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2009-2010 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2009

Introduced by M. of A. PERALTA, GREENE -- Multi-Sponsored by -- M. of A. ALFANO, AUBRY, BARRA, CAHILL, COOK, ESPAILLAT, GLICK, PEOPLES, J. RIVERA, P. RIVERA, ROBINSON -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the civil service law, in relation to language assistance services by state agencies

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. The civil service law is amended by adding a new section
2 55-d to read as follows:
3 S 55-D. ENSURING LANGUAGE ASSISTANCE SERVICES BY STATE AGENCIES. 1.
4 EVERY AGENCY SHALL PROVIDE LANGUAGE ASSISTANCE SERVICES TO ALL LIMITED
5 ENGLISH PROFICIENT INDIVIDUALS SO AS TO ENSURE THAT ALL SUCH INDIVIDUALS
6 WHO CANNOT SPEAK, READ, WRITE OR UNDERSTAND THE ENGLISH LANGUAGE WITH
7 THE PROFICIENCY NECESSARY FOR ADEQUATE COMMUNICATION WITH AGENCY PERSON-
8 NEL HAVE EFFECTIVE ACCESS TO THE AGENCY'S PROGRAMS AND SERVICES. EVERY
9 AGENCY SHALL ENSURE THAT ALL INDIVIDUALS PROVIDING LANGUAGE ASSISTANCE
10 SERVICES TO LIMITED ENGLISH PROFICIENT INDIVIDUALS HAVE SUFFICIENT
11 FLUENCY IN BOTH ENGLISH AND THE RELEVANT LANGUAGE TO COMMUNICATE INFOR-
12 MATION NECESSARY FOR SUCH INDIVIDUAL TO ACCESS SERVICES. LANGUAGE
13 ASSISTANCE SERVICES FOR PRIMARY AND NON-PRIMARY LANGUAGES SHALL BE
14 AVAILABLE AT ALL AGENCY LOCATIONS OPEN FOR PUBLIC BUSINESS, AND SHALL,
15 TO THE EXTENT PRACTICABLE, BE PROVIDED IN PERSON. TRANSLATION OF ALL
16 FREQUENTLY USED FORMS AND OTHER WRITTEN MATERIALS THAT ARE ESSENTIAL TO
17 ACCESS AGENCY SERVICES SHALL BE AVAILABLE IN ALL OF THE AGENCY'S PRIMARY
18 LANGUAGES. THE PRESIDENT SHALL DEVELOP AND IMPLEMENT A COMPREHENSIVE
19 LANGUAGE ASSISTANCE PLAN THAT ESTABLISHES UNIFORM POLICIES AND PROCE-
20 DURES FOR PROVIDING LANGUAGE ASSISTANCE SERVICES BY ALL AGENCIES,
21 INCLUDING PROCEDURES FOR DOCUMENTING THE PROVISION OF OR REFUSAL OF
22 LANGUAGE ASSISTANCE SERVICES, AND THAT REQUIRES TRAINING TO ENSURE THAT

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets [] is old law to be omitted.

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1 ALL STAFF WHO HAVE CONTACT WITH LIMITED ENGLISH PROFICIENT INDIVIDUALS
2 COMPLY WITH THE PLAN. SUCH PERSON PROVIDING LANGUAGE ASSISTANCE SERVICES
3 MAY BE A QUALIFIED INTERPRETER, VOLUNTARY WORKER OR OTHER PERSONNEL
4 CURRENTLY EMPLOYED BY THE AGENCY.

5 2. ALL AGENCIES SHALL PROVIDE WRITTEN NOTICE AS TO THE AVAILABILITY OF
6 LANGUAGE ASSISTANCE SERVICES, INCLUDING ORAL INTERPRETATION AND TRANS-
7 LATIONS OF FORMS AND OTHER MATERIALS. NOTICE OF AVAILABILITY OF LANGUAGE
8 ASSISTANCE SERVICES SHALL ALSO BE POSTED IN CONSPICUOUS AGENCY LOCATIONS
9 OPEN FOR PUBLIC BUSINESS IN ALL PRIMARY LANGUAGES.

10 3. ALL AGENCIES SHALL MAINTAIN A RECORD OF THE PRIMARY LANGUAGES
11 SPOKEN BY ANY INDIVIDUAL SEEKING OR RECEIVING LANGUAGE ASSISTANCE
12 SERVICES AT SUCH AGENCY. SUCH INFORMATION SHALL BE RECORDED WHETHER OR
13 NOT SUCH INDIVIDUAL ACTUALLY OBTAINS SUCH SERVICE.

14 4. (A) ALL AGENCIES SHALL SUBMIT TO THE PRESIDENT AN ANNUAL REPORT
15 ASSESSING ITS COMPLIANCE WITH THE REQUIREMENTS OF THIS SECTION. THE
16 REPORT SHALL IDENTIFY THE PRIMARY LANGUAGES USED BY THE PUBLIC, AND THE
17 PERCENTAGE OF THE AGENCY'S INTERACTION WITH THE PUBLIC WHO SPEAK EACH
18 PRIMARY LANGUAGE.

19 (B) ALL AGENCIES SHALL MAINTAIN A RECORD OF THE FOREIGN LANGUAGE
20 PRIMARILY SPOKEN BY ANY INDIVIDUAL SEEKING OR RECEIVING LANGUAGE ASSIST-
21 ANCE SERVICES AT THE AGENCY. SUCH INFORMATION SHALL BE RECORDED WHETHER
22 OR NOT SUCH INDIVIDUAL ACTUALLY OBTAINS SERVICES.

23 (C) THE DEPARTMENT SHALL SUBMIT TO THE GOVERNOR AND TO THE LEGISLA-
24 TURE, ON OR BEFORE, MARCH FIRST OF EACH YEAR, A WRITTEN REPORT ON AGENCY
25 COMPLIANCE WITH THE REQUIREMENTS OF THIS SECTION. THE REPORT SHALL ALSO
26 COMPILE AGENCY FINDINGS AND IDENTIFY THE PRIMARY LANGUAGES USED BY THE
27 PUBLIC, AND THE PERCENTAGE OF OVERALL AGENCY INTERACTION WITH THE PUBLIC
28 WHO SPEAK EACH PRIMARY LANGUAGE. THIS REPORT SHALL ALSO INCLUDE INDIVID-
29 UAL AGENCY REPORT SUBMISSIONS AS REQUIRED IN THIS SECTION.

30 5. THE PRESIDENT SHALL PROMULGATE RULES AND REGULATIONS AS MAY BE
31 NECESSARY AND PROPER TO IMPLEMENT THE PROVISIONS OF THIS SECTION, WHICH
32 SHALL INCLUDE THE METHODOLOGY TO BE USED BY AGENCIES IN DETERMINING
33 PRIMARY LANGUAGES.

34 6. FOR THE PURPOSES OF THIS SECTION: (A) "PRIMARY LANGUAGE" MEANS A
35 LANGUAGE OTHER THAN ENGLISH THAT IS EITHER (I) USED TO COMMUNICATE,
36 DURING AT LEAST FIVE PERCENT OF PUBLIC VISITS IN A YEAR, BY INDIVIDUALS
37 OF THE PUBLIC WHO CANNOT SPEAK, READ, WRITE OR UNDERSTAND THE ENGLISH
38 LANGUAGE AT THE LEVEL OF PROFICIENCY NECESSARY FOR EFFECTIVE COMMUNI-
39 CATION WITH AGENCY OFFICIALS; OR (II) SPOKEN BY NON-ENGLISH SPEAKING
40 INDIVIDUALS COMPRISING MORE THAN FIVE PERCENT OF THE AGENCY SERVICE AREA
41 POPULATION, AS CALCULATED BY USING DEMOGRAPHIC INFORMATION AVAILABLE
42 FROM THE UNITED STATES BUREAU OF THE CENSUS;

43 (B) "AGENCY" MEANS ANY STATE DEPARTMENT, BOARD, BUREAU, DIVISION,
44 COMMISSION, COMMITTEE, COUNCIL, OFFICE OR OTHER GOVERNMENTAL ENTITY
45 PERFORMING A GOVERNMENTAL OR PROPRIETARY FUNCTION FOR THE STATE, EXCEPT
46 FOR THE JUDICIARY OR THE STATE LEGISLATURE.

47 (C) "LANGUAGE ASSISTANCE SERVICES" MEANS INTERPRETATION AND TRANS-
48 LATION SERVICES EITHER ORALLY OR IN WRITING.

49 (D) "LIMITED ENGLISH PROFICIENT INDIVIDUAL" MEANS A PERSON WHO IDENTI-
50 FIES AS BEING OR IS UNABLE TO SPEAK, READ OR WRITE THE ENGLISH LANGUAGE
51 AT A LEVEL THAT PERMITS HIM OR HER TO INTERACT EFFECTIVELY WITH AN AGEN-
52 CY.

53 S 2. This act shall take effect on the one hundred eightieth day after
54 it shall have become a law.