

HB 694

Measure Title: RELATING TO THE HAWAII HEALTH SYSTEMS CORPORATION.

Report Title: HHSC; Maui Regional Health Care System Transfer

Description: Authorizes Hawaii Health Systems Corporation (HHSC) and the Maui Regional System Board to remove the Maui Regional Health Care System and its facilities from HHSC by transferring regional assets to a legal entity which will finance and continue to provide health care services to Maui.



HAWAII GOVERNMENT EMPLOYEES ASSOCIATION
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The Twenty-Fifth Legislature, State of Hawaii
Hawaii State Senate
Committee on Health

Testimony by
Hawaii Government Employees Association
March 20, 2009

H.B.694 (HSCR731) - RELATING TO
THE HAWAII HEALTH SYSTEMS
CORPORATION

The Hawaii Government Employees Association opposes the purpose and intent of H.B. 694 (HSCR731). This bill authorizes the Hawaii Health Systems Corporation (HHSC) and the Maui Regional System Board to remove the Maui Regional Health Care System and its facilities from the HHSC by transferring them to a legally constituted entity that is financially capable, independent of HHSC, of continuing to provide health care services to the Maui community. This transfer would relieve HHSC of all debts and obligations of the System.

A better alternative is H.B. 1372 which offers stakeholders an opportunity to participate in the development of a new organizational structure to improve operations and achieve greater efficiencies. HGEA is committed to help improve the bill as it proceeds through the legislative process.

Thank you for the opportunity to testify in opposition of H.B.694 (HSCR731).

Respectfully submitted,

Nora A. Nomura
Deputy Executive Director



HAWAII HEALTH SYSTEMS
C O R P O R A T I O N

"Touching Lives Every Day"

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

Friday, March 20, 2009
3:00 PM
Conference Room 016
Hawaii State Capitol

HB 694 Relating to the Hawaii Health Systems Corporation
Authorizes Hawaii Health Systems Corporation (HHSC) and Maui Regional System Board to remove the Maui Regional Health Care System and its facilities from HHSC by transferring regional assets to a legal entity which will finance and continue to provide health care services to Maui

Thomas M. Driskill, Jr.
President and Chief Executive Officer
Hawaii Health Systems Corporation (HHSC)

On behalf of the Hawaii Health Systems Corporation (HHSC) Corporation Board of Directors, thank you for the opportunity to provide comments on HB 694 which would authorize Hawaii Health Systems Corporation and Maui Regional System Board to remove the Maui Regional Health Care System and its facilities from HHSC by transferring regional assets to a legal entity which will finance and continue to provide health care services to Maui. We support the intent of legislation enabling HHSC Regions to transition into new appropriate entities but do not think the approach taken in HB 694 is nearly as effective as the approach taken in SB 1673, SD2. Therefore, we recommend that all support for HB 694 should be transferred to SB 1673, SD2.

The HHSC Corporate Board of Directors supports passage of SB 1673, SD2 to authorize a facility or regional health care system under HHSC to transition into a new legal entity, including a nonprofit or for-profit corporation, municipal facility, or other such corporate entity. In light of the growing financial and structural challenges that the community-hospital system has been undergoing since its establishment in 1996, SB 1673, SD2 provides the HHSC regions and facilities an additional option to respond effectively to the changing health care needs of their island communities. It seeks restructure options that would enable HHSC regions and facilities to consider entering into various forms of

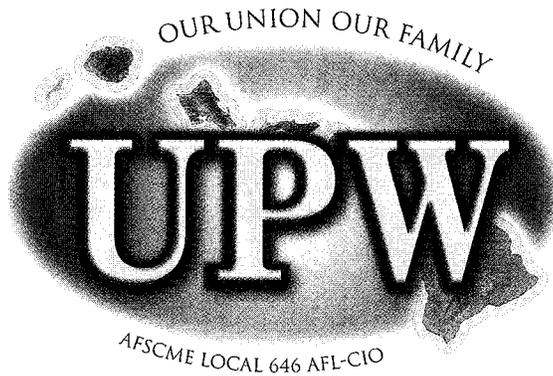
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public/private partnerships while at the same time remaining part of a system or a "federated" system of HHSC related healthcare facilities. Since we have taken the position that the State can no longer financially underwrite the escalating cost of healthcare for the communities we serve, it is essential that we look for new innovative ways to involve private partnerships in the provision of care.

The HHSC Corporate Board and corporate management are committed to working collaboratively with each of its five regions when they are ready to ensure a smooth transitioning process for any facility or regional restructuring that may be undertaken as a result of this Bill.

Your support for SB 1673, SD2 as the approach for HHSC change is greatly appreciated. Thank you.



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

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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.



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Hospitals rescue hits snag

Requests for loans raise eyebrows amid talks on restructuring the HHSC

BY DERRICK DEPLEDGE
Advertiser Government Writer

State lawmakers trying to rescue the Hawai'i Health Systems Corp. are concerned about two recent loan requests from Maui

and Kaua'i that raise red flags about the system's financial solvency and management.

Lawmakers have been meeting with system administrators for weeks about bills that would allow public hospitals to convert to private status or escape civil service rules to become more competitive. But the loan requests are reminders of the pre-

carious financial situation at many of the hospitals and the doubts some lawmakers have had for years about the competency of system management.

Maui Memorial Medical Center has asked the state for \$20 million as an operating subsidy and to pay down bills to vendors that are delinquent for more than three months. The operating

subsidy would be used to cover a cash-flow deficit that averages \$2.5 million a month, while the money for late bills would reduce the accounts payable delay to about 45 days.

Maui Memorial told the state the loan could be repaid by the sale of all or a portion of the medical center to private investors, or if necessary, by extensively

downsizing services, both of which, state officials say, would require approval from the Legislature.

"I'm disappointed that there's not a firm decision yet, especially considering what's at stake," said Wesley Lo, the chief executive officer of the Maui region,

SEE HOSPITALS, A2

Hospitals

CONTINUED FROM A1

adding that the timing is "fairly critical."

"If we didn't get this, it would probably have a pretty radical impact on healthcare, not only on Maui but in the state."

Perhaps more unsettling, according to a memo prepared by the state budget office, about half of the \$11 million Maui Memorial raised from a bond sale last year was "given" to system administrators in Honolulu to gain approval for Maui to become more independent. Maui Memorial has been talking with private investors and would likely be the first public hospital to consider going private if granted authority by the Legislature.

Lo said he agreed to share the money from the bond sale to help other public hospitals because at the time, before the financial markets collapsed last year, Maui Memorial was expecting another infusion of private financing. He said he made the payment in good faith as the Maui region was seeking to attract private investors and gain control of its own finances.

"One of the things we wanted to do was control our own cash, so any of the revenues we collected on Maui would stay on Maui," Lo explained.

Gov. Linda Lingle and state lawmakers met privately in the governor's office last Monday afternoon to discuss public hospitals. Several Lingle administration officials met privately on Thursday with Lo about the Maui Memorial loan request. A spokesman for the governor said the administration would not comment on the talks because of an agreement that they remain private for now.

FINANCING FELL APART

The Kaua'i region, meanwhile, asked the state for an emergency \$10 million in February to pay off a private loan for design work on a failed \$80 million project to expand the West Kaua'i Medical Center. The Kaua'i region had hoped the private loan would be folded into a larger loan to pay for construction, but after the collapse of the financial markets, financing for the project fell apart. The private loan was secured by a mortgage on the medical center's campus, according to a memo sent from the Kaua'i region to Lingle, and system administrators warned that a default could have an "immediate impact on current and future financing for all HHSC facilities."

The Kaua'i region has since

HAWAII HEALTH SYSTEMS CORP.

The state's public hospital network is the umbrella for 13 hospitals. It has five semi-autonomous regional boards.

O'ahu: Leahi Hospital, Maluhia, Kahuku Hospital

Maui: Maui Memorial Medical Center, Kula Hospital, Lāna'i Community Hospital

Kaua'i: West Kaua'i Medical Center, Samuel Mahelona Memorial Hospital

East Hawai'i: Hilo Medical Center, Hale Ho'ola Hāmākua, Ka'ū Hospital

West Hawai'i: Kona Community Hospital, Kohala Hospital

paid down all but \$3 million of the private loan and obtained an extension from its partner, Academic Capital, to pay the balance by June.

Jerry Walker, the interim chief executive officer of the Kaua'i region, explained that the state was one of several potential financing sources approached in February to avoid default. "For us, we were trying all possible markets," he said.

Thomas Driskill Jr., the system's president and chief executive officer, has been on unsteady ground with several lawmakers for years. The fact that he signed off on the private loan for Kaua'i has given his critics another reason to question his leadership.

"I think he should be fired," said state Rep. Bob Herkes, D-5th (Ka'ū, S. Kona).

In the state House's draft of the budget, Driskill's job is one of the 374 that would be eliminated to help close the budget deficit. Herkes said he would abolish the system and its regional boards and place public hospitals back under the state Department of Health, where they were before the system was created in 1996.

Herkes said a "czar" could be hired to work with a corporate management team and help guide public hospitals during the transition.

State Senate Vice President Russell Kokubun, D-2nd (S. Hilo, Puna, Ka'ū), said he does not recall Driskill mentioning the potential loan default on Kaua'i during the multiple meetings with lawmakers earlier this session on the system's future. "When you look at the whole picture, HHSC is on shaky ground," he said.

Driskill acknowledged that some lawmakers want him out. But he said he would concentrate on helping lawmakers with

restructuring bills that would give public hospitals the option to go private and the system more flexibility on civil-service issues.

Driskill has asked lawmakers for the authority to create a dual workforce within the system to contain labor costs. Existing public hospital workers would keep their state benefits, but newly hired workers would be subject to new salary, work hours, health plan and retirement benefits negotiated with the Hawai'i Government Employees Association and the United Public Workers.

"I'm often the subject of controversy," Driskill said of the threat to his position. "It comes with the job."

REQUEST TURNED DOWN

The system, the fourth-largest public hospital system in the nation, oversees 13 public hospitals with 4,200 workers and 800 affiliated doctors. A corporate board and five regional boards set policy.

Layoffs and spending restrictions helped the system with a \$62 million deficit this fiscal year. Most of the layoffs were at Kona Community Hospital in the system's West Hawai'i region. The system asked the Lingle administration twice for emergency appropriations this fiscal year but was turned down. Driskill told lawmakers in January that administrators estimate a \$35 million deficit in fiscal year 2010 and a \$31 million deficit in fiscal year 2011.

Maui Memorial, which avoided layoffs, had been the catalyst for the creation of regional boards, and bills are moving this session to allow the Maui region to leave the system. Maui Memorial had helped fight off a proposal for the private Malulani Health & Medical Center two years ago, arguing that the competition would have led to a loss of revenue and reduced its ability to care for the poor.

The Wailuku public hospital, the main acute-care hospital on Maui, has expanded in recent years and is developing a cardiovascular program that would make it distinct on the Neighbor Islands.

Last year, Maui Memorial issued bonds that were purchased by JPMorgan Chase & Co. for \$11 million. Half of that money, according to the state budget office memo, was used to pay down delinquent bills to vendors and the other half was given to system administrators in Honolulu so that Maui Memorial could be free to negotiate with potential buyers.

State Sen. Josh Green, D-3rd (Kohala, Kona Ka'ū), a Big Island doctor who has a contract with

the system, said Maui Memorial's \$20 million loan request to the state shows it is far from a model.

"We're working very hard right now to secure the financial structure of our hospital system," he said. "Maui Memorial continues to spend recklessly and irresponsibly, while other hospitals are tightening their belts and making difficult cuts. Maui can't keep both spending and asking for money from the state while the rest of our system accepts cuts and restructuring."

"If we don't successfully restructure the hospital system and cut spending, one or more of our community hospitals may close within the year."

'AGGRESSIVE, INNOVATIVE'

State Sen. David Ige, D-16th (Pearl City, Aiea), the chairman of the Senate Health Committee, said lawmakers have known about Maui Memorial's predicament for months. He noted that the money Maui Memorial raised from the bond sale allowed it to opt out of the emergency \$14 million lawmakers provided to public hospitals to get through the past fiscal year. He said the additional private financing that Maui Memorial expected suffered after the decline in the financial markets.

"I think the fundamental, critical component that we can't lose sight of is what Maui was looking at doing was upgrading the facility so that they can pursue those kinds of procedures and activities that can generate a profit and offset the safety-net services they take a loss on," Ige said of the cardiovascular program.

Ige defended Maui Memorial's decision to share proceeds of the bond sale with the rest of the system. "These guys were being aggressive and innovative in seeking a different kind of future," he said. "They had a game plan. There definitely was a need in the state. It would provide backup support to activities going on at The Queen's Medical Center."

"Clearly, from a systemwide perspective, it would have added more value in addition to making them more cost effective."

State Rep. Marcus Oshiro, D-39th (Wahiawā), the chairman of the House Finance Committee, said lawmakers want to move toward restructuring the system regardless of Driskill's fate or the financial challenges on Maui and Kaua'i.

"We need to explore that because the current system is broken," he said.

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