

DAVID Y. IGE
GOVERNOR



CATHY BETTS
DIRECTOR

JOSEPH CAMPOS II
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF HUMAN SERVICES

P. O. Box 339
Honolulu, Hawaii 96809-0339

February 24, 2021

TO: The Honorable Senator Donovan M. Dela Cruz, Chair
Senate Committee on Ways & Means

FROM: Cathy Betts, Director

SUBJECT: **SB 1230 SD1 – RELATING TO STATEWIDE HEALTH PLANNING.**

Hearing: February 26, 2021, 9:30 a.m.
Via Videoconference, State Capitol

DEPARTMENT'S POSITION: The Department of Human Services (DHS) appreciates the intent of this bill and offers comments. DHS defers to the Office of Language Access (OLA), and the Department of Health. The Committees on Health and Human Services amended the measure by:

- (1) Deleting the amendments that proposed making OLA optional instead of mandatory;
- (2) Amending the measure to allow either the Department of Health or the Executive Director of OLA to carry out OLA's duties; and
- (3) Inserting an effective date of July 1, 2050, to encourage further discussion.

PURPOSE: This bill requires the Executive Director of the Office of Language Access or the Department of Health to perform the duties of the Office of Language Access. Effective 7/1/2050. (SD1)

The disparate impact of the pandemic on Pacific Islander communities highlights the necessity for the Office of Language Access (OLA) and its role providing central coordination

and technical assistance to state agencies to translate vital health communication and information regarding COVID-19.¹

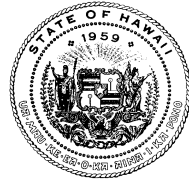
State and federal law require DHS and others government entities to maintain language access services for Hawaii's culturally diverse population regarding all public benefits and services. All entities receiving federal funds are subject to provisions of Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, et seq. (Title VI), that prohibits discrimination on the basis of race, color, or national origin in any program or activity receiving federal financial assistance and must provide meaningful access to services.

The DHS Language Access Coordinator works closely with OLA and relies on OLA's technical assistance procuring translation services, coordinating interpreting services, and developing outreach materials to improve access to public benefits and health and well-being information.

Especially in the current pandemic condition where additional federal assistance is necessary to address the tremendous needs of Hawaii's residents and businesses, government agencies need the services and technical expertise that OLA provides to maintain meaningful access to benefits and services for Hawaii's residents with limited English language proficiency.

Thank you for the opportunity to provide comments on this measure.

¹ See OLA website, at <https://health.hawaii.gov/ola/>.



STATE OF HAWAII
DEPARTMENT OF HEALTH
OFFICE OF LANGUAGE ACCESS
1177 Alakea Street, Room B-100
Honolulu, HI 96801-3378
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**Testimony COMMENTING on S.B. 1230 SD1
RELATING TO STATEWIDE HEALTH PLANNING**

SENATOR DONOVAN M. DELA CRUZ, CHAIR
SENATOR GILBERT S.C. KEITH-AGARAN, VICE CHAIR
SENATE COMMITTEE ON WAYS AND MEANS

Hearing Date: 2/26/2021

Room Number: Via Videoconference

1 **Fiscal Implications:** This measure may impact the priorities identified in the Governor's
2 Executive Budget Request for the Department of Health (DOH)'s appropriations and personnel
3 priorities.

4 **Department Testimony:** The Office of Language Access (OLA) appreciates the intent of this
5 measure as it requires the Executive Director of the Office of Language Access or the
6 Department of Health to perform the duties of the Office of Language Access and offers the
7 following comments.

8 During the 2006 legislative session, this legislative body recognized and acknowledged
9 that language is a barrier for those living in Hawaii who have identified themselves as being
10 Limited English Proficient (LEP) individuals. Consequently, the legislature passed Act 290,
11 Session Laws of Hawaii 2006, and Act 201, Session Laws of Hawaii 2012, to ensure that LEP
12 individuals have meaningful access to state-provided and state-funded services in Hawaii,
13 mirroring the language and consistent with the principles espoused by Title VI of Civil Rights
14 Act of 1964, Executive Order 13166, and implementing regulations.

15 Act 290 and Act 201 also established OLA to address the language access needs of LEP
16 individuals and ensure their meaningful access to services, programs, and activities offered by
17 the executive, legislative, and judicial branches of state government, including departments,
18 offices, commissions, boards, or other state-funded agencies.

19

1 OLA's task is to provide highly specialized technical assistance and to coordinate
2 resources to reduce the burden of implementing language access obligations. OLA is charged
3 with providing oversight, central coordination, and technical assistance to all state and state-
4 funded agencies in their implementation of language access compliance – a civil right under both
5 state and federal law.

6 Currently, OLA has been actively working with DOH and other stakeholders to assure
7 continuity for OLA's critical responsibilities and is making certain recommendations to the
8 Governor.

9 **Offered Amendments:** N/A

10 Thank you for the opportunity to comment on this measure.

THE LANGUAGE ACCESS ADVISORY COUNCIL

State of Hawaii Office of Language Access

1177 Alakea Street, Room B-100, Honolulu, HI 96813, (808) 586-8730

February 24, 2021

TO: The Honorable Senator Donovan M. Dela Cruz, Chair
Senate Committee on Ways and Means

The Honorable Senator Gilbert S.C. Keith-Agaran, Vice-Chair
Senate Committee on Ways and Means

FROM: Terrina Wong, Chair
The Language Access Advisory Council

SUBJECT: Commenting on SB1230 SD1
RELATING TO STATEWIDE HEALTH PLANNING.

Hearing: Friday, February 26, 2021, 9:30 a.m.

My name is Terrina Wong. I am the Chair of the Language Access Advisory Council (LAAC) and I am submitting this comment on behalf of the council members who represent by statute a broad spectrum of those individuals and entities (government and non-profit) directly involved with providing meaningful language access to our community. This Council has statutory duties to advise OLA and to provide input on implementation and compliance of the language access law.

Language access is a civil right. This right derives from Title VI of the Civil Rights Act of 1964 which provides that, “[n]o person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

In Hawaii, the imperative for language access stems from our rich diversity. According to the 2019 State of Hawaii Data Book released by the Hawaii Department of Business, Economic Development & Tourism, Hawaii’s total population aged 5 years and older is 1,331,641 with 326,893 (25.4%) or roughly 1 in 4 of our population speaking a language other than English at home. Among that population, 159,497 (12%) or roughly 1 in 9 indicated that they speak English “less than very well,” classifying them as Limited English Proficient (LEP) individuals.

For LEP individuals, language access is a significant barrier for them in accessing important benefits or services, understanding and exercising important rights, complying with applicable responsibilities, and understanding complex information provided by government and government-funded programs and activities; especially during the COVID19 pandemic where language access is more important than ever as those LEP individuals have historically faced

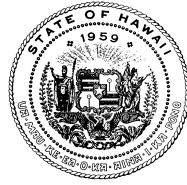
challenges in seeking meaningful access to health information and supportive services. Moreover, success and effectiveness of the State of Hawai'i's communications – both plans and protocols, related to all aspects of Covid-19 depend upon the community acquiring and understanding accurate information.

The pandemic has exposed marked disparities in Hawai'i's delivery of meaningful language access related to health care, unemployment benefits and other essential services. Meaningful language access becomes imperative to avoid mis-information or no information to our most vulnerable with limited to no English proficiency.

During this pandemic, OLA plays a vital role in supporting state agencies to effectively communicate with LEP. Specifically, OLA has stepped in to coordinate and to provide much-needed multilingual written materials and VDO messages on its website with an aggregate total of more than 230,000 views for those who depend on meaningful and effective communication.

Currently, LAAC is working with the OLA Executive Director to ensure that OLA can continue providing its expertise and knowledge to both state agencies and our community by maintaining the existence of the Office of Language Access and its operations to ensure meaningful access to our LEP population. We strongly believe the expertise and mastery that OLA has acquired ensure better outcomes we collectively seek in healthcare, emergency management and in all key areas of mass communication that directly impact the well-being of our entire community.

Thank you for your consideration and for this opportunity to provide testimony.



STATE OF HAWAII
DEPARTMENT OF HEALTH
P. O. Box 3378
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**Testimony COMMENTING on SB1230 SD1
RELATING TO STATEWIDE HEALTH PLANNING.**

SENATOR DONOVAN DELA CRUZ, CHAIR
SENATE COMMITTEE ON WAYS AND MEANS

Hearing Date: February 26, 2021 Room Number: N/A

1 **Department Testimony:** The Governor's Executive Biennium budget proposes the elimination
2 of the Office of Language Access (OLA) and the transfer of certain resources to the Department
3 of Health (DOH).

4 The need for language competency has been magnified by the COVID19 pandemic, especially
5 among Pacific Islander communities. As a result, the department has been working with OLA
6 and other stakeholders to assure continuity for OLA's critical responsibilities and is making
7 certain recommendations to the Governor to reconsider elimination.

8 Nevertheless, a vehicle moving through the Legislature is prudent to provide opportunities for
9 contingencies, and as a result DOH recommends moving SD1230 SD1 forward.

10 **Offered Amendments:** N/A.

11

TESTIMONY OPPOSING SB1230.

My name is Darrin Sato and I am a member of the Inter-Agency Council. I strongly OPPOSE SB1230 and its proposal that the functions for protecting language access can be done by either the Department of Health (DOH) OR the Executive Director of the Office of Language Access (OLA). We must take language access seriously, and the functions of OLA require expertise that can only be done by the Executive Director. It is critical to the community that OLA retains its independence.

I. Your Experience with the Importance of Language Access

- Language access is important to some of the most vulnerable in our community. Without language, people will not be able to access appropriate services, understand the issues with COVID and be able to have the same opportunities as those of us who speak English.

II. OLA's Establishment and Hawai'i's History of Language Access Non-Compliance

- OLA was created by the Legislature in 2006 to affirm Hawai'i's commitment to Civil Rights and inclusive access to services regardless of national origin.
- Language access is a civil right required by the law.
 - In 1974, the United States Supreme Court held that failure to ensure meaningful access to services for LEP persons is a form of discrimination prohibited by Title VI of the Civil Rights Act of 1964. See, Lau v. Nichols, 414 U.S. 563 (1974). Further, Executive Order 13166 of August 11, 2000, directed all entities that received federal funding to provide meaningful access to LEP persons.
- Hawai'i has been cited repeatedly by the federal Department of Justice and the federal court for its failure to take reasonable steps to ensure meaningful access to services by LEP persons:
 - Hawai'i Department of Human Services, Consent Decree (2008); Hawai'i Office of Elections, United States District Court for the District of Hawai'i, Settlement Agreement (2010); Hawai'i Department of Transportation, FACE v. DOT, United States District Court for the District of Hawai'i Settlement Agreement (2015); Hawai'i Judiciary, Technical Assistance Agreement (2015); Hawai'i Public Housing Authority, Settlement Agreement with the Hawai'i Civil Rights Commission (2016).



Medical-Legal Partnership for Children in Hawai'i

A Project of the William S. Richardson School of Law
2515 Dole Street, Honolulu, Hawai'i 96822

Committee on Ways and Means
Senator Donovan M. Dela Cruz, Chair
Senator Gilbert S.C. Keith-Agaran, Vice Chair

Hearing Date: February 26, 2021

Re: Opposition to SB 1230 SD1: Relating to Statewide Health Planning

Dear Committee Members,

The Medical-Legal Partnership (MLP) represents patients at a community health center with their legal needs. Most of our clients are from limited English proficient (LEP) communities disproportionately impacted by the coronavirus pandemic. We respectfully oppose SB1230 SD1.

We oppose its proposal that the functions for protecting language access can be done by either the Department of Health (DOH) or the Executive Director of the Office of Language Access (OLA). We must take language access seriously, and the functions of OLA require expertise that can only be done by the Executive Director of an independent body.

Through our work at the MLP, we have seen story after story of how the lack of language access has been a battle for our communities for a long time, and especially during this pandemic. We saw it with the Department of Health, as entire communities got delayed public health messages and individual families got delayed contact-tracing resources during this deadly pandemic. We saw it with the Department of Labor and Industrial Relations, as many LEP people could not access Unemployment Insurance—benefits which they have paid into and are entitled to receive—because of language access denials. These challenges are well documented¹ and demand more support for language access resources, not less.

The functions of OLA cannot be absorbed by another agency because OLA not only demands technical expertise, but it also requires independence to support and hold accountable all state agencies. Especially during the pandemic, OLA remains critical to addressing systemic issues and responding to informal complaints, while resolving language access issues through internal and constructive means. OLA must be allowed to perform its functions independently, or the existing language access problems in our state will only worsen at this critical junction of our pandemic fight.

Thank you for this opportunity to submit testimony opposing SB1230 SD1.

Dina Shek
Legal Director, Medical-Legal Partnership for Children in Hawai'i

¹ See Anita Hofschneider, *Health Officials Knew COVID-19 Would Hit Pacific Islanders Hard. The State Still Fell Short*, Civil Beat, August 17, 2020, at <https://www.civilbeat.org/2020/08/health-officials-knew-covid-19-would-hit-pacific-islanders-hard-the-state-still-fell-short/>. See also Anita Hofschneider, *Advocates: Lack of Interpreter Services at Unemployment Office is Illegal*, Civil Beat, July 7, 2020, at <https://www.civilbeat.org/2020/07/advocates-lack-of-interpreter-services-at-unemployment-office-is-illegal/>

Testimony in Strong Opposition S.B. 1230, S.D.1

The Hawai'i Friends of Civil Rights respectfully stands in strong opposition to S.B. 1230, S.D.1. which makes optional the very existence of the Office of Language Access and instead proposes to subsume its functions within the Department of Health. See, Standing Committee Report No. 320. We prefer H.B. 728 and respectfully suggest that the Ways and Means Committee quash S.B. 1230.

Hawai'i has one of the highest relative proportions of non-English speakers in the nation. And that population has been steadily increasing. In 1990, Hawai'i's limited English proficient population (LEP) numbered 124,000 persons and by 2015 it had grown to 166,700 persons. In 2016, approximately one in five or 18.4% of Hawai'i's population were foreign born, ranking it sixth among all states. National census data reported that 22% percent of these individuals speak English "less than well" or "not well at all." Under existing federal and State regulations and law, individuals who speak English "not very well" are LEP and accorded protection by our Civil Rights laws.

The Office of Language Access (OLA) was created by this Legislature in 2006, in part, to address Hawai'i's failure to come into compliance with Title VI of the Civil Rights Act of 1964 and Executive Order 13166, *Improving Access to Services for Persons with Limited English Proficiency*, 2000. OLA's essential mandate is to provide oversight and central coordination to state agencies, (the executive, legislative and judicial branches of Hawai'i's state government) as well as technical assistance to state and covered entities, in developing and implementing their Language Access Plan as required by law. It also monitors and reviews state agencies for compliance and provides language access complaint resolution services.

Despite OLA's best efforts and numerous federal language access lawsuits, federal complaints, and settlements across a broad array of State entities, Hawai'i's Executive Departments continue to fail LEP residents seeking access to State and State-funded services. By way of example:

- A LEP person seeking Unemployment Compensation or Pandemic Unemployment Assistance (UI) is afforded no information in a language other than English and, as we have witnessed in the pandemic, their calls for assistance have gone unanswered or when answered many have been advised that the DLIR does not provide translators, or asked to have their children interpret for them, or simply disconnected. This is despite OLA's best efforts to explain to UI its federal and State language access obligations and to assist them in the proper usage of Babel notices.
- A LEP person seeking information related to vaccination sees no instructions in Chuukese, Marshallese, Ilocano, or Tongan on the DOH website or websites facilitated

by Queen's Hospital, Straub, and Kaiser. To its credit, the Kaiser system posts information in Spanish.

In the case of DOH, it relies upon Google Translate in a variety of other languages, but those translations are often confusing or misleading and in violation of federal law which circumscribes the use to artificial translation without review and editing by professional translators.

It is incumbent upon the State to address and remedy these issues which have lingered far too long in Hawai'i and severely impacted the immigrant community. Rather than look for the means to reduce OLA's staff by amending Chapter 321-C, Hawai'i Revised Statutes, to render its Executive Director dispensable, it is incumbent upon the State to convene relevant State Departments – those entities charged with securing the health, welfare, and safety of Hawaii's residents - and supportive community members to discuss and remedy Hawai'i's language access failures. We have been waiting 20 years for the State to respond meaningfully to the Civil Rights of LEP persons. Use this moment to move Hawai'i forward as the nation's leader in affording its residents protection under our federal and State laws.

Thank you for your consideration,

Amy Agbayani, Co-chair, Hawai'i Friends of Civil Rights
Pat McManaman, Co-chair, Hawai'i Friends of Civil Rights

DAVID Y. IGE
GOVERNOR OF HAWAII



ELIZABETH A. CHAR, M.D.
DIRECTOR OF HEALTH

STATE OF HAWAII
STATE COUNCIL
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February 26, 2021

The Honorable Senator Donovan M. Dela Cruz, Chair
Senate Committee on Ways and Means
The Thirty-First Legislature
State Capitol
State of Hawai'i
Honolulu, Hawai'i 96813

Dear Senator Dela Cruz and Members of the Committee:

SUBJECT: SB1230 SD1 Relating to Statewide Health Planning

The Hawaii State Council on Developmental Disabilities appreciates the **intent of SB1230 SD1**, which requires the Executive Director of the Office of Language Access or the Department of Health to perform the duties of the Office of Language Access.

The Council respectfully requests that the Executive Director of the Office of Language Access (OLA) continue to perform the duties of OLA and the option for the Director of Health to perform those duties be removed. The Executive Director has the expertise and knowledge related to state and federal laws regarding compliance with language access that is necessary to run the office effectively given budget cuts that will be faced this fiscal year. Years ago the office experienced extreme cuts and maintained an office of two, and were able to perform the essential duties by supporting agencies to comply with and meet the needs of providing language access.

OLA has always provided central coordination and technical assistance to the Council to translate vital health communication and information throughout the years, most importantly they were there for us during the time of this pandemic. They were able to immediately provide COVID-19 translations. They did this not only for the Council, but for other state agencies who requested it.

Thank you for the opportunity to provide comments to **SB1230 SD1**.

Sincerely,

A handwritten signature in blue ink that reads "Daintry Bartoldus".

Daintry Bartoldus
Executive Administrator

SB-1230-SD-1

Submitted on: 2/24/2021 9:54:34 PM

Testimony for WAM on 2/26/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Angelina Mercado	Testifying for Hawaii State Coalition Against Domestic Violence	Oppose	No

Comments:

The Hawai'i State Coalition Against Domestic Violence is a member of the Hawai'i Coalition for Immigrant Rights and **we strongly OPPOSE SB1230** and its proposal that the functions for protecting language access can be done by either the Department of Health (DOH) OR the Executive Director of the Office of Language Access (OLA). We must take language access seriously, and the functions of OLA require expertise that can only be done by the Executive Director. It is critical to the community that OLA retains its independence.

For survivors of domestic violence, language access can be life-saving. The ability of a survivor with limited English proficiency to access safety and navigate every aspect of the systems response to domestic violence, from law enforcement, shelters, the criminal justice system, and other social services relies on a strong, statewide commitment to equitable language access, especially in critical languages such as Ilocano, Marshallese, Chuukese, Tongan. The COVID-19 pandemic has highlighted the failures of language access in our state through the lack of outreach to isolated Pacific Islander and Filipino communities, confirming the need to keep OLA independent.

Thank you for the opportunity to submit testimony in opposition of this measure.

Sincerely,
Angelina Mercado

SB-1230-SD-1

Submitted on: 2/24/2021 11:25:32 PM

Testimony for WAM on 2/26/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Larry Ordonez	Testifying for Ethnic Education Hawai`i	Oppose	No

Comments:

Testimony submitted by Ethnic Education Hawai`i, Larry Ordonez President

Ethnic Education Hawai`i (EEH) is a non profit organization founded in 1994. Our mission is to provide equal access to information in English and languages spoken in our community. We support successful participation and integration of our multi-ethnic and multilingual community in Hawai`i.

EEH respectfully opposes sb 1230 sd 1. We do not support SD1 which gives the option to have the "department of health OR executive director" responsible for the execution of language access and mandate. Clearly language access expertise and technical assistance should be performed by the Executive Director. We are concerned that DOH may downgrade the importance of language access by assigning this function to a staff member who does not have the same expertise or level of responsibility accorded to an Executive Director.

We believe sb1230 sd1 is not necessary and should not be approved by WAM. The executive branch need not eliminate or downgrade OLA or its executive director to address budget cuts. The proposed executive budget cuts to OLA are severe. The legislature should maintain OLA which was legislatively established and should continue as an attached agency to DOH. We support HB728 hd1and expect it to cross over to senate and request the senate to support hb728 hd1.

EEH advocates for language access compliance with federal and state laws. EEH is committed to making communication accessible for all people in Hawai`i, including those who are limited English proficient. The Office of Language Access has been a critical government agency partner to EEH in providing bilingual information. OLA performs a critical function for the state and the thousands of individuals who are do not speak English adequately. For example OLA partnered with EEH and various ethnic media (eg. KNDI radio which has programs in 16 languages) to provide numerous timely and correct bilingual information about COVID 19 protocols and announcements. Access to information and government services should be equally accessible to all, including Filipino and Pacific islander immigrant communities who have been hardest hit by the pandemic.

We urge you not pass sb1230 sd1. OLA is helping the state pre-COVID 19 and during the pandemic. Now is not the time to decrease the importance of OLA and its executive director. The legislature should reaffirm the importance of OLA which it established in 2006 to address the responsibility of the state to comply with Title VI of the Civil Rights Act of 1964 and the Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, 2000.

**Testimony OPPOSING S.B. No. 1230
RELATING TO STATEWIDE HEALTH PLANNING**

COMMITTEE ON WAYS AND MEANS
Senator Donovan M. Dela Cruz, Chair
Senator Gilbert S.C. Keith-Agaran, Vice Chair

Hearing Date: February 26, 2021 9:30am
CR 211 & Videoconference

Chair Dela Cruz, Vice Chair Keith-Agaran, and Members of the Committee:

The Hawai'i Coalition for Immigrant Rights respectfully opposes S.B. 1230.

As proposed, S.B. 1230, S.D. 1, undermines the Office of Language Access's (OLA's) very existence by making optional the appointment of an Executive Director and alters the fundamental meaning of agency placement within a department, "for administrative purposes only."

I. S.B. 1230 Introduces Unnecessary Governance Risks and Undercuts the Importance of Administratively Attached Agencies

Administratively attached agencies are organizations established by government to manage a particular aspect of the law. The Hawaii Civil Rights Commission and the Disability Communication Access Board are two examples of administratively attached agencies created by this Legislature. Within our state structure, administratively attached agencies retain their autonomy to hire and retain staff, exercise fiscal control over their budget, appear before the legislature to offer testimony and advice, are governed by independently established boards or commissions, and authorized publish regulations pursuant to the Hawaii Administrative Procedures Act, Chapter 91, Hawaii Revised Statutes. As proposed, however, S.B.1230, S.D. 1, fundamentally misconstrues the very meaning of an administratively attached agency by making it optional.

The bill also raises a significant and unnecessary risk to our system of governance. Section 2 of the proposed legislation vests with the Governor the sole authority to appoint the executive director. Yet, within the same section, the Department of Health (DOH) may also fulfill OLA's statutory mandate. This apparent self-appointing authority appears to be in direct conflict with the authority of the Governor to appoint the executive director.

In addition to governance, S.B. 1230, S.D. 1, raises risks related to departmental relations. DOH would be authorized, for example, to issue reports to other departments concerning their failure to provide language accessible services. Relationships between various Departments may often be fragile and a directive issued by one Department to another Department on how to operate may be misconstrued and lead to further inter-departmental operational barriers.

For this very reason, federal and state governments have often relied on administrative or administratively attached agencies to engage in investigative and enforcement actions. The Office of Information Practices and the Hawaii Civil Rights Commission are two State examples.

II. Language Access is a Legally-Mandated Civil Right, and Hawai‘i’s State Agencies Have a History of Non-Compliance

Language accessible service for limited English proficient (LEP) persons is a civil right that finds its origins in Title VI of the Civil Rights Act of 1964. See, Lau v. Nichols, 414 U.S. 563 (1974). In furtherance of this Civil Right, President Clinton issued Executive Order 13166 on August 11, 2000, directing all federal agencies and entities that receive federal funding to implement meaningful access to services for LEP persons. And in 2006, the Legislature created OLA, which essentially codified in State law the LEP mandates found in Executive Order 13166. Despite clear federal and State mandates, Hawai‘i has been cited repeatedly by the federal Department of Justice and the federal court for its failure to take reasonable steps to ensure meaningful access to services by LEP persons.¹

In the early days of the Pandemic, the Department of Health (DOH) regrettably let down Hawai‘i’s LEP communities, denying the existence of health care disparities and making no effort to reach the linguistically isolated Hawai‘i Pacific Islander or Filipino communities. To address the communication void, OLA created 19 different COVID-19-related educational handouts and translated them to the 16 most common languages in Hawai‘i. OLA broadcast these handouts to immigrant leaders and rapidly became a key source of information in the community-led education efforts to defeat COVID-19. While the DOH is to be credited for its recent outreach efforts to the LEP community, we cannot forget that Hawai‘i’s Pacific Island and Filipino communities have suffered the highest disproportionate rates of infection, hospitalization, and death during the pandemic.

¹ Hawai‘i Department of Human Services, Consent Decree (2008); Hawai‘i Office of Elections, United States District Court for the District of Hawai‘i, Settlement Agreement (2010); Hawai‘i Department of Transportation, FACE v. DOT, United States District Court for the District of Hawai‘i Settlement Agreement (2015); Hawai‘i Judiciary, Technical Assistance Agreement (2015); Hawai‘i Public Housing Authority, Settlement Agreement with the Hawai‘i Civil Rights Commission (2016). Additionally, multiple language access complaints were filed in 2020 against the Hawai‘i Department of Labor and Industrial Relations Unemployment Insurance Division for its failure to translate vital documents, including applications for Unemployment Insurance (UI) and Pandemic Unemployment Assistance (PUA), and its failure to provide interpreters. These complaints remain pending with the federal Department of Labor, Civil Rights Division.

III. Lack of Language Access Remains Among Departments

Currently, there are still critical shortcomings in DOH's language access for LEP persons. For example, the DOH vaccination pages contain no translated materials in Ilocano, Chuukese, Marshallese, and Tongan. For several other languages where a translated version is available, the website relies upon Google Translate, an artificial translation program. See COVID-19 State of Hawai'i Portal, <http://hawaiicovid19.com/> (last accessed Feb. 24, 2021). Because machine translated programs are highly unreliable for certain languages and content, federal Department of Health and Human Services' regulations provide that artificial translation will only satisfy federal language access laws and rules where a qualified translator reviews the translations for accuracy and edits the documents as appropriate. See Non-Discrimination in Health Programs and Activities; Final Rule, Department of Health and Human Services, Federal Register, Vol. 81, No. 96, May 18, 2016.

It does not appear that DOH is in compliance with this standard. By way of very brief example, the Chinese translation of the vaccination registration webpage, <http://hawaiicovid19.com/vaccination-registration/>, is filled with grammar errors and uses a confusingly formal and complex language structure, making the webpage difficult to read and making clear that this information was not translated by a human. There are also multiple instances in which the translated meaning was erroneous:

- **“Who is being vaccinated and how do I sign up?” Section:**
 - “Who is being vaccinated” is translated so that it can be read as “Who is giving the vaccination?” rather than who is allowed to receive it;
 - The pre-vaccination checklist is a PDF that has no Google Translate option;

- **“Kupuna Registration” Section:**
 - Proper nouns are directly translated, to poor effect. For example, CVS/Longs Drugs becomes CVS/“Longevity Medicine”;
 - The instructions, “CVS cannot administer vaccinations to walk-in customers without an appointment” is translated to say that people who walk to CVS will not get service (i.e. implying that one needs to drive);
 - The instruction under CVS/Longs for “both required doses” is translated to mean two types of doses (e.g., that you may get 10 milligrams of one thing, 20 milligrams of another). It is NOT clear that you need to make two separate appointments on separate days;
 - At the bottom of the “Kupuna Registration” Section, it asks readers to go to each county's vaccine website for the most up-to-date information, but those county sites are not translated at all.

- **“What to expect at a vaccination POD (Point of Dispensing)” Section:**
 - “What to expect” translates to what to expect value-wise (i.e. a mathematical value), not the intended meaning of what kind of experience to expect.

- The video explaining what to expect is in English only.

This is not limited to Chinese; a review of this same webpage in other languages revealed similar confusing results. For example, in Vietnamese, errors included the following: essential workers were translated to workers who work in factories, “Kupuna” failed to translate, Long Drugs was translated as medication for lengthening body parts, and “CVS cannot administer vaccinations to walk-in customers without an appointment” did not translate.

IV. The Legislature Must Not Act to Terminate OLA’s Independence During This Critical Juncture of Hawai‘i’s Pandemic Recovery

COVID-19 has shined a spotlight on the reoccurring inequities – often a matter of life or death – confronting LEP individuals and families in Hawai‘i. If our communities are to overcome and recover from COVID-19, we must ensure that everyone has access to needed health care and vaccination information, rental assistance, UI benefits, and other social services in a language they understand.

Now is not the time to strip OLA’s staff of its ability to advise Departments on best practices in compliance with federal and State law. Rather, it is a time for the Legislature to address racial disparities and recalibrate its priorities as it carves a path forward for Hawai‘i’s future.

Thank you for your consideration,

Catherine Chen, Co-chair, Hawai‘i Coalition for Immigrant Rights
Liza Ryan Gill, Co-chair, Hawai‘i Coalition for Immigrant Rights

SB-1230-SD-1

Submitted on: 2/25/2021 9:10:33 AM

Testimony for WAM on 2/26/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Liza Ryan Gill	Testifying for The Legal Clinic/ Justice for Our Neighbors Hawaii	Oppose	No

Comments:

Aloha Chair Dela Cruz and Members of the Committee,

We respectfully oppose SB1230 SD1. The Office of Language Access serves a critical function for the state by providing resources and helping agencies maintain their compliance with Language Access law.

The Legal Clinic serves low-income immigrants in our state by providing them pro-bono legal representation. Throughout the last year we have seen how critical it is that public health and public benefit information is provided in the native languages of all of our residents. Failure to do this has caused wide spread disparities in the communication of disease, at one point 30% of all COVID cases were among our Non-NH PI communities, despite the fact they are only 4% of the population.

We are sympathetic to the current gapping hole in our state budget and the need to cut from programs across the board. However, I think that we cut OLA at our own peril. If our state economy is to recover we need to keep our virus-levels down, in order to do that we need to make sure communities that have had the greatest community spread continue to receive the information on vaccination and other resources that they need.

We do not support SD1 which gives the option to have the "department of health OR executive director" responsible for the execution of language access and mandate. Clearly language access expertise and technical assistance should be performed by the Executive Director, a specialized staff person. We are concerned that DOH may downgrade the importance of language access by assigning this function to a staff member who does not have the same expertise or level of responsibility accorded to an Executive Director.

If OLA is not there to make sure that the 20% of our population that is foreign-born has access to the information and resources they need, in a meaningful way, we could be crippling our own best efforts to recover from this economic and health crisis. Mahalo for you consideration.

Best,

Liza Ryan Gill

Chair, The Legal Clinic Advocacy Committee

SB-1230-SD-1

Submitted on: 2/24/2021 1:34:46 PM

Testimony for WAM on 2/26/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Valerie Rose	Individual	Oppose	No

Comments:

OLA has been vital for the Public Health Educators and Bilingual Health Aids. Along with COVID educations translations, OLA has translated much needed Mental Health information and resource guides.

With the potential for OLA to be absorbed by DOH, we might not have had the ability to create these translated resources.

SB-1230-SD-1

Submitted on: 2/24/2021 1:53:00 PM

Testimony for WAM on 2/26/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Kristin Mills	Individual	Oppose	No

Comments:

Hi, I am a resident, tax payer, and health educator for the Maui District Health Office. I am in STRONG opposition of SB1230. The services that OLA offers are essential to the health of Hawaii. Hawaii is a melting pot of people from many ethnicities, speaking many languages. Even if they speak some English, during crises (such as the COVID pandemic), people need materials in their native language. For example, Pacific Islanders make up about 4% of our population yet 27% of our COVID cases. As a health department, we have been working hard, along side OLA, to create vital health messages for ALL people in Hawaii to help them to prevent illness. Beyond COVID, these ethnic and language disparities exist in most all health conditions. If you cut funds to OLA now, guaranteed chronic disease costs will exponentiate into the future.

Please OPPOSE SB1230. This is not good for Hawaii's people.

Mahalo, Kristin Mills

SB-1230-SD-1

Submitted on: 2/24/2021 4:12:18 PM

Testimony for WAM on 2/26/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Thaddeus Pham	Individual	Oppose	No

Comments:

WAM Committee Members,

I am writing in strong opposition to SB 1230. As a public health professional working with low English proficiency (LEP) people and the son of Vietnamese refugees, I have witnessed firsthand the need for culturally competent language access for many local communities. The COVID-19 pandemic continues to highlight the stark disparities in healthcare access, especially for LEP communities, and this is not the time to remove/change essential infrastructure like the Office of Language Access.

Additionally, I do not support the option to have the "department of health OR executive director" for the execution of language access and mandate as expertise on language access and technical assistance should be performed by the Executive Director.

Thank you for your consideration of this testimony.

Thaddeus Pham (he/him)

SB-1230-SD-1

Submitted on: 2/24/2021 4:35:36 PM

Testimony for WAM on 2/26/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Kamaile Maldonado	Individual	Oppose	No

Comments:

Please help keep the OLA open and functioning. They do such important work to improve participation and access for our communities who speak other languages.

TESTIMONY OPPOSING SB1230 SD1.

My name is William Bagasol and I am writing individually and as a member of the Hawai'i Coalition for Immigrant Rights. I strongly OPPOSE SB1230 SD1 and its proposal that the functions for protecting language access can be done by either the Department of Health (DOH) OR the Executive Director of the Office of Language Access (OLA). We must take language access seriously, and the functions of OLA require expertise that can only be done by the Executive Director. It is critical to the community that OLA retains its independence. Furthermore, even as amended, this bill makes the Executive Director's position discretionary and articulates that OLA's functions can be done by either the executive director or absorbed by DOH.

As an attorney, I further testify that OLA established rooted in law, and to deal with a history of language access non-compliance. In 1974, the United States Supreme Court held that failure to ensure meaningful access to services for persons of limited English proficiency is a form of discrimination prohibited by Title VI of the Civil Rights Act of 1964. See, Lau v. Nichols, 414 U.S. 563 (1974). Further, Executive Order 13166 of August 11, 2000, directed all entities that received federal funding to provide meaningful access to LEP persons.

Finally, as a Deputy Public Defender for 33 years I have direct experience with the need for language access. Defendants, victims, and witnesses often require the assistance of an interpreter. Language assistance is needed not just in the courtroom but in all aspects of human life. The most efficient and meaningful way to perform this service starts off by maintaining an independent Office of Language Access.

Based upon the foregoing reasons, I submit my strong opposition. Thank you for allowing me comment on this Bill.

SB-1230-SD-1

Submitted on: 2/24/2021 5:16:11 PM

Testimony for WAM on 2/26/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Dominic Inocelda	Individual	Oppose	No

Comments:

As a former member of the Office of Language Access Advisory Council and individual community member, I would like to oppose SB1230 SD1 as proposed. The importance of the office's function to support and ensure that the responsibilities of providing language access to residents and community members who are limited or non-English speakers plays a significant role in communication as they settle and adjust ot life in Hawaii.

SB-1230-SD-1

Submitted on: 2/24/2021 5:39:24 PM

Testimony for WAM on 2/26/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Kendall Zukeran	Individual	Oppose	No

Comments:

Dear Chair Dela Cruz, Vice-Chair Keith-Agaran, and Committee Members:

I am writing in opposition to **SB 1230, SD1** and its proposal that the functions for protecting language access be administered by either the Department of Health or Executive Director of the Office of Language Access (OLA).

As a current public health professional and past career experiences working with limited English proficient (LEP) populations, I have witnessed the struggles and need for culturally competent language access across many local communities. Over this past year, I was able to collaborate with and greatly benefited from OLA's advice in having various COVID-19 related documents translated into multiple languages. These were eventually posted online and rapidly disseminated to various vulnerable LEP groups, in order to help combat this deadly virus.

Now is the time to support and strengthen the OLA's roles rather than reduce it. The knowledge, experience, and close community connections of the Office of Language Access are more valuable than ever to help our vulnerable populations survive these uncertain times.

Thank you for your consideration,

Kendall Zukeran

SB-1230-SD-1

Submitted on: 2/24/2021 9:59:50 PM

Testimony for WAM on 2/26/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Christy MacPherson	Individual	Oppose	No

Comments:

I oppose this bill. Our community can ill afford any reduction in OLA's ability to provide language access. It is so important to ensure that everyone in Hawai'i is able to understand critical information and obtain the assistance that they need.

LATE

SB-1230-SD-1

Submitted on: 2/25/2021 12:11:54 PM
Testimony for WAM on 2/26/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Romala Radcliffe	Individual	Oppose	No

Comments:

I agree with the testimony submitted by Amy Agbayani and Pat McManaman " Rather than look for the means to reduce OLA's staff by amending Chapter 321-C, Hawai'i Revised Statutes, to render its Executive Director dispensable, it is incumbent upon the State to convene relevant State Departments – those entities charged with securing the health, welfare, and safety of Hawaii's residents - and supportive community members to discuss and remedy Hawai'i's language access failures. We have been waiting 20 years for the State to respond meaningfully to the Civil Rights of LEP persons. Use this moment to move Hawai'i forward as the nation's leader in affording its residents protection under our federal and State laws."