

# HOUSE BILL ANALYSIS

## HB 2883

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**Title:** An act relating to a common language.

**Brief Description:** Declaring English to be the common language.

**Sponsors:** Representatives Dunn, L. Thomas, Koster, Boldt, Mielke, Clements, McCune, D. Sommers, Sherstad, D. Schmidt, Thompson and Mulliken.

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### HOUSE COMMITTEE ON LAW & JUSTICE

**Staff:** Trudes Hutcheson (786-7384).

**Background:**

Legislation in Other States and the Federal Government

Twenty-three states currently have some form of legislation declaring English as the official language in the state. Some states, like Arizona, California, Colorado, Florida, and Hawaii, have amended their state constitutions. Other states have adopted statutes. The exact language in the various states range from one sentence simply declaring English to be the official language, to provisions requiring the state to act only in English and declaring all governmental documents invalid unless they are in English.

The Ninth Circuit Court of Appeals determined that Arizona's constitutional amendment regarding English as the official language was unconstitutionally overbroad because, as the court interpreted it, the amendment would prohibit Arizona public employees from using any other language while performing their official duties. Yniguez v. Arizonans for Official English, 69 F.2d 920, 932-33 (1995). However, in 1997, the United States Supreme Court vacated the Ninth Circuit Court of Appeals' decision after finding that the plaintiff in the case had no standing to bring the action.

There are several court cases holding that requiring an applicant to be fluent in English for the purposes of employment is permissible for certain purposes. In addition to action from state legislatures, Congress has recently introduced various bills regarding English as the official language.

## Washington State Legislation

Washington does not have a statute or constitutional amendment declaring English to be the official language. There are various provisions in Washington's statutes regarding the use of English. For example, examinations for the licensing of certain professions, such as acupuncturists, midwives, physicians, and real estate brokers, must be in English. Statutes governing higher education provide that undergraduate students shall be provided with classroom instruction by persons fluent in English. Applicants for civil service positions must be able to read and write English.

The statutes governing public assistance in the state requires that bilingual services be provided to non-English speaking applicants and recipients to assure that non-English speaking persons are not denied, or unable to obtain or maintain, services or benefits because of their inability to speak English.— RCW 74.04.025(1). Initial client contact materials must inform clients in all primary languages of the availability of interpretation services, and basic information pamphlets must be translated into all primary languages. The statutes define primary languages— as including, but not limited to, Spanish, Vietnamese, Cambodian, Laotian, and Chinese.

In addition, the Legislature enacted RCW 1.20.100 in 1989, which reads:

"The legislature finds that:

"(1) Diverse ethnic and linguistic communities have contributed to the social and economic prosperity of Washington state;

"(2) It is the welcomed responsibility and opportunity of this state to respect and facilitate the efforts of all cultural, ethnic, and linguistic segments of the population to become full participants in Washington communities;

"(3) This state's economic well-being depends heavily on foreign trade and international exchange and more than one out of six jobs is directly linked to foreign trade and international exchange;

"(4) If Washington is to prosper in foreign trade and international exchange, it must have citizens that are multilingual and multicultural;

"(5) While recognizing the value of a multilingual background, the state also encourages all citizens to become proficient in English to facilitate full participation of all groups into society and to promote cross-communication between multilingual groups; and

"(6) The multilingual nature of communication that currently exists in this state should be promoted to build trust and understanding among all of its citizens.

"Therefore, it shall be the policy of the state of Washington to welcome and encourage the presence of diverse cultures and the use of diverse languages in business, government, and private affairs in this state."

**Summary of Bill:** The Legislature finds that the state is enriched by diversity and the government should always promote the dignity of all heritages. The Legislature further finds that language has the power to unite people and that full political, economic, and social empowerment depends largely upon the proficiency in a common language. The intent of the act is to establish a uniform policy for access to public documents and communications in the state to ensure fair, consistent, and equal practices throughout the state when it comes to providing services.

English is designated the common language of official public documents and records and official public meetings. Official documents and records are all documents officially compiled, published, or recorded by the state, including deeds, publicly probated wills, birth, marriage, and death certificates. Public records include any writing containing information relating to the conduct of government or the performance of any governmental function, prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics.

The provisions of the bill do not apply to the following situations:

- (a) foreign language courses;
- (b) instruction to aid students with limited English proficiency in transition and integration into the education system;
- (c) the promotion of international commerce, tourism, and sporting events;
- (d) when it would interfere with needs of the justice system;
- (e) when public safety, healthy, or emergency services require the use of other languages (but authorization to use a foreign language in printing informational materials and publications for general distribution must be approved in a meeting by the governing board or authority of the public entity and be recorded in publicly available minutes); and
- (f) when expert testimony, witnesses, or speakers may require a different language (but the official version of deliberation, decision making, and record keeping must be translated into English).

Costs for preparing, translating, printing, and recording documents and materials in other languages, under the listed exceptions, must be delineated as a separate budget line item in the agency, department, or office budget.

No person may be denied employment with the state solely because that person lacks a facility in a foreign language, except where there is a bona fide job need related to one of the listed exceptions.

The bill does not prohibit private business from using different languages, except that official documents, forms, submissions, or other communications directed to government agencies and officers must be in English.

Any citizen in the state has standing to bring an action against the state to enforce these provisions.

The Secretary of State shall submit the act to the people for adoption and ratification, or rejection at the next general election.

**Fiscal Note:** Not requested.

**Effective Date:** Thirty days after the election at which it is approved.

Office of Program Research