

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE

House Bill 1152 (Delegate McDonough, *et al.*)
Health and Government Operations

English Language - Formal Recognition

This bill establishes English as the official language of Maryland. State and local governments must write and publish each official document in English and conduct each meeting and other official communication in English. State and local governments may conduct their affairs in a language other than English under specified circumstances.

State and local governments may conduct their affairs in a language other than English to: comply with federal law; protect public health and safety; protect the rights of civil litigants, criminal defendants, or victims of crime; assist students who are not proficient in the English language; provide interpretation for deaf individuals in American sign language; teach a foreign language; promote the arts, international commerce, or tourism; or assist individuals who are not proficient in English in the conduct of government affairs.

Fiscal Summary

State Effect: Establishing English as the official State language would not impact State finances. State agencies must still comply with federal law that requires, in certain circumstances, State and local governments provide language assistance to limited English proficient (LEP) individuals.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: State agencies are required to take reasonable steps to provide equal access to public services for individuals with LEP. Equal access is defined as the provision of oral language services for individuals who cannot adequately understand or express themselves in spoken or written English and the translation of vital documents ordinarily provided to the public into any language spoken by any LEP population that constitutes 3% of the overall State population within the geographic area served by a local office of a State program as measured by the U.S. Census.

Pursuant to this statute, 35 State agencies, departments, and commissions must take reasonable steps to provide equal access to public services to individuals with LEP. **Exhibit 1** lists the agencies and the time period during which they must comply with equal access requirement. The equal access requirement was established by Chapter 141 of 2002.

Exhibit 1 Equal Access Compliance Deadline for State Agencies

<u>July 1, 2003</u>	<u>July 1, 2004</u>	<u>July 1, 2005</u>	<u>July 1, 2006</u>
Human Resources	Aging	Comptroller	Agriculture
Labor, Licensing, and Regulation	Public Safety and Corrections	Housing and Community Development	Business and Economic Development
Juvenile Justice	Transportation (MDOT)	Natural Resources	Veteran Affairs
Health and Mental Hygiene	Human Relations Commission	Maryland State Department of Education	5 independent agencies, boards, and commissions
Workers' Compensation Commission	State Police	Attorney General	Environment
	5 independent agencies, boards, and commissions	Maryland Transit Administration (MDOT)	
		5 independent agencies, boards, and commissions	

Other State departments, agencies, or programs not listed in Exhibit 1 must monitor their operations to determine if reasonable steps are needed to achieve equal access to public services for individuals with limited English proficiency.

Federal Requirements Under Title VI of the Civil Rights Act of 1964

Federal requirements are based on Title VI of the Civil Rights Act of 1964 that was established to eliminate barriers based on race, color, and national origin in federal assisted programs or activities. According to the U.S. Department of Justice, in certain circumstances, failing to ensure that LEP individuals can effectively participate in or benefit from federally assisted programs and activities or imposing additional burdens on LEP persons is national origin discrimination.

The federal government has interpreted Title VI of the Civil Rights Act of 1964 to require oral language interpretation and translation of written materials where the population of LEP individuals in the eligible population reaches certain levels.

In August 2000, the President signed Executive Order 13166 that requires every federal agency that provides financial assistance to non-federal entities (State and local governments) to establish guidelines on how entities can provide meaningful access to LEP individuals in compliance with Title VI of the Civil Rights Act of 1964.

The U.S. Department of Justice submitted guidelines on January 16, 2001 that included a four-factor test to decide what steps to take to provide meaningful access to programs and activities for LEP individuals. Accordingly, even if English is made the State's official language, State and local government programs that receive federal funding would still be required to provide language assistance to LEP individuals.

Background: English is the official language in 27 states. The U.S. government has not established an official language. **Exhibit 2** lists the states that have enacted official English laws and the year in which the law was enacted.

Exhibit 2
States with Official English Laws

Alabama (1990)	Indiana (1984)	New Hampshire (1995)
Alaska (1998)	Iowa (2002)	North Carolina (1987)
Arkansas (1987)	Kentucky (1984)	North Dakota (1987)
California (1986)	Louisiana (1811)	South Carolina (1987)
Colorado (1988)	Massachusetts (1975)	South Dakota (1995)
Florida (1988)	Mississippi (1987)	Tennessee (1984)
Georgia (1986,1996)	Missouri (1998)	Utah (2000)
Hawaii (1978)	Montana (1995)	Virginia (1981,1996)
Illinois (1969)	Nebraska (1920)	Wyoming (1996)

International Immigration into Maryland

Each year approximately 20,000 immigrants arrive in Maryland. International immigration accounted for 34% of the State's population growth in 2000 through 2003. Recent immigrants represent 176 countries and speak over 80 languages. Based on the 2000 Census, 13% of Marylanders older than five speak a language other than English at home. Statewide, almost 250,000 Marylanders are LEP (cannot speak English very well), representing 5% of the State's population. Of individuals who are LEP, 39% speak Spanish, 30% speak an Asian/Pacific Islander language, 26% an Indo-European language other than Spanish, and 5% speak other languages. **Exhibit 3** shows the number of individuals who immigrated legally to Maryland in 2003 by the top 10 sending countries.

Exhibit 3 International Immigration to Maryland by Nationality in 2003

<u>Country</u>	<u>Number of Immigrants</u>
El Salvador	1,440
India	1,339
Philippines	1,284
Nigeria	1,118
China	1,071
Korea	767
Ethiopia	744
Jamaica	510
Ghana	433
Russia	423
Total – All Countries	17,813

Source: U.S. Department of Homeland Security

Additional Information

Prior Introductions: Identical bills were introduced at the 1998 session as SB 236/HB 443. SB 236 received a favorable with amendments report by the Senate Economic and Environmental Affairs Committee; however, the bill was recommitted to the committee and no subsequent action was taken on the bill. HB 443 received a favorable with amendments report from the House Commerce and Government Matters Committee and was approved by the House of Delegates. The Senate Economic and Environmental

Affairs Committee did not take action on the bill. A similar bill was introduced at the 1995 session as HB 657. The bill was approved by the General Assembly, but was vetoed by the Governor.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts), U.S. Department of Justice, U.S. Department of Homeland Security, Department of Legislative Services

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mp/hlb

Analysis by: Hiram L. Burch Jr.

Direct Inquiries to:
(410) 946-5510
(301) 970-5510