

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 849 CS

Regulation of Court Interpreters

SPONSOR(S): Flores

TIED BILLS:

IDEN./SIM. BILLS: SB 1128

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Judiciary Committee</u>	<u>12 Y, 0 N, w/CS</u>	<u>Hogge</u>	<u>Hogge</u>
2) <u>Business Regulation Committee</u>	<u>19 Y, 0 N</u>	<u>Watson</u>	<u>Liepshutz</u>
3) <u>Judiciary Appropriations Committee</u>	<u></u>	<u></u>	<u></u>
4) <u>Justice Council</u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

SUMMARY ANALYSIS

The bill would require the Supreme Court to establish minimum standards and procedures for foreign language court interpreters. These would cover qualifications, certification, professional conduct, discipline, and training. It would also permit the Supreme Court to charge fees to applicants seeking to become certified or renew their certification as a court interpreter. These revenues would be used to offset the costs of administering the certification program and performing other related responsibilities. The Supreme Court would be authorized to appoint or employ personnel to assist the court in administering these responsibilities.

Currently, the Supreme Court is authorized to establish analogous standards and procedures for court reporters and for mediators and arbitrators similar to those proposed in this bill for foreign language court interpreters, but with two primary differences: one, in the court reporter program, the Supreme Court *must* impose fees, whereas for the proposed foreign language court interpreter program and the mediators/arbitrators program it is *discretionary*; and two, the fees imposed in the court reporter program must be in an amount sufficient to *fully* fund the cost of administering the certification program. Under this proposed program and the mediator/arbitrator program, no distinction is made between full or partial funding. In 2003, the Legislature repealed the provision granting fee authority to the Supreme Court for the court reporter program, only to restore it in 2004.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

The bill implicates the following House Principle—

Provide limited government. The bill authorizes the creation of a new program for certifying, training, and disciplining foreign language court interpreters. It specifically authorizes the Supreme Court to employ necessary staff to administer the program.

Ensure lower taxes. The bill authorizes the Supreme Court to impose fees to fund the foreign language court interpreter certification program and other responsibilities authorized in the bill.

B. EFFECT OF PROPOSED CHANGES:

Proposed changes

The bill would require the Supreme Court to establish minimum standards and procedures for foreign language court interpreters. These would cover qualifications, certification, professional conduct, discipline, and training. It would also permit the Supreme Court to charge fees to applicants seeking to become certified or renew their certification as a court interpreter. These revenues would be used to offset the costs of administering the certification program and performing other related responsibilities. The Supreme Court would be authorized to appoint or employ personnel to assist the court in administering these responsibilities.

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Background

Courts have determined that indigent defendants have a constitutional right to a foreign language court interpreter when a fundamental interest is at stake. Implicated are the due process, equal protection, and confrontation clauses of both the federal and Florida constitutions. Additionally, in Florida, the access to courts provision is also implicated.¹ Judges have broad discretion to determine whether or not an interpreter is necessary in a particular case. By statute, the Legislature requires a judge to appoint an interpreter when the judge determines that a witness cannot hear or understand the English language or cannot express himself or herself in English sufficiently to be understood.² Generally, it is thought that the appointment of an interpreter serves to protect the rights of parties; assists in creating an English-language record; and facilitates the fair and efficient administration of justice.

Florida statutory law does not include standards for those serving as foreign language court interpreters and makes no provision for their certification and training. According to the Supreme Court Interpreter's

¹ Fla. Const. art. I, s. 21.

² Fla. Stat. 90.606(1)(a) (2005)

Committee, Florida courts differ in the way in which they manage, regulate, and coordinate court interpreter services.³ The State courts system has developed a voluntary statewide program to assist trial court administrators in assessing the qualifications of foreign language court interpreters, including the use of qualifications examinations and an orientation program with an overview of the Code of Professional Responsibility. Additionally, as a member of the Consortium for State Court Interpreter Certification, Florida has access to standardized testing instruments, among other services and products. Interpreters passing the standardized test and attending the orientation program qualify for inclusion on the Registry of Tested Court Interpreters.

A survey of the ten states with the highest number of persons who do not speak English well, as determined by the U.S. Census, show that five states statutorily delegated the authority to regulate foreign language interpreters to the court, three states do not certify interpreters, one state statutorily delegated the authority to the Executive and one state's Judiciary regulates interpreters under its inherent authority.⁴

The Supreme Court Interpreter's Committee report concluded that interpreters working in the judicial system must meet a higher standard than mere bilingualism. It concluded that court interpreters have specialized knowledge of legal terminology, slang and technical jargon of police officers and expert witnesses.⁵

C. SECTION DIRECTORY:

Section 1 creates the foreign language court interpreter certification program and authorizes the Supreme Court to charge fees and employ staff for this purpose.

Section 2 provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

Positive, but indeterminate because the specific fee amount has not yet been established by the Supreme Court.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

³ Supreme Court Interpreter's Committee, Report and Recommendations 7 (October 2003).

⁴ Id. at 32. This list excludes Florida which the census ranks fourth in terms of non-English speaking persons.

⁵ Id. at 9.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Foreign language court interpreters may be subject to payment of fees for certification.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 15, 2006, the Judiciary Committee adopted two amendments and reported the bill favorably as a CS. The CS differs from the original bill in that the CS 1) clarifies that "court interpreter" is a foreign language court interpreter and 2) removes the provision restricting Supreme Court fee authority to the amount necessary to "partially fund" this program.