

Testimony of

Mr. Mauro E. Mujica

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Mauro E. Mujica
Chairman of the Board,
U.S. English, Inc.
Before the
Senate Judiciary Committee

"Continuing Need for Section's 203 Provisions for Limited English Proficient Voters."

226 Dirksen Senate Office Building
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Thank you, Mr. Chairman and members of the committee for giving me the opportunity to testify today regarding Section 203 of the Voting Rights Act.

My name is Mauro E. Mujica, and I am Chairman of the Board of U.S. English, Inc., a nonprofit organization based in Washington, D.C. U.S. English was founded in 1983 by one of your former colleagues, Senator S.I. Hayakawa, and we have now grown to over 1.8 million members. Our organization focuses on public policy issues that involve language and national identity.

Mr. Chairman, I am a naturalized citizen, I speak Spanish regularly with my family and friends, and I am proud to speak four languages fluently. My concerns about Section 203 are not the result of animus to other languages or the people who speak them.

I recognize that any section of any law that has been in effect for a generation has a presumption in favor of reauthorization. I also know that it will take political courage to revisit anything that is part of the laudable Voting Rights Act. Still, I believe that if this committee brings its independent judgment to bear, it will see that the considerable costs of Section 203 outweigh its now questionable benefits.

There are numerous problems with the section, but I want to focus on four:

First, the law is completely at odds with a century old legal tradition. Under 8 USCS § 1423, nearly all immigrants must demonstrate English language proficiency to be eligible for naturalization. If English is a necessary condition for citizenship, and citizenship is a necessary condition for legal voting, then foreign language ballots are a legal contradiction at best. At worst, they are an invitation to winking violations of the citizenship requirements, which were just reaffirmed when this body voted overwhelmingly for Senator Inhofe's Amendment. Under Senate Amendment 4064, passed of the recent immigration bill, a citizenship applicant must demonstrate ability in English, not just show that he or she is on the path to learning English.

Second, to the degree that law has an expressive purpose or a "teaching effect," Section 203 sends exactly the wrong message. According to the Census, there are 54 different languages spoken in American homes by more than 50,000 people. But in most places where Section 203 is triggered, government translated voting materials send to the message to Spanish speakers--and only Spanish speakers--that English is optional.

When a person steps into a voting booth, his or her civic attention is at its zenith. And at that very moment, government sends a signal that English is not really necessary to join our national political conversation. Ironically, this message will not be sent to the Spanish speaker in Boise or the Chinese speaker in Wichita. It will be sent only to those who live in high enough language concentrations to trigger Section 203's requirements. In short, it will be sent to the very people for whom demographic clustering makes the transition to English less of a life necessity.

Third, Section 203 is an unfunded mandate that imposes substantial and often wasteful costs on local governments. Now these costs are generally in the millions, which is not much from the perspective of a federal budget. But the costs are onerous in the context of more modest local budgets.

I want to cite but a few examples from around the country:

? In Los Angeles County, carrying out the Section 203 mandates added almost 15 percent to the cost of the 2004 general election, raising the total budget to \$16.3 million. (Los Angeles Times, Nov. 1, 2005)

? In Orange County, Calif., officials estimate that it will cost \$20 million per election to comply with the Section 203 requirement to print every ballot in five languages. (Orange County Register, April 1, 2006)

The costs are multiplied by the inevitable errors that arise from translation:

? In 2000, six voting sites in Flushing, New York features Chinese language ballots with the political parties of all state candidates reversed (Village Voice, Nov. 14, 2000)

? In Miami, officials were forced to pull a referendum off the ballot because the absentee Spanish language ballots had multiple errors, which fatally tainted those ballots. Officials were forced to post signs telling voters that their votes on the referendum wouldn't count. (Miami Herald, Nov. 2, 2000)

Amid the substantial costs and waste, multilingual ballots are often unused.

? In King County, Wash., only 24 of the 3,600 Chinese ballots prepared for the Sept. 2002 primary election were used. were issued, but only 24 were used. In the November general election, only 109 Chinese ballots were cast - and just 19 of these were done in polling places. (Seattle Post-Intelligencer, Nov. 23, 2002)

? In Lakin County, Kan., where 27 percent of the population is Hispanic, only 10 people needed bilingual assistance in the Nov. 2002 election. (Garden City Telegram, Nov. 9, 2002)

? In Orange County, Calif. despite the staggering costs, only 0.7 percent of voters request foreign language materials. In other words, Orange County will be forced to spend about \$20 million for \$10,000 voters, which is a staggering \$2,000 per bilingual ballot recipient. Even under the most generous definition of cost/benefit analysis, this does not meet the test. (Orange County Register, Apr. 1, 2006)

Now, Orange County may be seen as exceptional, because of its high number of speakers of foreign languages. But it is the very type of county that Section 203 was designed to impact. If Section 203 works as currently formulated, Orange County should be a shining example of success. But here, we see in boldest relief where Section 203 fails any rational cost/benefit test.

Finally, Section 203's provisions were originally touted as a remedy for a history of discrimination against people of Hispanic, Asian, and Native American heritage by use of language as a proxy. But the Congressional findings that lead the lines to be drawn at those groups could well be anachronistic. For one, the Supreme Court's Lau decision has given us a generation of language minority students for whom schools must take affirmative steps to remedy the language deficit.

While language can always be used as a proxy for discrimination in any era, is there any evidence on the record that, in 2006, a Chinese speaker is more likely than say, an Arabic speaker to face such discrimination? I respectfully submit that unless the Congress of 2006 finds that the conditions that animated the 1976 findings persist, the rationale for reauthorization will be less a careful intent to remedy discrimination than a desire to avoid the wrath of constituencies who see ballots in their native tongue as a proxy for their political power.

Though Section 203 may have originated with the best of intentions, we should make the decision that binds us for the next generation on the conditions of today, not the conditions of a generation ago. Today, Section 203 provides selective benefits at the cost of a Balkanizing message. I oppose the reauthorization of Section 203's language in its

current form. I respectfully urge this committee to craft a policy that more closely reflects legal and economic sense, and one which promotes what voting and being an American is all about.