

**EDUCATION INTERPRETATION SERVICES FOR DEAF
AND HEARING IMPAIRED STUDENTS**

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Don L. Ipson

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies the Interpreter Services for the Hearing Impaired Act by describing the membership requirements for Interpreters Certification Board, providing an exemption from interpreter certification, and prohibiting interpreter services from forming a monopoly or engaging in price fixing.

Highlighted Provisions:

This bill:

- ▶ amends membership provisions of the Interpreters Certification Board within the State Board of Education;
- ▶ provides that the Interpreters Certification Board may recommend certification be revoked if the board finds an individual attempted to create a monopoly for interpretation services;
- ▶ provides a one-year exemption from interpreter certification for an individual providing interpretive services at an institution of higher learning;
- ▶ prohibits interpreter service companies from forming a monopoly or engaging in price fixing; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None



28 **Other Special Clauses:**

29 None

30 **Utah Code Sections Affected:**

31 AMENDS:

32 **53A-26a-201**, as enacted by Laws of Utah 1994, Chapter 306

33 **53A-26a-202**, as enacted by Laws of Utah 1994, Chapter 306

34 **53A-26a-305**, as last amended by Laws of Utah 2010, Chapter 324

35 ENACTS:

36 **53A-26A-504**, Utah Code Annotated 1953



38 *Be it enacted by the Legislature of the state of Utah:*

39 Section 1. Section **53A-26a-201** is amended to read:

40 **53A-26a-201. Board.**

41 (1) There is created to assist the State Board of Education the Interpreters Certification
42 Board consisting of the following 11 members:

43 (a) a designee of the director of the Division of Services to the Deaf and Hard of
44 Hearing (DSDHH) in the Utah State Office of Rehabilitation;

45 (b) a designee of the State Board of Regents;

46 (c) a designee of the State Board of Education;

47 (d) four professional interpreters, recommended by the director of DSDHH[~~;~~and], who
48 fall into the following categories:

49 (i) one interpreter from higher education;

50 (ii) one interpreter from the Utah College of Applied Technology;

51 (iii) one interpreter from the public school system; and

52 (iv) one interpreter from the private sector; and

53 (e) four persons who are hearing impaired, recommended by the director of DSDHH.

54 (2) (a) The State Board of Education shall make all appointments to the board.

55 (b) In making its appointments under Subsections (1)(d) and (e), the State Board of
56 Education shall give consideration to recommendations by interpreters for the hearing impaired
57 and members of the hearing impaired community.

58 (3) (a) Board members shall serve three-year terms, except that for the initial terms of

59 board members, three shall serve one-year terms, four shall serve two-year terms, and four shall
60 serve three-year terms.

61 (b) A person may not serve more than two three-year consecutive terms.

62 (c) If a vacancy occurs on the board for any other reason than the expiration of a term,
63 the State Board of Education shall appoint a replacement for the remainder of the term pursuant
64 to Subsections (1) and (2).

65 (4) The State Board of Education may remove any board member for cause, which
66 shall include misconduct, incompetence, or neglect of duty.

67 (5) The board shall elect annually a chair and vice chair from among its members.

68 (6) The board shall meet as often as necessary to accomplish the purposes of this
69 chapter, but not less than quarterly.

70 (7) Board members shall receive compensation for actual and necessary expenses in
71 connection with their service on the board, but shall not receive a per diem.

72 Section 2. Section **53A-26a-202** is amended to read:

73 **53A-26a-202. Powers and duties of the board.**

74 (1) The board shall function as an advisory board to the State Board of Education and
75 under the direction of the State Board of Education shall perform the following duties
76 concerning the certification of interpreters:

77 (a) recommend to the state board appropriate rules;

78 (b) recommend to the state board policy and budgetary matters;

79 (c) recommend to the state board a passing score for applicant examinations;

80 (d) screen applicants for certification and recommend certification, renewal,
81 reinstatement, and recertification actions to the state board in writing;

82 (e) recommend standards of supervision for persons in training to become certified
83 interpreters; ~~and~~

84 (f) act as presiding officer in conducting hearings associated with adjudicative
85 proceedings and in issuing recommended orders when so designated by the State Board of
86 Education~~[-]; and~~

87 (g) recommend certification be revoked if the board finds a certified individual has
88 attempted to create a monopoly for interpretive services in a geographic area.

89 (2) The State Board of Education, with the collaboration and assistance of the advisory

90 board, shall:

- 91 (a) prescribe certification qualifications;
- 92 (b) prescribe rules governing applications for certification;
- 93 (c) provide for a fair and impartial method of examination of applicants;
- 94 (d) define unprofessional conduct, by rule, to supplement the definition under this
- 95 chapter; and
- 96 (e) establish conditions for reinstatement and renewal of certification.

97 (3) (a) The advisory board shall designate one of its members on a permanent or
98 rotating basis to:

- 99 (i) assist the state board in reviewing complaints involving the unlawful or
100 unprofessional conduct of a certified interpreter; and
- 101 (ii) advise the state board in its investigation of these complaints.

102 (b) An advisory board member who has, under Subsection (3)(a), reviewed a complaint
103 or advised in its investigation is disqualified from participating with the advisory board when it
104 serves as a presiding officer of an administrative proceeding concerning the complaint.

105 Section 3. Section **53A-26a-305** is amended to read:

106 **53A-26a-305. Exemptions from certification -- Temporary or restricted**
107 **certification.**

108 (1) The following individuals may engage in the practice of a certified interpreter,
109 subject to the stated circumstances and limitations, without being certified under this chapter:

- 110 (a) an individual serving in the Armed Forces of the United States, the United States
111 Public Health Service, the United States Department of Veterans Affairs, or other federal
112 agencies while engaged in activities regulated under this chapter as a part of employment with
113 that federal agency if the person holds a valid certificate or license to provide interpreter
114 services issued by any other state or jurisdiction recognized by the State Board of Education;
- 115 (b) a student engaged in providing interpreter services while in training in a recognized
116 school approved by the State Board of Education to the extent the student's activities are
117 supervised by qualified faculty, staff, or designee, and the services are a defined part of the
118 training program;
- 119 (c) an individual engaged in an internship, residency, apprenticeship, or on-the-job
120 training program approved by the State Board of Education while under the supervision of

121 qualified persons;

122 (d) an individual residing in another state and certified or licensed to provide
123 interpreter services in that state, who is called in for a consultation by an individual certified to
124 provide interpreter services in this state, and the services provided are limited to that
125 consultation;

126 (e) an individual who is invited by a recognized school, association, or other body
127 approved by the State Board of Education to conduct a lecture, clinic, or demonstration on
128 interpreter services if the individual does not establish a place of business or regularly engage
129 in the practice of providing interpreter services in this state; and

130 (f) an individual licensed in another state or country who is in this state temporarily to
131 attend to the needs of an athletic team or group, except that the individual may only attend to
132 the needs of the team or group, including all individuals who travel with the team or group,
133 except as a spectator.

134 (2) (a) An individual temporarily in this state who is exempted from certification under
135 Subsection (1) shall comply with each requirement of the jurisdiction from which the
136 individual derives authority to practice.

137 (b) Violation of any limitation imposed by this section is grounds for removal of
138 exempt status, denial of certification, or another disciplinary proceeding.

139 (3) (a) Upon the declaration of a national, state, or local emergency, the State Board of
140 Education, in collaboration with the advisory board, may suspend the requirements for
141 permanent or temporary certification of persons who are certified or licensed in another state.

142 (b) Individuals exempt under Subsection (3)(a) shall be exempt from certification for
143 the duration of the emergency while engaged in providing interpreter services for which they
144 are certified or licensed in the other state.

145 (4) The State Board of Education, after consulting with the advisory board, may adopt
146 rules for the issuance of temporary or restricted certifications if their issuance is necessary to or
147 justified by:

148 (a) a lack of necessary available interpretive services in any area or community of the
149 state, if the lack of services might be reasonably considered to materially jeopardize
150 compliance with state or federal law; or

151 (b) a need to first observe an applicant for certification in a monitored or supervised

152 practice of providing interpretive services before a decision is made by the board either to grant
153 or deny the applicant a regular certification.

154 (5) An individual providing interpretive services at an institution of higher learning
155 may be exempted from certification requirements for one year, if:

156 (a) the institution finds the interpreter is qualified; and

157 (b) the individual is supervised by qualified faculty, staff, or a designee, and the
158 individual is engaged in:

159 (i) training at a recognized school approved by the State Board of Education;

160 (ii) an internship;

161 (iii) a residency program;

162 (iv) an apprenticeship program; or

163 (v) an on-the-job training program.

164 Section 4. Section **53A-26A-504** is enacted to read:

165 **53A-26A-504. Penalty for monopoly and price fixing.**

166 (1) Interpretive service companies are subject to the requirements of the Utah Antitrust
167 Act, Sections 76-10-911 through 76-10-926.

168 (2) An interpreter service may not form a monopoly in a geographic area in order to
169 control the market for providing interpretive services to the deaf and hearing impaired.

170 (3) A licensed interpreter or an interpretive service company may not engage in price
171 fixing, bid rigging, or another unlawful practice described in Section 76-10-914 on a bid or
172 contract.

Legislative Review Note
as of 2-24-11 4:02 PM

Office of Legislative Research and General Counsel

FISCAL NOTE

H.B. 459

SHORT TITLE: Education Interpretation Services for Deaf and Hearing Impaired Students

SPONSOR: Ipson, D.

2011 GENERAL SESSION, STATE OF UTAH

STATE GOVERNMENT (UCA 36-12-13(2)(b))

Enactment of this bill likely will not materially impact the state budget.

LOCAL GOVERNMENTS (UCA 36-12-13(2)(c))

Enactment of this bill likely will not result in direct, measurable costs for local governments.

DIRECT EXPENDITURES BY UTAH RESIDENTS AND BUSINESSES (UCA 36-12-13(2)(d))

Enactment of this bill likely will not result in direct, measurable expenditures by Utah residents or businesses.