
A BILL FOR AN ACT

RELATING TO LANGUAGE ACCESS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Chapter 371, Hawaii Revised Statutes, is
2 amended by adding a new part to be appropriately designated and
3 to read as follows:

4 **"PART . LANGUAGE ACCESS**

5 **§371-A Purpose.** Most individuals living in Hawaii read,
6 write, speak, and understand English. There are many
7 individuals, however, who are limited English proficient.
8 Language for limited English proficient persons can be a barrier
9 to accessing important benefits or services, understanding and
10 exercising important rights, complying with applicable
11 responsibilities, or understanding other information provided by
12 state-funded programs and activities.

13 The purpose of this part is to affirmatively address, on
14 account of national origin, the language access needs of limited
15 English proficient persons. In providing the delivery of
16 language accessible services, it is the intent of the
17 legislature that those services be guided by Executive Order



1 13166 and succeeding provisions of federal law, regulation, or
2 guidance.

3 **§371-B Definitions.** Whenever used in this part, unless a
4 different meaning clearly appears from the context:

5 "Access or participate" means to be informed of,
6 participate in, and benefit from the services, programs, and
7 activities offered by the State and covered entities.

8 "State" means the executive, legislative, and judicial
9 branches of state government, including departments, offices,
10 commissions, boards, or other agencies within the executive,
11 legislative, or judicial branches.

12 "Covered entity" means a person or organization receiving
13 state financial assistance, including grants, purchase-of-
14 service contracts, or any other arrangement by which the State
15 provides or otherwise makes available assistance in the form of
16 funds to the person or organization for the purpose of rendering
17 services on behalf of the State. It shall not include
18 procurement contracts, state insurance or guaranty contracts,
19 licenses, tax credits, or loan guarantees to private businesses
20 of general concern that do not render services on behalf of the
21 State.



1 "Language" means human speech or the expression of ideas by
2 written characters and includes systems used by nations, people,
3 or other distinct communities.

4 "Limited English proficient" means individuals who, on
5 account of national origin, do not speak English as their
6 primary language and who identify themselves as having
7 a limited ability to read, write, speak, or understand the
8 English language.

9 "Oral language services" means the free provision of oral
10 information necessary to enable limited English proficient
11 persons to access or participate in services, programs, or
12 activities.

13 "Vital documents":

14 (1) Means printed documents that provide important
15 information necessary to participate in services,
16 programs, and activities; and

17 (2) Includes but is not limited to applications, outreach
18 materials, and written notices of rights, denials,
19 losses, or decreases in benefits or services.

20 **§371-C Oral and written language services.** (a) Each
21 state agency and all covered entities shall take reasonable



1 steps to ensure meaningful access to services, programs, and
2 activities by limited English proficient persons, which will be
3 determined by a totality of circumstances, including the
4 following factors:

5 (1) The number or proportion of limited English proficient
6 persons served or encountered in the eligible service
7 population;

8 (2) The frequency with which limited English proficient
9 persons come in contact with the services, programs,
10 or activities;

11 (3) The nature and importance of the services, programs,
12 or activities; and

13 (4) The resources available to the State or covered entity
14 and the costs.

15 (b) Subject to subsection (a), each state agency and
16 covered entity shall provide competent, timely oral language
17 services to limited English proficient persons who seek to
18 access services, programs, or activities.

19 (c) Subject to subsection (a), each state agency and
20 covered entity shall provide written translations of vital



1 documents to limited English proficient persons who seek to
2 access services, programs, or activities, as follows:

3 (1) Written translations of vital documents for each
4 eligible limited English proficient group that
5 constitutes five per cent or one thousand, whichever
6 is less, of the population of persons eligible to be
7 served or likely to be affected or encountered; or

8 (2) If there are fewer than fifty persons in a limited
9 English proficient group that reaches the five per
10 cent threshold in paragraph (1), written notice in the
11 primary language to the limited English proficient
12 language group of the right to receive competent oral
13 interpretation of those written materials, free of
14 cost.

15 (d) To the extent that the State requires additional
16 personnel to provide language services based on the
17 determination set forth in this section, the State shall hire
18 qualified personnel who are bilingual to fill existing, budgeted
19 vacant public contact positions.

20 **§371-D Additional obligations.** (a) Each state agency and
21 covered entity shall establish a plan for language access.



1 (b) Each state agency's plan for language access shall be
2 established in consultation with the executive director of the
3 office of language access and the state agency's coordinator for
4 language access. State agencies receiving federal financial
5 assistance shall file an initial language access plan with the
6 executive director of the office of language access no later
7 than July 1, 2007, and every two years thereafter. All other
8 state agencies shall file a language access plan with the
9 executive director of the office of language access no later
10 than July 1, 2008, and every two years thereafter.

11 (c) Each state agency shall designate a language access
12 coordinator who shall establish and implement the plan for
13 language access in consultation with the executive director of
14 the office of language access and the language access advisory
15 council.

16 **§371-E Public meetings and public hearings.** (a) State
17 agencies to which this part applies shall not be required to
18 translate meeting notices, agendas, or minutes.

19 (b) Subject to section 371-C, oral language services for
20 public meetings or public hearings held by the legislature shall
21 be provided if requested at least forty-eight hours in advance



1 of the meeting or hearing. Where the notice of any public
2 meeting or public hearing is posted less than forty-eight hours
3 in advance of the meeting or hearing, oral language services
4 shall be provided if requested at least twenty-four hours in
5 advance of the meeting or hearing.

6 **§371-F Executive Director of the Office of Language**

7 **access; duties.** There is established within the department of
8 labor and industrial relations, for administrative purposes
9 only, an office of language access. The head of the office
10 shall be known as the executive director of the office of
11 language access, hereinafter referred to as executive director.
12 The executive director shall be appointed by the governor
13 without regard to chapter 76. The executive director shall:

- 14 (1) Provide oversight, central coordination, and technical
15 assistance to state agencies in their implementation
16 of language access requirements under this part or
17 under any other law, regulation, or guidance;
- 18 (2) Provide technical assistance to covered entities in
19 their implementation of this part;
- 20 (3) Review and monitor each state agency's language access
21 plan for compliance with this part;



- 1 (4) Where reasonable access is not provided, endeavor to
2 eliminate the barrier using informal methods such as
3 conference, conciliation, mediation, or persuasion.
4 Where the language access barrier cannot be eliminated
5 by informal methods, the executive director shall
6 submit a written report with the executive director's
7 opinion and recommendation to the state agency or the
8 covered entity. The executive director may request
9 the state agency or the covered entity to notify the
10 executive director, within a specified time, of any
11 action taken on the executive director's
12 recommendation;
- 13 (5) Consult with language access coordinators, the
14 language access advisory council, and department
15 directors or their equivalent;
- 16 (6) Subject to section 371-C, create, distribute to the
17 State, and make available to covered entities
18 multilingual signage in the more frequently
19 encountered languages in the state, and other
20 languages as needed, informing individuals of their
21 right to free oral language services and inviting them



1 to identify themselves as persons needing services;

2 and

3 (7) Adopt rules pursuant to chapter 91 to address the
4 language needs of limited English proficient persons.

5 **§371-G Language access advisory council.** (a) There is
6 established the language access advisory council within the
7 department of labor and industrial relations for administrative
8 purposes. The council shall consist of the following members to
9 be appointed by the governor:

10 (1) One representative from the state government;

11 (2) One representative from a covered entity;

12 (3) One bilingual case management worker, or an individual
13 who is or has been employed by a state-funded
14 immigrant service agency or program;

15 (4) One representative of an advocacy organization that
16 provides services to limited English proficient
17 persons;

18 (5) One member from the limited English proficient
19 population who has an interest in the provision of
20 oral language services;



- 1 (6) One representative of the University of Hawaii
2 department of language and linguistics who provides
3 professional training in interpretation and
4 translation;
- 5 (7) One representative of a Hawaiian language advocacy
6 organization;
- 7 (8) One representative of a professional interpreter's
8 organization;
- 9 (9) One representative of a bilingual referral service or
10 program;
- 11 (10) The executive director of the Hawaii Civil Rights
12 Commission or authorized representative; and
- 13 (11) The executive director, as ex-officio member.
- 14 (b) Members shall be appointed in accordance with section
15 26-34. The terms of the members shall be for four years;
16 provided that the governor may reduce the terms of those
17 initially appointed so as to provide, as nearly as can be, for
18 the expiration of an equal number of terms at intervals of one
19 year. The council shall select one of its members to serve as
20 chair. No member of the council shall receive any compensation
21 for council services, but shall be allowed necessary expenses



1 for travel, board, and lodging incurred in the performance of
2 council duties.

3 (c) The language access advisory council shall serve in an
4 advisory capacity to the executive director, providing input on:

5 (1) Implementation and compliance with this part;

6 (2) The quality of oral and written language services
7 provided under this chapter; and

8 (3) The adequacy of a state agency or covered entity's
9 dissemination and training of its employees likely to
10 have contact with limited or no-English proficient
11 persons, its policies and procedures for language
12 services, its competency in working effectively with
13 in-person and telephone interpreters, and its
14 understanding of the dynamics of interpretation
15 between clients, providers, and interpreters."

16 SECTION 2. Chapter 371 is amended by designating sections
17 371-1 to 371-18 as part I and adding a title before section 371-
18 1 to read as follows:

19 **PART I. GENERAL PROVISIONS**

20 SECTION 3. The executive director shall submit a written
21 report annually to the governor and to the legislature no later



1 than twenty days prior to the convening of each regular session,
2 beginning with the regular session of 2007, detailing
3 compliance, complaints and resolutions, recommendations to
4 enhance compliance, and statutory or administrative changes to
5 further the purposes of this Act.

6 SECTION 4. There is appropriated out of the general
7 revenues of the State of Hawaii the sum of \$440,000 or so much
8 thereof as may be necessary for fiscal year 2006-2007 to staff
9 and maintain positions at the department of labor and industrial
10 relations for the office of the executive director and language
11 access advisory council.

12 The sum appropriated shall be expended by the department of
13 labor and industrial relations for the purposes of this Act.

14 SECTION 5. In codifying the new part added to chapter 371,
15 Hawaii Revised Statutes, by section 1 of this Act, the revisor
16 of statutes shall substitute appropriate section numbers for
17 letters used in designating the new sections in this Act.

18 SECTION 6. This Act shall take effect upon its approval;
19 provided that section 4 shall take effect on July 1, 2006.



Report Title:
Language Access

HB NO. 2778 HD2
SD2
CD1

Description:

Provides for effective and timely communication between all levels of government and individuals who are precluded from using public services due to language-proficiency barriers.
(HB2778 CD1)

