

Department of Legislative Services
Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE

House Bill 887 (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 and functions must write and publish each official document in English and conduct each meeting and other official oral communication in English. County agencies and functions 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. In addition, 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. Failure to comply with federal LEP requirements could result in the loss of federal funding.

Small Business Effect: None.

Analysis

Bill Summary: This bill establishes English as the official language of Baltimore County. County agencies and functions 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 transition 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.
- to assist persons who are not proficient in English in the conduct of government affairs.

Current Law: Maryland law defines limited English proficiency as the inability to adequately understand or express oneself in the spoken or written English language. The U.S. Census Bureau defines an individual with LEP as a person who cannot speak English very well.

Several federal laws and directives mandate language assistance to LEP individuals. These laws and directives are Title VI of the Civil Rights Act of 1964, the Voting Rights Act (VRA), and Executive Order 13166 signed in 2000. Collectively, these laws and directives attempt to provide meaningful language access to voting and government services and combat unlawful discrimination on the basis of national origin. National origin discrimination includes discrimination on the basis of LEP. Maryland enacted legislation in 2002 (SB 265/Chapter 141) 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 mandates that “[n]o person in the United States shall, on ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.” 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 may constitute impermissible discrimination on the basis of national origin.

The language provisions of the VRA only apply to so-called “covered jurisdictions” determined by the U.S. Census Bureau after each census. Covered language minorities are limited to American Indians, Asian Americans, Alaskan Natives, and Spanish-heritage citizens. The VRA requires a covered state or political subdivision to ensure that all election information available in English also be available in the minority language. The provisions of Section 203 of the VRA are triggered if more than 10,000 or over 5% of the citizens of voting age in the covered jurisdiction are members of a single-language minority group who do not speak or understand English adequately enough to participate in the electoral process; or if, on an Indian reservation, the language group exceeds 5% of all reservation residents and the illiteracy rate of the group is higher than the national illiteracy rate. The U.S. Census Bureau director is responsible for determining which states and localities are subject to the minority language assistance provisions of the VRA. Montgomery County, the only jurisdiction in Maryland subject to the language assistance provisions of the VRA, 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.

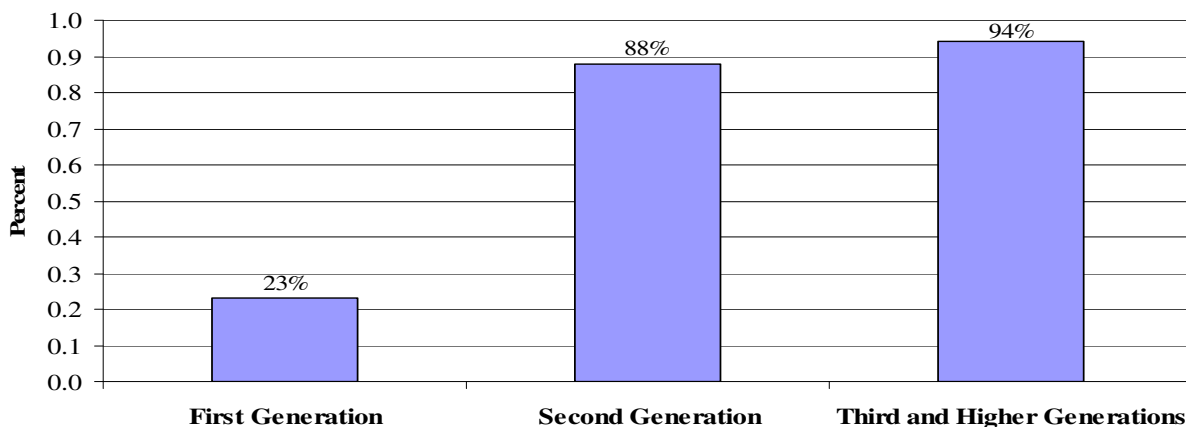
Pursuant to this statute, 35 State agencies, departments, and commissions must take reasonable steps to provide equal access to public services to LEP individuals. Other entities must monitor their operations to determine if reasonable steps are needed to achieve equal access to public services for LEP individuals.

Background: Maryland remains a major destination for both legal and undocumented immigrants, with 130,000 immigrants coming to the State over a six-year period, from 2000 to 2006. Baltimore County is the third most popular locality for immigrants in Maryland, with nearly 10% of all recent immigrants deciding to live in the county. Immigration has contributed significantly to the county’s population growth in recent

years, accounting for 39% of population growth between 2000 and 2006. The number of people who speak a language other than English at home is an indicator of the scope of immigration in Maryland. In Maryland, 5.7% of the State's population is LEP compared to 4.2% in Baltimore County. **Appendix 1** shows the number of LEP individuals in each jurisdiction and their percentage of the county's population for 1990 and 2000, the most recent data available for all counties. **Appendix 2** provides information for counties included in the U.S. Census Bureau's 2006 American Community Survey.

Recent studies indicate that immigrants are willing to learn and speak English. A recent report by the Pew Hispanic Center indicates that the fluency in spoken English increases across generations of Hispanic families. For example, while 23% of first generation Hispanics are able to speak English very well, the percentage increases to 88% of second generation Hispanics and 94% of third and higher generation Hispanics (**Exhibit 1**).

Exhibit 1
English Proficiency Across Hispanic Generations
Percent Who Speak English Very Well



Source: The Pew Hispanic Center

The study also indicates that the use of Spanish at home by Hispanics declines for each future generation:

- While 52% of foreign born Hispanics speak only Spanish at home, the percentage decreases to 11% for their adult children and 6% for the children of U.S. born Hispanics.
- While half of the adult children of Hispanic immigrants speak some Spanish at home, by the third and future generations, the percentage falls to one in four.

Official English Laws in Maryland

In November 2006, the Taneytown City Council approved a nonbinding resolution establishing English as the official city language. All official municipal business must be conducted in English only, unless otherwise required by federal or State laws. Taneytown, located in Carroll County, has a population of around 5,500 residents.

States with Official English Laws

English is the official language in 30 states as shown in **Exhibit 2**. The U.S. government has not established an official language.

Exhibit 2
States with Official English Laws

Alabama (1990)	Illinois (1969)	Nebraska (1920)
Alaska (1998)	Indiana (1984)	New Hampshire (1995)
Arizona (2006)	Iowa (2002)	North Carolina (1987)
Arkansas (1987)	Kansas (2007)	North Dakota (1987)
California (1986)	Kentucky (1984)	South Carolina (1987)
Colorado (1988)	Louisiana (1811)	South Dakota (1995)
Florida (1988)	Massachusetts (1975)	Tennessee (1984)
Georgia (1986,1996)	Mississippi (1987)	Utah (2000)
Hawaii (1978)	Missouri (1998)	Virginia (1981,1996)
Idaho (2007)	Montana (1995)	Wyoming (1996)

Federal Requirements under Executive Order 13166

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.
- 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 10 languages, states that “if you are mistreated because you are LEP, it may be national origin discrimination.” **Exhibit 3** lists examples of possible national origin discrimination by government agencies as cited in the publication and examples of good practices.

At a meeting before the federal working group in 2006, 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.

Exhibit 3
Examples of Possible Discrimination and Good Practices
By Government Agencies

Possible Discrimination

You call 911 to report a crime. The operator does not understand you and cannot help you.

Your child's school sends important information or a notice to you in English. The school knows you speak only Spanish. The school refuses to provide the information to you in Spanish and suggests instead that your child interpret the information for you.

You try to apply for food stamps. The application is in English. You do not understand the application. The food stamp office workers tell you to come back with your own interpreter.

Good Practices

The operator connects you quickly to an interpreter who helps you.

Your child's school has many Spanish-speaking parents. The school knows you only speak Spanish. You should receive the important information or notice in Spanish.

The food stamp office has an interpreter, or contacts a telephone interpreter, to help you. An application in your language is given to you.

Source: Federal Interagency Working Group on Limited English Proficiency

Fiscal Affect of Potential Federal Sanctions in Maryland

The federal government places a high level of attention on linguistic access to federal funded services, whether in a State or local government agency. Federal agencies are authorized to monitor any agency that receives federal funding. The Maryland Department of Human Resources (DHR) advises that adopting an official language could result in additional federal auditing and more intense scrutiny of linguistic access throughout the state by the regional civil rights offices of multiple federal agencies.

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 federal funding for Temporary Assistance to Needy Families (TANF) grants and federal food stamps. Federal funding for entitlement programs will total \$3.3 billion

in fiscal 2009 (\$122.7 million in foster care payments, \$462.1 million in assistance payments, and \$2.7 billion in Medical Assistance).

The U.S. Department of Justice indicates that State or local governments with English-only laws do not relieve an entity that receives federal funding from its responsibilities under federal anti-discrimination laws. Entities in states and localities with English-only laws are certainly not required to accept federal funding – but if they do, they have to comply with Title VI, including its prohibition against national origin discrimination by recipients of federal assistance. Failing to make federally assisted programs and activities accessible to individuals who are LEP will, in certain circumstances, violate Title VI.

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: This legislation was introduced as HB 771 of 2007 and HB 1337 of 2006. HB 771 received a hearing in the House Health and Government Operations Committee but no further action was taken. HB 1337 received an unfavorable report from Health and Government Operations.

Cross File: None.

Information Source(s): Baltimore County, Department of Human Resources, Department of Budget and Management, Office of the Attorney General, U.S. Census Bureau, U.S. Department of Justice, Department of Legislative Services

Fiscal Note History: First Reader - March 10, 2008
mam/hlb

Analysis by: Hiram L. Burch Jr.

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

Appendix 1

Demographics – Limited English Proficient Individuals

Limited English Proficient Individuals

<u>County</u>	<u>1990</u>	<u>2000</u>	<u>% Chg.</u>
Allegany	435	585	34.5%
Anne Arundel	7,315	11,416	56.1%
Baltimore City	15,616	18,113	16.0%
Baltimore	16,158	25,526	58.0%
Calvert	371	774	108.6%
Caroline	213	614	188.3%
Carroll	937	1,737	85.4%
Cecil	652	862	32.2%
Charles	972	1,928	98.4%
Dorchester	403	419	4.0%
Frederick	1,378	2,939	113.3%
Garrett	328	276	-15.9%
Harford	2,426	3,413	40.7%
Howard	4,510	11,063	145.3%
Kent	462	367	-20.6%
Montgomery	60,308	105,001	74.1%
Prince George's	31,091	53,743	72.9%
Queen Anne's	307	562	83.1%
St. Mary's	1,381	1,525	10.4%
Somerset	288	333	15.6%
Talbot	303	591	95.0%
Washington	1,217	1,318	8.3%
Wicomico	924	2,324	151.5%
Worcester	498	858	72.3%
Maryland	148,493	246,287	65.9%
United States	13,982,502	21,320,407	52.5%

Ranking by Number of Individuals

<u>County</u>	<u>2000</u>
1. Montgomery	105,001
2. Prince George's	53,743
3. Baltimore	25,526
4. Baltimore City	18,113
5. Anne Arundel	11,416
6. Howard	11,063
7. Harford	3,413
8. Frederick	2,939
9. Wicomico	2,324
10. Charles	1,928
11. Carroll	1,737
12. St. Mary's	1,525
13. Washington	1,318
14. Cecil	862
15. Worcester	858
16. Calvert	774
17. Caroline	614
18. Talbot	591
19. Allegany	585
20. Queen Anne's	562
21. Dorchester	419
22. Kent	367
23. Somerset	333
24. Garrett	276

Ranking by Percent of Population

<u>County</u>	<u>2000</u>
1. Montgomery	12.9%
2. Prince George's	7.2%
3. Howard	4.8%
4. Baltimore	3.6%
5. Baltimore City	3.0%
6. Wicomico	2.9%
7. Anne Arundel	2.5%
8. Caroline	2.2%
9. Kent	2.0%
10. St. Mary's	1.9%
11. Worcester	1.9%
12. Talbot	1.8%
13. Charles	1.7%
14. Harford	1.7%
15. Frederick	1.6%
16. Queen Anne's	1.5%
17. Dorchester	1.4%
18. Somerset	1.4%
19. Carroll	1.2%
20. Calvert	1.1%
21. Cecil	1.1%
22. Washington	1.1%
23. Garrett	1.0%
24. Allegany	0.8%
Maryland	5.0%
United States	8.1%

Appendix 2
Languages Spoken at Home – Limited English Proficient Individuals
2006

County	Population 5 Years +	Speak Language Other than English	Percent of Population	Limited English Proficient	Percent of Population
Anne Arundel	475,687	41,087	8.6%	13,161	2.8%
Baltimore City	586,620	49,333	8.4%	20,145	3.4%
Baltimore	740,825	82,799	11.2%	30,890	4.2%
Frederick	208,110	23,668	11.4%	9,412	4.5%
Harford	226,552	12,089	5.3%	3,344	1.5%
Howard	254,890	49,415	19.4%	18,308	7.2%
Montgomery	866,247	307,739	35.5%	123,361	14.2%
Prince George's	780,849	154,141	19.7%	65,532	8.4%
Maryland	5,247,226	780,199	14.9%	299,736	5.7%

Note: The *American Community Survey* does not provide information on limited English proficiency for the other counties in Maryland.

Source: 2006 *American Community Survey*, U.S. Census Bureau