

To: Professor Justin Levitt and the Evelyn and Walter Haas, Jr. Fund

From: Robert Janssen, Loyola Law School

Date: July 18, 2025

Re: California's Early Language Access Journey: AB 790 (1973) and the Roadmap for Modern Language Access Law

When Governor Ronald Reagan signed AB 790 on September 26, 1973, California established mandatory bilingual voting assistance two years before the federal Voting Rights Act Section 203 mandate. This breakthrough was no accident. Archival evidence reveals that Assemblymember Alex Garcia's success came through methodical political learning and alliance building that transcended traditional partisan boundaries. After Governor Reagan's 1972 veto of AB 4, Garcia, a Democrat from East Los Angeles, assembled a bipartisan coalition including unexpected allies like Elizabeth Hughes, President of "Republicans for La Raza," demonstrating how elite validation, combined with grassroots pressure, created the conditions for policy innovation that would anchor California Election Code §14203 (now codified under §14201) and influence state and federal language access requirements for the next 50 years.¹

I. Research Methodology and Sources

The analysis draws primarily from archival materials from the California State Archives, including legislative author files, gubernatorial correspondence, and committee records that document the consensus-building and tactical adaptation behind each bill. Key primary sources include Assemblyman Garcia's AB 790 author file, which contains supporter lists, correspondence with Elizabeth Hughes of "Republicans for La Raza," Governor Reagan's

¹ "Former Democratic Sen. Alex Garcia Seeks State Post," *Los Angeles Times*, August 7, 1983.

detailed August 17, 1972 veto message, and Garcia's point-by-point written response. Archival newspaper sources provide additional context.

II. Constitutional Foundation: *Castro v. California* and AB 1469 (1971)

The legal foundation for California's bilingual voting initiatives emerged from *Castro v. State of California*, where the state Supreme Court struck down English literacy requirements for voting, creating a state constitutional opening for language access legislation that had not previously existed.² This decision eliminated what Assemblymember Garcia's staff would later describe as the barrier that had made "literacy in English...a prerequisite to voting," providing the legal framework within which forward-thinking legislators could construct affirmative language assistance.³

Assemblyman Alister McAlister, a Democrat from San Jose and an experienced attorney, possessed both the technical expertise and political capital necessary for formative legislation. His 2010 obituary notes his 94% passage rate, based on 388 of 411 bills signed into law.⁴ McAlister's organized approach, beginning with a January 1971 staff memo identifying how "Spanish-speaking people in California who are not bilingual are effectively denied the right to vote," showed the preparation that would characterize successful language access advocacy throughout the decade.⁵

AB 1469, authored by McAlister in 1971, created the state's first facsimile ballot requirement, by mandating Spanish facsimile ballots be posted at all polling places, with

² *Castro v. State of California*, referenced in Garcia staff memo, May 14, 1973, AB 790 author file, California State Archives; see also Assembly Committee on Elections and Reapportionment Analysis, AB 4 (Garcia), March 1, 1972.

³ Garcia staff memo, May 14, 1973, AB 790 author file, California State Archives.

⁴ *Sacramento Bee*, November 10, 2010 (McAlister obituary).

⁵ Staff memo to McAlister, January 26, 1971, AB 1469 author file, California State Archives.

provision expandable to other languages based on county clerk determination. McAlister's design was deliberately modest, requiring only posted translations with no mandatory poll worker assistance and no enforcement mechanisms.⁶ The bill faced headwinds. The same year, Governor Reagan vetoed Senator Mervyn Dymally's more modest bill that would have merely permitted Spanish to be spoken at polling places.⁷ In a quirk of luck, McAlister's AB 1469 was signed while Reagan was traveling in Asia, with Lieutenant Governor Ed Reinecke acting as governor and signing the bill in Reagan's absence. This prompted McAlister to quip his thanks to "President Nixon for sending Reagan on his current Asian tour, so that Lt. Gov. Reinecke could sign my bill."⁸

AB 1469 signaled that California was prepared to innovate in language access ahead of federal requirements, creating the foundation upon which Assemblymember Alex Garcia would build his more ambitious AB 790 two years later.

III. Strategic Failure: AB 4 (1972)

Alex Garcia brought considerable institutional power to bilingual voting rights advocacy as Chair of the Assembly Constitutional Amendments Committee, with campaign endorsements from the AFL-CIO and League of Women Voters firmly positioning him within California's Democratic legislative establishment.⁹ Garcia understood that McAlister's modest AB 1469 had

⁶ Assembly Bill 1469, as adopted; McAlister press release, April 1, 1971, AB 1469 author file, California State Archives.

⁷ McAlister press release, October 18, 1971, AB 1469 author file, California State Archives; McAlister letter to Father Anthony Soto, July 27, 1971, AB 1469 author file, California State Archives; *Peninsula Times Tribune*, October 18, 1971.

⁸ *Peninsula Times Tribune*, October 18, 1971; *San Jose Mercury*, October 19, 1971.

⁹ Garcia letterhead and correspondence, June 2, 1972, AB 4 author file, California State Archives; Assembly Committee on Constitutional Amendments material, 1971-1972; *Highland Park News-Herald*, September 26, 1974; League of Women Voters endorsement letter, May 14, 1973, AB 790 author file, California State Archives.

created an opening for more ambitious language access legislation, and he moved quickly to expand beyond facsimile ballots to comprehensive bilingual election administration.

AB 4, introduced in the following year in 1972, would have required appointment of foreign-language-speaking poll workers “in precincts with a substantial number of persons whose native language is other than English” and mandated public recruitment through “newspapers, radio, and television.”¹⁰

The bill failed. In Governor Reagan’s detailed veto message of August 17, 1972, the Governor provided a critique that would guide all subsequent legislative strategies in this area. He criticized the bill’s vagueness, particularly the undefined “substantial number” standard and unclear “native language” references. Reagan expressed cost concerns about media recruitment burdening local taxpayers and raised security objections about insufficient protection against improper voter influence. Finally, he argued that there was legal redundancy, noting that existing law already permitted (without mandating) interpreters and bilingual poll workers when needed.¹¹ The comprehensive nature of Reagan’s objections revealed both the specific barriers to Republican acceptance and the precise template for overcoming them.

Garcia was not finished. His detailed September 19, 1973 letter to Reagan addressed each veto objection from AB 4, showing that he had carefully studied Reagan’s critique and developed itemized responses.¹² Garcia’s point-by-point response would prove crucial to AB 790’s eventual passage, transforming failure into the foundation for innovation.

¹⁰ Assembly Committee on Elections and Reapportionment Analysis, AB 4 (Garcia), March 1, 1972, California State Archives; Assembly Bill 4, as described in Reagan veto message, *California Assembly Journal*, November 8, 1972, p. 7459.

¹¹ Reagan veto message, August 17, 1972, *California Assembly Journal*, November 8, 1972, p. 7459.

¹² Garcia letter to Reagan, September 19, 1973, AB 790 author file, California State Archives.

IV. Coalition Building and Political Learning (1972-1973)

Following Reagan's veto, Garcia organized a task force including county clerks, committee staff, and ideologically diverse advocacy organizations to address each gubernatorial objection.¹³ The task force approach represented a significant evolution from AB 4's more traditional liberal alignment to a comprehensive strategy that prioritized viewpoint diversity, administrative buy-in, and procedural precision.

The coalition behind AB 790 reached beyond the usual political divisions. Traditional liberal allies included California Rural Legal Assistance, Western Center on Law and Poverty, and the League of Women Voters. Conservative validation came through unexpected sources, notably Republicans for La Raza. Religious community support included the Jewish Public Affairs Committee of California.¹⁴ Administrative support proved crucial, with county clerks serving as co-drafters rather than mere observers, guaranteeing the bill's practical workability and eliminating potential opposition from election officials who would implement the law. And while the Governor's support could not be secured, it was courted: supporters met with Don Livingston of the Governor's staff in July 1973, trying to ensure AB 790 would meet Reagan's specific concerns before reaching his desk.¹⁵

Elizabeth Hughes exemplified the pivotal value of elite Republican validation in Garcia's network architecture, but her role was even more remarkable than initially apparent. As both President and (likely) sole member of "Republicans for La Raza," Hughes created an

¹³ Garcia letter to Reagan, September 19, 1973, AB 790 author file, California State Archives.

¹⁴ "Supporters of AB 790" list, AB 790 author file, California State Archives.

¹⁵ Garcia letter to Reagan, September 19, 1973, noting July meeting with Don Livingston, AB 790 author file, California State Archives.

organization that provided legitimacy to Republican support for bilingual voting rights.¹⁶ Her motivation was deeply personal: her daughter Valerie had been a pioneering bilingual educator in Guadalupe, California, working with children of field workers, and experienced significant verbal abuse for this work, driving Elizabeth's advocacy to protect her daughter and the communities she served.¹⁷

Hughes brought exceptional credentials: Emory University graduate, Naval officer, successful Agoura real estate developer, Chamber of Commerce chair, water district co-founder, and appointed leader of Reagan's gubernatorial campaign in the Southern California region of Las Virgenes.¹⁸ Reagan was Hughes' neighbor in Agoura and, according to Hughes' daughter Valerie Hunken, regularly visited to discuss legislation and politics. When asked why Reagan vetoed AB 4 in 1972 but signed AB 790 in 1973, Hunken's immediate response was "probably because of my mother," suggesting Hughes' personal influence on Reagan was more direct and decisive than traditional lobbying efforts typically achieve.¹⁹

Armed with a bloc that stretched across party, class, and institutional lines and with validation within elite circles, Garcia was ready to head into the 1973 legislative year.

V. Strategic Success: AB 790 (1973)

Through carefully tailored amendments, AB 790 in 1973 addressed Reagan's criticisms of AB 4 in 1972, but these changes sacrificed enforcement mechanisms for political viability.

¹⁶ Interview with Valerie Hunken, daughter of Elizabeth Hughes, June 26, 2025.

¹⁷ Interview with Valerie Hunken, daughter of Elizabeth Hughes, June 26, 2025.

¹⁸ Elizabeth Hughes biographical details from *Ventura County Star* obituary, July 4, 2002; *Thousand Oaks Star*, July 22, 1973; Hughes correspondence in AB 790 Author file, California State Archives; Interview with Valerie Hunken, daughter of Elizabeth Hughes, June 26, 2025.

¹⁹ Interview with Valerie Hunken, daughter of Elizabeth Hughes, June 26, 2025.

Garcia's political learning involved smart drafting but also prudent compromise. Where Reagan had criticized vagueness, AB 790 provided precision. AB 790 replaced the "substantial number" language in AB 4 with a now-familiar 3% threshold, changed the "native language" provision to a functional test of citizens who "lack sufficient skill in English to register (or vote) without assistance," and added discretionary language to guide county clerk decision-making.²⁰ To address cost concerns, AB 790 established a voluntary approach for public education, requiring only "voluntarily donated public service notices" and eliminating mandatory expenditures or state reimbursements obligations while giving county clerks complete discretion for implementation.²¹

To address the security issues raised in the Governor's AB 4 veto, which amounted to concerns that voters and/or poll workers could communicate improperly in Spanish without detection from English-speaking poll workers, AB 790 enhanced safeguards through multiple mechanisms. The bill required advance public notice of bilingual precincts, established poll watcher provisions allowing political parties to monitor all bilingual communications, and mandated equal penalties ensuring foreign language violations received the same penalties as English violations.²² These procedural innovations addressed each specific concern in Reagan's AB 4 veto while maintaining the substantive goal of bilingual voting assistance.

The end result: AB 790, in a newly established Section 1611 of the Elections Code, required clerks to make "reasonable efforts" to recruit bilingual officials in precincts where 3%

²⁰ Garcia letter to Reagan, September 19, 1973, detailing responses to veto objections, AB 790 author file, California State Archives.

²¹ Garcia letter to Reagan, September 19, 1973, describing voluntary framework, AB 790 author file, California State Archives.

²² Garcia letter to Reagan, September 19, 1973, outlining security provisions, AB 790 author file, California State Archives.

or more of residents lacked sufficient English skills (though recruitment relied on voluntarily donated media notices and lacked enforcement mechanisms), mandated advance notice of bilingual precincts, and repealed non-English communication bans.²³ The bill gained bipartisan sponsorship and moved through committee with minimal controversy, in stark contrast to AB 4's contentious passage.²⁴ Co-drafting by county clerks eliminated potential opposition based on implementation concerns. Unlike AB 4's high-profile battle, AB 790's unified front eliminated organized opposition, and elite validation through figures like Hughes provided Reagan with political cover for signing progressive language access legislation.

Reagan signed AB 790 on September 26, 1973, culminating three purposeful shifts by supporters: coalition building across partisan divides, legislative amendments addressing specific objections, and political alignment providing insider access to the Governor.²⁵ Unfortunately, AB 790's implementation proved uneven across California counties. A subsequent survey found that "the vast majority of County Clerks and/or Registrars of Voters in this state have not responded to the mandate of Section 1611," with only four of 58 counties identifying precincts meeting the 3% threshold for bilingual assistance, despite many having substantial Spanish-speaking populations.²⁶ AB 790's passage represented a calculated trade-off: Garcia sacrificed immediate effectiveness to establish legal infrastructure and political precedent. While most counties ignored the mandate, the bill created the statutory scaffolding that would anchor

²³ Garcia letter to Reagan, September 19, 1973, detailing AB 790 provisions, AB 790 author file, California State Archives; Senate Elections and Reapportionment Committee Analysis, AB 790, June 14, 1973, AB 790 author file, California State Archives.

²⁴ Garcia committee materials and bipartisan support documentation, AB 790 author files, California State Archives.

²⁵ Chapter 885, Statutes of 1973, approved by Governor September 26, 1973, California State Archives.

²⁶ Survey of AB 790 Implementation, October 1974, AB 790 author file, California State Archives.

stronger legislation after 1975, transforming California from federal follower to policy leader through deliberate incrementalism.

VI. Federal-State Timeline Comparison

When AB 790 became law on September 26, 1973, Congress had not yet considered the bilingual voting provisions that would become Section 203 of the 1975 Voting Rights Act Amendments.²⁷ The federal legislation was not enacted until August 6, 1975, creating a clear temporal sequence where state innovation, including both AB 790 from 1973 and AB 1469 from 1971, preceded federal requirements.²⁸

When the federal Voting Rights Act amendments passed in 1975, California possessed a functioning bilingual voting apparatus that federal lawmakers could observe and evaluate. The state's implementation experience provided practical evidence that bilingual voting assistance was administratively feasible and politically sustainable, potentially influencing congressional deliberations on Section 203. While direct citation of AB 790 in federal legislative history does not exist, California's operational experience offers the kind of administrative example that often shapes congressional policymaking.

VII. Building on Success: AB 3196 (1976)

AB 3196 would later build upon AB 790's framework, representing an expansion of California's bilingual voting infrastructure following federal Voting Rights Act amendments signed into law in 1975. The bill, authored by Assemblymember Jim Keysor, a Democrat from northern Los Angeles, comprehensively revised Division 9 of the Elections Code to conform

²⁷ Chapter 885, Statutes of 1973, approved by Governor September 26, 1973.

²⁸ Public Law 94-73, August 6, 1975, "Voting Rights Act Amendments of 1975," Section 301 creating Section 203.

election day procedures to federal Voting Rights Act requirements.²⁹ AB 3196 established Election Code §14203, which refined and updated the facsimile ballot posting requirement first established by McAlister’s AB 1469, stating: “The precinct board shall post in a conspicuous location in the polling place, at least one facsimile copy of the ballot with the ballot measures and ballot instructions printed in Spanish. Facsimile ballots shall also be printed in other languages and posted in the same manner if a significant and substantial need is found by the clerk.”³⁰

The 1976 legislation built upon the precedent set by AB 790’s earlier success, creating a framework that could accommodate federal compliance requirements. AB 3196 explicitly acknowledged federal requirements, noting that “In those counties which are required under the provisions of the Voting Rights Act of 1965 as extended by Public Law 94-73 to furnish ballots in other than the English language, the posting of the facsimile ballot in that particular language shall not be required.”³¹ This provision showed how California’s state law integrates with federal mandates, creating a complementary rather than redundant system of language access protections.

VIII. Conclusion

AB 790 is a landmark win in California’s early journey toward language access in elections that established the first-ever bilingual poll worker requirements and the Election Code’s now long-standing 3% threshold for language services. Its success demonstrates that effective voting rights legislation requires coalition building across traditional partisan

²⁹ James Keysor Obituary, *Los Angeles Times*, February 27, 2014; AB 3196 Senate Committee Analysis, Elections and Reapportionment, May 25, 1976.

³⁰ AB 3196, Chapter 220, Statutes of 1976, Section 14203.

³¹ AB 3196, Chapter 220, Statutes of 1976, Section 14203.

boundaries, responsive drafting, and learning from initial failure. It also helps to have a strong advocate that is a close ally of the Governor, or whichever decisionmaker poses the largest hurdle to passage. California's language access preceded Section 203 requirements by two years, positioning the state as a policy laboratory whose experience may have influenced national civil rights developments. The enduring framework established under AB 1469 (1971), AB 790 (1973), and AB 3196 (1976) survived subsequent expansions and still helps govern California's language access provisions today, demonstrating how thoughtful state innovation can create lasting policy changes that serve as both foundation and model for broader voting rights progress.