

Assembly Bill No. 2408

Passed the Assembly August 12, 2004

Chief Clerk of the Assembly

Passed the Senate July 2, 2004

Secretary of the Senate

This bill was received by the Governor this _____ day of
_____, 2004, at _____ o'clock __M.

Private Secretary of the Governor



CHAPTER _____

An act to amend Sections 7294, 7299.4, and 7299.6 of, and to add Section 7299.7 to, the Government Code, relating to bilingual services.

LEGISLATIVE COUNSEL'S DIGEST

AB 2408, Yee. Bilingual services.

Under the Dymally-Alatorre Bilingual Services Act, every state agency, except the State Compensation Insurance Fund, directly involved in the furnishing of information or the rendering of services to the public whereby contact is made with a substantial number of non-English-speaking people, is required to employ a sufficient number of qualified bilingual persons in public contact positions to ensure provision of information and services to the public, in the language of the non-English-speaking person. The act provides that an employee of a state or local agency may not be dismissed to carry out the purposes of the act, and that an agency need only implement the act by filling employee public contact positions made vacant by retirement or normal attrition.

This bill would also require the filling of newly created positions.

The act requires each agency to conduct a survey of its local offices every 2 years to determine prescribed matters, and requires the State Personnel Board to review the surveys and report any deficiencies to the Legislature.

This bill would require the survey and report to include additional information, and, if deficiencies in bilingual staffing are identified, would require state agencies to fill public contact jobs with qualified bilingual staff, unless exempted, as specified.

The people of the State of California do enact as follows:

SECTION 1. Section 7294 of the Government Code is amended to read:

7294. An employee of a state or local agency, as defined by Sections 11000 and 54951, may not be dismissed to carry out the purposes of this chapter. A state or local public agency need only implement this chapter by filling employee public contact



positions newly created or made vacant by retirement or normal attrition.

SEC. 2. Section 7299.4 of the Government Code is amended to read:

7299.4. (a) Notwithstanding any other provision in this chapter, each state agency shall conduct an assessment and develop and update an implementation plan that complies with the requirements of this chapter.

(b) Each agency shall conduct a survey of each of its local offices every two years to determine all of the following:

(1) The number of public contact positions in each local office.

(2) The number of bilingual employees in public contact positions in each local office, and the languages they speak, other than English.

(3) The number of bilingual employees in public contact positions needed at each local office to implement fully Section 7292.

(4) The number of appointments made to public contact positions in local offices where deficiencies exist.

(5) The number of appointments identified in paragraph (4) that were filled with bilingual employees, and the languages they speak, other than English.

(6) The written documentation where a condition described in subdivision (b) of Section 7299.7 was applied to exempt the state agency from the requirements of subdivision (a) of that section.

(7) The number and percentage of non-English-speaking people served by each local office, broken down by native language.

(8) The number of anticipated vacancies in public contact positions.

(9) Whether the use of other available options, including contracted telephone based interpretation services, in addition to bilingual persons in public contact positions, is serving the language needs of the people served by the agency.

(10) A list of all written materials that are required to be translated or otherwise made accessible to non- or limited-English-speaking individuals by Sections 7295.2 and 7295.4.



(11) A list of materials identified in paragraph (5) that have been translated and languages into which they have been translated.

(12) Any other relevant information requested by the State Personnel Board.

(c) (1) Each agency shall calculate the percentage of non-English-speaking people served by each local office by rounding the percentage arrived at to the nearest whole percentage point.

(2) The survey results shall be reported on forms provided by the State Personnel Board, and delivered to the board not later than March 31 of every even-numbered year beginning with 1992.

(d) Beginning in 2003 and in every even-numbered year thereafter, each state agency shall develop an implementation plan that, at a minimum, addresses all of the following:

(1) The name, position, and contact information of the employee designated by the agency to be responsible for overseeing implementation of the plan.

(2) A description of the agency's procedures for identifying written materials that need to be translated.

(3) A description of the agency's procedures for identifying language needs at local offices and assigning qualified bilingual staff.

(4) A description of how the agency recruits qualified bilingual staff.

(5) A description of any training the agency provides to its staff on the provision of services to non- or limited-English-speaking individuals.

(6) A detailed description of how the agency plans to address any deficiencies in meeting the requirements of this chapter, including, but not limited to, the failure to translate written materials or employ sufficient numbers of qualified bilingual employees in public contact positions at local offices, the proposed actions to be taken to address the deficiencies, and the proposed dates by when the deficiencies can be remedied.

(7) A description of the agency's procedures for accepting and resolving complaints of an alleged violation of this chapter.

(8) A description of how the agency complies with any federal or other state laws that require the provision of linguistically accessible services to the public.



(9) Any other relevant information requested by the State Personnel Board.

(e) In developing its implementation plan in 2003, each state agency may rely upon data gathered from its 2002 survey.

(f) Each state agency shall submit its implementation plan to the relevant fiscal and policy committees of the Legislature including, but not limited to, the appropriate budget subcommittee of each house, and to the State Personnel Board no later than October 1 of each applicable year. The board shall review each plan, and, if it determines that the plan fails to address the identified deficiencies, the board shall order the agency to supplement or make changes to its plan. A state agency that has been determined to be deficient shall report to the State Personnel Board every six months on its progress in addressing the identified deficiencies.

(g) If the board determines that a state agency has not made reasonable progress toward complying with this chapter, the board may issue orders that it deems appropriate to effectuate the purposes of this chapter.

SEC. 3. Section 7299.6 of the Government Code is amended to read:

7299.6. The State Personnel Board shall review the results of the surveys and implementation plans required to be made by Section 7299.4, compile this data, and provide a report to the Legislature every two years. The report shall identify significant problems or deficiencies, including any deficiencies in bilingual staffing necessary to implement Section 7292, and propose solutions where warranted.

SEC. 4. Section 7299.7 is added to the Government Code, to read:

7299.7. (a) Except as provided in subdivision (c), if a state agency, pursuant to Section 7299.4, or the State Personnel Board in reviewing a state agency's implementation plan required by Section 7299.4, identifies deficiencies in bilingual staffing at any local office of a state agency, that state agency shall be required to fill any future public contact position job openings at that local office with qualified bilingual staff until the state agency is in compliance with Section 7292.



(b) The State Personnel Board may exempt state agencies from the requirements of subdivision (a) if the state agency documents that any of the following conditions apply:

(1) An emergency has arisen that requires the agency to fill immediately a relevant public contact position either newly created or made vacant by retirement or attrition.

(2) The state agency has performed targeted recruitment for bilingual staff, including advertising in relevant ethnic media and outreach at community job fairs and events or through community-based organizations, and no qualified bilingual candidates can be identified within a reasonable period of time.

(3) The job opening is for a public contact position that would not address the state agency's deficiencies in complying with Section 7292.

(c) In order to receive the exemption, the state agency shall submit to the State Personnel Board the required written documentation to support the condition that was applied for each newly created or vacant public contact position subject to subdivision (a). The State Personnel Board shall provide written acknowledgment of receipt for each exemption request prior to any state agency making an appointment subject to that subdivision. The State Personnel Board shall conduct a biennial review of all exemptions upon submission of each state agency's language survey by March 31 of every even-numbered year. If any state agency is found not to have complied with this chapter or to have inadequately documented its efforts to comply with subdivision (a), the State Personnel Board may issue any orders it deems necessary to enforce subdivision (a) including, but not limited to, an order requiring the agency to obtain prior approval of the board for each appointment to a position subject to that subdivision, until the state agency is in full compliance with Section 7292.

(d) For purposes of this chapter, "job openings" includes newly created public contact positions or public contact positions made vacant by retirement or attrition.



Approved _____, 2004

Governor

