

HOUSE BILL REPORT

HB 1780

As Reported by House Committee On:
State Government

Title: An act relating to interpreter services.

Brief Description: Regulating interpreter services.

Sponsors: Representatives Bergquist, Jinkins, S. Hunt, Appleton, Haler, MacEwen, Farrell, Harris, Tarleton, Fey, Pollet, Riccelli and Sells.

Brief History:

Committee Activity:

State Government: 2/12/15, 2/18/15 [DPS].

Brief Summary of Substitute Bill

- Requires the Department of Social and Health Services (DSHS), the Health Care Authority (Authority), and the Department of Labor and Industries (L&I) to purchase interpreter services through language access providers by 2018.
- Requires the Department of Enterprise Services (DES) to implement a procurement model for all executive state agencies to procure interpreter services directly from language access providers by 2018.
- Language service providers for the DSHS, the Authority, the L&I, and through a DES contract may form into separate statewide collective bargaining units for purposes of collective bargaining with the state.

HOUSE COMMITTEE ON STATE GOVERNMENT

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 4 members: Representatives S. Hunt, Chair; Bergquist, Vice Chair; Appleton and Gregory.

Minority Report: Do not pass. Signed by 3 members: Representatives Holy, Ranking Minority Member; Van Werven, Assistant Ranking Minority Member; Hawkins.

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: Sean Flynn (786-7124).

Background:

Public Interpreter Services.

The Department of Social and Health Services (DSHS) administers the state public assistance programs that provide aid for eligible people in need of medical care, temporary assistance, disability services, child welfare services, housing support, and other services. The DSHS also manages federal aid assistance used for public assistance. The Health Care Authority (Authority) manages the state medical assistance program, which provides health care for eligible low-income residents, in coordination with the federal Medicaid program.

State law requires that language interpreter services must be available to the extent necessary to ensure that non-English speaking applicants are not denied services or benefits or unable to obtain benefits because of their inability to speak English. The DSHS and the Authority must provide interpreter services in public assistance programs. Interpreters must be hired to support community services offices to ensure interpreter services are provided. The DSHS must maintain an adequate pool of qualified independent contractors for interpreter services.

The DSHS and the Authority have authority to purchase interpreter services from brokerage services. This purchasing authority is exempt from the general authority of the Department of Enterprise Services (DES) to manage the overall policies, standards, and procedures for all state agency procurements for goods and services.

Collective Bargaining - Language Access Providers.

Certain service providers in DSHS programs are authorized to collectively bargain with the state under the Public Employee Collective Bargaining Act (PECBA). The PECBA permits certain groups of public employees to join together as a collective bargaining unit to negotiate in good faith with a public employer for wages, working conditions, and personnel matters.

In 2010 the Legislature authorized language access providers who provide interpreter services as independent contractors for the DSHS to form a single statewide collective bargaining unit to negotiate with the Governor. Negotiations are limited to compensation, professional development, labor-management committees, and grievance procedures. The bargaining authority does not allow a right to strike.

Summary of Substitute Bill:

Interpreter Services Procurement.

The DSHS and the Authority are authorized to purchase language interpreter services for applicants and recipients of public assistance. The Department of Labor and Industries (L&I) is authorized to purchase services for medical and vocational service providers for injured workers of crime victims. Upon the expiration of any current contract, but no later than September 1, 2018, the DSHS, the Authority, and the L&I (departments) must purchase language interpreter services directly from a language access provider or through contracts

with scheduling and coordinating delivery organizations. Each department must have at least one contract with an entity that provides interpreter services exclusively through telephonic or video remoter technology. The departments may purchase services through the DES if the demand for interpreter services cannot be met through their respective contracts.

There is an exception to the procurement requirements for interpreter services paid by the L&I. The L&I may directly pay a provider for services used for a medical emergency or urgent care, or where advanced notice is not feasible in the determination of the medical provider.

Upon the expiration of any current contract, but no later than September 1, 2018, the DES must implement a procurement model for all executive state agencies to use for interpreter services. The model requires agencies to procure directly from language access providers or through contracts with scheduling and coordinating delivery organizations. The DES must have at least one contract with an entity that provides interpreter services exclusively through telephonic or video remoter technology. The DES may jointly purchase services with the departments.

All language access providers procured by the departments and the DES must be certified by the state or by the National Certification Commission for the Health Care Interpreters or the National Board for Certification of Medical Interpreters. Interpreter services also may be provided by state employees.

Language service providers paid by a language access agency, broker, or respective state department, may collectively form in three different statewide bargaining units: (1) providers for DSHS or Medicaid enrollee appointments; (2) providers for injured workers or crime victims receiving benefits from the L&I; and (3) other providers for any state agency through the DES. The Public Employee Relations Commission may certify two or more authorized units consolidated into a single larger unit if they are represented by the same labor organization. A single consolidated unit may negotiate with the governor for a single collective bargaining agreement.

A state agency may contract with any interpreter service provider if a language access provider is not available.

Substitute Bill Compared to Original Bill:

The requirements to purchase interpreter services from language access providers is not effective until any current contracts expire, but no later than 2018. There is no provision restricting state agencies imposing reimbursement rates and obligations established through collective bargaining in interpreter contracts that do not use language access providers. Provides for an exception from the procurement requirements for the L&I to pay a medical provider directly in a medical emergency or when advanced notice is not feasible.

Appropriation: None.

Fiscal Note: Requested on February 5, 2015.

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) We need to protect these small businesses so that they can remain viable. Interpreters in the state are stuck in the middle between agency purchasers and brokers that tax a share of the contact price paid for services. The structure in this bill is based on the successful model used for Medicaid programs, and can meet increased needs effectively. Under the old Medicaid system, brokers were used to schedule interpreter services, but they took up to 50 percent of the Medicaid money spent on services. The new model is streamlined by selecting a single scheduling entity which has reduced costs and increased payment for interpreters.

There are many other state agencies that are not able to use this new Medicaid procurement system. This bill allows other agencies to join this successful model. Current contracts with state agencies encourage unethical business practices and harm the quality of the services provided. A department may allow services directly through a provider, but it is easier to contact one of the brokers. The brokers control the work and make the rules for their subcontractors.

There is a big disparity between the conditions and compensation for these services and with other kinds of interpreter services. This bill will help address racial inequities as a vast majority of interpreters are people of color.

(Opposed) The model system that has been implemented over the last three years has failed. Small business owners are not getting the services they pay for under the model system. There are low service rates available under the model system. Also, when interpreters do not show up, the provider has to reschedule the appointment. A concern exists over quality control that is not built into the new system. The scheduling is preset and does not allow for client choice.

Persons Testifying: (In support) Representative Bergquist, prime sponsor; Dennis Eagle, Washington Federation of State Employees; Mauricio Ayon, Washington Community Action Network; and Tami Lentz, Washington Federation of State Employees Local 1671.

(Opposed) Gary Smith, Independent Business Association.

Persons Signed In To Testify But Not Testifying: None.