

# SENATE BILL REPORT

## ESHB 1753

---

---

As of February 10, 2014

**Title:** An act relating to interpreter services.

**Brief Description:** Regulating interpreter services.

**Sponsors:** House Committee on Government Operations & Elections (originally sponsored by Representatives Jinkins, S. Hunt, Cody, Goodman, Freeman, Stanford, Fitzgibbon, Bergquist, Sawyer, Green, Ryu, Hope, Moscoso, Lias, Haler, Hudgins, Sullivan, Appleton and Pollet).

**Brief History:** Passed House: 3/11/13, 55-42.

**Committee Activity:** Commerce & Labor: 4/01/13.

---

### SENATE COMMITTEE ON COMMERCE & LABOR

**Staff:** Mac Nicholson (786-7445)

**Background:** Interpreter Services. 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 requires 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, DSHS may be required to employ bilingual personnel or contract with interpreters, local agencies, or other community resources.

DSHS and the Health Care Authority (HCA) provide spoken language interpreter services through contracts with brokers who schedule and link clients and service providers with interpreters. Spoken language interpreters are certified by DSHS with the use of standardized tests. These tests measure language proficiency and interpreting skills, and evaluate interpreters providing oral interpretation services to social service programs and in medical settings. Interpreters also may become authorized or qualified by DSHS to provide such services.

Interpreting for an injured worker or a crime victim is covered by the Department of Labor and Industries (L&I). Health care providers can request interpreter services when they determine that the patient needs communication assistance. Interpreter services can be provided in person or over the phone. Interpreters must bill L&I or the self-insured employer for services.

---

*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.*

Public Employee Collective Bargaining Act (PECBA). Employees of cities, counties, and other political subdivisions of the state bargain their wages and working conditions under PECBA, which is administered by the Public Employment Relations Commission (PERC).

Under PECBA, the employer and the exclusive bargaining representative 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, the Legislature granted collective bargaining rights under PECBA to language access providers. Language access providers are defined as independent contractors who provide spoken language interpreter services for DSHS appointments or Medicaid enrollee appointments, but not owners, managers, or employees of brokers or language access agencies. Mandatory subjects of bargaining are limited to: (1) economic compensation, such as the manner and rate of payments; (2) professional development and training; (3) labor-management committees; and (4) grievance procedures. Retirement benefits are not subject to collective bargaining. Language access providers are included in one statewide bargaining unit. Language access providers are subject to binding interest arbitration if negotiations for a contract reach impasse and cannot be resolved through mediation.

**Summary of Bill:** Interpreter Services. DSHS and HCA are authorized to purchase interpreter services on behalf of limited-English speaking applicants and recipients of public assistance.

L&I may purchase interpreter services for medical and vocational providers authorized to provide services to limited-English speaking injured workers or crime victims.

By September 1, 2015, DSHS, HCA, and L&I must purchase services directly from language access providers through no more than three contracts with scheduling and coordinating organizations. The agencies must be able to provide interpreter services through telephonic and video remote technologies. If DSHS, HCA, and L&I determine it is more cost effective or efficient, they can integrate procurement of interpreter services through a single centralized system, and can procure interpreters through the Department of Enterprise Services (DES) if demand cannot be met through their respective contracts.

For all other agencies, DES must purchase interpreter services. If DES determines it is more cost effective or efficient, it may jointly purchase the services with DSHS, HCA, or L&I.

Language access providers procured must be certified or authorized by the state, or be nationally certified by the Certification Commission for Health Care Interpreters or the National Board for Certification of Medical Interpreters. If a certified interpreter is not available, a state agency may contract with an interpreter with other certification or qualifications deemed to meet state standards. Agencies can also use state employees or employees of medical or vocation providers to provide interpretive services.

Reimbursement rates and other obligations established through collective bargaining under PECBA cannot be imposed in contracts with entities that do not provide interpreter services through language access providers.

These requirements are not intended to address procurement of interpreters for sensory-impaired persons.

Advisory Group. DSHS must establish a 16-member advisory group to advise DSHS, HCA, L&I, and DES on the policies, rules, and regulations governing certification and authorization of spoken language interpreters. The advisory group will include one representative from each of the agencies, three interpreters, one physician, one hospital language access administrator, two representatives from immigrant or refugee advocacy organizations, one representative from a labor organization, one member from the public, one representative from an entity that provides telephonic and video remote interpreter services, one representative for interpreter agencies, and one representative from the DSHS language testing and certification program. Duties of the advisory group include developing and recommending policies to enhance the quality of interpreters and evaluating certification standards.

PECBA. Collective bargaining rights under PECBA are granted to language access providers who provide interpreter services for L&I medical and vocational providers and for state agencies through DES.

For purposes of collective bargaining, the definition language access provider is expanded to include any independent contractor, whether paid by a language access agency, broker, or the respective department who:

- provides interpreter services for 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
- provides interpreter services for state agencies, or who provided these services on or after January 1, 2012, and before the effective date of this section.

A language access provider does not mean an owner, manager, or employee of a broker or a language access agency, an interpreter who provides services through telephonic or video remote technologies from outside the state of Washington, an interpreter under the Medicaid Administrative Match Program, an interpreter appointed or required in a court proceeding, or an interpreter required by a federal consent decree or settlement agreement.

Two additional statewide bargaining units are created for interpreters: one for interpreters providing services to individuals receiving benefits from L&I; and one for interpreters providing services for any state agency through DES. PERC may not certify any bargaining unit for before January 1, 2014. If a single union is the exclusive bargaining representative for two or more language access provider units, the Governor and the union may agree to negotiate a single agreement for the units.

DSHS appointments do not include court proceedings, and Medicaid enrollee appointments do not include Medicaid Administrative Match Program appointments or any other service provided under that program.

Entities who contract with L&I and DES for interpreter services must provide lists of interpreters to the respective departments annually. The departments must provide this list to a union seeking to represent the interpreters.

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

State agencies are obligated to comply with the federal statute and regulations. The Legislature has the right to make programmatic modifications to the workers' compensation laws.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.