

Date of Hearing: April 15, 2021

ASSEMBLY COMMITTEE ON INSURANCE

Tom Daly, Chair

AB 401 (Chiu) – As Amended April 8, 2021

SUBJECT: Employment Development Department: language translations

SUMMARY: Expands access to language translations in the Employment Development Department (EDD). Specifically, **this bill:**

- 1) Requires all standard information employee pamphlets concerning unemployment and disability insurance programs shall be printed in English and the top 30 written languages.
 - a) Specifies the top 30 written languages shall be determined by examining various data sources, including, but not limited to, the United States Census Bureau, American Community Survey, State Department of Education, other state and local government agencies, feedback from community-based organizations, and EDD's own data tracking measures. The department shall thereafter evaluate and update this list every two years.
- 2) Requires EDD commencing July 1, 2022, to provide translation by qualified human translators between English and each of the top 30 languages for all of the following:
 - a) The active online interface and paper applications for all benefits programs administered by EDD, including any requests for identity verification, whether online or via paper. This shall include any and all online interfaces and paper applications operated or received by third-party vendors that are delegated to perform specific portions of processing, such as identity verification or other examination of claims.
 - b) Documents containing vital information, including, but not limited to, any forms or notices granting or denying benefits, requiring an affirmative action by the claimant, or that gives the claimant the right to request an administrative due process hearing.
 - c) Any other written communications to a claimant, including communication through email or text.
- 3) Requires EDD to transmit directly to the claimant and make available on EDD's internet website items in #2 above.
- 4) Provides that if a claimant's written language is not within the top 30 written languages, upon the claimant's request, EDD shall provide the claimant with a translated document in their written language within two business days of the request.
- 5) Requires, upon a claimant's request, EDD to read the document aloud and orally explain the document to the claimant in their preferred language and, when possible, the appropriate variant to the target language so that the language coincides with the claimant's preferred language variety.

- 6) Requires EDD, by July 1, 2022, to undertake the development of a community review process for translation of EDD's online application interface, forms and other documents and communications to ensure, among other purposes, plain language, readability, and cultural appropriateness.
 - a) Requires the community review process to be fully implemented by July 1, 2024. The community review process shall include, but not be limited to, user testing and input from members of the public, local government, and community-based organizations.
- 7) Provides that EDD shall identify a claimant's language needs at the earliest point of contact with the claimant. These efforts shall include, but are not limited to, all of the following:
 - a) Each written application for unemployment insurance, disability insurance, paid family leave, or other benefit provided by EDD shall contain a section asking claimants to identify their preferred written and spoken languages; and,
 - b) With respect to the online portals provided via EDD's internet website, EDD shall develop a mechanism to allow for the selection of spoken and written language options to be expanded on the portal by a claimant, with the option to indicate a language other than those already provided on the portal's list. The materials sent by the department to the claimant pursuant to the online portal shall be provided to the claimant in the language the claimant has indicated.
- 8) Requires oral and signed language services, by qualified interpreters or qualified bilingual staff, to be provided in all languages in real time, and if not possible, within 24 hours of the identified need or request. Specifically, the language services shall include, but are not limited to, the following:
 - a) Department staff who interact directly with a claimant, in person or remotely, shall have access to the claimant's identified preferred language.
 - b) Each telephone or video line operator shall offer the claimant telephone or video communication in their preferred signed or spoken language choice, to ensure the claimant has access to needed services. If the telephone or video line operator cannot obtain access to an interpreter in the claimant's language at the time of the call, the department shall ensure that the claimant receives a return telephone or video call in the claimant's language in a compatible linguistic variant within 24 hours of the original telephone call to EDD.
- 9) Requires EDD, by July 1, 2022, to make the pages on its internet website that provide information regarding applying for, and receiving, unemployment insurance, disability insurance, and paid family leave benefits available in the top 30 written languages.
- 10) Requires EDD to annually publish the total number of applications and claimants for each of the benefit programs including the preferred written and spoken language of the application or claimant. The report shall include information on the number and trend of applications for

all of the benefit programs, and description of how applications have been resolved, including processing times, denial rates, and the basis for denials.

- 11) Defines “claimant” as an applicant for or recipient of services provided by EDD.
- 12) Defines “interpreting” as using spoken or signed language to transmit a message from one language into another while preserving the meaning, register, and tone of the message.
- 13) Defines “qualified bilingual staff” as a member of EDD’s staff who has passed a formal linguistic proficiency assessment in both of their working languages.
- 14) Defines “qualified interpreter” as a person with advanced oral or signing proficiency in their working languages, knowledge of professional practices, and adherence to the interpreter’s code of ethics, who has been determined to be qualified by a formal certifying body such as the California Judicial Council or the Certification Commission for Healthcare Interpreters or based on experience, training, and references.
- 15) Defines “qualified translator” as a person with advanced written proficiency in their working languages, knowledge of professional practices, and adherence to the translator’s code of ethics, who has been determined to be qualified by a formal certifying body such as the American Translators Association or based on experience, training, and references.
- 16) Defines “translation” as using written language to transmit text from one language into another while preserving the meaning, register, and tone of the message.
- 17) Makes finding and declarations.

EXISTING LAW:

- 1) Requires all standard information employee pamphlets provided by EDD concerning unemployment and disability insurance programs to be printed in English and the 7 other most commonly used languages among participants in each program. Existing law also requires the department to make the pages on its internet website that provide information regarding applying for, and receiving, unemployment insurance benefits available in the 7 languages, other than English, most commonly used by unemployment insurance applicants and claimants. (Unemployment Insurance Code, Section 316)
- 2) Establishes the Dymally-Alatorre Bilingual Services Act which requires state and local agencies serving a substantial number of non-English speaking people, to employ a sufficient number of qualified bilingual staff in public contact positions and to translate documents explaining available services into their clients’ languages. (Government Code, Section 7299)

FISCAL EFFECT: Unknown.

COMMENTS:

The COVID-19 pandemic elevated the struggles of EDD in relation to providing information to Californians who are Limited English Proficient (LEP). This bill attempts to address this issue by requiring EDD provide information in the top 30 written languages. Additionally, the

measure requires EDD to: identify a claimant's language needs; expand translation of EDD applications, vital documents and notices, which are sent directly to the claimant; communicate with claimants in their preferred language in a timely manner, including increasing multilingual phone lines; establish a community review process of EDD's translation efforts to ensure accessibility; and, require EDD to report annual data on applications and benefits administered by language.

BACKGROUND: According to the 2010 National Census data, over 200 languages are spoken in California and 7 million Californians are LEP meaning an individual whose primary language for communication is not English. As noted in the EDD, 2018-2021 Language Access Plan, other facts include: in 2016, EDD provided services to Californians in 56 languages; and in 2016, 2,496,130 EDD customers were serviced in languages other than English from an estimated total of 16,644,798 annual contacts. A Dymally-Alatorre survey found in 2016, the top 6 languages spoken in California were: English, Spanish, Vietnamese, Cantonese/Yue, Mandarin, and Armenian.

On September 16, 2020, the EDD Strike Team Detailed Assessment and Recommendations found that individuals who are not fluent in English face unsurmountable barriers to receiving assistance. The report highlighted an August 21, 2021 letter to Governor Newsom from former Senator Holly Mitchell that stated:

“EDD is potentially in violation of the Dymally-Alatorre Bilingual Services Act, which requires every state agency “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, shall 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.” Californians for who English is not their first language face tremendous barriers in the EDD process, and call center staff and applications for programs offered by EDD are not available in enough language. EDD should work with other agencies to leverage existing language resources and prioritize language accessibility.”

According to the author:

California has the nation's largest LEP population; seven million Californians primarily speak a language aside from English. While a majority of that is Spanish speakers, 2.4 million of those people speak a language other than Spanish.

It is well documented that navigating EDD is unnecessarily challenging for English-speaking claimants, but it is next to impossible for those who are not proficient in English. As the Governor's EDD Strike Team reported: “individuals who are not fluent in English face insurmountable barriers to receiving assistance.”

People of color and immigrants have been hit especially hard by the COVID-19 pandemic, and are more likely to work in sectors that have been shuttered by this pandemic - they desperately need EDD to be accessible. Yet 7 million LEP Californians find themselves effectively shut out from receiving the unemployment benefits they are entitled to during a pandemic and recession. We are failing to meet the needs of

California's LEP community, depriving them of their civil rights and, for many, their sole source of financial support to meet basic needs.

AB 401 takes the necessary steps to right these wrongs, and ensures that all Californians seeking services provided by EDD have the language support required to access the services that they are entitled to.

REGISTERED SUPPORT / OPPOSITION:

Support

Asian Americans Advancing Justice - California
Association of California Caregiver Resource Centers
Burma Refugee Families & Newcomers
California Conference Board of The Amalgamated Transit Union
California Conference of Machinists
California Immigrant Policy Center
California Labor Federation, Afl-cio
California Pan - Ethnic Health Network
California Teamsters Public Affairs Council
California Work & Family Coalition
Center for Workers' Rights
Centro Binacional Para El Desarrollo Indígena Oaxaqueno
Chinese for Affirmative Action/aacre
Coalition of California Welfare Rights Organizations
Engineers and Scientists of California, Ifpte Local 20, Afl-cio
First 5 Association of California
First 5 California
Good Samaritan Family Resource Center
LA Best Babies Network
Legal Aid At Work
Mixteco Indigena Community Organizing Project (MICOP)
National Association of Social Workers, California Chapter
Professional and Technical Engineers, Ifpte Local 21, Afl-cio
Public Counsel
Refugee & Immigrant Transitions
The Restaurant Opportunities Center of Los Angeles
Unite Here International Union, Afl-cio
Utility Workers Union of America
Working Partnerships USA

Opposition

None received.

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