

SENATE BILL REPORT

SB 5682

As of February 9, 2017

Title: An act relating to interpreter services.

Brief Description: Regulating interpreter services.

Sponsors: Senators Saldaña, Hasegawa, Chase, Conway, Cleveland, Hunt, McCoy, Keiser and Kuderer.

Brief History:

Committee Activity: Commerce, Labor & Sports: 2/09/17.

Brief Summary of 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.
- Authorizes language service providers for DSHS, HCA, L&I, and through a DES contract to form three separate statewide collective bargaining units for the purposes of collective bargaining with the state.

SENATE COMMITTEE ON COMMERCE, LABOR & SPORTS

Staff: Jarrett Sacks (786-7448)

Background: Interpreter Services. DSHS and HCA provide 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, or recipients of, public assistance. In community service offices, depending on the circumstances, DSHS may be required to employ bilingual

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personnel or contract with interpreters. DSHS must also provide interpreters at dependency hearings.

DSHS and HCA have the authority to purchase interpreter services and interpreter brokerage services. This purchasing authority is exempt from the general authority of DES to manage the overall policies, standards, and procedures for all state agency procurements for goods and services. HCA currently contracts with a single language access vendor that schedules and coordinates the delivery of interpreter services. DSHS also uses this vendor to provide its interpreter services. DES currently has master contracts available for agency use for in-person and telephonic interpreter services.

Interpreting for an injured worker or a crime victim is covered by the L&I. Health care providers can request interpreter services when they determine 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 the services.

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 an obligation to negotiate in good faith over specified mandatory subjects of bargaining.

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 for language access providers are limited to:

- economic compensation;
- professional development and training;
- labor-management committees; and
- grievance procedures.

Retirement benefits are not subject to collective bargaining.

Language access providers are included in one statewide bargaining unit and are subject to binding arbitration if negotiations for a contract reach an impasse and cannot be resolved through mediation.

Summary of Bill: Interpreter Services. By 2020, DSHS, HCA, and L&I must purchase in-person spoken language interpreter services directly from 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 telephonic and video remote interpreter services. 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 advanced notice is not feasible.

By 2020, DES must develop and implement a model that all state agencies must use to purchase spoken language interpreter services directly from language access providers or through scheduling and coordinating delivery organizations, or both. DES must have at least one contract with an entity that provides telephonic and video remote interpreter services. If it is more cost effective, DES, DSHS, HCA, and L&I may purchase these services jointly.

The provision exempting HCA and DSHS from the general contracting authority of DES with regard to interpreter services is removed.

All language access providers procured by DSHS, HCA, L&I, and 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. An agency may contract with a language access provider with different qualifications if a nationally or state-certified language access provider is unavailable.

Collective Bargaining. Language service providers paid by a language access agency, broker, or respective state department may form three different statewide bargaining units, the bargaining units include:

- providers for DSHS appointments or Medicaid enrollee appointments;
- providers for injured workers or crime victims receiving benefits from L&I; and
- other providers for any state agency through DES.

PERC may certify two or more authorized bargaining units to consolidate into a single larger bargaining unit, and negotiate a single collective bargaining agreement, if they are represented by the same labor organization.

Appropriation: None.

Fiscal Note: Available.

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: PRO: Interpreter services are needed everywhere and the state needs high quality interpreters. Becoming an interpreter is a good opportunity for immigrants to start small businesses and be entrepreneurs. Traditionally, most of the costs of interpretation services goes to brokers and schedulers and not to the interpreters. This bill will save administrative costs and ensure more money goes to the interpreters. The bill gives interpreters more job security. Language companies are gouging the state; because of the reform in 2010, the state is now paying less money.

CON: There is not enough solid info yet on the reform in 2010 to judge how well it is working. The program model for Medicaid may not transfer to other agencies. A thorough performance evaluation is needed before this bill is passed.

OTHER: L&I does not know if this bill means it will have to become a scheduler and whether its fee schedule will still work. There is ambiguity in the bill for L&I. The

bargaining unit created in 2010 has been a disaster for the deaf community. HCA took over appointments and the fill rate for appointments plummeted. The current program is discriminatory. The Legislature should not unionize ASL interpreters. HCA is denying health care because hearing-impaired individuals cannot get interpreters. With the current model, it is difficult to do quick scheduling and it is difficult to fill for certain languages and in certain areas.

Persons Testifying: PRO: Senator Rebecca Saldaña, Prime Sponsor; Milena Calderari-Waldron, Interpreters United Local 1671 WFSE; Aida Sanchez-Vela, Interpreters United Local 1671.

CON: Joana Ramos, WA State Coalition for Language Access.

OTHER: Chris Kaasa, Washington Association of Community & Migrant Health Centers; Tammy Fellin, Labor & Industries; Whitney Hill, Washington State Registry of Interpreters for the Deaf; Allie Joiner, Deaf Community.

Persons Signed In To Testify But Not Testifying: No one.