

7292

I N S E N A T E

March 29, 2010

Introduced by Sen. PARKER -- read twice and ordered printed, and when printed to be committed to the Committee on Civil Service and Pensions

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

27 2. ALL AGENCIES SHALL PROVIDE WRITTEN NOTICE AS TO THE AVAILABILITY OF  
28 LANGUAGE ASSISTANCE SERVICES, INCLUDING ORAL INTERPRETATION AND TRANS-

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

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1 LATIONS OF FORMS AND OTHER MATERIALS. NOTICE OF AVAILABILITY OF LANGUAGE  
2 ASSISTANCE SERVICES SHALL ALSO BE POSTED IN CONSPICUOUS AGENCY LOCATIONS  
3 OPEN FOR PUBLIC BUSINESS IN ALL PRIMARY LANGUAGES.

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

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

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

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

24 5. THE PRESIDENT SHALL PROMULGATE RULES AND REGULATIONS AS MAY BE  
25 NECESSARY AND PROPER TO IMPLEMENT THE PROVISIONS OF THIS SECTION, WHICH  
26 SHALL INCLUDE THE METHODOLOGY TO BE USED BY AGENCIES IN DETERMINING  
27 PRIMARY LANGUAGES.

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

37 (B) "AGENCY" MEANS ANY STATE DEPARTMENT, BOARD, BUREAU, DIVISION,  
38 COMMISSION, COMMITTEE, COUNCIL, OFFICE OR OTHER GOVERNMENTAL ENTITY  
39 PERFORMING A GOVERNMENTAL OR PROPRIETARY FUNCTION FOR THE STATE, EXCEPT  
40 FOR THE JUDICIARY OR THE STATE LEGISLATURE.

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

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

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