



Written by [Joe Wolverton, II, J.D.](#) on September 26, 2012

## Salt Lake County to Print Ballots in Spanish: Is It Following Federal Law?

At a press conference on September 19, Salt Lake County (Utah) Mayor Peter Corroon announced that for the November election his county will print ballots in Spanish.

Salt Lake County Clerk Sherrie Swensen stood next to Corroon at the event and explained that voters in Utah's most populous county will be able to choose English or Spanish from the menu on the screens of the electronic voting machines.



This move comes despite the fact that “So far this year, only 50 voters have requested ballots in Spanish.”

One of Salt Lake City's daily newspapers, [the Deseret News, reports](#) “Latinos make up 18 percent of the county's population.” A Pew Hispanic Center report cited in the piece reports that in 2010, “6 percent of eligible voters — roughly 104,000 people — in Utah were Latinos.”

Before the printing of bilingual ballots the county provided Spanish-speaking poll workers to help voters struggling with English. Again, despite the fact that “few requested assistance,” [127 of these poll workers were hired by Swenson's office.](#)

In the *Deseret News* story, one group praised local leaders for their decision.

“Many do not vote because of the formality of English,” said Archie Archuleta, president of the Utah Coalition of La Raza, a leftist Latino civil rights advocacy organization. “It could be a big hit if it is properly advertised.”

As for what prompted Corroon and Swensen to take on such an expense at a time when the mayor admits in [his latest annual report on the county's financial state](#) that Salt Lake County is facing “continued budget challenges,” both local leaders pass the buck to the feds.

“It is a federal law and the Department of Justice definitely oversees and monitors what we are doing,” Swensen said.

Salt Lake County Mayor Peter Corroon said that the decision to offer bilingual ballots “reflects the letter and spirit of the law.”

“It also has the distinction of being the right thing to do,” he added.

While the spirit of the law may be up to interpretation (and in fact has nothing to do with secular law whatsoever), the letter of the law relevant to this case is found in [Sections 4\(f\)](#) and [203 of the Voting Rights Act.](#)

Section 4(f)(2) of the Voting Rights Act mandates that with regard to covered jurisdictions:

No voting qualification or prerequisite to voting, or standard, practice, or procedure shall be imposed or applied by any State or political subdivision to deny or abridge the right of any citizen of the United States to vote because he is a member of a language minority group.



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Section 203 sets forth the method for determining whether a jurisdiction is covered by the Section 4(f) requirements.

A jurisdiction is covered under Section 203 where the number of United States citizens of voting age is a single language group within the jurisdiction:

Is more than 10,000, or

Is more than five percent of all voting age citizens, or

On an Indian reservation, exceeds five percent of all reservation residents; and

The illiteracy rate of the group is higher than the national illiteracy rate

As reported above, according to data published by the [Pew Hispanic Center](#), Spanish-speaking people make up roughly six percent of eligible voters in Utah. That is a state-wide census, not restricted to Salt Lake County.

At first blush this requirement would dictate that all counties in Utah provide ballots in Spanish. The other counties are saved this expense, however, by an exemption in the Voting Rights Act that reads:

The prohibitions of this subsection do not apply in any political subdivision that has less than 5 percent voting age limited-English proficient citizens of each language minority which comprises over 5 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.

As of now, San Juan County is the only other county in Utah to offer a bilingual ballot. The two languages on those ballots are English and Navajo.

The special protections for “language minorities” were added to the Voting Rights Act in 1975. [ProEnglish, an English language advocacy group](#), explains that as with so many other “temporary” federal measures (federal income tax, Social Security, and the Patriot Act, for example), Congress has consistently extended the bilingual ballot provisions of the Voting Rights Act. Most recently, Congress extended these provisions in 2006. Section 4(f)(4) will expire in 2031, and Section 203 will expire in 2032.

It may come as a surprise that Utah favorite and the subject of several recently produced bilingual ads appealing to Hispanic voters, Mitt Romney, said [during a debate of GOP presidential hopefuls](#) in Tampa, Florida in January that he opposes bilingual ballots.

After Newt Gingrich answered a question about the practice saying, “I would have ballots in English,” Romney added, “I think Speaker Gingrich is right with regards to what he’s described.”

[U.S. English](#), “the nation’s oldest and largest non-partisan citizens’ action group dedicated to preserving the unifying role of the English language in the United States,” agrees with Romney. On their website they argue:

The purpose of this bilingual ballot provision was to increase the voter turnout of language minorities. The naturalization process here in the United States, however, already requires an ability to read, write and speak English. Consequently, all legal citizens who wish to vote should already be able to use a ballot printed in English.

Bilingual ballots only serve to further divide our society. By providing translations only in selective languages, we are isolating additional foreign-language speakers. By providing ballot translations,



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we are delaying the progress of immigrants to assimilate to the American culture. Citizens who cannot speak English cannot advance to the same level of success as their English-speaking counterparts. Instead of catering to foreign-language speakers, the government should instead focus on providing resources to help non-English speakers learn the language of commerce in America.

Other critics have pointed to the propensity of the bilingual ballot provisions to “balkanize” the United States by creating regions where “language minorities” will have access to the electoral system denied to others who speak the same language, but live outside of “covered jurisdictions.”

Then there is the problem of discrimination accomplished by provisions purported to fight that very thing. Arbitrary population percentages that trigger the federal act’s mandate of bilingual ballots are an imprecise and imperfect response to changing demographics and tend to favor Hispanics to the detriment of other ethnicities.

Some have pointed out that this federal favoritism violates the [Equal Protection Clause of the 14th Amendment](#) by denying people within covered [jurisdictions](#) of the equal protection of the laws. To date the Supreme Court has not addressed this avenue of attack on the bilingual ballot provisions of the Voting Rights Act.

Those who for whatever reason oppose the issuing of ballots in a language other than English would be better served by recurring to Congress to refuse to renew the provisions 2031 and 2032 when they expire. For those anxious for a quicker fix, a new federal law could repeal the sections of the Voting Rights Act requiring bilingual ballots. For those interested in not only a faster, but a more lasting response to these sections, state legislators could point to the Elections Clause of [Article I, Section 5](#) of the Constitution and refuse to enforce any federal act that encroaches on the powers reserved for the states in that section.

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