

STATE OF HAWAII
DEPARTMENT OF HEALTH
OFFICE OF LANGUAGE ACCESS

1177 Alakea Street, Room B-100
Honolulu, HI 96801-3378
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APHIRAK BAMRUNGRUAN
EXECUTIVE DIRECTOR

**Testimony COMMENTING on HB 1762 HD1 SD1
RELATING TO LANGUAGE ACCESS**

SENATOR DONOVAN M. DELA CRUZ, CHAIR
SENATE COMMITTEE ON WAYS & MEANS

Hearing Date: 4/5/2022

Room Number: Via Videoconference

1 **Fiscal Implications:** This measure may impact the priorities identified in the Governor's
2 Executive Supplemental Budget Request.

3 **Agency Testimony:** The Office of Language Access (OLA) appreciates the intent of this
4 measure, provided the measure's passage does not replace or adversely impact priorities in the
5 Governor's Executive Supplemental Budget Request. We offer the following comments.

6 This measure would require the executive director of OLA to submit an annual report to the
7 Governor and Legislature on the compliance of state agencies and certain entities with state and
8 federal language access laws; complaints of noncompliance, if any; resolution of the complaints;
9 and recommendations on how to enhance and promote language access. It also appropriates an
10 unspecified amount to establish one full-time equivalent (1.0 FTE) Limited-English Proficiency
11 (LEP) Language Coordinator position in OLA; operating expenses necessary for OLA to
12 collaborate with all state departments to ensure compliance with all state and federal language
13 access laws; and funds for the development of a comprehensive statewide plan to increase
14 language access by OLA.

15 English proficiency, or the lack thereof, has a significant impact on individuals' economic and
16 social activities, health literacy, and wellness. It limits access to education, employment, and
17 important public assistance such as benefits, programs, and services. Under Chapter 321C,
18 Hawaii Revised Statutes (HRS), OLA's task is to provide highly specialized technical assistance

1 and to coordinate resources to reduce the burden of implementing language access obligations.
2 OLA is charged with providing oversight, central coordination, and technical assistance to all
3 state and state-funded agencies in their implementation of language access, which is a civil right
4 under both state and federal law.

5 OLA has no objection to submitting an annual report with information related to compliance,
6 complaints, resolution of complaints, and recommendations to enhance and promote language
7 access as outlined under Chapter 321C, HRS.

8 Additional staffing and resources provided under Section 3 would enable OLA to better assist
9 state agencies in complying with language access laws. OLA is committed to continued
10 collaboration with all State language access coordinators in the implementation of language
11 access mandates in their respective agencies.

12 In addition, OLA would like to note that the appropriations under Section 3 are in line with the
13 House Adjustment for OLA (HTH 908) in the Governor's Executive Supplemental Budget
14 Request (HB1600 HD1).

15 Thank you for the opportunity to testify on this measure.

DAVID Y. IGE
GOVERNOR

JOSH GREEN
LIEUTENANT GOVERNOR



STATE OF HAWAII
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
www.labor.hawaii.gov

ANNE PERREIRA- EUSTAQUIO
DIRECTOR

JOANN A. VIDINHAR
DEPUTY DIRECTOR

April 5, 2022

To: The Honorable Donovan M. Dela Cruz, Chair
The Honorable Gilbert S.C. Keith-Agaran, Vice Chair, and
Members of the Senate Committee on Ways and Means

Date: Tuesday, April 5, 2022

Time: 10:15 a.m.

Place: Conference Room 211, State Capitol

From: Anne Perreira-Eustaquio, Director
Department of Labor and Industrial Relations (DLIR)

Re: H.B. 1762 HD1SD1 RELATING TO LANGUAGE ACCESS

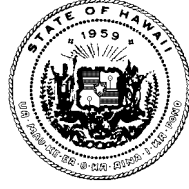
The DLIR supports HB1762 HD1SD1, specifically Section 2, that requires the Executive Director of the Office of Language Access (OLA) to submit an annual report to the Legislature as well as an appropriation, provided that it does not conflict with the priorities identified in the Governor's Executive Supplemental Budget request.

During the interim between the 2021 and 2022 Legislatures, the DLIR convened a Working Group pursuant to HCR169 to improve access to government services for immigrants and increase immigrant opportunities to make civic and economic contributions to the community. The report¹ detailed the absolutely vital role that immigrants, especially those with Limited English Proficiency (LEP), play in Hawaii's economy, workforce and community. However, despite immigrants' integral contributions, foreign-born residents still encounter significant barriers to full integration into Hawai'i as they encounter barriers across a variety of domains, including legal, language, financial, citizenship, and cultural literacy ones, amongst others. Therefore, the Working Group identified bolstering the state's language access law and provision of language access resources as another important component to addressing current immigrant needs in accessing state services.

Requiring OLA to annually report to the Legislature will furnish the Legislature with crucial, timely information on the status of the State's efforts to enhance and promote language access. Strengthening OLA's ability to help assure compliance with state and federal language access laws will help the agency effectuate implementation and delivery of state agencies' language access plans.

¹ <http://labor.hawaii.gov/wp-content/uploads/2021/12/HCR169-Report20211200.pdf>

DAVID Y. IGE
GOVERNOR



CATHY BETTS
DIRECTOR

JOSEPH CAMPOS II
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF HUMAN SERVICES

P. O. Box 339
Honolulu, Hawaii 96809-0339

April 4, 2022

TO: The Honorable Senator Donovan M. Dela Cruz, Chair
Senate Committee on Ways & Means

FROM: Cathy Betts, Director

SUBJECT: **HB 1762 HD1 SD1 – RELATING TO LANGUAGE ACCESS.**

Hearing: April 5, 2022, 10:15 a.m.
Via Videoconference, State Capitol

DEPARTMENT'S POSITION: The Department of Human Services (DHS) supports the intent of this measure and defers to the Office of Language Access (OLA) and other impacted departments.

PURPOSE: The purpose of this measure requires the Executive Director of the Office of Language Access to submit an annual report to the Governor and Legislature on the compliance of state agencies and certain entities with state and federal language access laws, complaints of noncompliance, if any, resolution of the complaints, and recommendations on how to enhance and promote language access. Makes appropriations to fund the establishment of one full-time equivalent (1.0 FTE) Limited-English Proficiency Language Coordinator position in the Office of Language Access; the operating expenses of the Office of Language Access to collaborate with all state departments to ensure compliance with all state and federal language access laws; and the development of a comprehensive statewide plan to increase language access by the Office of Language Access. Effective 7/1/2060. (SD1)

The HD1 amended the measure by,

- (1) Appropriating funds to establish three Limited English Proficiency Language Coordinator positions in the Office of Language Access to work with all state departments and agencies, rather than establishing separate coordinator positions in the Departments of Commerce and Consumer Affairs, Health, and Agriculture, and the Hawaii Emergency Management Agency;
- (2) Changing the effective date to July 1, 2060, to encourage further discussion; and
- (3) Making technical, nonsubstantive amendments for the purposes of clarity, consistency, and style.

The SD1 amended the measure by:

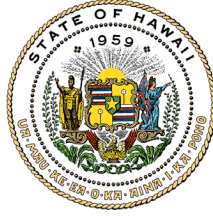
- (1) an appropriation of an unspecified amount to fund:
 - (A) The establishment of one full-time equivalent (1.0 FTE) Limited English Proficiency Language Coordinator position in the Office of Language Access;
 - (B) The operating expenses of the Office of Language Access to collaborate with all state departments to ensure compliance with all state and federal language access laws; and
 - (C) The development of a comprehensive statewide plan to increase language access by the Office of Language Access; and
- (2) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

DHS provides benefits and services to one in three residents in Hawaii. DHS strives to encourage self-sufficiency and supports the well-being of individuals, families, and Hawaii's communities through its major benefit programs that provide financial assistance, Supplemental Nutrition Assistance Program (SNAP), medical insurance coverage through Med-QUEST, vocational rehabilitation services, and protective services for children and vulnerable adults.

DHS is committed to removing language barriers that may prohibit qualified residents from fully participating in DHS programs that lead to self-sufficiency and improved well-being. The LEP coordinator is essential to the department's LEP program. State and federal laws require DHS and other government entities to maintain language access services for Hawaii's culturally diverse population regarding all public benefits and services. In addition, all entities receiving federal funds are subject to provisions of Title VI of the Civil Rights Act of 1964, 42 USC 2000d, et seq. (Title VI), which prohibits discrimination based on race, color, or national origin in any program or activity receiving federal financial assistance and must provide meaningful access to services.

The LEP coordinator position requires knowledge of the needs of both oral and written communication of Hawaii's diverse LEP client population, federal and state laws and regulations, public administration policies and principles, utilization of information systems and related technologies, and effective communication and presentation techniques.

Thank you for the opportunity to provide testimony on this bill.



STATE OF HAWAII
DEPARTMENT OF DEFENSE
HAWAII EMERGENCY MANAGEMENT AGENCY

TESTIMONY ON HOUSE BILL 1762, HD1, SD1
RELATING TO LANGUAGE ACCESS

BEFORE THE SENATE COMMITTEES ON
WAYS AND MEANS
BY

Luke P. Meyers
Administrator, Hawaii'i Emergency Management Agency (HI-EMA)

APRIL 5, 2022

Aloha Chair Dela Cruz, Vice-Chair Keith-Agaran, and Members of the
Committee:

Thank you for the opportunity to submit testimony to provide **COMMENTS** on
HB 1762, HD1, SD1.

House Bill 1762, HD1, SD1, requires the Executive Director of the Office of Language Access to submit an annual report to the Governor and Legislature on the compliance of state agencies and certain entities with state and federal language access laws, complaints of noncompliance if any, resolution of the complaints, and recommendations on how to enhance and promote language access. Makes appropriations to fund the establishment of one full-time equivalent (1.0 FTE) Limited-English Proficiency Language Coordinator position in the Office of Language Access; the operating expenses of the Office of Language Access to collaborate with all state departments to ensure compliance with all state and federal language access laws; and the development of a comprehensive statewide plan to increase language access by the Office of Language Access.

Limited English Proficiency (LEP) is a barrier that directly impacts one in nine persons living in Hawai'i. This barrier creates limitations for the LEP population to access lifesaving and property-protecting information in the event of natural and human-caused emergencies and disasters. Communication to those impacted during incidents is among the biggest challenges facing emergency managers; building capability and capacity prior to an incident is greatly needed and a best practice among the emergency management profession.

Recent incidents, including the COVID-19 pandemic have thrown into sharp relief the vital need for the Hawai'i Emergency Management Agency (HI-EMA) to quickly communicate emergency information to a large portion of the population.

The newly created language access coordinator position and statewide coordination would benefit the HI-EMA and provide valuable support to emergency management spokespersons' efforts to identify and improve ways to communicate with the LEP population on how to prepare for, mitigate against, respond to, and recover from emergencies and disasters.

The HI-EMA takes no position on the reporting elements of this bill, deferring to the office of language access, but is in support of its other provisions provided it does not interfere with the Governor's budget priorities.

Thank you for the opportunity to provide comments on House Bill 1762, HD1, SD1.

Luke P. Meyers: Luke.P.Meyers@hawaii.gov; 808-733-4300

DAVID Y. IGE
GOVERNOR



LATE

CRAIG K. HIRAI
DIRECTOR

GLORIA CHANG
DEPUTY DIRECTOR

EMPLOYEES' RETIREMENT SYSTEM
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ADMINISTRATIVE AND RESEARCH OFFICE
BUDGET, PROGRAM PLANNING AND
MANAGEMENT DIVISION
FINANCIAL ADMINISTRATION DIVISION
OFFICE OF FEDERAL AWARDS MANAGEMENT (OFAM)

WRITTEN ONLY
TESTIMONY BY CRAIG K. HIRAI
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
TO THE SENATE COMMITTEE ON WAYS AND MEANS
ON
HOUSE BILL NO. 1762, H.D. 1, S.D. 1

April 5, 2022
10:15 a.m.
Room 211 and Videoconference

RELATING TO LANGUAGE ACCESS

The Department of Budget and Finance (B&F) offers comments on this bill.

House Bill No. 1762, H.D. 1, S.D. 1:

- Amends Chapter 321C, HRS, to require the Executive Director of the Office of Language Access (OLA) to submit an annual report to the Governor and Legislature on compliance, complaints, resolution of complaints, and recommendations to enhance and promote language access.
- Appropriates an unspecified amount of general funds in FY 23 to OLA for the establishment of 1.00 full-time equivalent Limited English Proficiency Language Coordinator position; the operating expenses of OLA to collaborate with all State Departments to ensure compliance with all language access laws; and the development of a comprehensive statewide plan to increase language access.

B&F notes that, with respect to the general fund appropriation in this bill, the federal Coronavirus Response and Relief Supplemental Appropriations Act requires that states receiving Elementary and Secondary School Emergency Relief (ESSER) II funds and Governor's Emergency Education Relief II funds must maintain state support for:

- Elementary and secondary education in FY 22 at least at the proportional level of the state's support for elementary and secondary education relative to the state's overall spending, averaged over FYs 17, 18 and 19; and
- Higher education in FY 22 at least at the proportional level of the state's support for higher education relative to the state's overall spending, averaged over FYs 17, 18 and 19.

Further, the federal American Rescue Plan (ARP) Act requires that states receiving ARP ESSER funds must maintain state support for:

- Elementary and secondary education in FY 22 and FY 23 at least at the proportional level of the state's support for elementary and secondary education relative to the state's overall spending, averaged over FYs 17, 18 and 19; and
- Higher education in FY 22 and FY 23 at least at the proportional level of the state's support for higher education relative to the state's overall spending, averaged over FYs 17, 18 and 19.

The U.S. Department of Education has issued rules governing how these maintenance of effort (MOE) requirements are to be administered. B&F will be working with the money committees of the Legislature to ensure that the State of Hawai'i complies with these ESSER MOE requirements.

Thank you for your consideration of our comments.

Statement Before The
SENATE COMMITTEE ON WAYS AND MEANS
Tuesday, April 5, 2022
10:15 AM
Via Video Conference and Conference Room 211

in consideration of
HB 1762, HD1, SD1
RELATING TO LANGUAGE ACCESS.

Chair DELA CRUZ, Vice Chair KEITH-AGARAN, and Members of the Senate Ways and Means Committee

Common Cause Hawaii supports of HB 1762, HD1, SD1, which (1) requires the Executive Director of the Office of Language Access to submit an annual report to the Governor and Legislature on the compliance of state agencies and certain entities with state and federal language access laws, complaints of noncompliance if any, resolution of the complaints, and recommendations on how to enhance and promote language access and (2) makes appropriations to fund the establishment of one full-time equivalent (1.0 FTE) Limited-English Proficiency Language Coordinator position in the Office of Language Access; the operating expenses of the Office of Language Access to collaborate with all state departments to ensure compliance with all state and federal language access laws; and the development of a comprehensive statewide plan to increase language access by the Office of Language Access.

Common Cause Hawaii is a nonprofit, nonpartisan, grassroots organization dedicated to reforming government and strengthening our representative democracy - one that works for everyone.

The recent Decennial Census shows that Hawaii is the most diverse state in the nation with a diversity index of 76.0%. See <https://www.census.gov/library/visualizations/interactive/racial-and-ethnic-diversity-in-the-united-states-2010-and-2020-census.html> (retrieved Jan. 31, 2022). The April 2016 DBEDT Research and Economic Analysis Division report on Non-English Speaking Population in Hawaii indicates that non-English speakers at home in Hawaii increased by 44% from 1980 to 2014. See https://files.hawaii.gov/dbedt/economic/data_reports/Non_English_Speaking_Population_in_Hawaii_April_2016.pdf at Executive Summary (retrieved Jan. 31, 2022).

For limited English proficient residents of Hawaii to be able to fully engage with our government and participate in our democratic society, it is imperative that we know where the barriers are in government and how to address them. HB 1762, HD1, SD1 will work to achieve this end.

For these reasons, Common Cause Hawaii comments in support of HB 1762, HD1, SD1. If you have questions for me, please contact me at sma@commoncause.org.

Very respectfully yours,

Sandy Ma
Executive Director, Common Cause Hawaii



HAWAI'I FRIENDS OF CIVIL RIGHTS

April 2, 2022

TO: **Committee on Ways and Means**
Senator Donovan M. Dela Cruz, Chair
Senator Gilbert S.C. Keith-Agaran, Vice-Chair

FROM: Amy Agbayani, Co-Chair & Pat McManaman, Co-Chair

SUBJECT: **HB1762, HD1, SD1 - Relating to Language Access**

HEARING: April 5, 2022 at 10:15AM
Conference Room 211 & Via

The **Hawai'i Friends of Civil Rights** stands in **Strong Support of HB1762, HD1, SD1** which appropriates funding to the Office of Language Access (OLA) for one full-time equivalent language access coordinator; the development of a statewide comprehensive plan on language access; additional support to assure compliance across all departments, and further requires OLA to submit an annual report to the Legislature and the Governor detailing compliance with federal and state language access laws, complaints of non-compliance, and recommendations to enhance and promote language access.

Today, Hawai'i is home to more than a quarter of a million immigrants who make up 18% of Hawai'i's population. Within this population, 348,130 or one in four persons speaks English at home. Of this cohort, one in nine Hawai'i residents or 161,055 persons is limited English proficient (LEP), reporting that they speak English "less than very well."¹

Language is a clear and profound barrier for many of these New Americans. Many recently arrived asylees, refugees, or family-based immigrants work two to three jobs, often

¹ Department of Business, Economic Development & Tourism, State Data Book (2019), <https://dbedt.hawaii.gov/blog/20-16/>, (accessed 2/5/2022).

below minimum wage, leaving little or no time for language studies. Additionally, the collateral costs of attending language classes such as transportation fees, childcare, and tuition are often beyond the reach of many immigrants. Yet, virtually all immigrants want to learn English. They want better jobs. They want to succeed. And they want their children to succeed.

Hawai‘i has been sanctioned repeatedly by the federal court, federal offices for civil rights (including the Department of Justice), and the Hawai‘i Civil Rights Commission for its failure to provide language access services to LEP persons.² More recently, the Department of Labor and Industrial Relations (DLIR) was cited by the U.S. Department of Labor (DOL) for its failure to provide language access services. On September 20, 2021, the DLIR entered into a comprehensive Settlement Agreement with DOL.

The National Health Law Program filed a complaint against the Hawai‘i Department of Health (DOH) and 17 other states for failing to provide COVID-19 services to LEP individuals in April 2021.³ The complaint alleges that the DOH failed to provide interpreters in its contact tracing program for most of 2020, failed to translate testing information related to LEP persons, and often published inaccurately translated materials.

The additional position and funding will strengthen OLA’s ability to advise and collaborate with state departments and provide a roadmap to the development of a comprehensive state language plan. The annual reporting requirements will promote compliance by departments and covered entities and appraise the Legislature and the Governor on the state’s progress in meeting its federal and state obligations.

Thank you for the opportunity to testify on this measure.

² Hawai‘i Department of Human Services, Consent Decree, Department of Health and Human Services (2008); Hawai‘i Office of Elections, United States District Court for the District of Hawai‘i, Settlement Agreement (2010); Hawai‘i Department of Labor and Industrial Relations, Settlement Agreement (2014); Hawai‘i Department of Transportation, FACE v. DOT, United States District Court for the District of Hawai‘i Settlement Agreement (2015); Hawai‘i Judiciary, Technical Assistance Agreement, Department of Justice (2015); Hawai‘i Public Housing Authority, Settlement Agreement, Hawai‘i Civil Rights Commission (2016).

³ National Health Law Program, Civil Rights Complaint Filed Over Discriminatory Provision of COVID-19 Services to Persons with Limited English Proficiency, <https://healthlaw.org/news/civil-rights-complaint-filed-over-discriminatory-provision-of-covid-19-services-to-persons-with-limited-english-proficiency/>, (accessed 4/2/2022).



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Testimony in SUPPORT of HB1762 HD1 SD1 RELATING TO LANGUAGE ACCESS

COMMITTEE ON WAYS AND MEANS

Senator Donovan M. Dela Cruz, Chair

Senator Gilbert S.C. Keith-Agaran, Vice Chair

Hearing Date: 4/5/2022

Dear Committee Members,

We write to SUPPORT **HB1762 HD1 SD1**. This bill will enable greater assurance of necessary compliance with state and federal language access laws.

Compliance with language access laws and regulations is essential for Hawai`i.

One out of nine persons in Hawai`i have limited English proficiency (LEP),¹ a clear and profound barrier that many are unable to change due to the exorbitant costs of language studies that the majority who are working and supporting families cannot afford. That is at least 161,055 people in our community unable to access essential information, necessary benefits, and earned benefits.² They are struggling on an everyday basis due to these language barriers.

The problem is exacerbated by the lack of compliance within government entities. The laws requiring language access for these individuals have already been in place for many decades. Nonetheless, Hawai`i has an extensive history of repeated sanctions by the federal court, federal offices for civil rights, and the Hawai`i Civil Rights Commission for its failure to provide language access services to LEP persons.³ These failures to provide what is required to asylees, refugees, and other immigrants have been broadcasted on the news and gave rise to multiple

¹ *The State of Hawaii Data Book: A Statistical Abstract 2019*, Department of Business, Economic Development & Tourism, at 81 (Sept. 2020), https://files.hawaii.gov/dbedt/economic/databook/db2019/DB2019_final_rev09-2020.pdf.

² *Id.*

³ Examples include: Hawai`i Department of Human Services, Consent Decree, Department of Health and Human Services (2008); Hawai`i Office of Elections, United States District Court for the District of Hawai`i, Settlement Agreement (2010); Hawai`i Department of Labor and Industrial Relations, Settlement Agreement (2014); Hawai`i Department of Transportation, *FACE v. DOT*, United States District Court for the District of Hawai`i Settlement Agreement (2015); Hawai`i Judiciary, Technical Assistance Agreement, Department of Justice (2015); and Hawai`i Public Housing Authority, Settlement Agreement, Hawai`i Civil Rights Commission (2016).



lawsuits. Some of these suits were brought due to specific Departments neglecting to provide COVID-19 services or information relating to LEP persons.

For example, on September 20, 2021, the U.S. Department of Labor (DOL) and the Hawai'i Department of Labor and Industrial Relations Unemployment Insurance Division (DLIR/UI) entered into a language access Settlement Agreement compelling DLIR/UI to come into compliance.⁴ Most recently, the National Health Law Program filed a language access complaint against Hawai'i and 17 other states, alleging failure to provide interpreters in its contact tracing program for most of 2020, failed to translate testing information related to LEP persons, and often published inaccurately translated materials.⁵

These lawsuits magnify how failure to provide language access services endangers the health and well-being of *all* people in our community.

Transparency through annual reports will ensure necessary compliance.

Requiring submission of a report to the governor and legislature on compliance, complaints, resolution of complaints, and recommendations to enhance and promote language access will facilitate needed accountability, encourage a more efficient community, and improve Hawai'i's standard of living.

Due to these repeated sanctions and failure to afford language access compliance, transparency on who is upholding their duty to follow the law is necessary. Passing legislation to require the Office of Language Access to submit an annual report to the Governor and Legislature will help facilitate obligatory accountability. The Governor and Legislature should be made aware of any lack of legal compliance from these reports—rather than from already-filed lawsuits—so that steps can be taken to prevent further legal action that can be very costly for the state.

Additional staff and resources appropriated to OLA will improve language access.

State agencies that provide essential information and services (including providing public-facing information on emergency and life-threatening situations) must be accessible to LEP persons. OLA should develop a comprehensive organizational state plan for language access, including capacity building for language proficiency testing and interpretation and translation costs.

This is critical for our public health, safety, and economy. Immigrants account for nearly 40% of agricultural workers, 33% of the workers in the tourism, entertainment, and hospitality industry,

⁴ Specifically, the settlement compelled compliance with the non-discrimination provisions of the Workforce Innovation and Opportunity Act, 29 U.S.C. §3248, Title VI of Civil Rights Act of 1964, and the DOL's regulations implementing Title VI at 29 C.F.R. part 31.

⁵ Civil Rights Complaint Filed over Discriminatory Provision of COVID-19 Services to Persons with Limited English Proficiency, National Health Law Program (Apr. 30, 2021), <https://healthlaw.org/news/civil-rights-complaint-filed-over-discriminatory-provision-of-covid-19-services-to-persons-with-limited-english-proficiency/>.



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and 47% of all nursing assistants.⁶ Furthermore, there are 18,000 immigrant entrepreneurs across Hawai`i, making up 22% of all business income in the state.⁷ Failing to ensure a percentage of those in our community are safe and healthy imperils everyone, not just LEP persons and their families. Additional resources for OLA will allow OLA to mitigate language access issues within the state, diminishing language access barriers and allowing our economy and workforce to strengthen. This will foster a safer and healthier community.

We fully SUPPORT **HB1762 HD1 SD1**. Thank you for your support and consideration.

Catherine Chen, Co-chair, Hawai`i Coalition for Immigrant Rights

Liza Ryan Gill, Co-chair, Hawai`i Coalition for Immigrant Rights

⁶ New American Economy, *Immigrants and Migrants in Hawai`i* (May 2021), at 13, https://research.newamericaneconomy.org/wp-content/uploads/sites/2/2021/05/NAE_Hawaii_V7_FINAL.pdf.

⁷ *Id.* at 23.



CATHOLIC CHARITIES HAWAI'I

TO: Senator Donovan M. Dela Cruz, Chair
Senator Gilbert S.C. Keith-Agaran, Vice Chair
Committee on Ways and Means

FROM: Rob Van Tassell, President and CEO

DATE: Tuesday, April 5, 2022 (10:15 a.m., Conf. Rm. 211 & Videoconference)

RE: **IN SUPPORT OF HB 1762, HD1, SD1, Relating to Language Access**

CCH supports HB 1762, HD1, SD1, which would require the Executive Director of the Office of Language Access (OLA) to submit an annual report to the Governor and Legislature.

Catholic Charities Hawai'i (CCH) is a tax exempt, non-profit agency that has been serving people in need in the State of Hawaii since 1947. Our agency serves limited English proficient clients across all of our 40+ programs. We sought information on COVID safety and health for our elderly LEP clients to help them keep safe during the height of the pandemic. This information was slow to be provided in languages other than English. We tried to assist LEP clients who lost jobs or work hours and were trying to file for Unemployment. The challenges of online filing, combined with lack of language access made this extremely difficult for them. Some of them have still not received any Unemployment Compensation.

Language access was particularly important during the COVID pandemic, when already limited English as a Second Language (ESL) programs were temporarily closed, leaving LEP individuals with no alternatives to improve their English communication. Even CCH's ESL class was only able to continue on a Zoom platform, which not all students were able to access. This limited means to improve their English skills came at a time when the need for COVID information and resources was critical for everyone, including LEP residents.

Requiring State departments and agencies to provide information to the Office of Language Access on how they are ensuring compliance with language access requirements will provide the transparency that is needed to improve accountability on a regular, annual, basis.

Catholic Charities Hawai'i asks for your support of HB 1762, HD1, SD1. This bill will help improve compliance with Federal and State language access laws. Limited English proficient members of our community deserve equitable access to the benefits and services to which they are entitled.

For more information or questions, please feel free to email Diane Terada, Division Administrator, at diane.terada@catholiccharitieshawaii.org or call her via phone at (808) 527-4702.

Thank you for this opportunity to provide testimony.





April 3, 2022

COMMITTEE ON WAYS AND MEANS
Senator Donovan M. Dela Cruz, Chair
Senator Gilbert S.C. Keith-Agaran, Vice Chair

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Hearing Date: April 5, 2022, 10:15 am
Via Videoconference; Conference Room 211

**Testimony in Support of House Bill 1762, SD 1
Relating to Language Access**

Chair Dela Cruz; Vice-Chair Keith-Agaran; and Members of the Committee:

The Legal Clinic (“TLC”) submits this testimony in support of HB 1762, SD 1, which would require the executive director of the office of language access to submit an annual report to the governor and legislature on compliance, complaints, resolution of complaints, and recommendations to enhance and promote language access; and would appropriate funds to establish limited English proficiency language coordinator positions in the departments of commerce and consumer affairs, health, and agriculture, and the Hawai'i emergency management agency.

TLC provides legal services to Hawai'i's low- and moderate- income immigrant community. In the course of our work, we encounter on a daily basis the difficulties that a significant portion of our immigrant community faces in virtually all aspects of their public lives. This can range from the mundane, such as accessing public transportation, to the dire, such as obtaining health care and public benefits like unemployment insurance. Passage of House Bill 1762, HD 1, would be an important step in helping overcome these difficulties by assuring compliance with federal and state laws, which require the provision of language services to those who lack proficiency in the English language.

Nearly one in five Hawai'i residents is an immigrant. According to the 2020 Census, immigrants (those born outside the United States) make up 19.3% of our population (273,012 of our residents). This is a significantly higher proportion than for the United States as whole, where immigrants comprise 13.7% of the total U.S. population. Moreover, according to the 2020 State of Hawai'i Data Book, 354,344 of our residents, or 27% of our population, speak a language other than English at home. And, over 158,100, or 45% of that portion of our population, speak English “less than ‘very well’.”

This growing segment of our population has a civil right to language access. This is guaranteed them by both federal law (Title VI of the Civil Rights Act of 1964 and Executive Order 13166 (2000)) and state law (Chapter 321C, Hawai'i Revised Statutes). As such, they are entitled to language services, such as for interpretation and translation, in order to ensure meaningful access to government services, programs and activities.

Unfortunately, Hawai'i has not fulfilled its obligations to the those with limited English proficiency. This was most recently evidenced by the U.S. Department of Labor's recent consent decree with the State's Department of Labor and Industrial Relations compelling it to provide required language access services in its unemployment insurance program.

Moreover, there are good reasons beyond legal compulsion for the State to provide language services to our immigrant community and, additionally, to do all that it can to strengthen the immigrant community because of the key role it plays in Hawai'i's economy. This was recently underscored in a report by New American Economy, "Immigrants and Migrants in Hawai'i, Essential Contributors to the State's Workforce and Economy," released in May 2021. Among its key findings were:

- **Immigrants are vital to industries and occupations that are essential to Hawaii's economy.** Despite making up 18 percent of Hawaii's population, immigrants accounted for nearly 40 percent of agricultural workers, and 33 percent of the workers in the tourism, entertainment, and hospitality industry. Within specific industries, immigrants are playing critical roles in certain occupations, accounting for 68 percent of housekeeping workers, over half of all chefs and head cooks, 47 percent of all nursing assistants, and 20 percent of all physicians.
- **Immigrants make significant economic contributions to Hawaii's economy.** Alongside the \$1.55 billion that immigrants paid in federal taxes and \$874 million in state and local taxes, immigrants contributed \$780 million to Social Security and \$195 million to Medicare in 2018. After taxes, immigrants in the state had a spending power of \$5.8 billion, and contributed over \$17.5 billion to Hawaii's GDP.
- **Immigrants are creating jobs in Hawai'i.** In 2018, immigrants accounted for over a quarter of all entrepreneurs in the state, making them 24.4 percent more likely to be entrepreneurs than their U.S.-born counterparts.

https://research.newamericaneconomy.org/wp-content/uploads/sites/2/2021/05/NAE_Hawaii_V7_FINAL.pdf

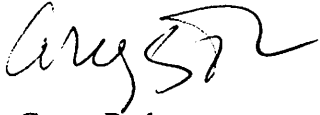
A recent New York Times analysis of new census data further emphasizes the need to support our immigrant community and develop its potential. That analysis shows that population growth fell to an historically low 0.1 percent. However, while the decline occurred in both the number of immigrants arriving in the U.S. and the number of births in excess of death, "[i]mmigration, even at reduced levels, is for the first time making up a majority of population growth." In fact, as of December 2021, immigrants made up the highest portion of our population (14.1%) since the record high reached in 1890 (14.8%). The analysis further noted that, "The movement of the baby boom generation out of the labor force amid a plummeting birthrate has put into sharper relief the need to reverse the decline in new immigration." (The problem of declining population is exacerbated in Hawai'i, where we face the additional concern of residents leaving "for less expensive pastures." (*Hawaii's Population Drain Outpaces Most States — Again*, Hawai'i Civil Beat, January 5, 2022, <https://www.civilbeat.org/2022/01/hawaiis-population-drain-outpaces->

most-states-again/.) Despite this clear need to support the immigrant community, the Times analysis concluded that, “it will take bold political moves to harness the economic benefits of the existing foreign-born population.” (*Amid Slowdown, Immigration Is Driving U.S. Population Growth*, The New York Times, February 5, 2022, <https://www.nytimes.com/2022/02/05/us/immigration-census-population.html>.)

While not quite a “bold move,” passage of HB 1762, SD 1, would be an important step toward addressing the immediate problem of the lack of language access services and hopefully be part of a broader movement to enhance the ability fully to realize the potential offered by our more recently arrived immigrant community.

We urge you to pass HB 1762, SD 1, out of committee.

Thank you.



Corey Park
President, Board of Directors
The Legal Clinic



Hawaii
Children's Action Network Speaks!
Building a unified voice for Hawaii's children

Hawai'i Children's Action Network Speaks! is a nonpartisan 501c4 nonprofit committed to advocating for children and their families. Our core issues are safety, health, and education.

To: Senate Committees on Ways and Means

Re: **HB 1762, HD1, SD1 – Relating to Language Access**
Hawai'i State Capitol, Conference Room 211 & Videoconference
April 5, 2022, 10:15 AM

Dear Chair Dela Cruz, Vice Chair Keith-Agaran, and Committee Members,

On behalf of Hawai'i Children's Action Network Speaks!, I am writing in SUPPORT of HB 1762, HD1, SD1 relating to language access. This bill would require the executive director of the office of language access to submit an annual report to the governor and legislature on enhancing and promoting language access, as well as appropriate funds to establish three limited English proficiency language coordinator positions in the office of language access.

During the past two years of the pandemic, non-profit organizations like ours have worked hard to help limited English proficiency (LEP) families access the federal pandemic relief benefits that they qualify for. We focused mostly on outreach to parents who qualify for Pandemic EBT (food purchasing funds when keiki are missing out on free or reduced price school meals due to COVID school closures) and the enhanced Child Tax Credit.

While working on this outreach, we learned that our state departments lack resources to provide meaningful language access, as well as that the federal government and national advocacy organizations do not provide translations of outreach materials and applications¹ in many of the languages that are the most spoken by LEP students in Hawai'i² – such as Ilocano, Marshallese, and Chuukese. While private funders were willing to support our outreach work in these languages, those funds were provided as one-time only pandemic relief grants.

As one of the states with the highest portion of foreign-born residents,³ combined with the lack of existing resources for translations of government documents and outreach materials into many of the languages that are spoken most here, Hawai'i arguably needs to devote more resources to ensure language access to our government services than most other states. That's why this bill so important.

Mahalo for the opportunity to provide this testimony. Please pass this bill.

Thank you,
Nicole Woo
Director of Research and Economic Policy

¹ United States Department of Agriculture Food and Nutrition Service, <https://www.fns.usda.gov/cn/translated-applications>

² Hawai'i Data Exchange Partnership, https://hawaiiidxp.org/quick_data/datastory/el

³ Statista, <https://www.statista.com/statistics/312701/percentage-of-population-foreign-born-in-the-us-by-state/>



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Hawai'i Drug & Alcohol Free
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Hawai'i Farm to School Hui

Hawai'i Oral Health Coalition

Hawai'i Public Health Training Hui

Healthy Eating + Active Living

Kūpuna Food Security Coalition

Date: April 4, 2022

To: Senator Donovan M. Dela Cruz, Chair
Senator Gilbert S.C. Keith-Agaran, Vice Chair
Members of the Committee on Ways and Means

Re: Support for HB1762, HD1, SD1, Relating to Language Access

Hrg: April 5, 2022 at 10:15 AM in Conference Room 211 and via
videoconference

The Hawai'i Public Health Instituteⁱ (HIPHI) is in **support** of HB1762, HD1, SD1, which requires the Office of Language Access (OLA) to submit annual reports on compliance with language access laws. It also appropriates funds for a Limited English Proficiency Language Coordinator position within the OLA, operating expenses for collaboration between OLA and state departments to ensure compliance with language access laws, and the development of a comprehensive statewide plan to increase language access by the OLA.

Despite being routinely named one of the healthiest states in the nation, Hawai'i sees stark racial disparities in myriad health outcomes, including life expectancy. These disparities long preceded the COVID-19 pandemic but were thrown into sharp relief as Pacific Islander and Filipino communities experienced disproportionately high rates of infection and hospitalization.ⁱⁱ HIPHI strives to eliminate racism, disparities and injustices to improve the health and wellness of all people. For us, this translates to moving beyond advocating *for* equity, but rather amplifying our work *against* inequity.

Addressing health equity is integral to the 10 Essential Services of Public Health, and enabling equitable access to care necessarily requires making information about health care and services available in a language that people understand. One in nine people living in Hawai'i has limited English proficiency and a lack of language access creates dangerous barriers to care. HB1762 will enhance compliance with federal and state language access laws, improve government transparency, and fund staff positions dedicated to improving language access across the state.

For these reasons, HIPHI respectfully requests that the Committee **PASS** HB1762, HD1, SD1. Thank you for the opportunity to provide testimony.

Mahalo,

A handwritten signature in black ink, appearing to read "Amanda Fernandes". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Amanda Fernandes, JD
Policy and Advocacy Director

ⁱ Hawai'i Public Health Institute is a hub for building healthy communities, providing issue-based advocacy, education, and technical assistance through partnerships with government, academia, foundations, business, and community-based organizations.

ⁱⁱ Hawai'i State Department of Health (2021). COVID-19 in Hawai'i: Addressing Health Equity in Diverse Populations. Disease Outbreak Control Division: Special Report. Honolulu, Hawai'i.



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LATE

**Testimony in SUPPORT of HB1762 HD1 SD1
RELATING TO LANGUAGE ACCESS**

COMMITTEE ON WAYS AND MEANS

Senator Donovan M. Dela Cruz, Chair

Senator Gilbert S.C. Keith-Agaran, Vice Chair

Hearing Date: 4/5/2022

Dear Committee Members,

We write to SUPPORT **HB1762 HD1 SD1**. This bill will enable greater assurance of necessary compliance with state and federal language access laws.

Compliance with language access laws and regulations is essential for Hawai'i.

One out of nine persons in Hawai'i have limited English proficiency (LEP),¹ a clear and profound barrier that many are unable to change due to the exorbitant costs of language studies that the majority who are working and supporting families cannot afford. That is at least 161,055 people in our community unable to access essential information, necessary benefits, and earned benefits.² They are struggling on an everyday basis due to these language barriers.

The problem is exacerbated by the lack of compliance within government entities. The laws requiring language access for these individuals have already been in place for many decades. Nonetheless, Hawai'i has an extensive history of repeated sanctions by the federal court, federal offices for civil rights, and the Hawai'i Civil Rights Commission for its failure to provide language access services to LEP persons.³ These failures to provide what is required to asylees, refugees, and other immigrants have been broadcasted on the news and gave rise to multiple

¹ *The State of Hawaii Data Book: A Statistical Abstract 2019*, Department of Business, Economic Development & Tourism, at 81 (Sept. 2020), https://files.hawaii.gov/dbedt/economic/databook/db2019/DB2019_final_rev09-2020.pdf

² *Id.*

³ Examples include: Hawai'i Department of Human Services, Consent Decree, Department of Health and Human Services (2008); Hawai'i Office of Elections, United States District Court for the District of Hawai'i, Settlement Agreement (2010); Hawai'i Department of Labor and Industrial Relations, Settlement Agreement (2014); Hawai'i Department of Transportation, *FACE v. DOT*, United States District Court for the District of Hawai'i Settlement Agreement (2015); Hawai'i Judiciary, Technical Assistance Agreement, Department of Justice (2015); and



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lawsuits. Some of these suits were brought due to specific Departments neglecting to provide COVID-19 services or information relating to LEP persons.

For example, on September 20, 2021, the U.S. Department of Labor (DOL) and the Hawai'i Department of Labor and Industrial Relations Unemployment Insurance Division (DLIR/UI) entered into a language access Settlement Agreement compelling DLIR/UI to come into compliance.⁴ Most recently, the National Health Law Program filed a language access complaint against Hawai'i and 17 other states, alleging failure to provide interpreters in its contact tracing program for most of 2020, failed to translate testing information related to LEP persons, and often published inaccurately translated materials.⁵

These lawsuits magnify how failure to provide language access services endangers the health and well-being of *all* people in our community.

Transparency through annual reports will ensure necessary compliance.

Requiring submission of a report to the governor and legislature on compliance, complaints, resolution of complaints, and recommendations to enhance and promote language access will facilitate needed accountability, encourage a more efficient community, and improve Hawai'i's standard of living.

Due to these repeated sanctions and failure to afford language access compliance, transparency on who is upholding their duty to follow the law is necessary. Passing legislation to require the Office of Language Access to submit an annual report to the Governor and Legislature will help facilitate obligatory accountability. The Governor and Legislature should be made aware of any lack of legal compliance from these reports—rather than from already-filed lawsuits—so that steps can be taken to prevent further legal action that can be very costly for the state.

Additional staff and resources appropriated to OLA will improve language access.

State agencies that provide essential information and services (including providing public-facing information on emergency and life-threatening situations) must be accessible to LEP persons. OLA should develop a comprehensive organizational state plan for language access, including capacity building for language proficiency testing and interpretation and translation costs.

This is critical for our public health, safety, and economy. Immigrants account for nearly 40% of agricultural workers, 33% of the workers in the tourism, entertainment, and hospitality industry,

⁴ Specifically, the settlement compelled compliance with the non-discrimination provisions of the Workforce Innovation and Opportunity Act, 29 U.S.C. §3248, Title VI of Civil Rights Act of 1964, and the DOL's regulations implementing Title VI at 29 C.F.R. part 31. ⁵ Civil Rights

Complaint Filed over Discriminatory Provision of COVID-19 Services to Persons with Limited English Proficiency, National Health Law Program (Apr. 30, 2021),

<https://www.hicir.org/news/civil-rights-complaint-filed-over-discriminatory-provision-of-covid-19-services-to-persons-with-limited-english-proficiency/>.



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and 47% of all nursing assistants.⁶ Furthermore, there are 18,000 immigrant entrepreneurs across Hawai`i, making up 22% of all business income in the state.⁷ Failing to ensure a percentage of those in our community are safe and healthy imperils everyone, not just LEP persons and their families. Additional resources for OLA will allow OLA to mitigate language access issues within the state, diminishing language access barriers and allowing our economy and workforce to strengthen. This will foster a safer and healthier community.

We fully SUPPORT **HB1762 HD1 SD1**. Thank you for your support and consideration.

Catherine Chen, Co-chair, Hawai`i Coalition for Immigrant Rights

Liza Ryan Gill, Co-chair, Hawai`i Coalition for Immigrant Rights

⁶New American Economy, *Immigrants and Migrants in Hawai`i* (May 2021), at 13, https://research.newamericaneconomy.org/wp-content/uploads/sites/2/2021/05/NAE_Hawaii_V7_FINAL.pdf.
⁷*Id.* at 23.

LATE

Testimony in SUPPORT of HB1762 HD1 SD1 RELATING TO LANGUAGE ACCESS

Aloha Committee Members,

I am Barbara Tom, Director of the Waipahu Safe Haven Center and I am testifying in SUPPORT HB 1762. This bill will enable greater assurance of necessary compliance with state and federal language access laws.

Compliance with language access laws and regulations is essential for Hawai'i, where one out of nine persons have limited English proficiency. Problems with language access have long been present and were exacerbated with COVID-19. As Director of the Waipahu Safe Haven Immigrant/Migrant Resource Center our focus has been on addressing the needs identified by the community and in particular the Micronesian community who were heavily impacted and suffered disproportionately from COVID 19.

During the beginning of the Pandemic, our Resource Center's four Micronesian interpreters were barraged by calls from morning to night from individuals asking for advice and assistance with quarantine, wrap around services, unemployment, and isolation. Many of the families and individuals, did not understand English, cannot use technology, do not have any transportation, and sometimes do not have a phone. These families were living below poverty level in income.

Although there were translated materials on the City and State website as well as others, it was not accessible to these families. The limited English-speaking families were still unaware of the resources, and who to call that could help them navigate these services for COVID-19. Even taking the vaccine was a struggle for them as they were receiving erroneous information from social media sites, and many would not go to the clinics if there were no interpreters provided and often times there was none.

This bill offers an important step toward solving this problem. This is crucial so that all members of the community can obtain essential resources to which they are entitled, strengthening our workforce and economy. These families who are unable access the needed resources are also subject to homelessness when this is all preventable by providing the language access to help them navigate the services for themselves and their families.

I fully SUPPORT HB 1762.

Thank you for your support and consideration

Barbara Tom
Director Waipahu Safe Haven Immigrant/Migrant Resource Center
Barbara.yukie@gmail.com

HB-1762-SD-1

Submitted on: 4/1/2022 5:35:29 PM

Testimony for WAM on 4/5/2022 10:15:00 AM

Submitted By	Organization	Testifier Position	Testify
Thaddeus Pham	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Dela Cruz, Vice Chair Keith-Agaran, and Members of the WAM Committee,

As a public health professional and child of Vietnamese refugees, I write to SUPPORT HB1762 HD1 SD1, which 1) requires the Office of Language Access to submit an annual report to the Governor and Legislature and 2) appropriates funds to establish limited English proficiency language coordinator positions in the Departments of Commerce and Consumer Affairs, Health, and Agriculture, and the Hawai`i Emergency Management Agency. This bill will enable greater assurance of necessary compliance with state and federal language access laws.

Compliance with language access laws and regulations is essential for Hawai`i, where one out of nine persons have limited English proficiency. Problems with language access have long been present and were exacerbated with COVID-19. As a public health professional working with foreign-born immigrants and refugees, language access is of tantamount importance to ensuring not only individual and community health, but also population health.

This bill offers an important step toward solving this problem. It allows for transparency on who is following the law and creates centralized administration for successful and efficient language access. This is crucial so that all members of the community can obtain essential resources to which they are entitled, strengthening our workforce and economy.

Thank you for your support and consideration,

Thaddeus Pham (he/him)

HB-1762-SD-1

Submitted on: 4/2/2022 12:36:03 AM

Testimony for WAM on 4/5/2022 10:15:00 AM

Submitted By	Organization	Testifier Position	Testify
Christy MacPherson	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Dela Cruz, Vice Chair Keith-Agaran and members of the Senate Committee on Ways and Means,

I am in strong support of HB1762 HD1 SD1. Language access is crucial, especially here in Hawai`i with all of the different languages that are spoken. People need to be able to both communicate and receive important communication in their own languages!

Mahalo for your consideration.

HB-1762-SD-1

Submitted on: 4/3/2022 6:53:29 PM

Testimony for WAM on 4/5/2022 10:15:00 AM

Submitted By	Organization	Testifier Position	Testify
Raiza Dalofin	Individual	Support	Written Testimony Only

Comments:

Fully support!

HB-1762-SD-1

Submitted on: 4/3/2022 8:56:19 PM

Testimony for WAM on 4/5/2022 10:15:00 AM

Submitted By	Organization	Testifier Position	Testify
Gerard Silva	Individual	Oppose	Written Testimony Only

Comments:

The language is English and if they cannot speak it or understand it they should not be allowed in Hawaii period we are pissed off at having to deal with people that do not understand basic English!!

LATE

HB-1762-SD-1

Submitted on: 4/4/2022 4:06:27 PM

Testimony for WAM on 4/5/2022 10:15:00 AM

Submitted By	Organization	Testifier Position	Testify
Mary K Ochs	Individual	Support	Written Testimony Only

Comments:

The Hawai'i Workers Center strongly support HB 1762. Language access is essential to enabling all our residents to understand and gain access to essential services. Many limited English speakers had extreme difficulties applying for unemployment benefits that they were eligible. The application system was difficult enough as it was, adding language issues made it an insurmountable barrier for all those who did not find their way to the Hawai'i Workers Center or others who could help. This is just one example of many as to why HB 1762 is essential.

Mahalo!