



THE PRINCE GEORGE'S COUNTY GOVERNMENT

Office of Audits and Investigations

October 7, 2020

FISCAL AND POLICY NOTE

TO: Robert J. Williams, Jr.
Council Administrator

William M. Hunt
Deputy Council Administrator

THRU: Josh Hamlin
Senior Legislative Budget and Policy Analyst

FROM: Isabel Williams
Senior Legislative Budget and Policy Analyst

RE: Fiscal and Policy Note
CB-034-2020, Language Access for Public Services

CB-034-2020 (sponsored by: Councilmember Taveras)

Assigned to the Committee of the Whole

AN ACT CONCERNING LANGUAGE ACCESS FOR PUBLIC SERVICES for the purpose of amending the Language Access division of the County Code to define the Language Access Contact, adjust the language threshold, define enforcement and penalties, and expand the agencies affected.

Fiscal Summary

Direct Impact:

Expenditures: CB-034-2020 is expected to cost \$2,231,780.80 based on the creation of several new positions.

Revenues: The generation of revenue will be dependent on enforcement and fines.

Indirect Impact:

In addition to personnel costs, CB-034-2020 has other associated costs. The proficiency standards created by this legislation require testing. This testing will require resources, in addition to

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associated costs that will be accrued by each individual agency that is required to meet the new standards created by CB-034-2020.

Legislative Summary:

CB-034-2020, proposed by Councilmember Taveras, was presented to the County Council on June 9, 2020, and referred to the Committee of the Whole. CB-034-2020 was held and not discussed in the Committee of the Whole on June 18, 2020. The Bill would expand the County’s existing language access program that was created by CB-062-2017. Specifically, CB- 034-2020 would create a new position, Language Access Compliance Program Coordinator. CB-034-2020 would also define the titles and roles of other key positions and establish an enforcement mechanism.

Current Law/Background:

The County’s current language access requirements were established by CB-062-2017 and are codified in Division 45 (§§2-513 through 2-518) of Subtitle 2 of the County Code. Both oral and written language service requirements are imposed under the law.

Oral language services:

Under current law, a *covered entity*¹ is required to designate a *Language Access Contact*² to coordinate requests for access to oral language services to a person with limited or non-English proficiency who seeks to access or participate in the services, programs, or activities offered by the covered entity. Current law also requires each covered entity to, at least annually, determine the type of oral language services needed, and requires the County to collect data about the languages spoken and the number or proportion of limited or non-English proficient persons speaking a given language in the population that is served or encountered, or likely to be served or encountered, by each covered entity.³

Written language services:

Existing law also requires a covered entity to designate a Language Access Contact to coordinate requests for written translations of vital documents into any non-English language spoken by a limited or non-English proficient population that constitutes 5% or 10,000 individuals, whichever is less, of the population served or encountered, or likely to be served or encountered, by the covered entity in the County. This requirement may also be contractually imposed on a non-covered entity.⁴

¹ Under §2-513(b), “covered entity” is defined as “any County government agency, department, or program that furnishes information or renders services, programs, or activities directly to the public or contracts with other entities, either directly or indirectly, to conduct services, programs, or activities.”

² “Language Access Contact” is defined in §2-513(b).

³ County Code, §2-515

⁴ County Code, §2-516

Other language access requirements:

Each covered entity with major public contact⁵ is required to establish, and update every two years, a language access plan through consultation between the *Language Access Director*,⁶ the entity's Language Access Contact, and agency directors that conduct outreach to limited or non-English populations. Further, a covered entity with major public contact must develop a plan to conduct outreach to communities with limited or non-English proficient populations about their language access plans and about the benefits and services to be offered under this Division.⁷

Oversight/Language Access Coordinator:

Under §2-518, the Human Relations Commission (HRC) is charged with providing oversight, monitoring, and investigation of covered entities in their implementation of the provisions of the language access requirements and must report annually to the County Council and County Executive to ensure that the provision of services by covered entities meets acceptable standards of translation or interpretation. The law creates within the HRC a Language Access Director to monitor activities under Division 45. The specific responsibilities of the Language Access Director are enumerated in §2-518(b)(1) through (6).

Resource Personnel:

- Terry Bell, Office of the County Executive

Discussion/Policy Analysis:

This bill seeks to refine the definitions for the terms access, covered entity, covered entity with major public contact, and language access contact. It also expands the duties of the language access contact, changing the title to Language Access Compliance Program Coordinator, makes the position full-time, and expands the duties to include compliance with the Language Access for Public Services Act of 2017. It will be at the discretion of the covered entity whether to add a position or to have these duties assumed by current employees. The position title of Language Access Contact is changing to Language Access Compliance Program Coordinator. The position title of Language Access Director is changing to Language Access Compliance Monitor Director. The legislation creates the positions of Language Access Compliance Program Analyst and Language Access Primary and Secondary Liaisons.

CB-034-2020 requires covered entities with major public contact to maintain a Language Access Contact.⁸ Many county agencies do not have such a position, so this will require the creation of new positions at these covered entities. The bill also requires the creation of three new positions at the Human Relations Commission, including the positions of Language Access Compliance Program Director, Language Access Compliance Monitor, and Language Access Compliance Program Analyst.⁹ Someone of these positions

⁵ Covered entities with major public contact are identified in §2-513(c).

⁶ §2-513(e) defines “Language Access Director” as the official in the Human Relations Commission who monitors the activities of the County agencies, departments, and programs undertaken to comply with the provisions of this Division in each agency.

⁷ County Code, §2-517

⁸ CB-034-2020, page 2, lines 11-28

⁹ CB-034-2020, page 3, lines 16-31

may be filled by current employees. In addition to the new positions, CB-034-2020 creates document, proficiency, and access standards and requirements.

The new bill seeks to define the titles of compliance program director, language access compliance monitor, and language access compliance program analyst.¹⁰ The bill also establishes document and proficiency requirements.¹¹ Additionally, the bill seeks to expand the provided services.

The most commonly spoken languages within the County are Spanish, French, Chinese, Korean, Arabic, and American Sign Language.¹² Additionally, a large portion of the County speak a variety of West African languages and dialects.¹³ This bill seeks to make language assistance services for accessible, efficient, and more accessible.

The Human Relations Commission has communicated that a Language Access Director has been hired, pursuant to CB-062-2017, and started to execute some of the duties required under this legislation. The agency has taken steps to determine the type of oral language services needed, and to establish a language access plan. The proposed legislation suggests that these duties will require the creation of new positions at the covered entities, though statements from the covered entities state that many already have personnel performing the required duties. While no statements were made as to whether a Language Access Coordinator has been hired or will be hired, the duties of this position are currently being performed by the Language Access Director.

Enforcement

CB-034-2020 states that enforcement will fall to the Human Relations Commission. The legislation does not state whether enforcement will be report or inspection driven. Conflicts of interest may arise since the Human Relations Commission falls under the Office of Community Relations and may eventually have to investigate or fine covered entities within the agency.

Violations are to be reported to the Human Relations Commission (HRC). If the HRC finds a violation, they shall impose a civil fine up to \$1,000. Violating entities with one (1) to forty (40) staff members will be fined \$500. Violating entities with forty-one (41) to one hundred (100) members will be fined \$750. Violating entities with one hundred (100) or more staff members will be fined \$1,000. If violating entities fail to implement corrective action within sixty (60) days, a second fine will be issued. Collected fines will be deposited into a Language Access Education Fund.

Other Jurisdictions

The District of Columbia has extensive language access legislation. In 2014, the regulations for the Language Act of 2004 were updated.¹⁴ The updates and additions included new requirements for all covered entities in District government to assign a Language Access Point of Contact and report on all encounters with customers that speak little or no English as well as the designation of five new agencies who will now be required to adopt policies and plans for compliance under the law – DC Public Charter Schools, Department of Health Care Finance, Department of General Services, Office of the Attorney General Child

¹⁰ CB-34-2020, page 3 - Lines 16-31, page 4 – Lines 1-7.

¹¹ CB-34-2020, page 4 – Lines 16-21.

¹² <https://www.livestories.com/statistics/maryland/prince-george%27s-county-language>

¹³ *Id.*

¹⁴ <https://ohr.dc.gov/page/regulations-language-access-act>

Support Services Division and the Office of Administrative Hearings.¹⁵ Further changes included modifications to the administrative process for investigating language access complaints, and enhanced tracking measures to facilitate documentation of all inquiries, resolutions, and docketed complaints received by OHR.¹⁶ Many of these changes are included in this CB-034-2020.

Fiscal Impact:

Direct Impact

The Executive Branch estimates that this bill will require at least 21 new positions. This was determined based on one new position at each of the 18 covered entities mentioned in the legislation and includes 3 positions that will be needed by the Human Relations Commission. Compensation alone is estimated at \$2.23 million. Fringe and compensation for the Human Relations Commission positions are estimated at \$374,614.

CB-34-2020 Fiscal Impact- Year 1					
	Compensation	Fringe		Operating	
Language Access Compliance Program Director (1- HRC only)	Already exists in HRC per CB-62-2017	\$ -		Design, distribution, and upkeep of Language Access banners and posters (covers 18 entities, may vary depending upon number of offices and reception desks)	\$ 16,000.00
Language Access Compliance Program Coordinator (18- Covered Entities, not including HRC)	\$ 1,950,327.00	\$ 645,558.24		Building a Language Access Compliance Program Website on HRC's Webpage (\$200 a year after year 1)	\$ 6,200.00
Language Access Compliance Program Monitor (2- HRC only)	\$ 196,557.00	\$ 65,060.37		Obtaining telephonic interpretation services [The Language Line] (Contracted service, cost per minute)	\$ 0.58
Language Access Compliance Analyst (1-HRC only)	\$ 84,896.00	\$ 28,100.58		Translation of vital documents (cost per word)	\$ 0.15
Language Access Primary Secondary Liaison (2 per covered entity, total 36)	Internally appointed, Non-paid	\$ -			
Total	\$ 2,231,780.00	\$ 738,719.18			

Indirect Impact

Neither the executive nor the agency opined to the indirect fiscal impact of the bill but did suggest that the overall fiscal impact would be negative. This legislation would likely require outreach to make the public aware of the covered services, which will also have associated costs.

Appropriated in the Current Fiscal Year Budget:

No.

¹⁵ <https://ohr.dc.gov/release/new-regulations-published-dc-language-access-law>

¹⁶ <https://ohr.dc.gov/release/new-regulations-published-dc-language-access-law>

Issues for Committee Consideration:

- **Cost.** Enactment of CB-034-2020 would require significant additional expenditures in a time of economic uncertainty. The cost of implementing the Bill might be mitigated somewhat:
 1. by eliminating the requirement that each Language Access Compliance Coordinator be a full-time employee; or
 2. by phasing in the addition of new positions over a period of years by prioritizing covered entities and staggering the effective dates of the new requirements accordingly.

Either of these possibilities would likely require significant planning to ensure that the solution reached is workable.

- **Enforcement.** The enforcement scheme in the Bill would appear to put the Human Relations Commission in the position of fining other County agencies (as covered entities) for noncompliance. It is not clear how such fines would be collected, and in any event creates a dynamic of the County government effectively fining itself.
- **Implementation of current law.** It may be useful to get an update from the Executive Branch about compliance with the existing requirements:
 1. Have all agencies that are required to do so:
 - designated a Language Access Contact;
 - determined the type of oral language services needed; and
 - established a language access plan?
 2. What is the status of the Language Access Director with regard to carrying out the functions enumerated in §2-518(b)?

Effective Date of Proposed Legislation:

The proposed Bill shall take effect forty-five (45) calendar days after it becomes law.

If you require additional information, or have questions about this fiscal impact statement, please reach me via phone or email.