

HAWAI'I CIVIL RIGHTS COMMISSION

830 PUNCHBOWL STREET, ROOM 411 • HONOLULU, HI 96813-5095 • PHONE: (808) 586-8636 • FAX: (808) 586-8655 • TDD: (808) 586-8692

February 1, 2008
Rm. 309, 10:30 a.m.

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

From: Sara Banks, Acting Chair, and Commissioners of the Hawai'i Civil Rights Commission

LATE TESTIMONY

Re: H.B. No. 2575

The Hawai'i Civil Rights Commission (HCRC) has enforcement jurisdiction over state laws prohibiting discrimination in employment, housing, public accommodations, and access to state and state-funded services. The HCRC carries out the Hawai'i constitutional mandate that "no person shall be discriminated against in the exercise of their civil rights because of race, religion, sex or ancestry". Art. I, Sec. 5. The Executive Director of the HCRC serves as an ex officio member of the Language Access Advisory Council.

H.B. No. 2575 clarifies definitions related to language access in HRS chapter 371, part II, requires all "covered entities" to submit language access plans to the Office of Language Access (OLA) and appoint a language access coordinator, expands the Language Access Advisory Council (Council) to include one member from each island, and clarifies that the HCRC Executive Director serves as an ex officio member of the Council. The HCRC supports the "housekeeping" provisions of the bill, including the amended definitions and constitution of the Council. However, the HCRC has strong concern over and opposes the proposed requirement that all "covered entities" submit language access plans to OLA and appoint a language access coordinator.

Under the current HRS chapter 371, part II, there is no authority for OLA to require non-profits to submit their plans to OLA for review.

It is clear that non-profits who receive state funds under POS or GIA are "covered entities" as defined under §371-32. As covered entities, they must comply with §371-33 and are obligated to provide oral and written language services under that section. Likewise, as a covered entity, they are required to establish their own language access plans under §371-34(a).

However, the additional obligations under paragraphs 371-34(b) and (c) expressly apply only to “state agencies.” The use of “covered entity” in 371-34(a) and “state agency” in (b) and (c) have to be given meaning. OLA has no authority to compel non-profit covered entities to file their plans pursuant to 371-34(b) and (c).

The proposal to impose submission requirements on non-profits inappropriately shifts emphasis away from the obligation of state agencies. To date, first steps have focused on development and submission of language access plans by state agencies, which is appropriate. However, compliance is not established by submission of the plans, but in the provision of services to LEP persons. The emphasis should not be on the “safe harbor” aspect of the language access law, but on the provision of services mandated under Title VI, E.O. 13166, and HRS chapter 371, part II. The focus of OLA should be on meaningful and effective implementation of language access in compliance with the law, vindicating the rights of LEP persons. State agencies can and should work with their non-profit service providers who receive state-funding, and can do so through RFP, GIA, and POS contractual requirements. It is not necessary to require every non-profit service provider to submit language access plans to OLA and appoint a language access coordinator, and it will likely burden these covered entities and strain OLA’s resources, which will be better used on its current mandate.

The HCRC supports all of the “housekeeping” provisions of the H.B. No. 2575, but opposes the provision that would require all “covered entities” to submit language plans to OLA and appoint a language access coordinator.



Filipino Coalition for Solidarity

A HAWAII RIGHTS ADVOCACY GROUP • FOUNDED IN 1990

c/o 728 Nunu St. · Kailua, HI 96734 · <http://www.philippinesonline.org/thecoalition/>

TESTIMONY IN PARTIAL SUPPORT WITH STRONG RESERVATIONS TO HB 2575 RELATING TO LANGUAGE ACCESS

Feb. 1, 2008, 10:30 a.m.
Conference Room 309

LATE TESTIMONY

TO:

House Committee on Labor and Public Employment
Honorable Alex M. Sonson, Chair
Honorable Bob Nakasone, Vice-Chair
Honorable House Labor and Public Employment Committee Members

From:

Charlene Cuaresma, MPH, President, Filipino Coalition For Solidarity

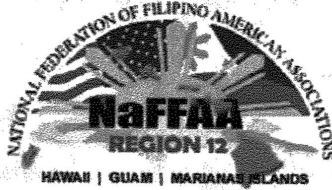
My name is Charlene Cuaresma. As president of the Filipino Coalition for Solidarity, I am submitting testimony in strong support of HB 2896. Since its inception in 1990, the Coalition has represented more than 50 Filipino community leaders whose aim is to work for social justice issues to empower Filipinos to make socially responsible contributions to Hawai'i and our global neighbors through education, advocacy, and social action.

The Filipino Coalition For Solidarity is in strong support of expanding the Office of Language Access advisory council to include membership from Kaua'i, Maui, and Hawai'i County. However, further dialog is warranted on the interpretation and intent of the provisions related to the requirement of covered entities to submit language access plans to the Office of Language Access. Clarification through community dialog is the most constructive approach at this time, as the challenges of implementation arise from lessons learned about intended and unintended consequences. The Coalition would like more information in this request for clarification on requirements of covered entities in order to safeguard the spirit of the bill, and to advance the mission of the Office of Language Access.

Thank you for this opportunity to comment on this important bill.

Respectfully,

Charlene Cuaresma
President, Filipino Coalition for Solidarity



**TESTIMONY IN PARTIAL SUPPORT
WITH STRONG RESERVATIONS TO HB 2575
RELATING TO LANGUAGE ACCESS**

LATE TESTIMONY

Feb. 1, 2008, 10:30 a.m.
Conference Room 309

House Committee on Labor and Public Employment
Honorable Alex M. Sonson, Chair
Honorable Bob Nakasone, Vice-Chair
Honorable House Labor and Public Employment Committee Members

My name is Amy Agbayani. I serve as Vice Chair of the National Federation of Filipino American Associations Region XII, which represents the interests of Filipinos in Hawai'i, Guam, and the Commonwealth of Northern Marianas Islands. NaFFAA Region XII is an affiliate of the National NaFFAA. Washington policy-makers, private industry and national advocacy groups recognize NaFFAA as the Voice of Filipinos and Filipino Americans throughout the United States. We are a non-partisan, non-profit national affiliation of more than five hundred Filipino-American institutions and umbrella organizations that span twelve regions throughout the continental United States and U.S. Pacific territories.

On one hand, we support the expansion of the language access advisory council to enable representation from all counties, not just Honolulu, as well as the position for a language access coordinator.

On the other hand, we recommend deferring the provision to interpret the requirement of "covered entities" to file language access plans with the Office of Language Access. It seems that more dialog among key language access stakeholders, not legislation, is needed to examine the intended and unintended consequences.

NaFFAA is a staunch supporter of language access to government services. We fully appreciate the challenges of implementing the intent of the law and are happy to participate in constructive dialog to work out best practices to support both the Office of Language Access and government stakeholders to ensure that our limited English proficient communities are protected. Thank you for the opportunity to comment on this bill.

Sincerely,

Amy Agbayani, Ph.D., Vice Chair, NaFFAA Region XII