

The Senate  
The Twenty-Fifth Legislature  
Regular Session of 2009

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

Committee on Labor  
Senator Dwight Y. Takamine, Chair  
Senator Brian T. Taniguchi, Vice Chair

DATE: Friday, February 13, 2009  
TIME: 2:45 p.m.  
PLACE: Conference Room 016  
State Capitol  
415 South Beretania Street

**TESTIMONY OF THE UNITED PUBLIC WORKERS, AFSCME, LOCAL 646,  
AFL-CIO ON S.B. 1136 RELATING TO HAWAII HEALTH SYSTEMS CORP.**

My name is Dayton M. Nakanelua, and I am the state director of the United Public Workers, AFSCME, Local 646, AFL-CIO (UPW). The UPW currently represents approximately 8,700 blue collar, non-supervisory employees in bargaining unit 1, and 2,800 institutional, health, and correctional workers in bargaining unit 10 in the State of Hawaii and the various counties. Under this measure the Hawaii Health Systems Corporation (HHSC) corporate board and the regional system boards would be authorized "to enter a contract with private or federal, or state or county government" where it determines that the services are sustainable and that services of equivalent or better quality can be provided at a lower cost by the outside

entity. We oppose Senate Bill 1136 because it eliminates the merit principle, and undermines established wages, hours, and contractual rights of employees.

As our Supreme Court determined in Konno v. County of Hawaii, 85 Hawai`i 61, 937 P.2d 397 (1997), privatization violates the constitutionally established merit principle under Article XVI, Section 1 of the Hawaii State Constitution. Where governmental services have "historically and customarily" been performed by civil servants privatization undermines the merit system, and eliminates the "openness, merit, and independence" in public administration which is promoted by the constitution. 85 Hawai`i at 68, 937 P.2d at 403.

Long before HHSC was created in 1996 health care services in state and county hospitals were provided by civil servants employed by the community hospital division of the State of Hawaii. The employees were hired and retained in accordance with the merit principle through a statewide merit system. Under the merit principle employees were afforded reasonable job security and when layoffs occurred senior employees retained the right to bump junior employees not just within the health care facilities affected, but in any other governmental entities within the system. To ensure that this right continued with the creation of HHSC the legislature provided in 2006 Haw. Sess. L. Act 262, see § 2 ("Sec.-7"), at 599 that HHSC "develop a corporate wide hospital personnel system that is subject to chapters 76, 77, and 89." This measure undermines the commitment made in 1996 to public employees, at a critical point when layoffs loom and job security has become a primary concern within the HHSC workforce.

Responsible government officials know that resort to privatization diminishes accountability, and can lead to unanticipated results. Under this type of measure what the HHSC

corporate board or one or more of its regional system boards will be authorized to do is to "outsource" services at a facility which otherwise could be generating much needed revenue into the entire system, to the detriment of the remaining governmental facilities. For example, Maui Memorial Hospital may be outsourced by the Maui regional system board, and the loss of that potential money making facility to the remaining system then deprives other facilities like Honokaa Hospital of funds it needs to survive. These are the types of abuse that cannot be avoided in a fragmented personnel structure, which is inevitable when outsourcing is authorized on a discretionary basis. We urge senators to look out for the best interest of our health care system as a whole, and not allow it to be destroyed piece by piece through outsourcing.

For employees who work at HHSC outsourcing is considered a form of union busting which threatens the job security of civil servants. It is intended primarily to eliminate hard fought gains through negotiated wages, benefits, and working conditions as set forth in collective bargaining agreements. The UPW membership remains solidly opposed to privatization for the reasons stated in a unanimously adopted resolution at our recent convention. See attached copy of Resolution dated August 4, 2006. We respectfully urge you to defeat this measure, and protect the constitutional, statutory, and contractual rights of affected civil servants.