

BY AUTHORITY

ORDINANCE NO. 7
SERIES OF ~~2009~~ 2010

COUNCIL BILL NO. 773 SERIES 2009
COMMITTEE OF REFERENCE:
GENERAL GOVERNMENT

A B I L L

for an ordinance establishing an elections committee to enhance the effectiveness of election services for limited English speaking, Spanish language electors of the City and County of Denver.

WHEREAS, Federal law recognizes that many American citizens have limited English proficiency and they require information in languages other than English in order to be informed voters and participate effectively in representative democracy; and

WHEREAS, in 2006, the former Denver Election Commission and a group of citizens formed a committee, known as the Spanish Language Advisory Board (SLAB), to effectuate the translation of election materials and provide other language assistance during elections to Spanish language electors of the City and County of Denver during elections; and

WHEREAS, in 2008, building upon the efforts of the original SLAB, including but not limited to a proposed but unadopted Memorandum of Understanding (MOU) between SLAB and the former Denver Election Commission (DEC), the Denver Election Division (DED), in cooperation with local elected officials and representatives of the Denver Latino community, convened a committee known as the "ACCESO-Spanish Language Voter Advisory Board" (the "Board"); and

WHEREAS, the Clerk and Recorder desires to continue the groundwork of the SLAB and the Board to maintain a successful program of inclusion in elections for Spanish language voters by establishing an election committee to help identify the needs and communication channels of the Spanish language minority community concerning elections; and

WHEREAS, the Clerk's efforts to promote and foster an effective minority language program will be enhanced with ongoing input from a standing election committee;

THEREFORE, BE IT ENACTED BY THE COUNCIL OF THE CITY AND COUNTY OF DENVER:

SECTION 1. A new Article VII of Chapter 15 of the Revised Municipal Code, also known and cited as Section 15-76 through and including Section 15-80, is hereby enacted reading as follows:

Section 15-76. Election Committee Created.

There is created an election committee known as the "ACCESO-Spanish Language Voter Advisory Board" (the "Board") to operate in accordance with the purposes set forth in this Article.

Section 15-77. Purpose.

1 The purpose of the Board is to advise and recommend to the Denver Clerk and Recorder and
2 the Denver Elections Division (DED) necessary policy and initiatives designed to assist and inform
3 the DED of methods to maintain an effective and efficient Spanish language assistance program in
4 accordance with the language assistance provisions of Section 203 of the Voting Rights Act of 1965,
5 as amended.

6 **Section 15-78. Composition.**

7 The Board shall be composed of a minimum of thirteen (13), with no more than twenty-five
8 (25), voting members.

9 **Section 15-79. Method of Appointment.**

10 All members of the Board will be appointed by the Clerk and Recorder and confirmed by a
11 simple majority of the Board membership acting by resolution. Appointments to the Board shall
12 mirror, as much as possible, the demographics of the Latino population of Denver County. These
13 demographics may include ethnicity, gender, race, age, sexual orientation, political viewpoints and
14 affiliations, income, and geographic location. In particular, the Board shall make a good faith effort
15 to include representation from individuals of the Denver Latino community who are registered voters
16 of the City and County of Denver. The members may include individuals from those council districts
17 as listed in the Board's annual work plan, the City at-large, and the original ACCESO Board as
18 identified by a memorandum to the Clerk dated September 29, 2009, on file with the Elections
19 Division.

20 **Section 15-80. No compensation.**

21 No member of the Board shall receive any compensation for serving on the Board, except
22 that members may be reimbursed for reasonable expenses incurred in performance of their duties
23 pursuant to the rules and regulations of the city for such reimbursement and as approved by the
24 Clerk and Recorder or Director of the DED.

25 **Section 15-81. Terms.**

26 Board members, upon appointment and confirmation, will serve for three-year terms, except
27 that one-third of the initial Board will serve for one year; one-third of the initial Board will serve for
28 two years; and one-third of the initial Board will serve for three years (or until a successor has been
29 duly appointed and confirmed), to establish staggered, overlapping terms and provide for continuity
30 of membership. No member will serve more than three (3) consecutive terms.

31 **Section 15-82. Officers.**

32 Only appointed members of the Board are eligible to serve as an officer. Staff members from
33 the office of the Clerk and Recorder are not eligible to serve as officers of the Board. The Board
34 shall elect from its membership a Chairperson and such other officers as it may designate. Elected
35 officers will serve for such term(s) as the Board shall specify. The Chair and other duly elected
36 officers shall constitute the Executive Committee. The Chair may not serve more than two
37 consecutive terms in such capacity. The Chair shall be responsible for representing the Board at
38 public DED meetings and public forums, and shall attend such meetings as is determined necessary
39 to regularly report the Board's recommendations, resource requests, progress, and other
40 information. In case of a vacancy in the office of Chair, the Board will, within thirty (30) days from
41 the date of such vacancy, elect a successor, who shall serve the unexpired balance of the
42 predecessor's term.

1 **Section 15-83. Meetings/Quorum/Majority Vote.**

2 (a) **Meetings.** The Board shall, at minimum, meet on a quarterly basis at a regularly
3 scheduled time and place, except that the Board may elect not to meet during the month of
4 December and one agreed upon summer month. During times leading up to General and local
5 elections, the Board shall, at minimum, meet monthly at a regularly scheduled time and place. The
6 Board may schedule additional meetings provided that notice of such meetings is issued in
7 accordance with D.R.M.C., Article III, Chapter 2, "Open Meetings". In coordination with the Clerk
8 and Recorder or a designated representative in advance, any Board member may have an item
9 placed on a Board meeting agenda.

10 (b) **Quorum.** A simple majority of the appointed voting membership constitutes a quorum.
11 A quorum must be present to conduct a Board meeting. Voting by proxy is prohibited. The
12 Chairperson, in consultation with the Clerk, may direct that a mail, electronic mail, fax, or telephone
13 ballot be taken on matters requiring immediate decision. All Board members and the Clerk must be
14 notified at least 24 hours prior to this action and a majority of all appointed members is required to
15 carry official action under this procedure. A record of this electronic vote shall be maintained by the
16 Chair. In the event of a Board vacancy, whether by removal, death, or resignation, the number
17 established to constitute a quorum shall be adjusted downward until a successor has been duly
18 appointed and confirmed.

19 (c) **Majority vote.** A simple majority vote of the members present shall be required to
20 take any action. In the event that a simple majority cannot be achieved, a second formal vote of the
21 voting members shall be taken by roll call and, if achieved, a simple majority of votes cast shall
22 prevail. In the event of a conflict of interest, the affected voting Board member shall recuse himself
23 or herself from the vote. The Code of Ethics of the City and County of Denver shall be used as a
24 guiding resource document to determine if a conflict of interests exists.

25 **Section 15-84. Qualifications.**

26 All voting Board members shall be registered to vote in the State of Colorado. There shall not
27 be pre-established educational or training experience requirements of Board appointees. These
28 positions will be referred to the Clerk for appointment in accordance with the Board's recruitment
29 and nominating process. The Board shall use best efforts to assure that a minimum of 30 percent
30 (30%) of the full Board membership is bilingual with recognized Spanish language proficiency and
31 local cultural language proficiencies. Appointees of the Board should use best efforts to aid the full
32 Board to meet the stated bilingual-Spanish/English requirement.

33 **Section 15-85. Attendance/Resignation.**

34 Board members are expected to participate on a regular basis. The unexcused absence of
35 any Board member from three (3) consecutive meetings, unless the Board has excused the
36 absence for good and sufficient reasons as determined by the Board, will constitute a resignation
37 from the board. A Board member may resign his or her position at any time by providing written or
38 email notice to the Clerk and Recorder or the Board Chair.

39 **Section 15-86. Removal/Vacancies.**

40 a) **Removal.** Only the Clerk and Recorder may remove a member from the Board. The
41 Clerk and Recorder may remove a Board member for inappropriate conduct before the expiration of
42 the Board member's term. Before removing a Board member, the Clerk and Recorder will specify

1 the cause for removal and will give the Board member the opportunity to make a personal
2 explanation. The Executive Committee may recommend removal of a Board member for cause. If
3 the Executive Committee recommends removal of a Board member, it will specify the cause for
4 removal and whether it gave the Board member the opportunity to provide a personal explanation to
5 the Executive Committee.

6 b) **Vacancies.** Any vacancy, whether by removal, death, or resignation, occurring during
7 the term of any member, will be filled within forty-five (45) days from the date that a seat becomes
8 vacant. In the event of the death, removal or resignation of a Board member, the succeeding
9 appointment shall serve the unexpired portion of the term.

10 c) **Resignation for candidacy to elected office.** Board members must resign from the
11 Board if the member becomes a candidate for any elected political office for which the DED will or
12 may conduct the election (except for an election to the Denver Employee Retirement Board). If the
13 Board member does not resign, the member's resignation shall be deemed automatically tendered
14 and accepted when the member publicly declares his or her intent to seek office. Board members
15 must declare at a Board meeting their association with any candidate, candidate committee, political
16 party committee, issue committee, or political committee, and must abstain from consideration of
17 any issue that comes before the Board related to such association.

18 **Section 15-87. Staff Support.**

19 The Clerk and Recorder may, but is not required to, provide support to the Board. Any staff
20 members providing assistance to the Board shall be ex-officio members without authority to vote.

21 **Section 15-88. Annual Work Plan.**

22 The Board may develop an annual work plan to recommend identified needs and goals for
23 Spanish Language assistance during elections. The annual work plan will include proposed
24 methods to respond to identified needs and goals along with any resulting budget impact.

25 **Section 15-89. Disputes.**

26 In the event of impasse between the Board and the Clerk and Recorder, the Board and
27 the Clerk and Recorder may elect to engage in non-binding mediation or a comparable form of
28 dispute resolution.

29 **SECTION 2.** Subsection 2 of Section 32 of Article 3 of Chapter 2 of the Revised Municipal Code is
30 amended by deleting the language stricken and adding the language underlined, to read as follows:

31 bbb. Citizen oversight board;

32 ccc. ACCESO-Spanish Language Voter Advisory Board.

1 COMMITTEE APPROVAL: December 8, 2009
 2 MAYOR-COUNCIL DATE: December 15, 2009
 3 PASSED BY THE COUNCIL January 4 ²⁰¹⁰₂₀₀₉
 4 [Signature] - PRESIDENT
 5 APPROVED: [Signature] - MAYOR Jan. 5, 2010
 6 ATTEST: Stephanie Y. O'Malley - CLERK AND RECORDER,
 7 [Signature] EX-OFFICIO CLERK OF THE
 8 CITY AND COUNTY OF DENVER
 9 NOTICE PUBLISHED IN THE DAILY JOURNAL Dec. 23, 2009; Jan. 11, 2010
 10 PREPARED BY: Victoria Ortega - ASSISTANT CITY ATTORNEY - December 17, 2009
 11 Pursuant to section 13-12, D.R.M.C., this proposed ordinance has been reviewed by the office of
 12 the City Attorney. We find no irregularity as to form, and have no legal objection to the proposed
 13 ordinance. The proposed ordinance is submitted to the City Council for approval pursuant to §3.2.6
 14 of the Charter.
 15 David R. Fine, City Attorney
 16 BY: [Signature], Asst City Attorney - 17 Dec 2009
 17 SPONSORED BY COUNCIL MEMBER(S): Councilman Paul Lopez

