EXECUTIVE CHAMBERS

HONOLULU

DAVID Y. IGE
GOVERNOR

Testimony of **Ford Fuchigami**
Administrative Director, Office of the Governor

Before the
Senate Committee on Ways and Means
February 28, 2018
11:00 a.m., Conference Room 211

In consideration of
Senate Bill No. 2705, SD1
RELATING TO PUBLIC-PRIVATE PARTNERSHIPS

Chair Dela Cruz, Vice Chair Keith-Agaran, and committee members:

Thank you for the opportunity to provide comments in support of the intent of **Senate Bill 2705, SD1, Relating to Public-Private Partnerships**, which establishes an office of public-private partnership and public-private partnership coordinator positions within the Department of Accounting and General Services. The Governor's Office strongly supports the concept of state agencies working with the private sector especially to improve the efficiency and effectiveness of completing public capital improvement projects.

We defer specific comments to testimony submitted separately by the Department of Accounting and General Services.

Thank you for the opportunity to submit testimony.

DAVID Y. IGE
GOVERNOR

RODERICK K. BECKER
COMPTROLLER

ROSS I. YAMASAKI
CHAIRMAN, STADIUM AUTHORITY

SCOTT L. CHAN
MANAGER

RYAN G. ANDREWS
DEPUTY MANAGER

ALOHA STADIUM

An Agency of the State of Hawaii

TESTIMONY
OF
ROSS YAMASAKI, CHAIRMAN
STADIUM AUTHORITY
TO THE
SENATE COMMITTEE
ON
WAYS AND MEANS
February 28, 2018

S.B. 2705, S.D. 1

RELATING TO PUBLIC-PRIVATE PARTNERSHIPS

Chair Dela Cruz, Vice Chair Keith-Agaran, and members of the committee, thank you for the opportunity to submit testimony in support of the concept of Public-Private Partnerships (P3) and the intent of SB2705, SD1 to provide P3 as a State-wide financing option for those State projects that align with the criteria and requirements of P3 and the benefits and value that P3 has to offer to those P3-aligned projects.

The Stadium Authority (Authority) appreciates the Legislature's commitment towards providing an opportunity to pursue other viable financing alternatives such as public-private partnerships (P3). This type of alternative could potentially support the financing of projects such as the building of a new Aloha Stadium and development of its surrounding ancillary property. This measure comes at a time when the Authority is initiating its Master Planning and Environmental Impact Study (EIS) process that will provide valuable information to evaluate its applicability with a P3 model of financing.

In supporting this measure, the Authority would also like to share the following comments to ensure that the proposed P3 office is provided a smooth implementation path.

In its January 2017 meeting, the Authority approved a resolution stating its intention to build a new stadium as being the most financially prudent course of action. The Authority has also established new goals and objectives in planning, designing, building, and financing a new stadium facility that builds upon several of the major projects that the Authority and stadium management have been working on over the past several years.

- Lifting of the Federal and City deed restrictions – Completion of this project marks a major milestone and accomplishment for the State of Hawaii and the Stadium Authority.

- The Honolulu Rail Transit Project – An important rail transit station will be located on stadium property and provide another connection between Aloha Stadium and West and East Oahu.

- Capital improvement projects – Concurrent with the foregoing, the Authority is engaged in ongoing major repairs and maintenance to address the health and safety issues identified by the Authority's consultants.

- Masterplan/EIS Project - The Authority is proceeding with a Masterplan and EIS for the Stadium and its property, which will provide information needed to evaluate next steps in development.

These major projects are important steps for the Authority to move towards meeting its overall goals and objectives for the Stadium redevelopment.

Mahalo for the opportunity to provide this testimony in support of the concept and intent of SB 2705, SD1.

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DAVID Y. IGE
GOVERNOR

RODERICK K. BECKER
Comptroller

AUDREY HIDANO
Deputy Comptroller

STATE OF HAWAII
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
P.O. BOX 119, HONOLULU, HAWAII 96810-0119

TESTIMONY OF
RODERICK K. BECKER, COMPTROLLER
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
TO THE
SENATE COMMITTEE ON WAYS AND MEANS
WEDNESDAY, FEBRUARY 28, 2018
11:00 A.M.
CONFERENCE ROOM 211

S.B. 2705, S.D. 1

RELATING TO PUBLIC-PRIVATE PARTNERSHIPS.

Chair Dela Cruz, Vice Chair Keith-Agaran, and members of the Committee, thank you for the opportunity to testify on S.B. 2705, S.D. 1.

S.B. 2705, S.D. 1 authorizes the Department of Accounting and General Services (DAGS) to establish and fill five full-time equivalent (5.0 FTE) State public-private partnership coordinator positions, exempt from Chapter 76, Hawaii Revised Statutes (HRS), and placed under the Comptroller to manage certain public-private partnerships entered into by the State in addition to managing certain contracts, proposals, and negotiations associated with the State's public-private partnerships. Public-private partnerships involving the Hawaii Public Housing Authority are exempt from the provisions of this bill. DAGS supports the intent of the measure but would like to highlight several areas of concern:

- To ensure an open and transparent process for the delivery of projects involving public-private partnerships, we request your consideration of including a formal program for such arrangements by considering the provisions that the Administration has provided for in SB 2739. Specifically, we refer you to Section 2 – Alternative project program; established; Section 3 – Requests for information; Section 4 – Pre-qualification; and Section 5 – Solicitation of alternative proposals. DAGS believes these provisions lay the groundwork for the desired goal of providing transparency to ensure a fair and open process for projects.

- S.B. 2705, S.D. 1 does not address a key provision which is the maximum length of leases for public-private partnerships. DAGS believes the bill should include a period not exceeding 99 years to provide potential private sector partners who may be required to commit significant financial resources and bear most of the overall risks of such projects with an adequate investment time horizon to achieve an acceptable financial rate of return to justify the risks that such private partner may be undertaking in such projects. We note for your consideration that full development of certain types of public-private partnerships in which there are multiple uses including development of housing as well as commercial uses including retail, hospitality and recreational/sports uses are ultimately dictated by market or economic conditions and that full development of such mixed-use projects may occur over prolonged lead times for planning, design and ultimate construction. As previously mentioned, the actual development through construction will be subject to market conditions not only at the time of planning and design but more importantly, based on the forecast of market conditions in the future that may be crucial for being able to secure debt and equity financing for most if not all public-private partnerships. The Department believes that the extended length of such a lease can be controlled through providing for options for extensions that in total do not exceed 99 years and other mechanisms providing for cancellation of the lease at the option of the public entity for failure of the private partner to meet or comply with development time tables.
- DAGS respectfully requests that the bill include standards for minimum terms and conditions for public-private partnerships. An example of such minimum standards is the requirement for the terms of the planning, acquisition, financing, development, design, construction, re-construction, rehabilitation, replacement, improvement, maintenance, management, operation, repair, leasing, and ownership of facilities. These conditions are addressed in Section 7 – Qualified project agreements; approvals of S.B. 2739.

- To accommodate a maximum 99-year lease term, DAGS recommends that public- private partnership arrangements under this measure be exempted from HRS 171.
- The Department also recommends a separate uncodified section of the bill addressing priority projects instead of requiring initiation of the Aloha Stadium redevelopment as the initial public-private partnership project.
- DAGS requests that the term public-private partnership be defined.
- DAGS recommends that on page 2, line 7, the purpose of the office be to deliver state government projects in an efficient and effective manner.
- DAGS continues to be concerned that without further clarification the provision on page 4, line 10, requiring oversight and implementation of each public-private partnership project, could affect the current operation of State agencies.

The Administration introduced S.B. 2739 (and companion bill H.B. 2312) Relating to Alternative Project Delivery to provide an alternative method for State government to finance and deliver public projects on time and on budget that are in line with existing statutes.

S.B. 2739 will:

- Allow State government to elect an alternative method of managing public lands and awarding contracts that is separate and apart from Chapters 171 and 103D. This in turn allows agencies to utilize both existing and future forms of project delivery, including public-private partnerships and lease-back options that exceed 65 years.
- Establish an alternative project delivery program within DAGS to assist public entities with the development, solicitation, evaluation, award, and delivery of qualified projects.
- Maintain oversight by the Director of Finance, the Comptroller, and the Attorney General.

DAGS believes this combination of basic features in S.B. 2739 allows for the most flexible means with which to explore and develop partnerships that would be most advantageous to the State. The measure provides guidance to agencies wishing to engage in alternative project delivery while simultaneously protecting the best interests of the State. Within this framework, all existing and future forms of public-private partnerships may be explored and implemented to finance and deliver public projects on time, on budget, and in compliance with, among other laws, public labor union laws, prevailing wage laws, environmental and historic preservation laws, and all permitting laws. We encourage your consideration of S.B. 2739 which is based on a measure enacted by Washington, D.C. in 2015.

Thank you for the opportunity to provide comments on this measure.

Testimony to the Senate Committee on Ways and Means
Wednesday, February 28, 2018 at 11:00 A.M.
Conference Room 211, State Capitol

RE: SENATE BILL 2705 SD1 RELATING TO PUBLIC-PRIVATE PARTNERSHIPS

Chair Wakai, Vice Chair Taniguchi, and Members of the Committee:

The Chamber of Commerce Hawaii ("The Chamber") **supports the intent** of SB 2705 SD1, which proposes to establish five state public-private partnership coordinator positions within the department of business, economic development, and tourism to manage certain public-private partnerships entered into by the State and associated contracts, proposals, and negotiations, except public-private partnerships entered into by Hawaii public housing authority. The Bill also proposes to establish an office of public-private partnership within the Department of Business, Economic Development, and Tourism.

The Chamber is Hawaii's leading statewide business advocacy organization, representing about 2,000+ businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of members and the entire business community to improve the state's economic climate and to foster positive action on issues of common concern.

As we understand it, Public-Private-Partnerships (P3s) come in a variety of different delivery methods. For example, the state currently engages in energy performance contracts which are procured under section 103 HRS. There are other leases, lease-like, and concession arrangements such as:

- Lease-Develop-Operate: the private party leases an existing facility from a public agency; invests its own capital to renovate, modernize, and/or expand the facility; and then operates it under a lease contract with the public agency.
- Lease Lease-backs: Public agency leases real property to a private partner for a stipulated price and the private partner then must design, build, finance and/or maintain improvements on the property, for which the public partner will make ongoing lease payments (capital lease purchase).
- Design-Build-Finance-Operate-Maintain: With the Design-Build-Finance-Operate-Maintain (DBFOM) approach, responsibilities for designing, building, financing, operating and maintaining are bundled together and transferred to private sector partners. Repayment is typically in the form of an availability payment.
- Concession arrangements can vary and may also include a lease. May be applied to both greenfield and existing facilities. Examples include:

- DBFM: A single contract is awarded for the design, construction and maintenance of a capital improvement. Title to the facility remains with the public sector
- DBFO: A single contract is awarded for the design, construction, and operation of a capital improvement. Title to the facility remains with the public sector
- Design-Build-Finance-Operate-Maintain: A single contract is awarded for the design, construction, financing, operation and maintenance of a capital improvement. Title usually remains with the public sector. Repayment is in the form of an availability payment or on the basis of user fees.

We believe that while there is a need to centralize the P3 expertise to provide consistent services to agencies seeking P3 projects, there is a more immediate need to have legislation in place that would allow the state to enter into the various P3 delivery models. Having a clear process established in the statute will not only provide the P3 office with the means to analyze and implement a P3 project but more importantly, provide private investors with transparency, predictability, and certainty in the process. We believe the bill also needs to include language that would allow for the lease, lease-back or concession of state owned facilities and/or infrastructure including an interest in the state-owned land.

We note that the bill has been amended to exempt P3's from Chapter 103 HRS. We understand that P3's are effectively a hybrid between the procurement of services (i.e. Chapter 103D HRS) and the leasing of real property (i.e. Chapter 171 HRS), we believe a new section of the law should be created rather than amend either 103D or 171 HRS. The bill lacks a process or legal framework for an agency to consider, and enter into public-private-partnership arrangements.

We support the intent of SB 2705 but would suggest that language that would allow for leases, lease-like, and concession arrangements be added to the bill.

Thank you for the opportunity to testify.

SB-2705-SD-1
Submitted on: 2/21/2018 7:49:13 PM
Testimony for WAM on 2/28/2018 11:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
De MONT R. D. CONNER	Testifying for Ho'omanapono Political Action Committee (HPAC)	Support	Yes

Comments:

We STRONGLY SUPPORT this GREAT UNION BUSTING bill. We would like to commend Senator Glen Wakai for taking the lead on the Senate side to author a bill that promises to lead Hawaii away from being controlled by the UNIONS & their stranglehold on our economy. Mahalo.

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WAIPAHU, HAWAII 96797
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Testimony to the Senate Committee on Ways & Means
Wednesday, February 28, 2018
11:00 am
State Capitol, Room 211

RE: S.B. 2705, SD 1, – Relating to Public Private Partnerships

Chair Dela Cruz, Vice-Chair Keith-Agaran, & members of the Committee:

My name is Gladys Quinto-Marrone, CEO of the Building Industry Association of Hawaii (BIA-Hawaii). Chartered in 1955, the Building Industry Association of Hawaii is a professional trade organization affiliated with the National Association of Home Builders, representing the building industry and its associates. BIA-Hawaii takes a leadership role in unifying and promoting the interests of the industry to enhance the quality of life for the people of Hawaii.

BIA-Hawaii supports the intent of S.B 2705, SD 1, which proposes to establish five state public-private partnership coordinator positions within the department of accounting and general services to manage certain public-private partnerships entered into by the State and associated contracts, proposals, and negotiations, except public-private partnerships entered into by Hawaii public housing authority. Also establishes an office of public-private partnership within the department of accounting and general services.

As we understand it, Public-Private-Partnerships (P3's) come in a variety of different delivery methods. For example, the state currently engages in energy performance contracts which are procured under section 103 HRS. There are other leases, lease-like, and concession arrangements such as:

- Lease-Develop-Operate: the private party leases an existing facility from a public agency; invests its own capital to renovate, modernize, and/or expand the facility; and then operates it under a lease contract with the public agency.
- Lease Lease-backs: Public agency leases real property to a private partner for a stipulated price and the private partner then must design, build, finance and/or maintain improvements on the property, for which the public partner will make ongoing lease payments (capital lease purchase).
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- Design-Build-Finance-Operate-Maintain: A single contract is awarded for the design, construction, financing, operation and maintenance of a capital improvement. Title usually remains with the public sector. Repayment is in the form of an availability payment or on the basis of user fees.

We believe that while there is a need to centralize the P3 expertise to provide consistent services to agencies seeking P3 projects, there is a more immediate need to have legislation in place that would allow the state to enter into the various P3 delivery models. Having a clear process established in the statute will not only provide the P3 office with the means to analyze and implement a P3 project but more importantly, provide private investors with transparency, predictability, and certainty in the process. We believe the bill also needs to include language that would allow for the lease, lease-back or concession of state owned facilities and/or infrastructure including an interest in the state owned land.

We note that the bill has been amended to exempt P3's from Chapter 103 HRS. We understand that P3's are effectively a hybrid between the procurement of services (i.e. Chapter 103D HRS) and the leasing of real property (i.e. Chapter 171 HRS), we believe a new section of the law should be created rather than amend either 103D or 171 HRS. The bill lacks a process or legal framework for an agency to consider, and enter into public-private-partnership arrangements.

We support the intent of S.B. 2705, SD 1, but would suggest that language that would allow for leases, lease-like, and concession arrangements be added to the bill. We appreciate the opportunity to express our views on this matter.

Common Cause
Hawaii
Holding Power Accountable

Senate Committee on Ways and Means
Chair Donovan Dela Cruz, Vice Chair Gilbert Keith-Agaran

02/28/2018 11:00 AM Room 211
SB2705 SD1 – Relating to Public-Private Partnerships

TESTIMONY / OPPOSE
Corie Tanida, Executive Director, Common Cause Hawaii

Dear Chair Dela Cruz, Vice Chair Keith-Agaran, and members of the committee:

Common Cause Hawaii opposes SB2705 SD1 which would establish an Office of Public-Private Partnerships (P3) with five coordinator positions.

We offer the caution that, in general, P3s have been found to be more expensive than the traditional way of funding public infrastructure projects through municipal loans. In addition, many municipalities have found that P3 contracts have left them with large unanticipated expenses when a contractor defaults or goes bankrupt; or when the terms of the contract are later found to restrict other public activities.

Setting up an office with five coordinators would suggest that the State intends to encourage and approve multiple projects in multiple public domains. While there may be P3 agreements that would be worth considering, this bill does not suggest the areas in which that might be the case. Until there is considerably more investigation of these possibilities and public discussion of the costs and benefits of this approach to funding public projects, Common Cause Hawaii urges you to defer this bill.

Thank you for the opportunity to testify in **opposition to SB2705 SD1**.

SB-2705-SD-1
Submitted on: 2/26/2018 4:48:25 PM
Testimony for WAM on 2/28/2018 11:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Ka'imi Nicholson	Testifying for Aloha Light Team	Oppose	No

Comments:

I strongly oppose this bill because I oppose any more involvelment of our state with private prison corporations. Profit for prison corporations is an incentive for maintaining incarceration; and incarceration is exremely harmful to our community. It harms and not heals those who are most in need of assistance and the research shows this.

How mass incarceration harms U.S. health, in 5 charts

January 31, 2018

The U.S. incarcerates a higher percentage of its citizens than any other country in the world.

There's little doubt among researchers that mass incarceration is wreaking havoc on our society, in particular on people of color, LGBTQ and the poor. What's often overlooked in this discussion is the damage that prisons and jails do to our health – from those who are incarcerated to their family members waiting at home to those who work in detention settings.

As researchers and advocates, we have studied mass incarceration issues and started discussions on the ethics of this practice. To us, the evidence is clear: Mass incarceration is a public health scourge in the U.S.

The only reasonable response is to limit the unnecessary use of incarceration across the board – as lawmakers in New Jersey and Maryland are attempting to do.

Incarceration and health

Each year, an estimated 1,000 people die while incarcerated in local jails.

A majority of those who died were not convicted of any crimes and were being held pretrial, often because they were too poor to afford bail. Those awaiting trial in jail have nearly twice the mortality rate of people who have been convicted and are serving their sentence. This appears to be a testament to the stress associated with being held pretrial.

Perhaps not surprisingly, suicide is the leading cause of mortality in U.S. jails, accounting for 34 percent of all deaths. Again, the vast majority of these individuals have not been convicted of any crime. Suicide rates among incarcerated individuals are three to four times higher than the general public.

Many individuals in jail and prison suffer from mental illness. A majority of sentenced people in jail and prison meet the criteria for drug dependence and abuse.

Even though incarceration often forces individuals to remain sober, being incarcerated generally exacerbates mental health disorders. Research has shown that those with mental illness and substance use disorders have better treatment outcomes outside of correctional facilities. When individuals who have been receiving mental health care end up in correctional facilities, they often experience a large disruption in their care. They might lose access to medication or be forced to switch to entirely different ones. Their relationship with a mental health provider might also be severed.

The food – which tends to be high-calorie and high-fat – often has poor nutritional value. This, combined with restrictions on physical movement and the stress of incarceration and overcrowding, can have adverse effects on both mental and physical health. Lack of privacy, poor sanitation and poor ventilation often only make matters worse.

Incarceration also puts individuals at risk for physical and sexual assault.

Furthermore, the U.S. faces the burgeoning crisis of a geriatric incarcerated population. According to the Federal Bureau of Prisons, almost 19 percent of inmates are over 50 years of age. To make matters worse, several states – including Massachusetts, where we are based – do not have compassionate release procedures for terminally ill or medically incapacitated people who are sick and dying in our prisons.

Family and employees

It's not just the incarcerated individual who suffers.

Over half of people behind bars are parents. Most incarcerated mothers were primary caregivers to minor children before their incarceration.

An estimated 2.7 million U.S. children have an incarcerated parent. Having a parent incarcerated is considered to be an "adverse childhood experience." This is linked to multiple negative health outcomes throughout life, including poor mental health, substance abuse, disease, disability and even early death.

Children with an incarcerated household member are also likelier to experience poor mental and physical health in adulthood.

Since prisons and jails are high stress environments to work in and are often overcrowded and understaffed, correctional officers too can experience serious mental and physical health problems.

A recent survey of 8,300 correctional officers found that 10 percent have seriously considered or attempted suicide. That's three times the rate of the general population. Correctional workers also experience higher levels of hypertension from elevated stress levels and higher levels of obesity than the national average.

Addressing the problem

So how do we reduce mass incarceration?

The humane treatment of drug users is a step in the right direction. In the face of the opioid epidemic, some policymakers have pushed to redirect resources away from incarceration and toward substance abuse treatment and social services.

But to curb the unhealthy effects of incarceration, we believe that policymakers should extend this compassion to all individuals convicted of crimes. This means reducing the unnecessary use of incarceration across the board, not just when dealing with drug users.

Research indicates that the repeal of mandatory minimum sentencing laws would help; that overzealous and unaccountable prosecutors must be reined in; and that our system of cash bail, which punishes the poor, must be overhauled.

As practitioners based in Massachusetts, we welcomed the passing of the omnibus criminal justice reform bill last October. The bill would retroactively reduce mandatory minimum sentences and would establish a process to permit the medical parole of incapacitated people from prison who pose no public safety risk.

What's more, the bill's proposed reforms to cash bail – which would be replaced by a risk assessment system – could reduce the use of pretrial detention, as it has in New Orleans and New Jersey. Similar reforms to reduce cash bail have also been adopted in Alaska, Illinois, New Mexico and Kentucky.

As momentum continues to gain for reform efforts in the U.S. penal system, we believe policymakers across the country should take action to ameliorate the adverse health effects of incarceration and help make our society more just.

Aloha Chair Dela Cruz, Vice Chair Keith-Agaran, and members of the Senate Ways & Means Committee,

On behalf of the nearly 600 registered members of the Young Progressives Demanding Action – Hawaiʻi, I would like to express **opposition** for SB2705 with suggestions. Public-Private Partnerships (P3s) are not inherently bad things, and we appreciate that the legislature is attempting to find creative ways to finance infrastructure upgrades and key Capital Improvement Projects, but we have serious concerns that this bill, and its companion, will open up the door for P3 development of certain core competencies of the public sphere. In other words, there are some things that absolutely must remain fully public, with no allowance for privatization that could allow corporations to turn key public goods into wealth-extraction points. At the top of this list, we would place educational institutions, healthcare and the criminal justice system.

Given that the governor and the Department of Public Safety have been pushing for some form of P3 in the development of a new incarceration facility for Oʻahu (P3s were outlined in the Draft Environmental Impact Statement for a facility to replace OCCC), we are especially concerned that this bill will open up a pathway for private entities such as CoreCivic and GEO Group to insert themselves within Hawaiʻi's correctional facilities and criminal justice system. We are adamantly opposed to the involvement of such entities in this system. Entities that seek to make money off of the backs of unfortunate, poor and often minority people who are incarcerated have no place in Hawaiʻi. None.

Governmental entities have traditionally used public debt to finance correctional facility construction. However, the two biggest private prison corporations, CoreCivic and GEO Group, are actively pushing governments to consider the use of P3s to build new facilities. As demand for additional jail and prison capacity increases due to short-sighted federal immigration and criminal policies, and as state and local governments look to expand capacity or replace aging facilities, CoreCivic (formerly Corrections Corporation of America) and GEO Group both view P3s as an increasingly important aspect of their business. CoreCivic boasts of its "full-service real estate group," CoreCivic Properties, in the corporation's 2016 rebranding report. GEO Group describes itself as a "national leader in the finance, design, construction and management of correctional, detention and community reentry facilities."

Through a public-private partnership, CoreCivic and GEO Group designs, builds and finances the construction of a new facility to the government's specifications. Upon completion of the construction, the corporation provides maintenance and either operates the facility or allows public sector to handle operation. The corporation owns the facility for the life of the long-term contract and possibly beyond, depending on contract terms.

It should be noted that the emphasis on real estate is in large part related to CoreCivic's and GEO Group's conversions to Real Estate Investment Trusts (REITs) in 2013 and 2012, respectively. This status incentivizes facility ownership over operation. As REITs, the corporations pay a fraction of the income tax they would otherwise pay. In 2016, GEO Group paid $2.3 million in federal income taxes and $972,000 in state income taxes while receiving a $41.5 million REIT tax benefit.

Why should we oppose Public Private Partnerships when it comes to the criminal justice system, healthcare and education? Because providing financial incentives and the opportunity for profits will only expand the prison-industrial complex, preventing the implementation of comprehensive criminal justice reform policies that will reduce the incarcerated population, and ultimately save taxpayer dollars.

"For P3s to be effective, two conditions must be met: the profit motive has to be consistent with the public good, and service quality must be contractible (Engel, Fischer, and Galetovic 2014). That is, service quality should be easily specified in a contract, so it can be observed and enforced. Maximizing profits by constraining costs may make sense for road maintenance, for example, **but it could lead to disastrous consequences for schools or prisons**, where cost minimization and the public interest may not align. Service quality can be measured for roads (potholes are obvious); it is more difficult to do so for school or prison maintenance. Without "contractible quality," the monopoly provider will simply boost its profits by cutting costs and reducing service quality." Economic Policy Institute Report.

"P3s are an increasingly popular mode of financing. In theory, they can be effective—but they provide no free lunches. Funding must still be found for the projects—and ordinary households will end up paying the costs through taxes or user fees. In addition, the details of contract construction and oversight are daunting and require a competent, democratically accountable government to manage them. In short, P3s do not allow for simple outsourcing because they do not bypass the need to fund infrastructure or the need for competent public management." Economic Policy Institute Report.

"P3s do seem to reduce construction costs, but they do so largely because they ignore the Davis-Bacon Act, which requires the payment of prevailing wage rates to all workers on federal or federally assisted construction contracts. This apparent advantage thus does not represent a gain in economic efficiency but merely a redistribution of funds away from construction workers." Economic Policy Institute Report.

Collectively, CoreCivic and GEO Group have spent more than $10 million in campaign contributions and nearly $25 million on lobbying since 1989. They've donated to politicians that support laws such as California's three-strikes law and Arizona's highly controversial anti-immigrant law, SB 1070. They've also lobbied for funding for Immigration and Customs Enforcement (ICE), to increase the number of detainees.

Public-private partnerships result in higher financing costs for the public. In the past few years, interest rates for tax-exempt municipal bonds have hovered around 3 to 4 percent, representing a period of historically low borrowing rates. When a private entity finances construction, interest rates are usually higher than they would be for municipal bonds because the private entity may not have the same creditworthiness as the government, and their debt is not tax-exempt. While this debt does not show up on the government's balance sheet as municipal bonds do, the higher cost of financing is passed on to the government through high, contractually obligated lease payments.

Private prison construction deals embed private interests in the criminal justice system, perpetuating mass incarceration. Construction deals perpetuate the control and influence of private prison corporations in permanent ways. If this bill must be passed, we ask that language be included to specifically exempt projects dealing with healthcare, education and the criminal justice system from being considered for P3 development. These public goods—heath, education and corrections—must remain in the hands of the public and must never become privatized. To do so would be to hand democracy over to corporate control.

Mahalo,

Will Caron
Social Justice Action Committee Chair
Young Progressives Demanding Action – Hawaiʻi

SB-2705-SD-1
Submitted on: 2/26/2018 10:25:40 PM
Testimony for WAM on 2/28/2018 11:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Rachel L. Kailianu	Testifying for Ho`omana Pono, LLC	Support	Yes

Comments:

In STRONG SUPPORT of this UNION BUSTING BILL.

HAWAI'I JUSTICE COALITION

COMMITTEE ON WAYS AND MEANS
Senator Donovan M. Dela Cruz, Chair
Senator Gilbert S.C. Keith-Agaran, Vice Chair
Wednesday, February 28, 2018
11:00 A.M.
Conference Room 211

RE: OPPOSITION TO SB2705, SD1 Public-Private Partnerships

Dear Chair Dela Cruz, Vice Chair Keith Agaran and Committee Members:

Hawai`i Justice Coalition is comprised of organizations and individuals united in our work to reduce the number of people incarcerated in Hawai`i's jails and prisons. We seek to shift the state's spending priorities away from mass criminalization and incarceration towards rehabilitation, education, restorative justice, health and human services. We believe that comprehensive criminal justice reform promotes public safety, makes responsible use of our resources, and builds healthy communities.

SB 2705, SD1 Authorizes establishment of five state public-private partnership coordinator positions within the department of accounting and general services to manage certain public-private partnerships entered into by the State and associated contracts, proposals, and negotiations, except public-private partnerships entered into by Hawaii public housing authority. Establishes an office of public-private partnership within the department of accounting and general services. Appropriates funds. (SD1).

We oppose this proposed measure as it would open the door for private prison corporations like Core Civic (formerly known as Corrections Corporation of America) and GEO Group, to enter into contracts with Hawaii to design-build-operate-maintain and design-build-finance-operate-maintain projects - namely NEW JAILS and PRISONS.

Who is pushing P3s in Hawai`i? Neither bill specifically mentions jails or prisons. However, Governor Ige, and the Department of Public Safety are pushing for public private partnerships to build a new jail to replace O'ahu Community Correctional Center. P3s were outlined in the Draft Environmental Impact Statement to replace OCCC.

Why is Core Civic and GEO Group pushing for public-private partnerships to build new jails and prisons?

Governmental entities have traditionally used public debt to finance correctional facility construction. However, the two biggest private prison corporations, CoreCivic and GEO Group, are actively pushing governments to consider the use of private financing, known as "public-private partnerships," to build new facilities.

As demand for additional jail and prison capacity increases due to changing federal immigration and criminal policies, and state and local governments look to expand capacity or replace aging facilities, **CoreCivic (formerly Corrections Corporation of America) and GEO Group both view public-private partnerships as an increasingly important aspect of their business. CoreCivic boasts of its "full-service real estate group," GEO Group describes itself as a "national leader in the finance, design, construction and management of correctional, detention and community reentry facilities."**

Through a public-private partnership, CoreCivic and GEO Group designs, builds, and finances the construction of a new facility to the government's specifications. Upon completion of the construction, the corporation provides maintenance and either operates the facility or allows public sector to handle operation. The corporation owns the facility for the life of the long-term contract and possibly beyond, depending on contract terms.

It should be noted that the emphasis on real estate is in large part related to CoreCivic's and GEO Group's conversions to **Real Estate Investment Trusts (REITs) in 2013 and 2012, respectively.[3] This status incentivizes facility ownership over operation**. As REITs, the corporations pay a fraction of the income tax they would otherwise pay. In 2016, GEO Group paid $2.3 million in federal income taxes and $972,000 in state income taxes while receiving a $41.5 million REIT tax benefit.[4]

Why should we oppose Public Private Partnerships specifically with regard to jails and prisons?

• While we understand that governmental entities are looking for “creative”ways to finance infrastructure and governmental operations, providing financial INCENTIVES AND PROFITS will expand the prison industrial complex, rather than implementing comprehensive Criminal Justice Reform policies that will REDUCE the incarcerated population, and ultimately save taxpayer dollars.

“For P3s to be effective, two conditions must be met: the profit motive has to be consistent with the public good, and service quality must be contractible (Engel, Fischer, and Galetovic 2014). That is, service quality should be easily specified in a contract, so it can be observed and enforced. **Maximizing profits by constraining costs may make sense for road maintenance, for example, but it could lead to disastrous consequences for schools or prisons, where cost minimization and the public interest may not align. Service quality can be measured for roads (potholes are obvious); it is more difficult to do so for school or prison maintenance.** Without “contractible quality,” the monopoly provider will simply boost its profits by cutting costs and reducing service quality.” Economic Policy Institute Report.

“P3s are an increasingly popular mode of financing. In theory, they can be effective—but they provide no free lunches. Funding must still be found for the projects—and ordinary households will end up paying the costs through taxes or user fees. **In addition, the details of contract construction and oversight are daunting and require a competent, democratically accountable government to manage them.** In short, P3s do not allow for simple outsourcing because they do not bypass the need to fund in frastructure or the need for competent public management.” Economic Policy Institute Report.

“P3s do seem to reduce construction costs, but they do so largely be cause they ignore the Davis-Bacon Act, which requires the payment of prevailing wage rates to all workers on federal or federally assisted construction contracts. This apparent advantage thus does not represent a gain in economic efficiency but merely a redistribution of funds away from construction workers.” Economic Policy Institute Report.

Private prison construction deals embed private interests in the criminal justice system, perpetuating mass incarceration.

Construction deals perpetuate the control and influence of private prison corporations in permanent ways. Collectively, CoreCivic and GEO Group have spent more than $10 million in campaign contributions and nearly $25 million on lobbying since 1989. And what they lobby for ensures that facilities are FILLED! They've donated to politicians that support laws such as California's three-strikes law and Arizona's highly controversial anti-immigrant law, SB 1070. They've also lobbied for funding for Immigration and Customs Enforcement (ICE), to increase the number of detainees. In the Public Interest, 2017.

• Private prison contracts can contain perverse incentives to FILL as many beds are possible, regardless of whether they include operation. Especially when the corporation nances the construction of a new facility, it is important that beds are lled to ensure a steady and long- term stream of lease payments. These contracts contain either explicit "bed guarantees" or minimum monthly payments that ensure the corporation gets paid regardless of how the government uses the facility. In The Public Interest, 2017.

Public-private partnerships result in higher financing costs for the public.

• In the past few years, interest rates for tax-exempt municipal bonds have hovered around 3 to 4 percent, representing a period of historically low borrowing rates. When a private entity finances construction, interest rates are usually higher than they would be for municipal bonds because the private entity may not have the same creditworthiness as the government, and their debt is not tax-exempt. While this debt does not show up on the government's balance sheet as municipal bonds do, the higher cost of financing is passed on to the government through high, contractually obligated lease payments. In the Public Interest, 2017.

For these reasons, we urge you to hold this bill.

Sincerely,

Carrie Ann Shirota, JD
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SB-2705-SD-1
Submitted on: 2/27/2018 8:05:46 AM
Testimony for WAM on 2/28/2018 11:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Melodie Aduja	Testifying for OCC Legislative Priorities Committee, Democratic Party of Hawai'i	Oppose	No

Comments:

SB-2705-SD-1
Submitted on: 2/27/2018 9:14:26 AM
Testimony for WAM on 2/28/2018 11:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Ronald S. Fujiyoshi	Testifying for Ohana Ho`opakele	Oppose	No

Comments:

Ohana Ho`opakele strongly opposes this bill. The CCA, now Core Civic, has not been good for our people. They have curbed the rights of our pa`ahao (incarcerated) in Saguaro Correctional Center in Eloy, AZ for years. For example, one cannot be Hawaiian and Christian at the same time. They have to decide, once every six months, whether they are one or the other. Crazy.

We do not need more prisons! We need rehabilitation! If you build the prisons, you will fill them!

Don't waste our money by building repressive structures that punish, not heal!

We strongly oppose this bill. Expose the lobbyists for Core Civic!

SB-2705-SD-1
Submitted on: 2/27/2018 5:40:24 AM
Testimony for WAM on 2/28/2018 11:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
ChalÃ© Turner	Individual	Oppose	No

Comments:

February 27, 2018

TESTIMONY IN OPPOSITION TO SB2705, SD1
Relating to Public-Private Partnerships

Hearing: February 28, 2018, 11:00am, Room 211

TO: Sen. Donovan Dela Cruz, Chair and Sen. Gilbert Keith-Agaran, Vice Chair, and Members of the Senate Committee on Ways and Means

FROM: Barbara Polk

I am testifying as an individual to **strongly oppose** SB2705, SD1 and am appalled to see this bill to permit and, indeed, encourage, public-private partnerships progressing through a Democratic legislature, when the idea has been pushed for decades by the most conservative groups and individuals in our society through the American Legislative Exchange Council (ALEC). All research shows that using municipal bonds is much cheaper for public infrastructure projects. The state has an excellent bond rating and low interest rates at present. Why is there any consideration of jumping into these "partnerships" and supporting them at a minimum of half a million dollars a year for an office and five high level staff?

Unfortunately, the public, and apparently many politicians of all stripes, have been led to believe that businesses are better at doing things than government. Sometimes they are and sometimes they aren't--and which case is not predictable in advance. Businesses often fail, with bankruptcies leaving municipalities holding the bag with much greater expense. (Even our current US President has had several bankruptcies!) In addition, the purpose of business is not the public interest, but to make a profit. In P3s, this often means squeezing wages and benefits of workers, and by-passing procedures government has set up to help ensure honesty and integrity in contracting, protections for the environment, and public input.

I am not claiming that businesses are bad, only that they have a different purpose that is not compatible with the public interest in public projects. Though there may be some, very limited, ways in which a P3 might be useful for the government, those ways are rare and have not been considered or spelled out in what appears to be a rush to turn the public sector over to private entities.

I strongly urge you to not pass SB2705, SD1.

Thank you for the opportunity to testify.