

# SENATE BILL REPORT

## 2SHB 1540

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As of March 31, 2017

**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:** House Committee on Appropriations (originally sponsored by Representatives Santos, Pollet, Appleton, Fitzgibbon, Hudgins, Gregerson, Stanford, Macri, Fey, Pettigrew and Slatter).

**Brief History:** Passed House: 3/01/17, 53-45.

**Committee Activity:** Local Government: 3/09/17, 3/28/17 [DPA-WM].

Ways & Means: 3/30/17.

### Brief Summary of Amended Bill

- Requires state agencies to provide life safety information, to the extent technologically feasible, in a language or manner that can be understood by significant population segments that have limited English proficiency.
- Requires local emergency management organizations to develop a communication plan for notifying significant population segments of life safety information during an emergency.

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### SENATE COMMITTEE ON LOCAL GOVERNMENT

**Majority Report:** Do pass as amended and be referred to Committee on Ways & Means.

Signed by Senators Short, Chair; Angel, Vice Chair; Takko, Ranking Minority Member; Palumbo and Sheldon.

**Staff:** Alex Fairfortune (786-7416)

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### SENATE COMMITTEE ON WAYS & MEANS

**Staff:** Daniel Masterson (786-7454)

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*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.*

**Background:** Limited English Proficient Services. Individuals who do not speak English as their primary language and who have a limited ability to read, speak, write, or understand English are referred to as limited English proficient (LEP) individuals. In 2000, the President signed the LEP Executive Order which requires federal agencies and all recipients of federal financial assistance to provide meaningful access to LEP individuals, in accordance with Title VI of the Civil Rights Act of 1964. LEP services commonly include interpreter services and translation of printed materials.

Many state agencies within Washington provide LEP services, including the Department of Labor and Industries, the Department of Social and Health Services, and the Department of Transportation. Agency rules regarding publication of notices are determined by each individual agency.

Emergency Management. The Washington State Emergency Management Program is administered by the Military Department and led by an appointed director, who is responsible for developing and maintaining a state comprehensive emergency management plan.

Each county, city, and town (Political Subdivision) in Washington must establish an emergency management organization by ordinance or resolution, either independently or in cooperation with another Political Subdivision. Every Political Subdivision must develop a local comprehensive emergency management plan to address all natural and man-made emergencies to which the Political Subdivision is vulnerable, and to provide a functional description of how warnings and emergency information will be addressed. Each plan must be tested each year and reviewed and updated at least once every two years.

**Summary of Amended Bill:** When an emergency is proclaimed by the Governor, state agencies required to provide life safety information must provide that information, to the extent technologically feasible, in a language or manner that can be understood to significant population segments that have LEP. Significant population segment means 5 percent or 1000 people, whichever is fewer, of the population eligible to be served or likely to be affected. The Office of Financial Management's (OFM's) population estimates will be used to determine eligible LEP groups.

Each local emergency management organization that produces a local comprehensive emergency management plan must include a communication plan for notifying significant population segments of life safety information during an emergency. Emergency management organizations are encouraged to consult with affected community organizations when developing the communication plans. In developing these communication plans, local emergency management organizations should consider the following:

- the number or proportion of LEP individuals eligible to be served or likely to be encountered;
- the frequency with which LEP individuals come in contact with the emergency notification;
- the nature and importance of the emergency notification, service, or program; and
- the resources available to the state agency or political subdivision to provide emergency notifications.

Each local emergency management organization must submit its communication plan to the Military Department Emergency Management Division with the next local emergency management plan update. Subsequent plans will be reviewed in accordance with the director's schedule. Beginning on December 1, 2019, and every five years after, the Military Department Emergency Management Division must submit a report updating the Legislature regarding communication plan development and implementation progress.

A null and void clause is included in the event specific funding is not provided in the budget.

**EFFECT OF LOCAL GOVERNMENT COMMITTEE AMENDMENT(S):**

- Requires state agencies to provide life safety information, to the extent technologically feasible, in a language or manner that can be understood by significant population segments when an emergency has been proclaimed.
- Modifies the definition of "significant population segment" to mean each LEP group that is 5 percent or 1000 people, whichever is fewer, of those eligible to be served or likely to be affected.
- Specifies that OFM's LEP population estimates will be used to determine eligible language groups.
- Provides four criteria that local organizations should consider when developing a communication plan, including (1) the number of LEP persons, (2) the frequency with which LEP persons come in contact with emergency notifications, (3) the nature of the emergency notification, and (4) the resources available to provide emergency notifications.
- Requires local organizations to submit communication plans to the Military Department at the next emergency management plan update and requires the Military Department to submit a report to the Legislature every five years regarding communication plan development and implementation progress.

**Appropriation:** None.

**Fiscal Note:** Available. New fiscal note requested March 28, 2017.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

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

**Staff Summary of Public Testimony on Second Substitute House Bill (Local Government):** *The committee recommended a different version of the bill than what was heard.* PRO: The population of those who speak languages other than English is growing. Nineteen percent of the population in the state speaks a language other than English at home, and in some areas it is as high as fifty percent. During the wildfires in Eastern Washington, many non-English speakers reported that they received instructions to evacuate in the opposite direction they were supposed to, resulting in them moving towards the fires. Web based computer translation has led to several incidents of subpar translation. The goal is to have counties be preventive instead of reactive so that these communication issues can be addressed before a time-sensitive emergency occurs.

CON: A null and void clause may not be the correct tool for this bill because if the state decides to only fund a small portion the null and void clause will be satisfied but local jurisdictions will still have to absorb many costs. There is currently no technologically advanced program that will allow all the notification requirements to be met. Currently, Clark County has a notification program that costs \$100,000 annually. That program takes one hour to make calls to 100,000 people in one language, so it takes four hours per language to notify the whole county. Additional languages would take more time.

OTHER: The term emergency notification is broad and encompasses a variety of emergency notifications that cannot be translated. Notices should be limited to life safety information so that related internal documents do not need to be translated. Communication plans should be reviewed every five years instead of every two so that they are on the same timetable as the current review. One consistent data set should be used to determine population thresholds, such as the population data collected by the Office of Financial Management. A significant segment threshold of 5 percent or 1,000 would include many more people than just a threshold of 5 percent and would be consistent with federal guidelines. The funding requirements should be clarified.

**Persons Testifying (Local Government):** PRO: Representative Sharon Tomiko Santos, Prime Sponsor; Josephine Tamayo Murray, Catholic Community Services; Doug Levy, Cities of Everett, Kent, and Renton; Ellicott Dandy, OneAmerica; Mynor Lopez, WA State Commission on Hispanic Affairs.

CON: Juliana Roe, Washington State Association of Counties.

OTHER: Jason Marquiss, Emergency Management Division, Washington Military Department; Victoria Lincoln, Assoc. of WA Cities.

**Persons Signed In To Testify But Not Testifying (Local Government):** No one.

**Staff Summary of Public Testimony on Bill as Amended by Local Government (Ways & Means):** PRO: The current version is a significant improvement from earlier versions of the bill. The bill provides local organizations a workable timetable to develop emergency management plans, specifies how the plan should be created, and provides flexibility in how the message is delivered. This bill is realistic, focused, and is a good systematic policy. Cities should be able to put together the communications plan within their current structure and budgets.

**Persons Testifying (Ways & Means):** PRO: Doug Levy, Cities of Kent, Renton and Everett; Juliana Roe, Washington State Association of Counties; Victoria Lincoln, Assoc of WA Cities.

**Persons Signed In To Testify But Not Testifying (Ways & Means):** No one.