

STAND. COM. REP. NO.

3032

Honolulu, Hawaii

MAR 22 2006

RE: H.B. No. 2778
H.D. 2
S.D. 1

Honorable Robert Bunda
President of the Senate
Twenty-Third State Legislature
Regular Session of 2006
State of Hawaii

Sir:

Your Committees on Transportation and Government Operations and Judiciary and Hawaiian Affairs, to which was referred H.B. No. 2778, H.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO LANGUAGE ACCESS,"

beg leave to report as follows:

The purpose of this measure is to:

- (1) Require a covered entity to provide timely oral language services to a person with limited or no English proficiency who seeks to access or participate, whether by phone or in person, the services, programs, or activities offered by the covered entity;
- (2) Require a covered entity to provide timely written translations of vital documents into any non-English language spoken by a limited or no-English proficient population that constitutes three percent or five hundred individuals, whichever is less, of the population served or encountered;
- (3) Create a Language Access Advisory Council and a position of language access director within the Department of Labor and Industrial Relations, and make an appropriation accordingly; and



- (4) Place enforcement jurisdiction under the Hawaii Civil Rights Commission.

Your Committees received testimony in support of this measure from the Judiciary; the Hawaii Civil Rights Commission; the Disability and Communication Access Board; the Inter-Agency Council for Immigrant and Refugee Services; Na Loio; the Hawaii Interpreter Action Network; the Kokua Kalihi Valley Comprehensive Family Services; the Japanese American Citizens League of Hawaii; the Domestic Violence Clearinghouse and Legal Hotline; the Catholic Charities Hawaii; and the American Cancer Society. Comments were received from the Department of Health; the Department of Human Resources Development; the Department of Labor and Industrial Relations; and the Attorney General.

This measure would apply to a covered entity, defined as any state government unit, including the executive, legislative, and judicial branches of government, and all state departments, agencies, or programs that furnish information or render services, programs, or activities directly to the public or contracts with other entities, either directly or indirectly, to conduct or provide programs, services, or activities to the public.

According to testimony of the Attorney General, this measure puts the State in compliance with Presidential Executive Order 13166, which requires federal agencies to develop and implement a system of enabling limited English proficiency persons to meaningfully access public services. In turn, federal agencies, through specifically-tailored guidance for state administration of programs relating to federal financial assistance, must ensure that recipient states provide meaningful access to population of persons with limited English proficiency (LEP). States are required to "[take] reasonable steps to ensure reasonable access to their programs and activities by LEP persons."

While federal Executive Order No. 13166 affirmed that Title VI of the Civil Rights Act of 1964 required federally funded programs to provide language-accessible services, your Committees find that many departments and state agencies are not in compliance with Presidential Executive Order 13166.

Your Committees find that substantial numbers of people who live, work, and pay taxes in this State are unable to communicate effectively with their government, either because they do not speak or write English, or because their primary language is not



English. Likewise, employees of state and local government agencies are often unable to communicate with these individuals who require their services. Consequently, a significant portion of our population is essentially denied the rights and benefits which they would otherwise receive.

Most individuals living in Hawaii read, write, speak, and understand English. However, there are many individuals who are limited in English proficiency. The English language for persons who are limited in English proficiency can pose a barrier to:

- (1) Accessing important benefits and services;
- (2) Understanding and exercising important rights;
- (3) Complying with applicable legal obligations; and
- (4) Understanding information state funded programs and activities.

It is the intent of your Committees to provide effective and timely communication between all levels of government and individuals who are precluded from using public services due to language barriers.

Your Committees have amended this measure on recommendation of the various government stakeholders and Na Loio, who have come to a consensus on language for this measure, as follows:

- (1) Clarifying the purpose section to more accurately reflect the amendments;
- (2) With regard to the definitions;
 - (A) Adding a definition for "State";
 - (B) Deleting the definition for "language access director";
 - (C) Deleting the definition for "limited or no-English proficiency" and substituting a definition for "limited English proficiency" and
 - (D) Clarifying the other definitions to comport with the intent of the amended measure;



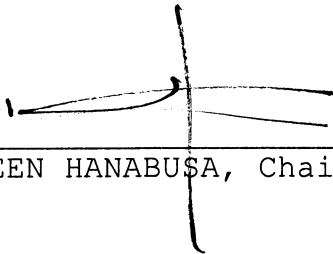
- (3) Enacting a new section for oral and written language services and deleting separate sections for each;
- (4) Deleting the requirement of making rules for the establishment of language access plan and deleting the required minimum components of such a plan;
- (5) Requiring that each state entity designate a language access coordinator;
- (6) Clarifying the duties of the language access director;
- (7) Clarifying the membership of the language access advisory council to include one representative from the state government; one representative from a covered entity; one bilingual case management worker, or an individual who is or has been employed by a state-funded immigrant service agency or program; one representative of an advocacy organization that provides services to limited English proficient persons; one member from the limited English proficient population who has an interest in the provision of language services; one representative of the University of Hawaii department of language and linguistics who provides professional training in interpretation and translation; one representative of a Hawaiian language advocacy organization; one representative of a professional interpreter's organization; one representative of a bilingual referral service or program; the executive director of the Hawaii civil rights commission or authorized representative; and the language access director, as ex-officio member;
- (8) Deleting enforcement powers of the Hawaii Civil Rights Commission; and
- (9) Changing the effective date to upon approval, but with the appropriation taking effect on July 1, 2006.

As affirmed by the records of votes of the members of your Committees on Transportation and Government Operations and Judiciary and Hawaiian Affairs that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2778, H.D. 2, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2778,



H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Respectfully submitted on behalf of the members of the Committees on Transportation and Government Operations and Judiciary and Hawaiian Affairs,



COLLEEN HANABUSA, Chair



LORRAINE R. INOUE, Chair



