

4439

2011-2012 Regular Sessions

I N   S E N A T E

April 5, 2011

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Introduced by Sen. PERALTA -- 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 STATE AGENCY SHALL PROVIDE LANGUAGE ASSISTANCE SERVICES TO ALL  
5     LIMITED ENGLISH PROFICIENT INDIVIDUALS SO AS TO ENSURE THAT ALL SUCH  
6     INDIVIDUALS WHO CANNOT SPEAK, READ, WRITE OR UNDERSTAND THE ENGLISH  
7     LANGUAGE WITH THE PROFICIENCY NECESSARY FOR ADEQUATE COMMUNICATION WITH  
8     AGENCY PERSONNEL HAVE EFFECTIVE ACCESS TO THE AGENCY'S PROGRAMS AND  
9     SERVICES. EVERY STATE AGENCY SHALL ENSURE THAT ALL INDIVIDUALS PROVID-  
10    ING LANGUAGE ASSISTANCE SERVICES TO LIMITED ENGLISH PROFICIENT INDIVID-  
11    UALS HAVE SUFFICIENT FLUENCY IN BOTH ENGLISH AND THE RELEVANT LANGUAGE  
12    TO COMMUNICATE INFORMATION NECESSARY FOR SUCH INDIVIDUAL TO ACCESS  
13    SERVICES. LANGUAGE ASSISTANCE SERVICES FOR PRIMARY AND NON-PRIMARY  
14    LANGUAGES SHALL BE AVAILABLE AT ALL AGENCY LOCATIONS OPEN FOR PUBLIC  
15    BUSINESS, AND SHALL, TO THE EXTENT PRACTICABLE, BE PROVIDED IN PERSON.  
16    TRANSLATION OF ALL FREQUENTLY USED FORMS AND OTHER WRITTEN MATERIALS  
17    THAT ARE ESSENTIAL TO ACCESS AGENCY SERVICES SHALL BE AVAILABLE IN ALL  
18    OF THE AGENCY'S PRIMARY LANGUAGES. THE PRESIDENT SHALL DEVELOP AND  
19    IMPLEMENT A COMPREHENSIVE LANGUAGE ASSISTANCE PLAN THAT ESTABLISHES  
20    UNIFORM POLICIES AND PROCEDURES FOR PROVIDING LANGUAGE ASSISTANCE  
21    SERVICES BY ALL STATE AGENCIES, INCLUDING PROCEDURES FOR DOCUMENTING THE  
22    PROVISION OF OR REFUSAL OF LANGUAGE ASSISTANCE SERVICES, AND THAT  
23    REQUIRES TRAINING TO ENSURE THAT ALL STAFF WHO HAVE CONTACT WITH LIMITED  
24    ENGLISH PROFICIENT INDIVIDUALS COMPLY WITH THE PLAN. SUCH PERSON PROVID-

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

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1 ING LANGUAGE ASSISTANCE SERVICES MAY BE A QUALIFIED INTERPRETER, VOLUN-  
2 TARY WORKER OR OTHER PERSONNEL CURRENTLY EMPLOYED BY THE AGENCY.

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

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

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

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

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

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

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

41 (B) "STATE AGENCY" MEANS ANY STATE DEPARTMENT, BOARD, BUREAU, DIVI-  
42 SION, COMMISSION, COMMITTEE, COUNCIL, OFFICE OR OTHER GOVERNMENTAL ENTI-  
43 TY PERFORMING A GOVERNMENTAL OR PROPRIETARY FUNCTION FOR THE STATE,  
44 EXCEPT FOR THE JUDICIARY OR THE STATE LEGISLATURE.

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

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

51 S 2. This act shall take effect on the one hundred twentieth day after  
52 it shall have become a law.