

Date of Hearing: April 19, 2023

**ASSEMBLY COMMITTEE ON APPROPRIATIONS**

Chris Holden, Chair

AB 77 (Pacheco) – As Amended March 30, 2023

Policy Committee: Health Vote: 14 - 0

Urgency: No State Mandated Local Program: Yes Reimbursable: Yes

**SUMMARY:**

This bill requires the State Registrar of Vital Statistics (State Registrar) to require a diacritical mark on an English letter to be properly recorded on a certificate of live birth, fetal death, or death, and a marriage license. This bill prohibits the absence of a diacritical mark on a document from rendering the document invalid or affecting any constructive notice imparted by proper recordation of the document, and requires the State Registrar to issue a new document to a person who pays a fee and requests a new document because their name was incorrectly recorded without a diacritical mark.

**FISCAL EFFECT:**

The California Department of Public Health (CDPH) estimates it needs limited-term funding of approximately \$1.36 million in fiscal year (FY) 2024-25 and \$1.09 million in FY 2025-26 (General Fund (GF)) as follows:

- \$360,000 in FY 2024-25 and \$90,000 in 2025-26 to hire contractors to reprogram the computer system that records births and deaths to accept diacritical marks and deliver data exports without diacritical marks.
- 30 limited-term positions for two years to process the initial wave of amendment requests, totaling \$3.1 million per year.
- Costs will be offset by revenue collected from processing amendments, which are anticipated to be \$2.1 million per year.

The Secretary of State also estimates a one-time cost of \$56,000 for VoteCal system testing to ensure the VoteCal voter database can accommodate diacritical marks (GF). VoteCal is unable to include or recognize diacritical marks. The VoteCal voter database receives death file data transfers from CDPH. System testing costs might be mitigated or eliminated if CDPH is able to deliver data exports without diacritical marks. The Secretary of State also notes potential costs for any technology project that may be needed to ensure that VoteCal can accurately reflect diacritical marks on voter registration records.

The Senate Appropriations Committee Analysis of AB 82 (Medina), of the 2017-18 Legislative Session, which was similar to this bill, noted additional costs of including diacritical marks in vital records would include one-time reimbursable mandate costs, potentially in the millions of dollars, for the state to reimburse county clerks and recorders for information technology updates to allow diacritical marks to be used on marriage certificates (GF). County clerks use their own information technology systems to record marriage certificates. CDPH estimated costs to

reprogram such a system to be about \$200,000. Some counties may use the same information technology system to record marriage certificates, but there is not a uniform system used across the state. Subject to a determination by the Commission on State Mandates, the state could be required to reimburse local agencies for the costs of implementing this bill (GF).

**COMMENTS:**

1) **Purpose.** According to the author:

California once allowed diacritical marks such as accent marks and umlauts, tildes and cedillas...to be used on vital records [until] the passage of Proposition 63 [of 1986], which declared English the official language of California and eliminated the use of diacritical marks on vital records. Government control should not preclude California residents from keeping their cultural identity via their names when...no legitimate reason exists for such a limitation.

- 2) **Diacritical marks.** Diacritical marks include, but are not limited to: grave or acute accents (è or á) and tildes (ñ or ã), commonly used in Spanish, umlauts (ö or ü), used in German and toher languages, cedillas (ç or ş), found in French, Turkish, and other languages. Federal law requires all federal databases to follow standards determined by the National Institute of Standards and Technology and to use the 26 letters of the alphabet without diacritical marks.
- 3) **Concerns** The California Association of Clerks and Election Officials (CACEO) opposes this bill unless it is amended. CACEO is concerned about the mechanics, cost, and feasibility of this local mandate, noting California utilizes a uniform system for registration and manages a permanent central registry with a comprehensive and continuous index for all birth, death, fetal death, marriage, and dissolution certificates registered for vital events in the state (over one million events annually). CACEO states counties will be unable to simply add or create names containing diacritical marks without government-issued identification that displays the person's name with the requested diacritical mark. Until the Department of Motor Vehicles (DMV), for example, begins to issue driver's licenses or identification cards with diacritical marks, counties will be prevented from providing their customers with the new marks without a drastic change of policy.
- 4) **Prior Legislation.** AB 2528 (Skinner), of the 2013-14 Legislative Session, would have required the State Registrar to ensure diacritical marks were properly recorded on birth certificates and created substantially similar requirements for certificates of registered domestic partnerships and identification cards. AB 2528 was held in this committee.

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