



**TESTIMONY OF THE STATE ATTORNEY GENERAL  
TWENTY-FIFTH LEGISLATURE, 2009**

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**ON THE FOLLOWING MEASURE:**

H.B. NO. 1372, RELATING TO THE TRANSITIONING OF THE REGIONS AND FACILITIES OF HAWAII HEALTH SYSTEMS CORPORATION.

**BEFORE THE:**

HOUSE COMMITTEE ON FINANCE

**DATE:** Friday, February 27, 2009 **TIME:** 2:00 PM

**LOCATION:** State Capitol, Room 308

**TESTIFIER(S):** Mark J. Bennett, Attorney General,  
or Andrea J. Armitage, Deputy Attorney General

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Chair Oshiro and Members of the Committee:

The Department of the Attorney General provides these comments regarding potential legal problems with this bill.

The purpose of this bill is to allow regional systems of the Hawaii Health Systems Corporation (HHSC) and their facilities to leave the umbrella of the HHSC and transition into separate legal entities, while leaving the HHSC intact. It also allows for the transition of the entire corporation into a private legal entity.

There are a number of legal concerns with this bill. First, on page 3, lines 4 - 10, the bill provides that notwithstanding section 27-1, Hawaii Revised Statutes (HRS), any of the regional systems or "facilities of the Hawaii health systems corporation is hereby authorized to transition into a new legal entity . . . ." Section 27-1(3), HRS, provides that state functions include "[p]lanning, construction, improvement, maintenance, and operation of public hospitals and other public health and medical facilities." Considering the specificity of this provision, it would be prudent to also amend section 27-1, HRS, to allow facilities of the HHSC to transition from state facilities to private legal entities.

appear to be related to transitioning any part of the HHSC into a separate legal entity:

- Section 4, which amends section 103D-102(c), HRS. This provision adds the HHSC in its entirety to the exemption for the regional system boards from the requirements of procuring and contracting for goods and services;
- Section 5, which amends section 323F-7(c), HRS, by deleting the provision that authorizes a regional chief financial officer to be hired or dismissed by the regional system board and deleting the requirement of approval of the corporation board;
- Section 6, which amends section 323F-8.5, HRS. This section dictates the powers of the regional system boards to appoint, discharge and set the salaries for the regional chief executive officer and the regional chief financial officer. It also allows the regional chief executive officer to appoint other personnel exempt from the civil service laws and the collective bargaining laws to supporting positions. The bill would delete the regional financial officers from this provision and also allow the regional system boards to discharge exempt personnel with or without cause, with no further conditions; and
- Section 7, which amends section 323F-31, HRS, by deleting the requirement that the entire Legislature shall be notified of any substantial reduction or elimination of direct patient care services, and also the requirement of approval of the Legislature prior to doing so. The amendment specifies which legislators must be notified, and eliminates the requirement of legislative approval.

We respectfully ask that the Committee take into consideration our legal concerns and amend the bill accordingly, if it decides to recommend passage of the bill.