

HOUSE BILL REPORT

HB 1540

As Reported by House Committee On:

Public Safety
Appropriations

Title: An act relating to providing public notices of public health, safety, and welfare in a language other than English.

Brief Description: Providing public notices of public health, safety, and welfare in a language other than English.

Sponsors: Representatives Santos, Pollet, Appleton, Fitzgibbon, Hudgins, Gregerson, Stanford, Macri, Fey, Pettigrew and Slatter.

Brief History:

Committee Activity:

Public Safety: 1/30/17, 2/16/17 [DPS];

Appropriations: 2/23/17, 2/24/17 [DP2S(w/o sub PS)].

Brief Summary of Second Substitute Bill

- Requires state agencies and local emergency management departments to provide certain health and safety-related notices and communications in languages other than English, or in a manner that non-English speaking persons can understand.
- Requires local emergency management organizations to produce communication plans for notifying limited English speaking persons of imminent health and safety risks.

HOUSE COMMITTEE ON PUBLIC SAFETY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 6 members: Representatives Goodman, Chair; Pellicciotti, Vice Chair; Appleton, Chapman, Orwall and Pettigrew.

Minority Report: Do not pass. Signed by 5 members: Representatives Klippert, Ranking Minority Member; Hayes, Assistant Ranking Minority Member; Griffey, Holy and Van Werven.

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.

Staff: Omeara Harrington (786-7136).

Background:

Limited English Proficiency.

Individuals who do not speak English as their primary language and who have a limited ability to read, speak, write in, or understand English may be considered to have limited English proficiency. Services for persons with limited English proficiency may include interpreters, translation, and other services.

By Presidential executive order, each federal agency is required to examine the services it provides and develop and implement a system by which persons with limited English proficiency can meaningfully access those services. The executive order also requires that federal agencies ensure that recipients of federal financial assistance provide meaningful access to their limited English proficiency applicants and beneficiaries, in accordance with Title VI of the Civil Rights Act of 1964. Many state agencies are among the recipients of federal funds expected to provide limited English proficiency access.

State of Emergency.

The Governor may proclaim a state of emergency after finding that a public disorder, disaster, energy emergency, or riot exists within the state that affects life, health, property, or public peace. The proclamation allows the Governor to impose certain restrictions within the area affected by the proclamation, and is also a prerequisite for accessing certain state and federal relief funding. The Governor must give as much public notice as practical of the issuance of proclamations and associated orders through the news media.

Local Emergency Management Organizations.

Each political subdivision of the state must establish or jointly create a local organization for carrying out emergency management functions in accordance with the State Comprehensive Emergency Management Plan. Each local emergency management organization must develop its own written comprehensive emergency management plan addressing all natural and man-made emergencies and disasters to which the jurisdiction is vulnerable. Each plan must contain a functional description of several elements, including warning and emergency public information systems.

Summary of Substitute Bill:

State agencies that are required by law or rule to provide public notices to advise or inform the public about an imminent or emergent public health, safety, or welfare risk must provide notices in languages other than English, or in a manner that persons with limited English proficiency can understand, when a significant segment of the community has limited English proficiency. The requirement also applies to notices regarding proposed locations for criminal facilities or facilities intended to house sex offenders. Additionally, when an emergency has been declared by a local jurisdiction, authority, or the Governor, affected jurisdictions and state agencies must provide notices, information, and services in the

languages represented by a significant segment the affected area's demographic data. Agencies must fulfill these requirements within existing funds.

Local emergency management divisions must provide emergency assistance to and communicate with disaster victims in a manner or language the victims will understand. Each local organization or joint local organization for emergency management must produce a communication plan for notifying significant segments of limited English speaking persons of imminent or emergent public health, safety, or welfare risks. These plans may be included in the local comprehensive emergency management plans. Notification plans must be submitted to the Military Department's Emergency Management Division (EMD). An initial plan must be submitted by December 1, 2018, and subsequent plans must be submitted biennially. The EMD must report to the Legislature every two years, beginning December 1, 2019, regarding the communication plans it has received.

A "significant segment" of the population is defined as at least 5 percent of the overall population.

Substitute Bill Compared to Original Bill:

Language is added allowing requirements to provide notifications and assistance to non-English speaking residents to be fulfilled through communicating "in a manner" that persons with limited English proficiency can understand (as an alternative to communicating in the languages understood by persons with limited English proficiency). Local emergencies are included in the requirement that notices and information related to a declaration of emergency must be provided in languages represented by an affected area's demographic data.

The "significant segment" of the population threshold triggering the requirements in the bill is limited to apply only to segments of the population comprising 5 percent or more of residents. The alternative definition of 500 individual residents is removed.

The requirement that local organizations for emergency management maintain updated demographic data and information on the languages represented in their respective communities is removed, and replaced with the requirement to develop a communication plan to notify significant segments of limited English speaking persons of imminent health, safety, or welfare risks.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) This bill represents an effort that has been in place for 15 years. In 2006 the state was hit by a devastating windstorm that caused major power outages and multiple deaths. Many of those impacted were elderly people and people whose first language was not English. During Hurricane Katrina, public announcements about what victims should be doing to evacuate were only published and transmitted in English, and a large Vietnamese population did not know they were supposed to evacuate. For first responders, it is also important to have public cooperation with instructions. Following the windstorm, the Military Department issued a report, in which one of the major problems revealed was that safety messages need to be translated into other languages and need to reach smaller populations. If the Legislature deems it is important enough to require a state agency to make a public notice regarding health and safety, it also intends for the public to receive and comply with the message. With respect to the notion that this creates an unfunded mandate, there is an obligation to members of taxpaying communities. These communities deserve to understand how to comply with official notices, including directives of what to do and what not to do.

Monolingual persons may not be able to interpret what is going on in an emergency, which can be life threatening. When the state experienced massive wildfires in recent years, many families were stranded on the side of the road not knowing what to do. Some people went to the wrong locations or towards the fire. This bill is intended to ensure that those who are monolingual are not omitted from pertinent notices. It is important to avoid discrimination by omission. The taxpayers of the state should receive equal protection and notification of the challenging issues that face them every day.

Under the provisions of the bill, local jurisdictions would accumulate information regarding represented languages. Although it is difficult to translate quickly, it is possible to use visual aids and some pre-translated materials. Local jurisdictions have developed best practices for disseminating information through grassroots networks.

(Opposed) This bill has good intentions, but it would be difficult to implement and very costly. There are school districts with over 90 languages spoken. Local jurisdictions are expected to provide written notice to everyone meeting the significant segment threshold for every emergency event. This could require translation into 15 to 20 languages. Preparing signage warning of a specific hazard in 20 languages is almost impossible. Because the bill also requires verbal notices, in an emergency where responders are knocking on doors in the middle of the night, there would have to be people present who speak the languages represented in the community.

There are other, and sometimes more effective, ways to provide notice. Local jurisdictions are working to make certain preparations in advance, like preprinting certain messages in multiple languages, utilizing neighborhood information centers, using pictorial illustrations, and going door to door and using gestures. Some of the available technologies, like social media and radio, do not have the adequate capabilities to provide for what is required in the bill. Each circumstance is different and each jurisdiction works differently with their emergency management departments.

It is imperative to keep in mind that the state should be providing funding to carry out these mandates. This is a public safety issue, but there are a lot of public safety issues that need to

be funded. Seventy-five percent of county budgets are already dedicated to public safety issues, like public defense and sheriffs, and fund scarcities have led to caps on the number of inmates that can be booked in jails, and diversion of road funds.

(Other) Emergency management agencies are willing to assist with advising the technical aspects of this bill in order to help identify what would be necessary for implementation. Emergency management agencies have struggled with funding, and with the ability to train and maintain staff to coordinate these types of efforts.

Persons Testifying: (In support) Representative Santos, prime sponsor; and Mynor Lopez, Commission on Hispanic Affairs.

(Opposed) Doug Levy, Cities of Renton, Everett, and Kent; Juliana Roe, Washington State Association of Counties; and Victoria Lincoln, Association of Washington Cities.

(Other) Barnaby Dow, Washington State Emergency Management Association.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Public Safety. Signed by 18 members: Representatives Ormsby, Chair; Robinson, Vice Chair; Bergquist, Cody, Fitzgibbon, Hansen, Hudgins, Jinkins, Kagi, Lytton, Pettigrew, Pollet, Sawyer, Senn, Springer, Stanford, Sullivan and Tharinger.

Minority Report: Do not pass. Signed by 15 members: Representatives Chandler, Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Stokesbary, Assistant Ranking Minority Member; Buys, Caldier, Condotta, Haler, Harris, Manweller, Nealey, Schmick, Taylor, Vick, Volz and Wilcox.

Staff: Linda Merelle (786-7092).

Summary of Recommendation of Committee On Appropriations Compared to Recommendation of Committee On Public Safety:

The Appropriations Committee recommended that a null and void clause be added, making the provisions null and void unless funded in the budget.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Second Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed. However, the bill is null and void unless funded in the budget.

Staff Summary of Public Testimony:

(In support) Washington is becoming a more diverse state. Fourteen percent of the population is foreign born and about 19 percent speak a language other than English in their homes. Recently, there have been wildfires in counties that have significant populations that do not speak English. The drive is to make certain that these communities are not omitted in times of emergency and they get the same accurate information. We need systems and strategies in place to help these communities understand what is going on so that they can protect themselves and their families from harm. School districts in Renton, Everett and Kent have 90 or more languages spoken. The underlying bill was heavily premised on getting out notifications in multiple languages in an emergency setting. This version of the bill allows jurisdictions to figure out how to work with all of those languages and communities of color in advance through their communication plans.

(Opposed) None.

Persons Testifying: Mynor Lopez, Commission on Hispanic Affairs; and Doug Levy, Cities of Renton, Kent, and Everett.

Persons Signed In To Testify But Not Testifying: None.