Voting Rights Act Notice to Ensure Compliance

Over the past several months the New York State Attorney General has contacted numerous villages inquiring as to their compliance with the minority language assistance requirement of the federal Voting Rights Act (VRA). The VRA requires that language assistance be provided to voters in political subdivisions in which 5% of the voting population speak the same language and do not also speak English proficiently well to effectively participate in the election process. If a political subdivision meets the 5% requirement, all election-related materials, including instructions, forms, registration and voting notices, and other materials and information relating to the electoral process must be provided in the minority language. Under Section 203 of the VRA, certain counties in New York State are required to provide language assistance in Spanish.

The regulations that implement the minority language assistance provisions of the VRA were drafted to include political units within covered political subdivisions. Specifically, 28 CFR 55.9 states “Where a political subdivision (e.g., a county) is determined to be subject to [the minority language assistance provisions of] section 4(f)(4) or section 203(c) [of the VRA], all political units that hold elections within that political subdivision (e.g., cities, school districts) are subject to the same requirements as the political subdivision.” Stated differently, if a village is within a county that is subject to the minority language assistance requirements of the VRA, the village must also comply with the requirement to provide their election materials in Spanish.

The Census Bureau is responsible for determining which political subdivisions and languages throughout the country are covered by the minority language assistance requirements of the VRA. Political units within covered political subdivisions have been subject to same provisions of the VRA since the statute was enacted in 1975, but it was not until the 1990 census that Suffolk and Westchester Counties became subject to the Act. Following the 2000 census, Nassau County became the third county in the State outside of New York City to be covered by the Act. In light of the upcoming 2020 census, other counties, and consequently the political units within them, may also become covered by the Act.

As Nassau, Suffolk, and Westchester counties are covered by the VRA and must provide language assistance in Spanish, all villages in Nassau, Suffolk, and Westchester counties must provide Spanish language assistance as well. Again, language assistance includes the printing of all election materials in Spanish as well as English. These materials include:

- Registration or voting notices
- Forms
- Instructions
- Other materials/information relating to the electoral process (e.g. ballots)

For further assistance or questions, please contact NYCOM counsel, Rebecca Ruscito at 518-463-1185 or rebecca@nycom.org.