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## Labor & Workplace Standards Committee

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### 2SSB 6245

**Brief Description:** Concerning spoken language interpreter services.

**Sponsors:** Senate Committee on Ways & Means (originally sponsored by Senators Saldaña, Ranker, Conway, Hasegawa, McCoy, Hunt and Keiser).

#### Brief Summary of Second Substitute Bill

- Requires the Department of Social and Health Services (DSHS), the Health Care Authority (HCA), and the Department of Labor and Industries (L&I) to purchase interpreter services directly from language access providers or through contracts with scheduling and coordinating delivery organizations.
- Requires the Department of Enterprise Services (DES) to develop a model for state agencies to use to purchase interpreter services from language access providers or through scheduling and coordinating delivery organizations.
- Places limits on when DSHS may offer spoken language interpreter testing.
- Authorizes language access providers for DSHS, HCA, L&I, and DES to form three separate statewide collective bargaining units, and requires the agencies to provide a list of language access providers to labor unions.

**Hearing Date:** 2/19/18

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

#### **Background:**

##### Interpreter Services.

The Department of Social and Health Services (DSHS) and the Health Care Authority (HCA) provide spoken language interpreter services to clients in medical settings and social service

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programs through contracts with brokers. These brokers schedule and connect clients and service providers with interpreters.

Any person seeking to provide interpreter services to the DSHS clients as a contracted interpreter must meet training requirements and pass a skills examination. The Language Testing and Certification Program of DSHS provides certification and testing services and maintains qualification standards for the DSHS bilingual employees and contracted interpreters. Interpreters must maintain their certification or authorization by, among other things, earning minimum credit hours of continuing education or by retaking the examination if the minimum credit hour requirement has not been met.

Generally, state law provides that the Department of Enterprise Services (DES) establishes the policies and procedures for state agencies to procure goods and services. The authority of DSHS and the HCA to purchase interpreter services and interpreter brokerage services separate from the DES procedure is an exception to that provision.

#### 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). Language access providers, defined as independent contractors who provide spoken language interpreter services for the DSHS appointments or Medicaid enrollee appointments, have the right to collectively bargain under PECBA. For collective bargaining purposes, the public employer of these providers is the Governor, and a single statewide unit exists, consisting of all language access providers. Language access providers are subject to mediation and binding interest arbitration if an impasse occurs in contract negotiations.

Each party contracting with the DSHS for language access services, and each of their subcontractors, must provide the DSHS with the names, addresses, and other contact information of language access providers, by January 30th every year. Upon request, the DSHS must provide a list of all language access providers, including their contact information, to a labor union seeking to represent language access providers.

#### The Department of Labor and Industries (L&I).

As a recipient of federal financial assistance, the L&I is required to take reasonable steps to ensure limited English proficient persons have meaningful access to L&I services. The L&I provides interpreter services for injured workers in the industrial insurance context and to crime victims in the context of administering the Crime Victims Compensation program. For injured workers, the health care or vocational provider determines the need for interpretive services for their own locations and schedules those services at no charge to the worker. To become an interpreter for the L&I, a person must be certified as an interpreter, obtain an L&I provider account number, and submit an application form.

#### **Summary of Bill:**

##### Interpreter services.

The DSHS, HCA, and the L&I are authorized to purchase interpreter services for limited English-speaking applicants and recipients of services. Upon the expiration of any contract in effect on the effective date of the bill, but no later than September 1, 2020, those agencies must

purchase in-person spoken language interpreter services directly from the language access providers or through contracts with scheduling and coordinating delivery organizations, or both. Each agency must have at least one contract with an entity that provides interpreter services through telephonic and video remote technologies. The L&I may pay a language access provider directly for the costs of interpreter services when the services are necessary for use by a medical provider for emergency or urgent care, or where advance notice is not feasible.

The DES must develop and implement a model that all state agencies must use to procure spoken language interpreter services by purchasing directly from the language access providers or through contracts with scheduling and coordinating entities, or both. If the DES determines it is more cost-effective or efficient, it may jointly purchase these services with the DSHS, HCA, and L&I. If the demand for services cannot be met through their contracts, the DSHS, HCA and L&I may procure interpreters through the DES.

Interpreter services procured by the agencies must be provided by language access providers who are either state or nationally certified. The agencies are not precluded from providing interpreter services through state employees or employees of medical or vocational providers. In addition, the procurement requirement does not apply to the procurement of interpreters for sensory-impaired persons.

#### Testing and certification.

Except as needed to certify and authorize bilingual employees, the DSHS will only offer spoken language interpreter testing in the following manner:

- To interpreters of languages for which 10 percent or more of the requests for interpreter services in the prior year for DSHS employees and the HCA on behalf of limited English-speaking clients went unfilled through the procurement process established in the bill;
- To interpreters who were decertified or deauthorized due to noncompliance with continuing education requirements; and
- To current DSHS certified or authorized spoken language interpreters wanting to gain additional certification or authorization.

#### Collective bargaining.

The definition of language access providers under the PECBA is expanded to include language access providers for the L&I and for state agencies, regardless of whether they were paid by a broker, language access agency, or by the agency. Language access providers providing spoken language interpreter services may form three separate statewide units, as follows:

- Providers who provide services for DSHS appointments or Medicaid enrollee appointments;
- Providers who provide spoken language interpreter services for injured workers or crime victims receiving benefits from L&I; and
- Providers who provide services for any other state agency through the DES.

If a single employee organization is the exclusive bargaining representative for two or more units, upon petition by the employee organization, the units may be consolidated into a single larger unit if the Public Employment Relations Commission deems it appropriate. If a single employee organization is the exclusive bargaining representative for two or more units, the Governor and the employee organization may agree to negotiate a single collective bargaining agreement for all of the units represented by the organization.

Each party that contracts with the DSHS, HCA, L&I, and DES for language access services, including subcontractors, must provide to the respective agency the names, addresses, and other contact information of language access providers, annually by January 30th. An initial list must be provided within 30 days of the effective date of the bill. Upon request, the agencies must provide a list of all language access providers, including their contact information, to a labor union seeking to represent language access providers.

**Appropriation:** None.

**Fiscal Note:** Available. New fiscal note requested on February 14, 2018.

**Effective Date:** This bill takes effect 90 days after adjournment of the session in which the bill is passed, except for sections 6 and 8 of this act relating to collective bargaining, which take effect July 1, 2018.