

ACT 217

H.B. NO. 266

A Bill for an Act Relating to Language Access.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that according to the United States Census Bureau, American Community Survey of 2009-2011, 329,827 of Hawaii's 1,361,628 people, or twenty-four per cent of Hawaii's population, speak a language other than English at home. This includes nearly 281,607 persons who speak an Asian or Pacific Island language. According to the same studies, out of those who speak a language other than English at home, 151,187 or forty-six per cent are limited English proficient. According to recent statistics from the non-profit Immigration Policy Center, the research and policy arm of the American Immigration Council, about eighteen per cent of Hawaii's residents are foreign born, while fourteen per cent of Hawaii's children with immigrant parents are limited English proficient.

The legislature therefore recognizes that English is not the primary language for a significant proportion of Hawaii's residents. These people have only a limited ability to read, write, speak, or understand English. Language barriers often prohibit many residents from fully participating in the community. Despite personal, family, community, and government efforts to make those with limited English proficiency more self-sufficient and productive, these efforts are often undermined by lack of access to essential government and government-funded services due to the language restrictions of Hawaii's limited English proficient population.

The legislature formerly recognized and acknowledged that language is a barrier for those living in Hawaii who have identified themselves as being limited English proficient. Consequently, the legislature passed Act 290, Session Laws of Hawaii 2006, and Act 201, Session Laws of Hawaii 2012, to ensure that limited English proficient individuals have meaningful access to state-provided and state-funded services in Hawaii. These laws established the Hawaii office of language access to provide oversight, central coordination, and technical assistance to state and state-funded entities in their implementation of the requirements of the language access law.

The language access law requires every state agency and any organization that receives state funding and provides services to the public to establish a language access plan on how they will provide meaningful access to their agency's services, including but not limited to social service programs, job training and employment assistance programs, fair and impartial administrative and other hearings, or emergency assistance. These services are to be provided to all of Hawaii's diverse population, regardless of what language they speak.

In an effort to comply with Act 290, Session Laws of Hawaii 2006, by the end of 2007, plans for twenty-six state departments and agencies and more than sixty state-funded entities were completed. During the subsequent implementation of these language access plans, several major challenges were identified as preventing the state and covered entities from providing meaningful access in the form of interpretation and translation services to limited English proficient individuals, thereby limiting the ability of limited English proficient individuals.

First, there is no comprehensive and centralized system or structure in Hawaii to identify qualified language interpreters and translators.

Second, Hawaii has a dearth of competent language interpreters and translators available 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 competent interpreters and transla-

tors so limited English proficient individuals can receive competent, timely, and meaningful language access assistance to government and government-funded services.

Third, despite great technological advances, state agencies do not have multilingual websites that can help limited English proficient individuals access needed information in their own language.

The creation of a statewide language access resource center will address the first two needs. A study commissioned by the legislature through Senate concurrent resolution No. 67, S.D. 1, in 2008, which was undertaken by the office of language access, concluded that there is a need and support for the establishment of a language access resource center in Hawaii.

With a statewide language access resource center, Hawaii will have a centralized resource that will meet the specific needs of government agencies and state-funded entities to comply with Hawaii's language access laws and benefit the general public, including the limited English proficient population, and non-profit and for-profit organizations.

The purpose of the statewide language access resource center is to:

- (1) Maintain a publicly available roster of language interpreters and translators, listing their qualifications and credentials based upon guidelines established by the office of language access in consultation with the language access advisory council;
- (2) Train state and state-funded agencies on how to effectively obtain and utilize the services of language interpreters and translators;
- (3) Support the recruitment and retention of language interpreters and translators providing services to state and state-funded agencies;
- (4) Provide, coordinate, and publicize training opportunities to increase the number and availability of qualified interpreters and translators and further develop their language interpretation and translation skills; and
- (5) Work toward identifying or creating a process to test and certify language interpreters and translators and promote use of the process to ensure the quality and accuracy of their services.

The establishment of multilingual websites for all state agencies may contribute greatly to the goal of providing limited English proficient individuals the ability to electronically access information about government services. This Act will enable the office of language access to administer a pilot project to test the utility and feasibility of this idea since the office of language access is the state agency that is the most directly involved in the promotion of language access.

This Act also appropriates funds needed to establish the statewide language access resource center and the multilingual website pilot project within the office of language access.

SECTION 2. (a) The office of language access, in collaboration with other state agencies, shall implement a multilingual website pilot project. The project shall:

- (1) Explore the utility and feasibility of creating a multilingual website to improve language access to information provided online for limited English proficient persons seeking information about government and government-funded services in the State; and
- (2) To the extent feasible, produce a multilingual website for use by the public for the twelve largest limited English proficient groups in the State.

(b) The multilingual website pilot project shall end on June 30, 2017. The office of language access shall submit a report detailing findings and recom-

mendations, including proposed legislation, regarding the pilot project to the legislature no later than twenty days prior to the convening of the regular session of 2017.

SECTION 3. Section 321C-6, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§321C-6]] Office of language access; established.~~ [(a)] There is established within the department of health, for administrative purposes only, the office of language access. The head of the office shall be known as the executive director of the office of language access. The executive director shall be appointed by the governor without regard to chapter 76. The executive director shall:

- (1) Provide oversight, central coordination, and technical assistance to state agencies in their implementation of language access requirements under this chapter or under any other law, regulation, or guidance;
- (2) Provide technical assistance to covered entities in their implementation of this chapter;
- (3) Review and monitor each state agency’s language access plan for compliance with this chapter;
- (4) Where reasonable access is not provided, endeavor to eliminate the language access barrier using informal methods [~~such as~~], including conference, conciliation, mediation, or persuasion. Where the language access barrier cannot be eliminated by informal methods, the executive director shall submit a written report with the executive director’s opinion and recommendation to the state agency or the covered entity. The executive director may request the state agency or the covered entity to notify the executive director, within a specified time, of any action taken on the executive director’s recommendation;
- (5) Consult with language access coordinators, the language access advisory council, and state department directors or their equivalent;
- (6) Subject to section 321C-3, create, distribute to the State, and make available to covered entities, multilingual signage in the more frequently encountered languages in the State, and other languages as needed, informing individuals of their right to free oral language services and inviting them to identify themselves as persons needing services; [~~and~~]
- (7) Adopt rules pursuant to chapter 91 to address the language needs of limited English proficient persons[-]; and
- (8) Administer a statewide language access resource center that shall:
 - (A) Maintain a publicly available roster of language interpreters and translators, listing their qualifications and credentials based upon guidelines established by the office of language access in consultation with the language access advisory council;
 - (B) Train state and state-funded agencies on how to effectively obtain and utilize the services of language interpreters and translators;
 - (C) Support the recruitment and retention of language interpreters and translators providing services to state and state-funded agencies;
 - (D) Provide, coordinate, and publicize training opportunities to increase the number and availability of qualified language in-

- interpreters and translators and further develop their language interpretation and translation skills; and
- (E) Work toward identifying or creating a process to test and certify language interpreters and translators and promote use of the process to ensure the quality and accuracy of the language interpretation and translation services.”

SECTION 4. The executive director of the office of language access shall have the authority to hire personnel necessary to staff the statewide language access resource center and to administer its multilingual website. The staff, at a minimum, shall consist of one full-time project coordinator, three full-time program specialists, and one full-time clerk. To the extent possible, the executive director shall hire bilingual personnel to staff the statewide language access resource center and to administer its website.

SECTION 5. The executive director of the office of language access shall consult with the office of information management and technology in developing the multilingual website pilot project to ensure that the project:

- (1) Is compatible with the State’s information technology infrastructure;
- (2) Leverages technology solutions to maximize staff efforts;
- (3) Meets current technology standards, including providing the proper Unicode language support; and
- (4) Provides the proper checks and balances to manage the cultural sensitivities and expectations of the website.

SECTION 6. There is appropriated out of the general revenues of the State of Hawaii the sum of \$170,000 or so much thereof as may be necessary for fiscal year 2013-2014 and the same sum or so much thereof as may be necessary for fiscal year 2014-2015 to establish a statewide language access resource center within the office of language access to allow state agencies and covered entities to provide interpretation and translation services to limited English proficient individuals in accordance with Hawaii’s language access laws.

The sums appropriated shall be expended by the department of health for the purposes of this Act.

SECTION 7. There is appropriated out of the general revenues of the State of Hawaii the sum of \$80,000 or so much thereof as may be necessary for fiscal year 2013-2014 and the same sum or so much thereof as may be necessary for fiscal year 2014-2015 to establish a multilingual website pilot project to enable limited English proficient individuals to obtain information about government services in their own language.

The sums appropriated shall be expended by the department of health for the purposes of this Act.

SECTION 8. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 9. This Act shall take effect on July 1, 2013.

(Approved June 27, 2013.)