

Department of Legislative Services
Maryland General Assembly
2006 Session

FISCAL AND POLICY NOTE

House Bill 1337 (Delegate McDonough, *et al.*)
Health and Government Operations

Baltimore County - English Language - Formal Recognition

This bill establishes English as the official language of Baltimore County. County agencies must write and publish each official document in English and conduct each meeting and other official oral communication in English. County agencies may conduct affairs in a language other than English in certain circumstances.

Fiscal Summary

State Effect: None.

Local Effect: Establishing English as the official language of Baltimore County should not affect local government operations. County agencies must still comply with federal laws prohibiting discrimination based on national origin. Federal laws mandate that recipients of federal funds, including local governments, take reasonable steps to ensure that individuals with limited English proficiency (LEP) have meaningful access to government programs and activities. In certain circumstances, local governments are required to provide language assistance to LEP individuals.

Small Business Effect: None.

Analysis

Bill Summary: This bill establishes English as the official language of Baltimore County. County agencies must write and publish each official document in English and conduct each meeting and other official oral communication in English. County agencies may conduct affairs in a language other than English in certain circumstances including:

- to comply with federal law;
- to protect public health and safety;
- to protect the rights of civil litigants, criminal defendants, or victims of crime;
- to assist students who are LEP by providing English instruction to facilitate as rapidly as possible a translation to the English language;
- to provide interpretation for deaf individuals in American Sign Language;
- to teach a foreign language;
- to promote the arts, international commerce, or tourism; or
- to assist persons who are not proficient in English in the conduct of government affairs.

Current Law: Both the State and the federal government have enacted laws that assist LEP individuals with accessing government programs and activities. Federal laws include Title VI of the Civil Rights Act of 1964, the Voting Rights Act, and Executive Order 13166. Maryland enacted legislation in 2002 that requires State agencies to take reasonable steps in providing equal access to public services for LEP individuals.

Federal Requirements

Title VI of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, color, and national origin in programs receiving federal financial assistance. National origin discrimination includes discrimination on the basis of LEP. 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 individuals is national origin discrimination.

The Voting Rights Act as amended in 1975 generally requires State and local governments to provide language assistance to voters if more than 5% of the voting age citizens are members of a single-language minority group who do not speak or understand English adequately enough to participate in the electoral process. The U.S. Census Bureau Director has the responsibility to determine which states and localities are subject to the minority language assistance provisions. Montgomery County, the only jurisdiction in Maryland subject to these provisions, must provide language assistance to Spanish speaking individuals.

Executive Order 13166, signed in 2000, requires federal agencies 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. Recipients of federal funds, including State and

local governments, must take reasonable steps to ensure that LEP individuals have meaningful access to government programs and activities.

State Requirements

Chapter 141 of 2002 requires State agencies to take reasonable steps to provide equal access to public services for LEP individuals. 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 LEP individuals. Other State departments, agencies, or programs must monitor their operations to determine if reasonable steps are needed to achieve equal access to public services for LEP individuals.

Background: Based on the U.S. Census Bureau 2004 Community Survey, 13.8% of Marylanders older than five speak a language other than English at home. Statewide, almost 270,000 Marylanders are LEP (cannot speak English very well), representing 5.3% of the State's population. Baltimore County is home to almost 30,000 LEP individuals. Approximately 4% of county residents are LEP, the fourth highest percentage in the State. **Appendix 1** shows the number of LEP individuals in each jurisdiction and their percentage of the county's population. The information is from the 2000 Census, the most recent data for all counties.

Baltimore County Actions

Baltimore County provides translation services on its official county web site that can translate information in 12 languages.

Federal Enforcement Actions

In August 2000, the President signed Executive Order 13166 that stipulated that LEP individuals should have meaningful access to federal funded programs and activities. Executive Order 13166 requires each federal agency that provides financial assistance to nonfederal 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. Federal agencies must design and implement a plan to ensure

such access is provided to LEP individuals. The U.S. Department of Justice submitted guidelines on January 16, 2001 that included a four-factor test that federal agencies and other entities can use in the determination of “meaningful access.” These factors include:

- the number or proportion of LEP individuals eligible to be served or likely to be encountered by the program;
- the frequency with which LEP individuals come in contact with the program;
- the nature and importance of the program, activity, or service provided by the program to individual’s lives; and
- the resources available to the agency and costs.

The Federal Interagency Working Group on Limited English Proficiency was created in 2002 at the request of the Assistant Attorney General for Civil Rights and includes members representing over 35 federal agencies. The purpose of the federal working group is to build awareness of the need and methods to ensure that LEP individuals have meaningful access to important federal and federally assisted programs, and to ensure implementation of language access requirements under Title VI, the Title VI regulations, and Executive Order 13166 in a consistent and effective manner across agencies.

The federal working group has developed a publication entitled *Know Your Rights* that outlines certain examples of possible discrimination by government agencies. The publication, which is available in nine languages, states that “if you are mistreated because you are LEP, it may be national origin discrimination.” The following are examples of possible national origin discrimination by government agencies as cited in the publication:

- an emergency dispatcher failing to help a LEP individual;
- public schools refusing to provide information to a parent in Spanish and suggesting that the child interpret the information for the LEP parent; and
- social services telling a LEP individual who is applying for federal Food Stamps to come back to the office with an interpreter when the application is only in English.

At a recent meeting before the federal working group, the U.S. Assistant Attorney General (U.S. Department of Justice Civil Rights Division) commented that since most federal agencies have successfully completed work on their LEP guidance documents, they will be able to devote more time and attention to issues of compliance and enforcement.

The Department of Human Resources (DHR) advises that the federal government places a high level of attention on linguistic access to federal funded services, whether in a State or local government agency. DHR was audited in fiscal 2005 for linguistic access to services at several local Departments of Social Services by the Regional Office of Civil Rights of the U.S. Department of Health and Human Services. The local departments were found to be in compliance at that time. If DHR and local departments of social services had failed to provide access to their programs and services to LEP individuals, the federal government could declare the departments out of compliance with federal requirements thus jeopardizing \$229.1 million in TANF (Temporary Assistance to Needy Families) funding and \$316.3 million in federal food stamps.

Official federal government information relating to the requirements under Executive Order 13166 is available online at www.LEP.gov or www.usdoj.gov.

Additional Information

Prior Introductions: Similar bills with statewide applicability were introduced at the 2005, 1998, and 1995 sessions. HB 1152 of 2005 received an unfavorable report by the House Health and Government Operations Committee. SB 236 of 1998 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 of 1998 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. HB 657 of 1995 was approved by the General Assembly but was vetoed by the Governor.

Cross File: None.

Information Source(s): Federal Interagency Working Group on Limited English Proficiency, U.S. Census Bureau, U.S. Department of Commerce, U.S. Department of Health and Human Services, U.S. Department of Justice, Department of Budget and Management, Department of Health and Mental Hygiene, Department of Human Resources, Maryland Department of Transportation, Judiciary (Administrative Office of

the Courts), Office of the Attorney General, Baltimore County, Department of Legislative Services

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Appendix 1
Limited English Proficient Individuals in Maryland

<u>Limited English Proficient Individuals</u>				<u>Ranking by Number of Individuals</u>		<u>Ranking by Percent of Population</u>	
<u>County</u>	<u>1990</u>	<u>2000</u>	<u>% Chg.</u>	<u>County</u>	<u>2000</u>	<u>County</u>	<u>2000</u>
Allegany	435	585	34.5%	1. Montgomery	105,001	1. Montgomery	12.9%
Anne Arundel	7,315	11,416	56.1%	2. Prince George's	53,743	2. Prince George's	7.2%
Baltimore City	15,616	18,113	16.0%	3. Baltimore	25,526	3. Howard	4.8%
Baltimore	16,158	25,526	58.0%	4. Baltimore City	18,113	4. Baltimore	3.6%
Calvert	371	774	108.6%	5. Anne Arundel	11,416	5. Baltimore City	3.0%
Caroline	213	614	188.3%	6. Howard	11,063	6. Wicomico	2.9%
Carroll	937	1,737	85.4%	7. Harford	3,413	7. Anne Arundel	2.5%
Cecil	652	862	32.2%	8. Frederick	2,939	8. Caroline	2.2%
Charles	972	1,928	98.4%	9. Wicomico	2,324	9. Kent	2.0%
Dorchester	403	419	4.0%	10. Charles	1,928	10. St. Mary's	1.9%
Frederick	1,378	2,939	113.3%	11. Carroll	1,737	11. Worcester	1.9%
Garrett	328	276	-15.9%	12. St. Mary's	1,525	12. Talbot	1.8%
Harford	2,426	3,413	40.7%	13. Washington	1,318	13. Charles	1.7%
Howard	4,510	11,063	145.3%	14. Cecil	862	14. Harford	1.7%
Kent	462	367	-20.6%	15. Worcester	858	15. Frederick	1.6%
Montgomery	60,308	105,001	74.1%	16. Calvert	774	16. Queen Anne's	1.5%
Prince George's	31,091	53,743	72.9%	17. Caroline	614	17. Dorchester	1.4%
Queen Anne's	307	562	83.1%	18. Talbot	591	18. Somerset	1.4%
St. Mary's	1,381	1,525	10.4%	19. Allegany	585	19. Carroll	1.2%
Somerset	288	333	15.6%	20. Queen Anne's	562	20. Calvert	1.1%
Talbot	303	591	95.0%	21. Dorchester	419	21. Cecil	1.1%
Washington	1,217	1,318	8.3%	22. Kent	367	22. Washington	1.1%
Wicomico	924	2,324	151.5%	23. Somerset	333	23. Garrett	1.0%
Worcester	498	858	72.3%	24. Garrett	276	24. Allegany	0.8%
Maryland	148,493	246,287	65.9%			Maryland	5.0%
United States	13,982,502	21,320,407	52.5%			United States	8.1%

Source: U.S. Census Bureau