

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. 1138 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. We oppose Senate Bill No. 1138 which proposes to combine employees currently in bargaining units 1 and 10 (who are represented by the UPW in HHSC) into a new bargaining 14, to combine employees currently in bargaining units 2, 3, 4, 9, and 13 (who are represented by the HGEA in HHSC), into a new bargaining unit 15, to allow for outsourcing of services at the

discretion of the corporate board or any regional system board, and to establish a new pension and health benefits system for new hires of the Hawaii Health System Corporation (HHSC).

For the reasons stated in our testimony in opposition to Senate Bill No. 518 (which is scheduled for hearing after this bill on February 13, 2009), we oppose the creation of new bargaining units under Section 89-6, Hawaii Revised Statutes (HRS). Although this measure is less likely to result in a decertification process which could oust HGEA or UPW as exclusive bargaining representatives it does eliminate the statutory right to strike of bargaining unit 1 employees. In addition, the measure changes the nature of the multi-employer bargaining process which currently involves the governor, the mayors, the chief justice, and the HHSC board at the negotiating table over the master agreements under Section 89-6 (d), HRS. HHSC is an agency of the state and should remain a responsibility of all governmental authorities including the Governor of the State. The exclusion of representatives of the Governor, the chief justice, and the mayors from the affairs of HHSC undermines the accountability required for meaningful collective bargaining, and encourages unnecessary fragmentation of governmental functions. Moreover, HHSC currently has the flexibility to negotiate supplemental agreements under Section 89-6 (e), HRS, to address unique or special needs of its own.

With respect to "outsourcing" which is authorized in Section 7 of this measure our reasons for opposition are contained in our testimony in opposition to Senate Bill No. 1136 (which was scheduled earlier for hearing today). We incorporate by reference herein our written testimony on S.B. No. 1136. Although this measure expands "outsourcing" to non-profit entities it does not materially change the fact that such contracting out violates the merit principle and eliminates the

reasonable job security afforded to HHSC employees at a critical time. What is being proposed initially is at least a three tiered system of personnel management, i.e., one for employees covered under current collective bargaining agreements, another for those who are hired on and after July 1, 2009, and the third for those who are outsourced by the HHSC corporate board or regional system boards. Such a system is inefficient, and ultimately encourages privatization of services which we oppose.

In Section 2 of this measure what is being contemplated is an entirely new pension and health benefits system for new hires of HHSC on and after July 1, 2009. We are opposed to such a change for the very same reasons which persuaded the legislature in 1970 not to allow any governmental entity to negotiate over retirement benefits as set forth in chapter 88. Historically, the retirement system which applies to all state and county employees pre-dates collective bargaining and the accrued benefits provided by ERS have been entitled to constitutional protection under Article XVI, Section 2 of the State Constitution. See Kaho`ohanohano v. State 114 Hawai`i 302, 338, 162 P.3d 696, 732 (2007) (where the court held that Article XVI, Section 2 protects the "sources of those benefits," i.e., the amounts of state and county contributions). The adequacy of retirement benefits which has been closely linked to provisions for retiree health benefits is largely due to the broad scope of coverage and uniformity under one statute. For all of the foregoing reasons we oppose the passage of this measure.