
Government Operations & Elections Committee

HB 2617

Brief Description: Regulating interpreter services.

Sponsors: Representatives Jinkins, S. Hunt, Haler, Appleton, Hope, Moscoso, Harris, Fitzgibbon, Morrell, Sawyer, Bergquist, Pollet, Green, Riccelli, Fey, MacEwen, Freeman, Tarleton, Gregerson and Santos.

Brief Summary of Bill

- Authorizes the Department of Labor and Industries (L&I), Department of Social and Health Services (DSHS), and Health Care Authority (HCA) to purchase certain spoken language interpreter services.
- Requires the DSHS, the HCA, the L&I, and the Department of Enterprise Services (DES) to purchase certain spoken language interpreter services directly from language access providers through scheduling and coordinating delivery organizations.
- Requires the DES to develop and implement a model that all state agencies must use to procure spoken language interpreter services by direct purchase from language access providers or through contracts with scheduling and coordinating entities, or both.
- Establishes the Spoken Language Interpreter Advisory Group.
- Makes modifications to collective bargaining statutes governing language access providers, including the establishment of three statewide units in place of the current single statewide unit.

Hearing Date: 2/4/14

Staff: Jasmine Vasavada (786-7301).

Background:

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Interpreter Services.

Federal laws prohibit discrimination based on an individual's race, color, national origin, handicap, religion, or sex by any entity that receives federal financial assistance. Pursuant to these and other laws, the Department of Social and Health Services (DSHS) provides equal access to social service and medical programs for all persons, including persons who have limited English proficiency. State law also requires the DSHS to ensure that bilingual services are provided to non-English speaking applicants for, and recipients of, public assistance. In community service offices, depending on the circumstances, the DSHS may be required to employ bilingual personnel or to contract with interpreters, local agencies, or other community resources.

The DSHS and the Health Care Authority (HCA) provide spoken language interpreter services to clients in medical settings and social service programs through contracts with brokers. These brokers schedule and connect clients and service providers with interpreters. Before an interpreter can work under such a contract, the interpreter must pass a standardized test to obtain language certification or authorization by the DSHS. The 2013 budget included a proviso directing the Office of Financial Management to determine if cost savings can be achieved by the state through contracting for interpreter services more effectively. Another proviso directed the DSHS, when contracting directly with an individual to deliver spoken language interpreter services, to only contract with language access providers who are working at a location in the state and who are state-certified or state-authorized, except that when such a provider is not available, the department may use a language access provider who meets other certifications or standards deemed to meet state standards, including interpreters in other states.

Public Employee Collective Bargaining.

Employees of cities, counties, and other political subdivisions of the state, with limited exception, bargain their wages and working conditions under the Public Employees' Collective Bargaining Act (PECBA), administered by the Public Employment Relations Commission. Individual providers (home care workers), family child care providers, adult family home providers, and certain language access providers also have collective bargaining rights under the PECBA. The public employer and the exclusive bargaining representative of the employees have a mutual obligation to negotiate in good faith over specified mandatory subjects of bargaining (grievance procedures and personnel matters, including wages, hours, and working conditions).

In 2010 Engrossed Substitute Senate Bill 6726 granted collective bargaining rights under the PECBA to language access providers. "Language access providers" are defined as independent contractors who provide spoken language interpreter services for the DSHS appointments or Medicaid enrollee appointments, but not owners, managers, or employees of brokers or language access agencies. For collective bargaining purposes, the public employer of language access providers is the Governor, and a single statewide unit exists, consisting of all language access providers.

Court interpreters.

Washington law (RCW 2.43.030) makes provision for the appointment of interpreters in court proceedings for both non-English-speaking parties and hearing impaired persons. Interpreters must be appointed in all legal proceedings in which a non-English-speaking person is a party or is compelled to appear. The cost of providing the interpreter is borne by the governmental body

that initiated the legal proceeding. In all other legal proceedings, the cost of providing an interpreter is borne by the non-English-speaking person unless the person is indigent, in which case the cost is borne by the governmental body conducting the legal proceeding.

Summary of Bill:

Interpreter Services.

The DSHS and the HCA are authorized to purchase interpreter services on behalf of limited-English speaking applicants and recipients of public assistance. The Department of Labor and Industries (L&I) is authorized to purchase spoken language interpreter services on behalf of injured workers and crime victims who speak limited English. The services purchased by the L&I are provided by certain authorized medical and vocational providers.

No later than September 1, 2015, the L&I, the DSHS, the Department of Enterprise Services (DES), and the HCA must purchase spoken language interpreter services directly from language access providers through contracts with scheduling and coordinating entities. Each of the agencies must have at least one contract with an entity that provides interpreter services through telephonic and video-remote technologies.

By September 1, 2015, the DES must develop and implement a model that all state agencies must use to procure spoken language interpreter services by purchasing directly from language access providers or through contracts with scheduling and coordinating entities, or both. The DSHS, the HCA, and the L&I have authority to procure interpreters through the DES if they cannot meet the demand for spoken language interpreters through their respective contracts.

Although all language access providers procured under these contracts must be certified or authorized by the state, if such a provider is not available, a state agency is authorized to contract with a spoken language interpreter with other certifications or qualifications "deemed" to meet state standards. "State agency" means any state office or activity of the executive branch of government.

Advisory Group.

The DSHS must establish the Spoken Language Interpreter Advisory Group (Advisory Group) to advise the DSHS, the L&I, the DES, and the HCA on the policies, rules, and regulations governing certification and authorization of spoken language interpreters. The Director of the DSHS, in consultation with the directors of the other departments, must make appointments to the Advisory Group of 14 representatives, designated by statute to represent various departments, interpreters, labor, physicians, and others. The duties of the Advisory Group include developing and recommending policies to enhance the quality of interpreters and evaluating and making recommendations related to state certification standards, including the code of ethics, and other duties as requested.

Public Employee Collective Bargaining.

The statute authorizing collective bargaining by a unit representing language access providers is changed in a number of ways.

The definition of a "language access provider" for the purposes of coverage under the collective bargaining statutes is changed. "Language access provider" means any independent contractor

who provides spoken language interpreter services, whether paid by a language access agency, broker, or the respective department for:

- (1) the DSHS appointments or Medicaid enrollee appointments, or who provided these services on or after January 1, 2009, and before June 10, 2010;
- (2) the L&I authorized medical and vocational providers, or who provided these services on or after January 1, 2012, and before the effective date of this section; or
- (3) state agencies, or who provided these services on or after January 1, 2012, and before the effective date of this section.

The former exclusion from the "language access provider" definition for an owner, manager, or employee of a broker or a language access agency, is broadened to specify that this definition excludes interpreters: (1) under the Medicaid administrative match program; and (2) appointed or required in a court proceeding pursuant to RCW 2.43.030, or when required by a federal consent decree or settlement agreement

The existing single statewide unit for all language access providers is broken into three separate units. A unit for those who provide services for: (1) the DSHS or Medicaid enrollee appointments; (2) injured workers or crime victims receiving benefits from the L&I; and (3) any other state agency or purpose through the DES. However, a single employee organization that becomes the exclusive bargaining representative for two or more units may petition to the Public Employment Relations Commission (PERC) to be consolidated into a single larger unit. If the PERC deems such consolidation to be appropriate, it shall certify the employee organization as the exclusive bargaining representative of the new, larger unit. The Governor and the employee organization may then agree to negotiate a single collective bargaining agreement for all of the units that the employee organization represents.

An existing requirement that the DSHS contractors provide the DSHS an accurate list of language access providers and other contact information is extended to require such lists be provided by the L&I and the DES contractors, to their respective agencies.

A state agency is authorized to contract with any spoken language interpreter provider, if a language access provider cannot be procured through a bargaining unit .

A proviso stating that this statute does not create or modify certain legal obligations is amended to state that there is no change to: (1) the obligation of any state agency to comply with federal law; or (2) to the Legislature's right to make programmatic modifications of the delivery of state services under state laws governing procurement and industrial insurance.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.