

NĀ LOIO

Immigrant Rights and Public Interest Legal Center

TESTIMONY IN PARTIAL SUPPORT

S.B. 2395

Committee on Human Services and Public Housing

Committee on Judiciary and Labor

Tuesday, February 5, 2008

1:15 p.m., Conference Room 016

To: The Honorable Suzanne Chun Oakland, Chair
The Honorable Brian T. Taniguchi, Chair
The Honorable Les Ihara, Vice-Chair
The Honorable Clayton Hee, 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.

CONGRESS OF VISAYAN ORGANIZATIONS

LATE TESTIMONY

To: Sen. Suzanne Chun-Oakland, Chair
House Committee on Human Services and Public Housing

From: Margarita Hopkins
President

Date: February 5, 2008 Hearing
1:15 p.m., Room 016

Subject: Support of SB2395, 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 SB2395 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 SB2395.

Thank you for this opportunity to testify.

LINDA LINGLE
GOVERNOR



DARWIN L. D. CHING
DIRECTOR

COLLEEN Y. LaCLAIR
DEPUTY DIRECTOR

SERAFIN P. COLMENARES JR.
EXECUTIVE DIRECTOR
OFFICE OF LANGUAGE ACCESS

STATE OF HAWAII
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
OFFICE OF LANGUAGE ACCESS

830 PUNCHBOWL STREET, ROOM 322
HONOLULU, HAWAII 96813
www.hawaii.gov/labor/ola
Phone: (808) 586-8730 / Fax: (808) 586-8733
Email: dlir.ola@hawaii.gov

TO: Honorable Suzanne Chun Oakland, Chair
Honorable Les Ihara, Vice Chair
Members of the Committee on Human Services and Public Housing

FROM: Jun Colmenares, Executive Director, Office of Language Access

RE: **Testimony in Support of SB2395**
Committee on Human Services and Public Housing
Hearing: February 5, 2008, 1:15 p.m., Room 016

The Office of Language Access (OLA) supports the intent of SB2395, 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 measure is not part of the Governor's Administrative Bill Package.

OLA supports this measure which streamlines the language access law by clarifying definitions and by ensuring that the Council has statewide representation so that limited English proficient individuals in communities throughout the State can be heard.

PROPOSED AMENDMENTS

- (1) A "Purchase-of-Service-Contract" should be between the State and any person.

"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.

(2) 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.

~~"State" or "state agency" means any department, office, commission, board, or other agency of the executive, legislative, and or 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.~~

(3) OLA has been working with covered entities to voluntary submit copies of their language access plans.

SECTION 2. Section 371-34, Hawaii Revised Statutes, is amended by amending subsections (b) and (c) to read as follows:

"(b) Each state agency's plan for language access shall be established in consultation with the executive director of the office of language access and the state agency's coordinator for language access. State agencies receiving federal financial assistance shall file an initial language access plan with the executive director of the office of language access no later than July 1, 2007, and every two years thereafter. All other state agencies shall file a language access plan with the executive director of the office of language access no later than July 1, 2008, and every two years thereafter. ~~Each covered entity shall file a language access plan with the executive director of the office of language access no later than July 1, 2009, and every two years thereafter.~~

(c) Each state agency ~~and covered entity~~ shall designate a language access coordinator who shall establish and implement the plan for language access in consultation with the executive director of the office of language access and the language access advisory council."