

ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: Shelley Analyst: LuAnna Hass Bill Number: AB 805

Related Bills: See Legislative History Telephone: 845-7478 Amended Date: April 23, 2001

Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: State Agencies Provide Non-English Information Over The Internet

SUMMARY

This bill would require state agency websites to have a link to non-English information.

SUMMARY OF AMENDMENTS

The April 23, 2001, amendments added four authors and would require state agencies to report annually to the Assembly on their compliance with these changes.

The April 2, 2001, amendments specify that state agencies must provide a link to non-English information on the home page of their website. The amendments also specify that the linked pages must include specific information in the appropriate non-English language, as discussed below in the "This Bill" portion of the analysis.

This is the department's first analysis of this bill.

PURPOSE OF THE BILL

The author's office has indicated that the bill's purpose is to ensure non-English-speaking individuals have access to state agency information and services in their native language via the Internet.

EFFECTIVE/OPERATIVE DATE

This bill would be effective and operative January 1, 2002.

POSITION

Pending.

ANALYSIS

FEDERAL/STATE LAW

Title VI of the Civil Rights Act of 1964 states that no person shall be excluded from participation in, denied the benefits of, or be subject to discrimination based on race, color, or national origin, under any program or activity receiving Federal financial assistance. A federal aid recipient's (federal program) failure to assure that people who are not proficient in English can effectively participate in and benefit from the federal program or activity may constitute national origin discrimination as prohibited by Title VI.

Board Position:

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Department Director

Date

Alan Hunter for GHG

06/19/01

On August 11, 2000, the President of the United States issued Executive Order 13166 entitled "Improving Access to Services for Persons With Limited English Proficiency (LEP)." The order requires each Federal agency to examine the services it provides to the public and implement a system by which LEP persons can access those services. The system that is implemented by each agency must be consistent with, but not unduly burden, the fundamental mission of the Federal agency. To assist the agencies, the Department of Justice (DOJ) issued a general guidance document that outlines the compliance standards that the agencies must follow. The DOJ guidance document outlines Title VI and its regulations that require each agency or recipient of Federal assistance to take "reasonable steps to provide meaningful access" to LEP persons. The "reasonable steps" are contingent on four primary factors:

1. Number or proportion of LEP individuals who would be excluded from the benefits or services if the language barrier is not removed;
2. Frequency of the LEP individuals contact with the program;
3. Nature and importance of the Federally-assisted program; and
4. Resources available to the Federally-assisted program.

For purposes of judicial review, Executive Order 13166 was intended only to improve the internal management of the executive branch of the federal government. The order does not create any rights or benefits, substantive or procedural, enforceable at law by a party against the United States or its agencies.

State law requires state agencies that are directly involved with supplying information or services to the public and have contact with non-English-speaking people to employ bilingual personnel in public contact positions. In addition, the agencies may utilize existing funds to contract for telephone-based interpretation services.

Any materials that explain the services available at a state agency must be translated into any non-English language that may be spoken by a substantial number of the public that the agency serves. A "substantial number of non-English-speaking people" is defined as members of a group that do not speak English or are unable to effectively communicate in English because it is not their native language. The group must comprise five percent or more of the people served by the state agency.

Additionally, any oral or written notice of the availability of these materials must be given in English and the non-English language into which the materials were translated. Current law specifies that although the materials must be provided in the non-English language, they are not required to be translated verbatim.

A state agency with local offices that serve a substantial number of non-English-speaking people may elect to (1) distribute written materials in the non-English language or (2) furnish translation aids, guides, or provide assistance in completing and understanding materials written in English under the following circumstances:

- the written materials must provide information or require an individual to furnish information, or
- the information that is furnished or required of the individual may affect their rights, duties, or privileges in relation to the services or benefits the state agency provides.

THIS BILL

This bill would require each state agency to provide links on its website to non-English information. The information must be consistent with current law that requires state agencies to provide bilingual materials to explain their services.

This bill would specify that state agencies must provide the links to non-English information on the home page of their website. The linked pages must include specific information in the appropriate non-English language, including information at least in Chinese and Spanish. This information includes, but is not limited to, the following:

- At least one-half of a web page that explains the services and duties of the state agency,
- Contact addresses and telephone numbers for additional non-English information on the agency and its services, and
- Examples of electronic forms that are most commonly requested by non-English-speaking individuals.

This bill would require state agencies that maintain a website to annually report to the Assembly on their compliance with this bill's requirements.

IMPLEMENTATION CONSIDERATIONS

This bill requires at least one-half of a web page to explain the services and duties of a state agency in non-English languages. Since website pages can vary in length, it is unclear what constitutes "one-half page." The author may want to specify in a different manner the amount of information to be provided by state agencies.

This bill also requires state agencies to include examples of the most commonly requested "electronic forms" in a non-English language. It is unclear what constitutes an "electronic form." It is also unknown which forms or schedules on the website are the most commonly requested in languages other than English. The department currently provides various information in English on its public Internet website, including electronic reproductions of publications, income tax booklets, forms, and instructions for the 2000 tax year. The author may wish to clarify the phrase "examples of most commonly requested electronic forms."

This bill does not require state agencies to implement the provisions of this bill within any specified timeframe. The author may wish to specify a desired implementation date for state agencies to satisfy the requirements outlined in this bill.

LEGISLATIVE HISTORY

AB 763 (Shelley, 2001/2002) would require various state agency information and materials on the Internet to be made available in a non-English language. This bill is in the Assembly Judiciary Committee.

SB 987 (Escutia, 2001/2002) would make various changes to current laws regarding state agencies and bilingual services. This bill is at the Assembly Desk.

PROGRAM BACKGROUND

The Franchise Tax Board's (FTB) Internet website contains a link to a general information page in Castilian Spanish. The information on this page includes frequently asked questions, correspondence information, and phone numbers for the automated interactive voice response system and phone numbers to speak to a bilingual customer service representative.

As directed under current law, FTB conducts a survey every two years and reports to State Personnel Board (SPB) the number of non-English speaking people served by the department. Currently, FTB has identified Spanish as the only non-English language comprising five percent or more of the people served.

Currently FTB provides various brochures, pamphlets, or schedules in Spanish, and the public website includes a sampling of forms and publications in Spanish. The tax form booklets include language informing non-English-speaking taxpayers of the availability of bilingual assistance.

OTHER STATES' INFORMATION

Review of revenue department websites for *Colorado, Florida, Texas, Oregon, Arizona, New Mexico,* and *New York* found the following:

Texas has a link to Spanish language information that contains the Taxpayers' Rights, Remedies, and Responsibilities, and monthly fiscal notes.

Oregon has a link to a Spanish language question and answer page that includes phone numbers to their department and the IRS.

None of the states reviewed offered tax forms or publications in non-English languages. These states were reviewed because of geographic location and a population diversity that is similar to California.

FISCAL IMPACT

The department's costs are difficult to determine until the implementation concerns are resolved, but it is anticipated that the costs for interpretation could be significant. Additional annual costs would be incurred for translators to handle correspondence and phone calls.

ECONOMIC IMPACT

This bill would not impact the state's income tax revenues.

LEGISLATIVE STAFF CONTACT

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