

TESTIMONY BY GEORGINA K. KAWAMURA  
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE  
STATE OF HAWAII  
TO THE HOUSE COMMITTEE ON FINANCE  
ON  
SENATE BILL NO. 44, S.D. 2, H.D. 1

April 2, 2009

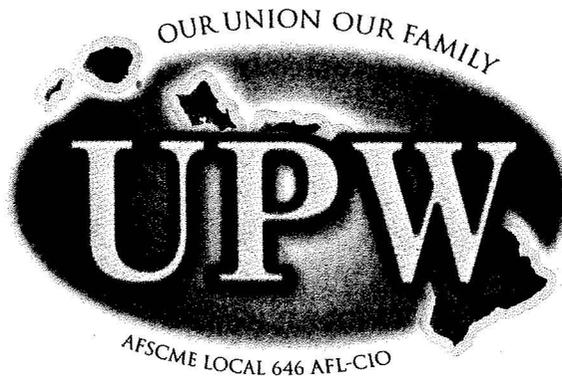
RELATING TO THE HAWAII HEALTH SYSTEMS CORPORATION

Senate Bill No. 44, S.D. 2, H.D.1, allows the Department of Health to assume all community hospital liabilities accrued up to June 30, 1996; requires that the Hawaii Health Systems Corporation assume all subsequent liabilities; clarifies that the Hawaii Health Systems Corporation is responsible for payments into the Employees' Retirement System fund for its employees; and requires an annual management and performance audit of the corporation.

While we understand the desire to assist the Hawaii Health Systems Corporation, we are opposed to this bill.

It is unclear what is meant by "the total amount of all liabilities and debts or other obligations" that the Department of Health may assume on behalf of Hawaii Health Systems Corporation. Because there is no definition of what constitutes the liabilities and debt, it is assumed that the liabilities could be significant as there are no limitations contained in the bill.

In light of the grave financial situation facing the State, we ask that any bill with a potential to impose additional requirements on the general fund be held.



House of Representatives  
The Twenty-Fifth Legislature  
Regular Session of 2009

Committee on Finance

Rep. Marcus R. Oshiro, Chair  
Rep. Marilyn B. Lee, Vice Chair

DATE: Thursday, April 2, 2009  
TIME: 4:30 p.m.  
PLACE: Conference Room 308  
State Capitol  
415 South Beretania Street

**TESTIMONY OF THE UNITED PUBLIC WORKERS, AFSCME,  
LOCAL 646, AFL-CIO ON S.B. 44, S.D. 2, H.D. 1  
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. In behalf of approximately 500 blue collar non-supervisory employees of bargaining unit 1 and 1,000 institutional and health workers from bargaining unit 10 who are currently employed by the Hawaii Health System Corporation (HHSC) the UPW opposes Senate Bill No. 44, S.D. 2, H.D. 1, because we believe it undermines the intent of the statute which created HHSC, and there is no justification for compliance with existing statutory procedures for resolving the dispute between the community hospital division and HHSC.

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

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**KAUAI** - 4211 Rice Street ♦ Lihue, Hawaii 96766-1325 ♦ Phone: (808) 245-2412

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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 (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 light of the foregoing requirements of Act 262 it is disconcerting to find out that both entities have been unable to resolve a 20 million dollar "liability" accrued by the community hospital division prior to July 1, 2006, and a projected 30 and 39 million dollar claims for employee retirement system "contributions" by HHSC for fiscal year 2010 and 2011, respectively. We believe these outstanding "claims" which relate to the cost of retirement benefits for HHSC employees is one reason why HHSC has supported a number of legislative measures this session to reorganize itself so it will no longer be an "agency of the State."<sup>1</sup> We understand that the proponents of this measure believe resolving the outstanding "disputes" between the community hospital division and the HHSC over retirement contributions is considered a necessary step to allow the Maui Memorial Hospital to be contracted out (or privatized).

We disagree with this measure because we oppose any measure intended to allow the Maui Memorial Hospital to be contracted out or privatized, and we maintain that the dispute between the community hospital division (State of Hawaii) and HHSC over retirement contributions can be (and should be)

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<sup>1</sup> The other reason is HHSC's inability to generate adequate annual revenues from its rates, fees, and other charges to meet operating expenses.

resolved through the existing statutory procedures. Section 88-125 (c), HRS, establishes an adequate procedure for a quarterly determination by the department of budget and finance of the amount of contributions due and owing by all departments and agencies of the State which are "authorized by law to fix, regulate and collect rent, rates, fees, or charges of any nature" as indicated in Section 88-125 (b), HRS. If HHSC has concerns about its future retirement liability and it disagrees with the quarterly assessment by the department of budget and finance it should exhaust the existing statutory procedures with Budget and Finance, and seek judicial review if necessary. (See Section 323F-7 (c) (11), HRS, which empowers HHSC to sue). For the foregoing reasons we ask you not to adopt Senate Bill No. 44, Senate Draft 2, House Draft 1.



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

*"Touching Lives Every Day"*

**The House Committee on Finance**  
Representative Marcus R. Oshiro, Chair  
Representative Marilyn B. Lee, Vice Chair

Thursday, April 2, 2009  
4:30 p.m.  
Conference Room 308  
Hawaii State Capitol

**Testimony Opposing SB 44, SD2, HD1 Relating to the Hawaii Health Systems Corporation**

Requires (1) Hawaii health systems corporation (HHSC) with the Department of Health's assistance to determine the current amount of all community hospital liabilities accrued up to 6/30/1996 that still exist; and (2) HHSC to assume all subsequent liabilities.

Clarifies HHSC responsibility for payments into the employees' retirement system funds for its employees. Forces an annual audit of HHSC by the Legislative Auditor in addition to HHSC's annual financial audit.

Thomas M. Driskill, Jr.  
President & Chief Executive Officer  
Hawaii Health Systems Corporation

On behalf of the Hawaii Health Systems Corporation (HHSC) Corporate Board of Directors, thank you for the opportunity to present testimony strongly "opposing" SB 44, SD2, HD1.

The purpose of this bill, as stated in SB 44, SD2, was to require the department of health to assume all community hospital liabilities accrued up to 6/30/1996 and Hawaii health systems corporation (HHSC) to assume all subsequent liabilities and to clarify HHSC responsibilities for payments into the employees' retirement system funds for its employers from 6/30/1996 forward. We support these purposes.

SB 44, SD2, HD1 requires an audit of pre-1996 liabilities to understand why they exist, the Legislative Auditor to conduct a legislative audit every year, of HHSC assets, liabilities and contracts by contracting with a 3<sup>rd</sup> party and HHSC paying for the audit in advance, and HHSC working with DOH to resolve this liability transfer. We do not support these audit requirements, as they would add no value to the process and would waste millions of dollars of taxpayers' funds over future years.

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Annual external, financial audits for the past twelve years have already documented the existence and cause of prior liabilities. The notes to HHSC's audited financial statement for the year ending June 30, 2007 indicate HHSC assumed liabilities upon its inception on 7/1/1996 totaling \$20,122,507. Since HHSC was formed on 7/1/1996, HHSC has been unable to resolve these accrued liabilities, which are reported as amounts due to the State of Hawaii in HHSC's consolidated statement of net assets, but for which the State of Hawaii has fully reserved, meaning there is no anticipation the amounts will be paid to the state. Carrying these amounts on the HHSC balance sheets has and will continue to complicate credit evaluations. Transferring these amounts to another agency of the state would facilitate efforts of HHSC Regions to access capital for equipment and important business initiatives. HHSC does not offer opinion on whether liabilities should be transferred to the department of health or to another agency of the state.

The System-wide financial audit of HHSC and its facilities cost almost \$700,000 in FY 2007 and over \$800,000 in FY 2008. Costs for duplicative audits controlled by the Legislative Auditor will cost additional hundreds of thousands of dollars. And, based on description in SB 44, SD2, HD1 plus prior experience with financial reviews commissioned by the Legislative Auditor, the legislative contracted audit will be insufficient to serve as the financial audit for operational purposes of the community hospitals..

Although we recognize and acknowledge that DOH does not desire liabilities to pass from HHSC, nonetheless, in the collective sense, there are advantages to this measure. If these liabilities are either waived or transferred, HHSC will be better able to seek private-public partnerships to enhance delivery of care to communities served, to improve financial performances of HHSC regions and facilities, and to control or reduce requirements for state subsidies in the future.



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

*"Touching Lives Every Day"*

DRAFT  
--Need to see HD1  
details to address  
3-25-09

**The House Committee on Finance**  
Representative Marcus R. Oshiro, Chair  
Representative Marilyn B. Lee, Vice Chair

Thursday, April 2, 2009  
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Clarifies HHSC responsibility for payments into the employees' retirement system funds for its employees. Provides for an annual audit of HHSC.

Howard Ainsley  
East Hawaii Regional Chief Executive Officer  
Hawaii Health Systems Corporation

On behalf of the Hawaii Health Systems Corporation (HHSC) East Hawaii region, thank you for the opportunity to present testimony strongly opposing SB 44, SD2, HD1.

The purpose of this bill as stated in SB 44, SD2 was to require the department of health to assume all community hospital liabilities accrued up to 6/30/1996 and Hawaii health systems corporation (HHSC) to assume all subsequent liabilities and to clarify HHSC responsibilities for payments into the employees' retirement system funds for its employers from 6/30/1996 forward. We support these purposes.

SB 44, SD2, HD1 requires an audit of pre-1996 liabilities to understand why they exist, the Legislative Auditor to conduct a legislative audit every year, of HHSC assets, liabilities and contracts by contracting with a 3<sup>rd</sup> party and HHSC paying for the audit in advance, and HHSC working with DOH to resolve this liability transfer. We do not support these audit requirements, as they would add no value to the process and would squander millions of dollars of taxpayers' funds over future years.

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System-wide financial audit of HHSC and its facilities cost over \$600,000 in FY 2007 and over \$800,000 in FY 2008. Costs for duplicative audits controlled by the Legislative Auditor will also cost hundreds of thousands of dollars but, based on description in SB 44, SD2, HD1 and on prior experience with financial reviews commissioned by the Legislative Auditor, will be insufficient to serve as financial audits for operational purposes of the community hospitals. Therefore, these provisions would simply add hundreds of thousands of dollars in costs every year to an already financially stressed community hospital system. This would be wasteful without adding value to the hospital system and Hawaii taxpayers.

Although we recognize and acknowledge that DOH does not desire liabilities to pass from HHSC, nonetheless, in the collective sense, there are advantages to this measure. If these liabilities are either waived or transferred, HHSC will be better able to seek private-public partnerships to enhance deliver of care to communities served, to improve financial performances of HHSC regions and facilities, and to control or reduce requirements for state subsidies in the future.

## **FINTestimony**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, April 01, 2009 8:42 AM  
**To:** FINTestimony  
**Cc:** jwalker1@hhsc.org  
**Subject:** Testimony for SB44 on 4/2/2009 4:30:00 PM

Testimony for FIN 4/2/2009 4:30:00 PM SB44

Conference room: 308  
Testifier position: oppose  
Testifier will be present: No  
Submitted by: Jerry Walker  
Organization: West Kauai Medical Center  
Address: 4643 Waimea Canyon Dr. Waimea, Hi 96796  
Phone: 808-338-9422  
E-mail: jwalker1@hhsc.org  
Submitted on: 4/1/2009

**Comments:**

The Kauai Region (West Kauai Medical Center / KVMH; West Kauai Clinics - Waimea, Eleele, Kalaheo; Samuel Mahelona Medical Center, SMMH) opposes SB44, SD2, HD1. The intent of the bill was to allow HHSC to clear its financial statements of prior 6/30/1996 liabilities, which were incurred prior to the establishment of HHSC. The current bill would require additional work to determine liabilities already determined on prior financial statements. An annual audit by the Legislative Auditor is unnecessary, since all that's needed to be done is to request HHSC auditors to expand the current scope to include desired information. By transferring the prior liabilities to DOH it would put HHSC in better financial condition to secure future loans.