

Department of Legislative Services
Maryland General Assembly
2016 Session

FISCAL AND POLICY NOTE
Enrolled - Revised

Senate Bill 28

(Senator Kagan, *et al.*)

Education, Health, and Environmental Affairs

Health and Government Operations

State Government - Web Sites - Language Access

This bill requires specified State departments, agencies, and programs to take reasonable steps, beginning October 1, 2016, to operate and maintain, for each publicly accessible website that provides access to public services, equal access versions in any language spoken by any limited English proficient population that constitutes at least 0.5% of the overall population within the State as measured by the U.S. census and that can be translated free of charge. If machine translation services are used to meet these requirements, the department, agency, or program may post a disclaimer regarding the accuracy of the translation. State departments, agencies, and programs are not required to provide equal access to website content under specified circumstances.

The bill takes effect July 1, 2016.

Fiscal Summary

State Effect: The bill partially codifies an existing practice for some agencies whose websites are hosted by the Department of Information Technology (DoIT) because the websites already have Spanish versions using machine translation services. DoIT general fund expenditures increase by approximately \$4,000 in FY 2017 for programming costs and to translate its existing disclaimer into two other languages. Translation of the disclaimer for any other languages can be handled using existing resources in future years. Other agencies can meet the bill's requirements using machine translation services for little to no cost with assistance from DoIT. Agencies that use human translation services for some or all of their website content incur additional costs; any such costs are not reflected in this estimate because they are not explicitly required by the bill. The bill may result in additional statewide revenues and expenditures to the extent that the translated websites allow more people access to public services and benefits, such as licensing for recreational activities; however, any such impact is potential and expected to be minimal.

Local Effect: Although they are not required to do so, if local governments choose to translate public service websites, which is encouraged by the bill, machine translation services that meet the bill's requirements can be employed using existing resources with assistance from DoIT.

Small Business Effect: Minimal.

Analysis

Bill Summary: A State department, agency, or program is not required to provide equal access to website content if (1) it determines that an inaccurate translation of the content could lead to a denial of services or benefits or (2) the content cannot be translated due to limitations of the translation software, including files in PDF format, images, and videos.

DoIT must establish minimum standards for the websites, which must include the prominent placement of links on the English version of a website to each equal access version of the website. Units of local government are encouraged, but not required, to meet the same translation requirements as the specified State departments, agencies, and programs. A State department, agency, or program that is not required to provide translation services by the bill must monitor its operations to determine if it should take reasonable steps to achieve equal access to public services for individuals with limited English proficiency as well.

Any disclaimer used must inform the reader that the State department, agency, or program (1) does not guarantee the accuracy or reliability of the translation and (2) is not liable for any loss or damage arising out of the use or reliance on the translated content.

The bill expresses the intent of the General Assembly that State departments, agencies, and programs begin to comply with the bill's requirements as soon as practicable but no later than October 1, 2016.

Current Law: Specified State departments, agencies, and programs are required to take reasonable steps to provide equal access to public services for individuals with limited English proficiency. Reasonable steps include the following methods:

- providing oral language services for individuals with limited English proficiency, which must be through face-to-face, in-house oral language services if contact is on a weekly or more frequent basis;
- translating vital documents ordinarily provided to the public in any language spoken by any limited English proficient population that constitutes at least 3% of the

overall population within the State as measured by the U.S. census and providing such documents to any local office as necessary; and

- any other additional methods or means necessary to achieve equal access to public services.

Any State department, agency, and program not specified in statute must monitor its operations to determine if it should take reasonable steps to achieve equal access to public services for individuals with limited English proficiency.

The Department of Human Resources, in consultation with the Office of the Attorney General, must provide central coordination and technical assistance to State departments, agencies, and programs to aid in compliance with these provisions.

Background: Current information from the U.S. Census Bureau’s American Community Survey 5-Year Estimates indicates that Spanish speakers are the most common limited English proficient population in Maryland. In 2014, the most recent year for which data is available, 174,142 (3.15% of the State population) persons older than the age of five spoke Spanish and spoke English less than “very well.” The second highest population of persons that spoke English less than “very well” spoke Chinese. There were 29,766 (0.5% of the State population) such persons in 2014. No other population of limited English proficient persons met the bill’s 0.5% threshold at that time.

Google Translate, one of the most prominent machine translation services available, is a free multilingual service provided by Google primarily to translate text; however, the program is also being developed to translate other forms of communication, such as audio and video. It does not have the capacity to translate PDF documents or text contained in images. Many of the most common languages spoken by people with limited English proficiency are available for translation through Google Translate.

State/Local Expenditures: Senate Bill 758 of 2015, which was substantively similar to this bill, would have also required State departments, agencies, and programs to provide equal access versions of websites in another language. Senate Bill 758 authorized DoIT to establish standards for any translations. At that time, DoIT reported that it generally advised State agencies against using machine translation services for public documents due to potential inaccuracies and that it would not authorize machine translation services for websites under that bill. Therefore, the fiscal and policy note for that bill assumed that relevant websites would need to be translated using the statewide Foreign Language Interpretation/Translation Services (FLITS) master contract at significant cost.

In its response for this bill, DoIT advised that, on December 30, 2015, it began to place Google Translate links in the agency websites it hosts in order to translate them into Spanish. Thus far, the translation has been built into the websites of 20 agencies, including

the Department of Natural Resources, Maryland Department of Transportation, and Department of Labor, Licensing, and Regulation. This was done only after DoIT conferred with its assistant Attorney General and a disclaimer was written to ensure that users of the translation service are aware of potential inaccuracies, degradation of information, and the lack of translation for images and PDFs. The language of the disclaimer created by DoIT can be seen in the Additional Comments section below.

DoIT advises that it is currently creating standards (which are also required under the bill) to test and host source code related to machine translation services. Moreover, DoIT advises that it will assist other departments, agencies, and programs specified by the bill (whose websites are not hosted by DoIT), as well as local governments, in setting up free machine translation services on their websites. Based on this new information from DoIT, this estimate assumes that machine translation services can be used to meet the bill's requirements; thus, the bill's requirements can be met with minimal costs.

General fund expenditures for DoIT increase by about \$4,000 in fiscal 2017 for (1) programing costs to ensure each State website is functioning properly with the translations and (2) minimal translation costs as DoIT's disclaimer is translated into other languages using FLITS. If other languages meet the bill's threshold in future years, DoIT can include those languages with little to no additional cost. Currently, DoIT estimates that the bill only requires website translation into Spanish, Chinese-Mandarin, and Chinese-Cantonese.

As the DoIT disclaimer notes, while machine translation services are a quicker and cheaper alternative to human translation, the translations frequently have inaccuracies and degradation of text. Moreover, machine translation services are not sufficiently advanced to translate text within image files or PDF files. Though machine translations are adequate for getting the general meaning of a sentence across to the reader, grammar, technical writing, and instructions are at great risk for translation errors, which could lead to mistakes in important government services such as applications for licensing or public assistance. Therefore, departments, agencies, and programs may elect to use FLITS to translate highly technical or important documents and messages for their websites, even though this does not appear to be required by the bill. To the extent they do so, they incur costs at the rate of approximately 15 to 20 cents per word.

Additional Comments: The following is the disclaimer that is displayed before a website hosted by DoIT is translated into Spanish. While the disclaimer appears in Spanish on agency websites, the original English version has been provided below.

The Maryland Department of Information Technology ("DoIT") offers translations of the content through Google Translate. Because Google Translate is an external website, DoIT does not control the quality or

accuracy of translated content. All DoIT content is filtered through Google Translate which may result in unexpected and unpredictable degradation of portions of text, images and the general appearance on translated pages. Google Translate may maintain unique privacy and use policies. These policies are not controlled by DoIT and are not associated with DoIT's privacy and use policies. After selecting a translation option, users will be notified that they are leaving DoIT's website. Users should consult the original English content on DoIT's website if there are any questions about the translated content.

DoIT uses Google Translate to provide language translations of its content. Google Translate is a free, automated service that relies on data and technology to provide its translations. The Google Translate feature is provided for informational purposes only. Translations cannot be guaranteed as exact or without the inclusion of incorrect or inappropriate language. Google Translate is a third-party service and site users will be leaving DoIT to utilize translated content. As such, DoIT cannot guarantee or claim responsibility for the accuracy, reliability, or performance of this service nor the limitations provided by this service, such as the inability to translate specific files like PDFs and graphic files (*e.g.*, .jpgs, .gifs, etc.).

DoIT provides Google Translate as an online tool for its users, but DoIT does not directly endorse the website or imply that it is the only solution to users. All site visitors may choose to use similar tools for their translation needs. Any individuals or parties that use DoIT content in translated form, whether by Google Translate or by any other translation services, do so at their own risk. DoIT is not responsible for any damages or issues of translated content not officially sanctioned and approved by the agency. DoIT assumes no liability for any of your activities in connection with use of the Google Translate functionality or content.

The Google Translate service is a means by which DoIT offers translations of content and is meant solely for the convenience of non-English speaking users of the website. The translated content is provided directly and dynamically by Google; DoIT has no direct control over the translated content as it appears using this tool. Therefore, in all contexts, the English content, as directly provided by DoIT is to be held authoritative.

Additional Information

Prior Introductions: SB 758 of 2015, a bill similar to this bill as introduced, passed the Senate and received a hearing in the House Health and Government Operations Committee, but no further action was taken.

Cross File: None.

Information Source(s): Department of Information Technology; Office of the Attorney General; Department of Commerce; Maryland Commission on Civil Rights; Maryland Department of Aging; Maryland State Department of Education; Maryland Department of Agriculture; Maryland Department of the Environment; Department of Health and Mental Hygiene; Department of Housing and Community Development; Department of Juvenile Services; Department of Labor, Licensing, and Regulation; Department of State Police; Department of Natural Resources; Department of Public Safety and Correctional Services; Maryland Department of Transportation; Department of Veterans Affairs; U.S. Census Bureau; Department of Legislative Services

Fiscal Note History: First Reader - January 19, 2016
min/mcr Revised - Senate Third Reader - March 22, 2016
Revised - Enrolled Bill - May 11, 2016

Analysis by: Richard L. Duncan

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