



TESTIMONY OF THE STATE ATTORNEY GENERAL TWENTY-FOURTH LEGISLATURE, 2008

ON THE FOLLOWING MEASURE:

H.B. NO. 2118, RELATING TO TUBERCULOSIS.

BEFORE THE:

HOUSE COMMITTEE ON HEALTH

DATE: Friday, February 8, 2008 **TIME:** 8:00 AM

LOCATION: State Capitol, Room 329

Deliver to: State Capitol, Room 436, 5 copies

TESTIFIER(S): Mark J. Bennett, Attorney General
or Susan R. Kern, Deputy Attorney General

Chair Green and Members of the Committee:

The Attorney General has the following legal concern regarding this bill.

This bill would appropriate an unspecified amount from the general fund for fiscal year 2008-2009 to support programs that house tuberculosis patients, provide for secured housing for nonadherent tuberculosis patients, and provide for retrofitting of these facilities. The bill provides that the appropriation is to be expended by the Department of Health (DOH).

As written, it is not clear whether the Legislature is intending to appropriate funds to the DOH to establish the programs, or whether the Legislature intends another entity to provide the services.

If the Legislature intends to appropriate funds to the DOH, the bill should be amended at page 1, lines 3-4 to read:

"thereof as may be necessary for fiscal year 2008-2009 for the department of health to fund operations that:"

If Legislature's intent is otherwise, such intent should be clarified. For instance, if the Legislature intends to award a grant to a private entity, then a specific recipient meeting the requirements of chapter 42F, Hawaii Revised Statutes (HRS), must be designated.

Although section 42F-103, HRS, provides general standards for awards of state funds by the Legislature, grants under chapter 42F, HRS, must be made by the Legislature to a specified recipient.

STATE OF HAWAII
DEPARTMENT OF HEALTH
P.O. Box 3378
HONOLULU, HAWAII 96801-3378

In reply, please refer to:
File:

House Health Committee

HB 2118, Relating to Tuberculosis

Testimony of Chiyome Leinaala Fukino, M.D.
Director of Health

February 8, 2008, 8:00 a.m.

1 **Department's Position:** The Department appreciates the intent of this measure, but respectfully
2 opposes it, both because of its potential adverse impact on the Executive Supplemental Budget, as well
3 as its inappropriate assignment of responsibility for private and public hospital systems functions to the
4 Department of Health.

5 **Fiscal Implications:** This bill indicates that funds are to be appropriated from general revenues of the
6 State of Hawaii for FY 2008-2009, but does not specify an amount.

7 **Purpose and Justification:** The purpose of this bill is to appropriate funds during FY 2008-2009 to
8 house and provide inpatient care as needed for uninsured and underinsured tuberculosis patients, provide
9 coverage for secured housing for select tuberculosis patients, and retrofit rooms in facilities for
10 tuberculosis patients based on a demonstration of local needs and standards developed by the
11 Department of Health. The first part of this bill regarding inpatient care is unnecessary because the
12 department does not provide inpatient care nor does it oversee the manner in which inpatient care is
13 delivered through Hawaii's public and private hospitals. "Provision of coverage" for secured housing,
14 which is understood to mean funding for non-hospital based accommodations for tuberculosis care, is
15 beyond the scope of the department. Even if funds were made available for "secured housing" for these
16 patients, it would not necessarily prove to be an effective tuberculosis control measure. The third part of

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1 the bill concerning retrofitting additional rooms to support isolation of infectious tuberculosis patients is
2 the domain of public and private hospitals in Hawaii, and not within the department's purview.
3 Therefore, we respectfully defer this issue to Hawaii Health Systems Corporation and other hospital
4 organizations.
5 Thank you for the opportunity to testify.