

The Senate
The Twenty-Fifth Legislature
Regular Session of 2009

Committee on Health
Senator David Y. Ige, Chair
Senator John Green, M.D., Vice Chair

DATE: Friday, March 20, 2009
TIME: 3:00 p.m.
PLACE: Conference Room 016
State Capitol
415 South Beretania Street

**TESTIMONY OF THE UNITED PUBLIC WORKERS, AFSCME,
LOCAL 646, AFL-CIO ON H.B. 694 RELATING TO
HAWAII HEALTH SYSTEMS CORPORATION**

My name is Dayton M. Nakanelua, and I am the state director of the United Public Workers, AFSCME, Local 646, AFL-CIO (UPW). In behalf of approximately 500 blue collar, non-supervisory employees from bargaining unit 1 and 1,000 institutional and health workers from bargaining unit 10 who are currently employed by the Hawaii Health Systems Corporation (HHSC), the UPW opposes House Bill No. 694 which authorizes the transfer of "any and all assets" in the custody of the Maui regional system board to "a legally constituted entity" which can independently provide the same level of health care services currently provided by the Maui Memorial Medical Center, and to relieve HHSC of "all debts, obligations, and liabilities" of the Maui regional system board. The union opposes the further fragmentation of what was intended as a statewide system of

health care when HHSC was initially created in 1996, and any attempt to undermine health care services other than through "an independent agency of the State" with the use of state assets and property. See 1999 Hawaii Session Laws Act 262, § 1, at 595.

As you know, HHSC was established following an extensive study by a task force created by the legislature in 1994 to examine the operations of the community hospital division of the Department of Health. See 1994 Hawaii Session Laws Act 266, p. 827. Based on a report by the governor's task force which recommended the creation of "an independent agency of the State" the legislature in 1996 created HHSC "to provide better health care for all the people of the State . . . by freeing the facilities from unwarranted bureaucratic oversight." See 1996 Hawaii Session Laws Act 262, p. 595. It was expressly understood that the new corporate entity would serve as an agency of the State which maintained a corporate-wide hospital personnel system that is subject to chapters 76, 77, and 89, HRS (See 1996 Hawaii Session Laws Act 262, § 2 ("Sec. - 7 (9)"), at 599), and that no employee of the State having tenure with the State would suffer any loss of "seniority, prior service credit, vacation, sick leave, or other employee benefits or privileges as a consequence" of the enactment. 1996 Hawaii Session Laws, Act 262, § 20, at 612.

Furthermore, in exchange for the power to set "rates and charges for all services provided by the corporation without regard to chapter 91" (See 1996 Hawaii Session Laws Act 262, § 2 ("Sec. 7 (8)"), at 599), HHSC was to assume and honor the responsibilities and obligations of the division of community hospitals, and neither the Department of Health nor HHSC were to abrogate their obligations under existing state law (including payment for retirement contributions). Section 22 (d) of Act states:

Upon the Transfer date, the corporation shall assume and honor all responsibilities and obligations transferred to it from the division of community hospitals regarding the imposition of rates, rents, fees, and charges for the use of public health facilities pursuant to section 323-70, Hawaii Revised Statutes. In no way shall this Act be construed as allowing either the corporation or the division to abrogate these responsibilities and obligations.
(Emphasis added).

1996 Hawaii Session Laws Act 262, (Sec. 22 (d)) at 612-63. The reference to "rates, rents, fees, and charges" pertain to the obligation of the Department of Health and HHSC under Section 88-125 (a), HRS, to reimburse the State of Hawaii for monthly retirement contributions made for all state employees under Section 88-124, HRS, from what revenues they generate from patients and others who use public health facilities.

In Section 21 of Act 262 the legislature transferred certain resources and assets from the division of community hospitals to HHSC as follows:

Section 21. All appropriations, records, equipment, machines, files, supplies, contracts, books, papers, documents, maps, and other personal property heretofore made, used, acquired, or held by the division of community hospitals of the department of health relating to the functions transferred to the Hawaii health systems corporation shall be transferred with the functions to which they relate. (Emphasis added).

1996 Hawaii Session Laws Act 262, § 21, p. 612. The legislature did not transfer any state lands or facilities to the custody or control of the Maui regional board, and as far as we know the power to dispose of public lands currently resides with the board of land and natural resources. See Section 171-13, HRS. Public lands must be set aside by the governor for a valid public purpose under Section 171-1, HRS.

We have recently learned that a great deal of uncertainty exists about outstanding obligations of HHSC and Maui Memorial Medical Center. On February 13, 2009 HHSC informed this committee there is an outstanding claim of approximately \$20 Million by the division of community hospital, and HHSC will incur additional costs for reimbursement of pension contributions to the state in the next two years. See attachment 1 (February 13, 2009 testimony on Senate Bill No. 44). On March 15, 2009 the Advertiser reported that Maui Memorial Medical Center has asked the State for \$20 Million as an operating subsidy to pay down bills to vendors. See attachment 2. In light of these disclosures no authority to transfer any debts, obligations, or assets to or from HHSC (or from the Maui regional system board to another entity) should be allowed. For the foregoing reasons we urge you not to pass out this measure and to restore the integrity and control over state resources by a state agency.