want to exercise your fundamental right to participate in the political process. You have trouble locating your designated polling site because you cannot read either the written instructions that accompanied your voter registration card or the posted signs directing you to the site. If you are fortunate enough to arrive at the correct destination, you encounter poll workers who are speaking incomprehensible words and are visibly irritated when you do not know how to respond to them. When you give them your name, the poll workers cannot find it in their registration books. Even if they find your name and give you a ballot, you do not know what to do with it. A look of embarrassment spreads across your face. You have not voted before. You cannot grasp any of the instructions the poll workers try to give to you, if they bother to make the effort. You walk into the voting booth but do not even know how to close the curtain. No one is allowed to accompany you inside the voting booth to help you out. You cannot read the ballot that is given to you. Alone and without any guidance, you attempt to cast a meaningful ballot.

The language assistance provisions of the Voting Rights Act (VRA) were enacted to remove language barriers to voting. A permanent requirement for bilingual voting materials and assistance was included in the original 1965 Act, but was limited to only Puerto Rican voters who were educated in Spanish (Chapter 2). In 1975, Congress added a temporary mandate that included Alaska Natives, American Indians, Asian Americans, and persons of Spanish heritage who had suffered from educational discrimination (Chapters 3–5, 8–9). That mandate, contained in Sections 4(f)(4) and 203, prohibits jurisdictions with prescribed levels of limited-English proficient (LEP) voting-age U.S. citizens from conducting English-only elections. Other sections of the VRA help secure equal access to elections for language minorities (Chapters 1–4). As of July 2002, the temporary language assistance provisions apply to five states in their entirety and portions of 26 additional states (Chapter 5). Where the VRA's bilingual requirements have been implemented properly, they have proven to be effective in providing LEP voters with equal opportunities to participate in the political process (Chapters 6–8, 11).

Despite the increasing importance of minority language assistance throughout the United States, the federal bilingual election requirements are probably the least known and most widely misunderstood provisions of the VRA. Many English-speaking voters cannot comprehend why it is necessary to provide election information in any language other than English. The Act's temporary language assistance provisions enjoyed strong bipartisan support in Congress when they were adopted and each time they were up for renewal (Chapters 3–4, 7). But they have also come under fire by opponents of the so-called “bilingual ballot” mandate. These critics advocate making English the “official” language of the United States and malign the use of language materials

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1 Portions of this Preface originally were published in the *New York University Journal of Legislation and Public Policy* as James Thomas Tucker, *Enfranchising Language Minority Citizens: The Bilingual Election Provisions of the Voting Rights Act*, 10 N.Y.U. J. LEG. & PUB. POL'Y 195 (2006–2007). That article has been adapted to correspond with the discussion in the remainder of this book.

and assistance in elections in non-English languages.<sup>2</sup> Since 1981, they have introduced bills in Congress that would repeal federal requirements for bilingual materials or assistance in several areas including voting. The most significant challenge came in 1996, when the Bill Emerson English Language Empowerment Act of 1996 was adopted by the House of Representatives,<sup>3</sup> but died in a Senate committee.<sup>4</sup>

Opponents of the VRA's language assistance provisions insist that bilingual ballots and assistance are unnecessary and harmful to American society in several ways. They have cited a number of reasons for eliminating those provisions, including the perceived absence of voting discrimination against language minorities, lack of demand, ineffectiveness, cost, and a belief that the provisions are divisive and create a disincentive to learn English. Some of their criticism rests upon a misapprehension of the purpose of the federal bilingual election provisions and the effects of implementing language assistance requirements. Other arguments rest on the contention that the provisions divide American citizens along ethnic lines by creating a "modern-day Tower of Babel."<sup>5</sup> Those arguments are analyzed at length in Chapter 8.

Although the temporary language assistance provisions of the Act have been in effect since 1975 and the permanent protections for Puerto Rican-schooled voters since 1965, no comprehensive study of them has been published. The purpose of this book is to help fill that void. In addition, the book provides a factual response to arguments made by opponents of the provisions. Linda Chavez's viewpoint is typical of critics of bilingual ballots. She contends that the VRA "was originally intended to protect primarily one group" – southern Blacks – because "no other group had so systematically been denied the right to vote."<sup>6</sup> Chavez's assertion bears little semblance to the reality of the need for language assistance, what created that need, or the congressional response to remedy discrimination against language minority voters.

For language minority citizens denied equal schooling opportunities, English-only elections can be insurmountable barriers that victimize them again. While many aspire to have "our citizens with limited English skills speak and understand English proficiently,"<sup>7</sup> LEP citizens must be allowed to participate until the shackles of the crippling legacy of educational discrimination are removed. The language assistance provisions help overcome barriers posed by English-only elections to ensure that, in Senator Orin Hatch's words, citizenship is not "just an empty promise" for language minority citizens who want to be integrated into American society and the democratic process.<sup>8</sup>

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2 See SPENCER OVERTON, *STEALING DEMOCRACY: THE NEW POLITICS OF VOTER SUPPRESSION* 131–47 (2006); *LANGUAGE LOYALTIES: A SOURCE BOOK OF THE OFFICIAL ENGLISH CONTROVERSY* (James Crawford ed., 1992).

3 See Bill Emerson English Language Empowerment Act of 1996, H.R. 123, 104th Cong., 2d Sess. (1996). The House adopted the bill by a vote of 259 to 169. See 142 CONG. REC. H9769-H9771 (daily ed. Aug. 1, 1996).

4 See Language of Government Act of 1995, S. 356, 104th Cong., 1st Sess. (1995); S. 175, 104th Cong., 1st Sess. (1995).

5 H. REP. NO. 102–655 at 28 (1992) (dissenting views of seven congressmen).

6 LINDA CHAVEZ, *OUT OF THE BARRIO* 40 (1992).

7 H.R. REP. NO. 109–478 at 59–60 (2006).

8 *Voting Rights Act Language Assistance Amendments of 1992: Hearings on S. 2236 Before the Subcomm. on the Constitution of the Senate Comm. on the Judiciary*, 102d Cong., 2d Sess., S. HRG. 102–1066, at 134 (1992) (statement of Sen. Hatch).