

SENATE BILL REPORT

2SSB 6245

As Amended by House, March 1, 2018

Title: An act relating to spoken language interpreter services.

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 History:

Committee Activity: Labor & Commerce: 1/18/18, 1/22/18 [DPS-WM, DNP, w/oRec].

Ways & Means: 2/01/18, 2/06/18 [DP2S, DNP, w/oRec].

Floor Activity:

Passed Senate: 2/09/18, 31-16.

Passed House: 3/01/18, 53-44.

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 limitations on persons to which DSHS may offer spoken language interpreter testing.
- Authorizes language service providers for DSHS, HCA, L&I, and through DES contract to form three separate statewide collective bargaining units for the purposes of collective bargaining with the state.

SENATE COMMITTEE ON LABOR & COMMERCE

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.

Majority Report: That Substitute Senate Bill No. 6245 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Keiser, Chair; Hasegawa, Vice Chair; Conway, Kuderer and Saldaña.

Minority Report: Do not pass.

Signed by Senators Braun and Wilson.

Minority Report: That it be referred without recommendation.

Signed by Senator King.

Staff: Jarrett Sacks (786-7448)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Second Substitute Senate Bill No. 6245 be substituted therefor, and the second substitute bill do pass.

Signed by Senators Rolfes, Chair; Frockt, Vice Chair; Billig, Conway, Darneille, Fain, Hasegawa, Hunt, Keiser, Mullet, Palumbo, Pedersen, Ranker, Schoesler, Van De Wege and Warnick.

Minority Report: Do not pass.

Signed by Senators Honeyford, Assistant Ranking Member; Bailey, Becker, Brown and Wagoner.

Minority Report: That it be referred without recommendation.

Signed by Senators Braun, Ranking Member; Rivers.

Staff: Amanda Cecil (786-7460)

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 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 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 Second Substitute 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 advance 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.

Spoken Language Interpreter Testing. DSHS may only offer spoken language interpreter testing to:

- individuals speaking languages for which 10-percent or more of the requests for spoken language interpreter services in the prior year went unfilled through the procurement method created in the bill;
- spoken language interpreters who were decertified or deauthorized due to noncompliance with any continuing education requirements; and
- current department-certified or authorized spoken language interpreters seeking to gain additional certification or authorization.

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: The bill contains several effective dates. Please refer to the bill.

Staff Summary of Public Testimony on First Substitute (Labor & Commerce): PRO: The Legislature reformed how DSHS procures interpreters in 2010 and it lowered overhead costs and increased pay for interpreters. This bill extends that procurement concept to other state agencies. This bill will ensure patients get services they need. This bill is the best way to match the supply of interpreters with the demand for them. If L&I saves money under the bill at the same rate that DSHS did after the 2010 bill was passed, it will save \$5.5 million.

Persons Testifying (Labor & Commerce): PRO: Senator Rebecca Saldaña, Prime Sponsor; Kate White Tudor, Washington Association of Community and Migrant Health Centers; Dennis Eagle, Washington Federation of State Employees; Milena Calderari-Waldron, Interpreters United Local 1671 WFSE.

Persons Signed In To Testify But Not Testifying (Labor & Commerce): No one.

Staff Summary of Public Testimony on First Substitute (Ways & Means): *The committee recommended a different version of the bill than what was heard.* PRO: This models the

DSHS process that saved the state money and has been working for five years at other agencies. There is a web-based scheduling system that results in savings and better access by identifying which communities need more interpreter services. There is a shortage of certain languages, such as Napoli, and this will allow for testing languages that are in high demand.

Persons Testifying (Ways & Means): PRO: Dennis Eagle, Washington Federation of State Employees; Leroy Mould, WFSE Local 1671; Milena Calderari-Waldron, Local 1671 WFSE/AFSCME.

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

EFFECT OF HOUSE AMENDMENT(S):

- Changes the definition of language access provider to include owners of language access agencies or brokers.
- Adds the Department of Children, Youth, and Families to the provisions of the bill.
- Specifies that the agencies must use the procurement method in the bill by September 1, 2020, instead of upon the expiration date of its current contracts.
- Explicitly states that L&I is not precluded from purchasing in-person spoken language interpreter services directly from language access providers and from directly reimbursing language access providers.
- Specifies that L&I may purchase interpreter services through limited contracts with scheduling and coordinating delivery organizations.