



**STATE OF HAWAII
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS**

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LATE TESTIMONY

January 30, 2008

To: The Honorable Alex Sonson, Chair
and Members of the House Committee on Labor and Public Employment

Date: Friday, February 1, 2008

Time: 10:30 a.m.

Place: Conference Room 309, State Capitol

From: Darwin L.D. Ching, Director
Department of Labor and Industrial Relations

**In Opposition
to**

**H.B. 2446 – Making an Appropriation for the Establishment of a Statewide
Language Access Bank**

I. OVERVIEW OF PROPOSED LEGISLATION

House Bill 2446 proposes to establish a statewide language access bank in the Department of Labor and Industrial Relations (“Department”) to provide and centralize interpretation and translation services for state agencies and covered entities required to provide language access services.

Makes an appropriation of \$189,500 to the Department.

II. CURRENT LAW

Act 290, Session Laws of Hawaii 2006 requires that all state agencies and non-profit agencies receiving state money ensure that limited English proficient (“LEP”) persons have equal, meaningful access to state-funded services in Hawaii.

Additionally, the law also established the Office of Language Access (“OLA”) within the Department as an attached agency. OLA is tasked with providing centralized oversight, coordination and technical assistance to state agencies, including non-profit organizations that provide services to the public on behalf of the state, in implementing language access requirements between all levels of government and individuals who are precluded from

using public services due to language proficiency barriers.

III. HOUSE BILL

The Department supports the intent of this measure and its attempt to provide a centralized resource for state and agencies and non-profit agencies required to provide language services to LEP persons. However, the Department opposes this measure as it may adversely affect the priorities of the Executive Supplemental Biennium budget for FY 2009.

State of Hawai'i
Department of Labor and Industrial Relations
OFFICE OF LANGUAGE ACCESS

Testimony in Support of HB2446
Committee on Labor & Public Employment
Hearing Date: February 1, 2008

Chair Sonson & Members of the Committee on Labor and Public Employment:

The Office of Language Access **supports** the intent of **HB2446**, which will establish a centralized source for accessing interpreters and translators to assist the state in providing meaningful language access for its programs, services and activities. This bill is not part of the Governor's Administrative Bill Package.

Almost all state agencies (23 of 25) and forty (40) covered entities have established their language access plans as required by the language access law.

Two major stumbling blocks hinder successful implementation of these plans. First, there is no comprehensive system in Hawaii to identify language interpreters and translators and for providing referrals to match interpreters or translators to the needs of organizations and state agencies. Second, Hawaii lacks competent language interpreters and translators to assist limited English proficient individuals. This is critical because a key element to the successful implementation of the language access plans is the availability of trained and certified interpreters and translators, so that limited English proficient individuals can receive meaningful language assistance.

The language bank will be a centralized resource that will (1) maintain a roster of language interpreters and translators; (2) match and refer language interpreters and translators to meet the needs of government agencies, non-profits, and for-profit organizations; (3) coordinate training to develop language interpretation and translation skills; and (4) work towards the long term goal of testing and certification of language interpreters and translators.

PROPOSED AMENDMENT.

There is no current statewide testing and certification process in place for all interpreters and translators, particularly those from the community and from the medical field. It will take time and resources to establish standardized testing and certification for interpreters and translators working with various languages in Hawaii.

HB2446, Page 3, Line 12:

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| <p>(3) Provide and coordinate <u>Coordinate</u> training programs to increase the availability of qualified language interpreters and translators; and</p> <p>(4) <u>Work towards</u> Standardize the testing and certification of language interpreters and translators to ensure the quality and accuracy of their services.</p> |
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THE JUDICIARY, STATE OF HAWAII

Testimony to the House Committee on Labor and Public Employment

The Honorable Alex M. Sonson, Chair
The Honorable Bob Nakasone, Vice Chair
Friday, February 1, 2008, 10:30 a.m.
State Capitol, Conference Room 309

by

Debi Tulang-De Silva
Project Director, Office on Equality and Access to the Courts

WRITTEN TESTIMONY ONLY

Bill No. and Title: House Bill No. 2446, Making an Appropriation for the Establishment of a Statewide Language Access Bank.

Purpose: Appropriates funds to establish a statewide language access bank to help state agencies and other covered entities provide meaningful access to essential government services to limited English proficient persons.

Judiciary's Position:

The Judiciary strongly recommends passage of House Bill No. 2446 and offers the following information in support of the measure.

Background:

Pursuant to enactment of Act 290, codified as part of HRS §371, following the 2006 Legislative Session, each state agency and covered entity must take reasonable steps to ensure meaningful access to services, programs, and activities funded and provided by the State by limited English proficient ("LEP") persons. The language contained in Act 290 mirrors pre-existing federal civil rights legal language based on Title VI of the Civil Rights Act of 1964, which protects LEP persons against national origin discrimination. On August 11, 2000, Executive Order 13166 was signed, "Improving Access to Services for Persons with Limited English Proficiency," enforcing Title VI Civil Rights language access law. In subsequent years, the U.S. Department of Justice issued related policy guidance, and federal agencies began to adopt policies and procedures in



House Bill No. 2446, Making an Appropriation for the Establishment of a
Statewide Language Access Bank
Friday, February 1, 2008
Page 2

accordance with this guidance. Hawaii State government agencies and covered entities are now mandated by both federal and state law to provide meaningful language access.

Four Factors with which an Agency or Covered Entity Determines the Extent of Its Obligation to Provide LEP Services and the Need for a Statewide Language Access Bank

Language access requirements set forth by Federal and State law proffer four factors that agencies and covered entities must consider in determining the reasonable steps that must be taken to ensure meaningful access to their programs, services, and activities:

1. The number or proportion of LEP persons eligible to be served or likely to be encountered by the program or grantee;
2. the frequency with which LEP individuals come in contact with the program;
3. the nature and importance of the program, activity, or service provided by the program to people's lives; and
4. the resources available to the grantee/recipient and costs.

According to federal guidelines, "... the intent of this guidance is to suggest a balance that ensures meaningful access by LEP persons to critical services while not imposing undue burdens on small business, small local governments, or small nonprofits."

Establishment of a statewide language access bank and the centralized staff and resources to guide the training and testing of interpreters, as well as the administration of the program will be critical in providing cost efficient means for agencies and covered entities to effectively balance the four factors, listed above.

Thank you for the opportunity to testify on House Bill No. 2446.

TESTIMONY IN SUPPORT OF THE CONCEPT
H.B. 2446
Committee on Labor and Public Employment
Tuesday, January 29, 2008
10:30 a.m., Conference Room 309

To: The Honorable Alex M. Sonson, Chair
The Honorable Bob Nakasone, Vice-Chair
From: Patricia McManaman
Na Loio – Immigrant Rights and Public Interest Legal Center

Na Loio – Immigrant Rights and Public Interest Legal Center is a non-profit legal services organization committed to providing immigration legal services and advocacy in the public interest with a particular emphasis on serving poor and low-income immigrants and their families. In its provision of services, Na Loio works with limited English proficient persons on a daily basis and is familiar language access laws and best practices in the field of language access. Na Loio also played an instrumental role in the community-wide effort to create and launch the Office of Language Access. Na Loio supports the concept of a statewide language bank, but believes further research may be appropriate to determine which model best suits the needs of Hawai'i.

Under the proposal, it appears that language services would be outsourced to private providers for interpreting and translation, as opposed to creating internal capacity within the State. While the same may be necessary at some point in time or for limited discrete purposes, the State should first determine its capacity for providing these services “in-house.” Section 371-33 (d), Hawaii Revised Statutes, provides as follows: “[t]o the extent that the State requires additional personnel to provide language services based on the determination set forth in this section, the State shall hire qualified personnel who are bilingual to fill existing, budgeted vacant public contact positions.” Thus, in passing the language access law, this Legislature realized that the capacity to meet the needs of Hawai'i's residents was and would be an issue. By enacting this provision, the Legislature also recognized the important role competency plays in interpretation and translation, and the importance of securing translators and interpreters familiar with the specialized language of a particular government function. For the most part, State entities have failed to embrace this provision of the law. Indeed, many of the language access plans “approved” by the Office of Language Access make no provision for the identification of public contact positions or articulate the hiring preference established by the Legislature.

Rather than rush into an ill-conceived program, Na Loio suggests that the Language Access Commission, the Office on Language Access, and/or an appointed Language Access Taskforce report back to the Legislature next year regarding: compliance with Section 371-33 (d), Hawaii Revised Statutes; cost and benefits associated with government based language bank models; costs and benefits associated with the outsourcing language assistance; and, any other matters relevant to the issue.

CONGRESS OF VISAYAN ORGANIZATIONS

To: Rep. Alex Sonson, Chair
House Committee on Labor

From: Margarita Hopkins
President

Date: February 1, 2008 Hearing
10:30 a.m., Room 309

Subject: Support of HB2446, Making an Appropriation for the Establishment of a
Statewide Language Access Bank

My name is Margarita Hopkins, President of the Congress of Visayan Organizations, a statewide umbrella representing 22 unit organizations of Filipinos of Visayan ancestry.

Honorable Chair, Vice-Chair, and members of the House Committee on Labor, I testify in strong support of HB2446 which appropriates funds to establish a statewide language access bank to help state agencies and other covered entities provide meaningful access to essential government services to limited English proficient persons.

Currently, there is no comprehensive system in Hawaii to identify language interpreters and translators and to refer interpreters or translators to the state agencies and other covered entities seeking assistance. In addition, there is a lack of trained and certified language interpreters and translators who can meet the demand to assist limited English proficient persons in a timely, meaningful manner. The proposed centralized language access bank will address these issues by recruiting and maintaining a roster of interpreters and translators, coordinating training programs, refer state and other agencies according to their needs, and work toward standardized testing and certification of interpreters and translators.

The establishment of the centralized language access bank is an important step toward the provision of meaningful access to essential government services by limited English proficient persons. We therefore urge your committee to pass HB2446.

Thank you for this opportunity to testify.

Margarita Hopkins
President