

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

Testimony in Support of HB2575
Committee on Labor and Public Employment
Hearing Date: February 1, 2008

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

The Office of Language Access (OLA) **supports** the intent of **HB2575**, which

- (1) Clarifies definitions related to language access,
- (2) Requires covered entities to file a copy of their language access plans with OLA and to designate a language access coordinator,
- (3) Expands the Language Access Advisory Council to include members from each of the counties and
- (4) Clarifies that an ex officio member of the Council is the Executive Director of the Hawaii Civil Rights Commission.

This bill is not part of the Governor's Administrative Bill Package.

As the second anniversary of the passage of Hawaii's language access law approaches, this measure seeks to ensure that covered entities also file a copy of their language access plans with OLA and designate a language access coordinator.

In addition, this measure ensures that the Council has statewide representation so that limited English proficient individuals in communities throughout the State can be heard.

Finally, this measure amends and adds definitions related to language access for consistency and clarity.

PROPOSED AMENDMENTS:

A "Purchase-of-Service-Contract" should be between the State and *any person*. The definition of "State" should stay the same except to add "state agency" to the definition. State agency is used throughout the existing language access law provisions.

"Purchase-of-service contract" means any and all types of formal written agreements, regardless of what they may be called, between the State and ~~another legal entity~~ any person, to purchase or otherwise acquire any service for the purpose of rendering services to the public.

"State" or "state agency" means ~~any department, office, commission, board, or other agency of the executive, legislative, and ~~or~~ and judicial branches of state government, including departments, offices, commissions, boards, or other agencies within the executive, legislative, or judicial branches. branch of the State, including the office of Hawaiian affairs.~~

TESTIMONY IN PARTIAL SUPPORT OF
H.B. 2575
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 general house-keeping amendments to Sections 371-32 and 371-37, Hawaii Revised Statutes, but objects strongly to the proposed amendment of Section 371-34, Hawaii Revised Statutes.

The proposed amendment to Section 371-34 would require covered entities to file a language access plan with the Office of Language Access by July 1, 2009 and to designate a language access coordinator to implement the covered entity's plan. Na Loio believes the better practice is the model employed by the federal government and other states. Under the federal model, written contracts between the government and grantees or service providers specifically require providers to do or to refrain from doing certain actions. For example, providers are specifically required to comply with Drug Free Workplace Act of 1988, Title VII of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, and a host of other federal measures aimed at preventing discrimination, insuring equal employment opportunity, and precluding awards to entities debarred or suspended. In the wake of language access laws, the Department of Justice, for example, explicitly requires providers to provide meaningful access to their programs and activities for persons with limited English proficiency (LEP) as a matter of contract. Importantly, receipt of funding is conditioned upon compliance. Thus, in a situation where the service provider fails to provide language accessible services, the government may terminate the contract, withhold payments, and/or fashion other remedies as appropriate. In other words, the government is able to exercise extraordinary leverage – the power of the purse.

Requiring covered entities to file language access plans with the Office on Language Access would: 1) duplicate the work of other government entities who have, by law and contract, the authority to monitor grantees to ensure compliance with state and federal law; 2) signal to State entities that they have no obligation to monitor or enforce LEP compliance; 3) reinforce the mistaken belief that compliance simply means

“filing a plan;” and 4) strip State entities of their right to determine whether any given plan meets the special and identified needs of LEP persons sought to be served by and through the individualized contract.

Finally, it must be noted that many of the LEP plans “approved” by the Office on Language Access fail to comply with existing state and federal law, exposing the State to federal scrutiny and further liability. As such, the Office has failed to demonstrate that it has the capacity and capability to properly review a covered entity’s plan to determine compliance with Hawai’i and federal law.

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 HB2575, Relating to Language Access

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 HB2575 which clarifies definitions related to language access, requires certain entities to file a language access plan and appoint a language access coordinator, and expands the language access advisory council from 11 to 15 members.

We believe that the amendments proposed by this bill will strengthen Hawaii's language access law and will enable the Office of Language Access to be more effective in performing its functions to ensure compliance with the law and the provision of meaningful access to essential government services to limited English proficient individuals.

We therefore urge your committee to pass HB2575.

Thank you for this opportunity to testify.

Margarita Hopkins
President

LATE TESTIMONY



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. 2575, Relating to Language Access

Purpose: Clarifies definitions related to language access. Requires certain entities to file a language access plan and appoint a language access coordinator. Expands the language access advisory council from 11 to 15 members.

Judiciary's Position:

The Judiciary recommends passage of House Bill No. 2575 and offers the following information in support of the measure.

Pursuant to enactment of Act 290 and codified as part of HRS §371 in 2006, 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 federal civil rights legal language based on Title VI of the Civil Rights Act of 1964, which protects LEP persons against national origin discrimination. Act 290 establishes both the Office of Language Access (“OLA”) and the Language Access Advisory Council (“Council”) to direct this process of creating more meaningful language access for LEP persons in Hawaii.

House Bill No. 2575 essentially effects two changes: 1) it improves fundamental language in HRS 371 to be more clear and efficient; and 2) it establishes 4 new seats on the Council to better ensure representation of all 4 counties of Hawaii State. OLA and the Council



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have inherited the daunting mission of Act 290 and should be provided the adequate tools to achieve this mission. Passing House Bill No. 2575 better equips them to do so.

Thank you for the opportunity to testify on House Bill No. 2575.

LATE TESTIMONY