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**TESTIMONY
OF
AARON S. FUJIOKA
ADMINISTRATOR
STATE PROCUREMENT OFFICE**

**TO THE
HOUSE COMMITTEE
ON
FINANCE**

February 27, 2008

HB 2429, HD 1

RELATING TO RECREATION.

Chair Oshiro, Vice Chair Lee and committee members, thank you for the opportunity to testify on HB 2429, HD 1. The State Procurement Office's (SPO) testimony is limited to Section 8, subsection (c), which exempts the University of Hawaii stadium corporation from Chapter 103D, the public procurement code.

Statutory exemptions are contrary to the Code, section 103D-102, HRS, on the applicability of the chapter that states in part ". . . shall apply to all procurement contracts made by governmental bodies whether the consideration for the contract is cash, revenues, realizations, receipts, or earnings, . . ." Any governmental agency with the authority to expend funds should be in compliance with Chapter 103D, which promotes the policy of fair and equitable treatment of all persons who deal with the procurement system; fosters effective broad-based competition; and increases public confidence in public procurement.

The Code should not be viewed as an obstacle to a purchasing agency's mission, but rather as the single source of public procurement policy to be applied equally and uniformly to obtain its requirements. It was the legislature's intent for the Code to be a single source of public procurement policy. If individual agencies are exempted and allowed to develop their own individual processes, it becomes problematic for the administration and vendors/contractors that must comply with a variety of processes. Fairness, open competition, a level playing field, and government disclosure and transparency in the procurement and contracting process are vital to good government. For this to be accomplished, we must participate in the process with one set of statutes and rules.

The Code provides consistency in the manner in which purchasing agencies procure goods, services, and construction. Although an exempted agency may develop their own procurement source selection methods, it was the intent and goal of the legislature to have a single source of policy and procedures to ensure consistency and continuity in the application of the procurement process among government agencies throughout the State and counties.

Exempting agencies from the Code will jeopardize uniform and consistent protections against waste, fraud, and abuse the legislature placed in the Code; and will potentially hinder the legislature in promoting and supporting specific segments of the Hawaii economy through preferences allowed by the Code. "Preferences" permit the legislature to promote specific segments of the state's economy and encourage the development of new products and technologies. However, preference programs apply only to agencies subject to the Code, and exempt agencies are not subject to the legislature's designated preferences.

The Code enables the legislature to impose specific requirements to eliminate practices that are detrimental to the public's perception of government procurement. The legislature passed and the governor signed into law, Act 52(2003), amending Section 103D-304 to require that all contract awards to professional service providers be made based upon the merits of the provider, and not upon any other factors; thereby reaffirming the public's understanding that professional service contracts are not awarded to companies based on political affiliation or amount of political contributions.

To provide fairness and consistency, and due process for vendors/contractors, the Code offers a legal and contractual remedy process to resolve protested solicitations and awards, which includes impartial reviews by the Department of Commerce and Consumer Affairs administrative hearings process and the ability to request judicial review. The protest process also protects agencies and taxpayers from onerous and baseless protests, minimizes delays and disruptions in the award of contracts, and supports a prompt resolution.

To insure all vendors/contractors who seek public contracts compete on equal footing they are required to demonstrate compliance with Hawaii laws. The Code requires potential vendors/contractors to comply with Hawaii laws prior to award of a contract, i.e. DOTAX Tax Clearance Certificate including IRS certification, DLIR Certificate of Compliance; DCCA Certificate of Good Standing. Upon completion of goods provided or services performed, and before final payment is made, a vendor/contractor is again required to demonstrate compliance with Hawaii laws, thereby assuring that public funds are paid to compliant vendors/contractors.

The Code contains a provision (§103D-102(b)(4)(L)) that allows a purchasing agency to request an exemption when it has been determined that procurement by competitive means is either not practicable or not advantageous to the State, thereby providing flexibility, but within the requirements of the Code.

HB 2429, HD 1
House Committee on Finance
February 27, 2008
Page 3

Open bidding procedures assure that the State obtains value, and potential vendors/contractors are treated fairly. The SPO believes that it is vital to good government to have a fair and consistent process to award government contracts that hold agencies responsible and accountable for their actions.

The SPO is against exempting specific agencies from the Code, as it is not in the best interest of government, the business community, and the general public. The Code establishes a time-tested, fair, and reliable set of rules and processes for award of contracts.

In conclusion, there is no compelling reason to statutorily exempt the University of Hawaii stadium corporation from the Code. The SPO recommends deleting the amendments on Pages 15 and 16, Section 8, subsection (c).

Thank you.



UNIVERSITY OF HAWAII SYSTEM

Legislative Testimony

Testimony Presented Before the
House Committee on Finance
on
February 27, 2008 at 2:30 pm
by
David McClain
President, University of Hawai'i System

HB 2429, HD 1 – RELATING TO RECREATION

Chair Oshiro, Vice Chair Lee and Members of the Committee:

The University supports the concept that the Aloha Stadium should generate net income which should support the intercollegiate athletics program of the University of Hawai'i. Toward this end, the University is willing to operate and manage Aloha Stadium. However, the University objects to being made responsible for the repair and maintenance and improvement of the Stadium. Adding this liability to the already large capital renewal and deferred maintenance burden of the University would not be economically feasible and would be to the detriment of the University.

This bill, as currently worded, would create a University of Hawai'i stadium corporation which would be a part of the University of Hawai'i. Since the duties of the corporation include maintaining and improving the Aloha Stadium, any liabilities relating to these duties and any budgetary requests for funding will become part of the University of Hawai'i's budget. Also, the bill states that capital improvement projects for Aloha Stadium shall be funded by the Aloha Stadium special fund or general obligation bonds. In either case, the liability for related costs or debt service requirements may become the responsibility of the University. Accordingly, we cannot support this bill in its current form.

Also, we have no detailed information regarding the current physical condition of the stadium, which could impact the operating costs of the Stadium even if the maintenance and improvement liability were separated. For example, the cost of, and even the ability to obtain, adequate insurance to cover the facility, events, operations and liability risks is uncertain. Additionally we have no information as to the historical financial operations and status of the Stadium, which could reveal other issues and concerns. Accordingly, we would need to be allowed the ability to do a significant amount of investigation into these and other matters prior to being given the responsibility for operations.

We would be willing to work with the committees on potential wording to address these concerns. In addition, there are several procedural issues with regard to the operation of the bill which we can address at that time.

Thank you for the opportunity to present this testimony.

TESTIMONY
OF
KEVIN H.M. CHONG KEE, STADIUM AUTHORITY CHAIRPERSON
TO THE
HOUSE COMMITTEE
ON
FINANCE
ON
February 27, 2008
H.B. 2429, H.D. 1

RELATING TO RECREATION

Chair Oshiro and members of the Committee, thank you for the opportunity to testify on H.B. 2429, H.D. 1.

As Chairman of the Stadium Authority, I have deep concerns regarding H.B. 3243, H.D. 1, and the use of the Aloha Stadium (Stadium) and related facilities if it is transferred to the University of Hawaii.

The Stadium Authority and its current management team have provided the families of Hawaii with a facility that has brought much enjoyment and excitement in the events that they have attended. Stadium management has been successful in maintaining a facility that many have thought was past its usefulness. With limited revenues and resources, they have been able to maintain and provide all with a world class venue to enjoy.

The Stadium, which was opened in 1975, is thirty-three years old and in need of repairs to address the current health and safety issues. Current revenues that are generated from events at the stadium will not cover the cost of the repairs. This has been one of the major concerns of the Stadium Authority because of the success that the University of Hawaii has achieved and the number of fans that are in attendance.

My concern with H.B. 2429, H.D. 1, is that revenues that are generated from the use of the Stadium will not be utilized to keep it at the present level of operation. A larger part of this revenue will ultimately be diverted to the University of Hawaii Athletic Programs or related operations instead of continuing to finance the repairs that are needed towards keeping the Stadium as a safe and sound venue for all to enjoy.

Revenues from the University of Hawaii's athletic program are approximately thirteen percent of all revenues that are generated at the Stadium. The major user of the Stadium is the Aloha Stadium Swap Meet, which operated one hundred fifty eight days in 2007 and has generated sixty percent of the revenues for the Stadium.

The Stadium Authority and management has assisted the University of Hawaii Athletic Department in 2006 by eliminating the rent that is charged to them, which is approximately \$700,000 for the 2006 and 2007 football season. We have worked with Ahahui Koe Anuenue this past season to increase the allotment of parking spaces to a total of 2,127, of which 1,986 are resold in their sports packages.

The University of Hawaii should be an institution of higher education and learning that is fiscally sound before adding the management and maintenance of a facility, like the Stadium, to its list of responsibilities. The Stadium should be a facility for the people of Hawaii and not as a resource of revenue for the University of Hawaii Athletic Department. As a member of the Stadium Authority, I cannot support the passage of H.B. 2429, H.D. 1.

Thank you for the opportunity to testify on this matter.



ALOHA STADIUM

An Agency of the State of Hawaii

TESTIMONY OF
SCOTT L. CHAN, STADIUM MANAGER
STADIUM AUTHORITY
TO THE
HOUSE COMMITTEE ON FINANCE
ON
FEBRUARY 27, 2008
H. B. No. 2429 H.D.1

The Honorable Chair Marcus Oshiro and members of the House Committee on Finance, thank you for this opportunity to testify before you on H. B. 2429 H.D.1.

Although newly appointed to the position of the Stadium Manager for Aloha Stadium, I have been with the stadium since 1995 and employed by the State of Hawaii since 1982. However, my relationship with the stadium dates back many more years than I'd like to say, starting off as a high school student and having the good fortune to actually play at the facility. You can't imagine how much it means to a teenager to be able to play at the same facility as professional athletes. It is something that stays with you for a lifetime.

The reason I am telling you this is because I want to stress the point that Aloha Stadium doesn't merely serve the University of Hawaii. It serves all of the people of Hawaii...high school

students, graduating seniors at commencement exercises, grade school kids during the D.A.R.E program, firefighters training on their new fire trucks, truck drivers applying for their commercial drivers licenses, concert goers, immigrants starting their own businesses, local people selling homemade bread and pastries, Girl Scouts distributing their cookies, etc. And I wonder how well these people will be served if House Bill 2429 H.D.1 is adopted?

Over the years and contrary to popular perception, the Stadium Authority and the staff at Aloha Stadium have supported the University of Hawaii Athletic Department in every way possible. We take as much pride in UH Athletics and our Warriors as anyone else in the State of Hawaii. After the stadium spent \$2.2 million to professionally refurbish the locker rooms and adjoining office spaces for UH, UH's coach was not satisfied with the exact shade of green used to paint the walls. To accommodate the team, our staff repainted the entire locker rooms again at no cost to UH.

On an annual basis, the stadium allots UH 2,127 parking stalls for promotional and staff purposes. In turn, 1,986 of these stalls are resold to season ticket holders or packaged with other marketing promotions, netting UH hundreds of thousands of dollars in additional revenue. Likewise, the stadium has allowed UH to use the interior of the stadium for advertising on the field and on the scoreboard as part of their \$2.2 million advertising program. For the past two years, UH has not been charged rent for its use of Aloha Stadium, saving the program more than \$700,000. We do this because we want to assist in supporting UH Athletics in general and UH football in particular.

At the same time, we want to remind everyone that only 13% of the stadium's \$9.4 million in revenue is generated by UH Athletics. As you know, most of our revenue is derived from non-sporting events such as the Aloha Stadium Swap Meet, carnivals and fairs, concerts,

advertising income, etc. And our investment into these other programs is very small in comparison to the time, energy, and funding that is focused on the University and its 7-8 home games annually. Because of this one-sided spending, the stadium has received criticism and complaints from our non-UH tenants.

If House Bill 2429 H.D.1 is passed, the staff at Aloha Stadium is fearful that all of the additional funds generated by the program will be used to support UH Athletics and that the stadium itself will fall further and further back into disrepair. As state agencies, it is incumbent upon all of us to be mindful of our expenditures and when the need arises, make appropriate, justifiable requests to the legislature for funding to cover program growth and repair and maintenance of our facilities. Bypassing the legislative allotment system should not be an option. However, this is exactly what can happen under House Bill 2429, H.D.1 and it requires only a mere vote of the board of directors to funnel all excess revenues to UH Athletics and away from much needed stadium repair programs. As legislators, you have always been extremely careful to ensure transparency and public input in your decision-making. If House Bill 2429 H.D.1 moves forward, it could certainly undo much of what you have hereto accomplished.

On behalf of the stadium staff, I therefore ask committee members to step back and re-examine this bill to determine if the House Bill 2429 H.D.1 is an appropriate way to address some of the recent issues that have plagued UH Athletics.



HAWAII GOVERNMENT EMPLOYEES ASSOCIATION

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The Twenty Fourth Legislature, State of Hawaii
Hawaii State House of Representatives
Committee on Finance

Testimony by
HGEA/AFSCME, Local 152, AFL-CIO
February 27, 2008

**H.B. 2429, H.D. 1 (HSCR 670-08) -
RELATING TO RECREATION**

The Hawaii Government Employees Association, Local 152, AFL-CIO supports H.B. 2429, H.D. 1 (HSCR 670-08). This bill proposes to create a University of Hawaii Stadium Corporation and transfer jurisdiction of the Aloha Stadium to this corporation. Initially, HGEA opposed the bill which proposed to remove stadium employees from civil service status and remove collective bargaining rights.

H.B. 2429, H.D.1 retains stadium employees as civil servants subject to Chapters 76 and 89, HRS. Stadium employees that are transferred "shall continue to perform their regular duties upon their transfer, without the necessity of examination, and without loss of salary, seniority, prior service credit, vacation leave, sick leave, or other employee benefits or privileges, subject to the state personnel laws and this Act."

Based on the revised language, HGEA supports the overall goals of this legislation.

Thank you for the opportunity to testify in support of .B. 2429, H.D. 1 (HSCR 670-08).

Respectfully Submitted,

Nora A. Nomura
Deputy Executive Director



Anthony R. Guerrero, Jr.
Vice Chairman
Retail Banking Group

Presentation to the
House Committee on Finance
Wednesday, February 27, 2008 at 2:30p.m. Room 308

HB2429, HD1 - Relating to Recreation

Representative Marcus Oshiro, Chair, Committee on Finance
Representative Marilyn Lee, Vice Chair
And members of the Committee on Finance

My name is Tony Guerrero, Vice Chairman of First Hawaiian Bank and chairman of Koa Anuenue, however, I am here today in my capacity as a concerned citizen, and I testify in support of HB 2429, HD1. The purpose of this bill is to create a quasi-public corporation, similar to RCUH, who would operate, maintain, manage and improve Aloha Stadium, for the benefit of the public and the University of Hawaii athletic program and to assist local high schools, public and private, incur free rent and expenses, for their athletic and musical events.

We are all aware of the financial constraints that our athletic program operates under, especially when compared with other public institutions of higher learning that compete in BCS conferences. The purpose of this bill is to create another funding source for the University of Hawaii to help level the playing field with other intercollegiate athletic competitors. By developing another source of funding for UH athletics, we will be helping the core academic mission of the University by reducing the need for the upper campus to financially support the lower campus, thus devoting more resources to the upper campus.

The new stadium corporation should not be likely to pay for the deferred maintenance costs of Aloha Stadium, which are estimated to be in excess of one hundred million dollars. Shouldering the stadium corporation with such liability would be contrary to the purpose of this bill.

Jurisdiction over Aloha Stadium would be transferred to the University of Hawaii stadium corporation, which will be governed by an 11 member board of directors. The UH president will be an ex officio member of the board, and the UH regents will select 5 members who will not be subject to Senate confirmation, and the governor would select 5 members, who would be subject to Senate confirmation.

While existing employees will become employees of this new corporation, their status as state civil service employees will be fully protected and all of their benefits, past and future, will not be impacted by this transition.

I would like to suggest two amendments to the bill which will serve to aid the purpose of this bill more effectively.

Page 2

On page 1, beginning on line 17, insert after "tenant", the following: "... except that the stadium corporation shall not be liable to pay for the deferred maintenance of Aloha stadium. It is also the purpose of this Act to provide a venue for athletic contests of secondary schools, public or private, free to rent or expense charges."

On page 3, line 4, insert after "tenant", the following, "... except that the Stadium corporation shall not be liable for payment of any expenses related to the deferred maintenance of Aloha stadium which expenses shall be paid by the State from legislative appropriations. "

On page 5, line 7, after "University of Hawaii and", insert the following: "... provide waivers of rent and expenses for ..."

Thank you for this opportunity to testify and I will be happy to answer any questions you may have.

FINtestimony

From: Shannon Wood [swood@hoku.com]
Sent: Tuesday, February 26, 2008 12:51 PM
To: FINtestimony
Subject: 2/27/2008 HB2429 HD1 Agenda

Shannon Wood
P.O. Box 1013
Kailua, HI 96734
Cell Phone: 224-4496

COMMITTEE ON FINANCE
Rep. Marcus Oshiro, Chair
Rep. Marilyn B. Lee, Vice Chair

PUBLIC HEARING
2:30 am
Wednesday, February 27 2008
Conference Room 308

HB 2429 HD 1 - RELATING TO RECREATION
Strongly support

TO THE COMMITTEE ON FINANCE

My name is Shannon Wood, a Kailua, O`ahu resident, speaking only as an individual on my own behalf and not representing any group or organization.

HB 2429 - HD1 would provide a legal mechanism to transfer control of **Aloha Stadium** from the **Stadium Authority**, sited in the **Department of Accounting and General Services**, to a newly-created eleven-member **University of Hawai`i Stadium Corporation** within the **University of Hawai`i System**. Five members would be appointed by the **Board of Regents** and five members would be appointed by the **Governor** and confirmed by the **State Senate**. The 11th seat would always be assigned to the president of the **University of Hawai`i** 10-campus system.

I think that this bill provides a needed legal mechanism to help move the **UH-Manoa Athletic Department** into long-term financial stability. Granted, there are some issues such as labor contracts and management staffing concerns which have been and will continue to be addressed, but I consider this is an important step in the right direction.

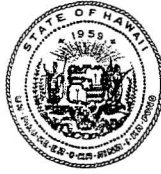
Some people will argue that we should defer this until it's time to tear down **Aloha Stadium** and build a new one. However, that will not be happening anytime soon - probably not for another thirty years. We cannot wait that long.

In closing, I urge that legislators in both the **House** and **Senate** seek out universities elsewhere who own their playing facilities and ask representatives from both their boards of regents and management staffs to examine the proposed bill. A member of my family who sits on the **University of Washington Board of Regents** has offered to work with you if you feel that this would be of help.

2/26/2008

Mahalo for the opportunity to provide testimony in support of **HB 2429 HD1** and I ask that you pass it out for **Third Reading**.

LINDA LINGLE
GOVERNOR



RUSS K. SAITO
Comptroller

BARBARA A. ANNIS
Deputy Comptroller

STATE OF HAWAII
DEPARTMENT OF ACCOUNTING
AND GENERAL SERVICES
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LATE

TESTIMONY
OF
RUSS K. SAITO, COMPTROLLER
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
TO THE
HOUSE COMMITTEE
ON
FINANCE
ON
February 27, 2008
H.B. 2429, H.D. 1

RELATING TO RECREATION

Chair Oshiro and members of the Committee, thank you for the opportunity to testify on H.B. 2429, H.D. 1.

The Department of Accounting and General Services (DAGS) opposes H.B. 2429, H.D. 1, because it is unnecessary and may interfere with the complete repair and refurbishment of Aloha Stadium (Stadium) that is required

to ensure the health, safety, and enjoyment of all who use the Stadium.

The bill proposes to create a University of Hawaii Stadium Corporation (Corporation) for two purposes. The first is to operate, maintain, manage, and improve Aloha Stadium with the University of Hawaii as the major tenant. That is already being done with the existing Aloha Stadium Board, which is diligently trying to fulfill its responsibility and whose members have experience in all of the areas that H.B. 2429, H.D. 1, requires of its Stadium Corporation. Going forward with H.B. 2429, H.D. 1's proposed transfer to achieve the bill's first purpose appears to be change for change's sake. That does not benefit the visitors, fans, or tenants of the Stadium.

The second purpose of the University of Hawaii Stadium Corporation is to generate net income from Aloha Stadium that may be transferred to the intercollegiate

athletics program at the University of Hawaii. To put things into perspective, the University of Hawaii Football Team in Fiscal 2007 had 8 football games at the Stadium. The OIA, ILH, HHSAA and others, including the Hula and Pro Bowls had 24 football games. There were also a total of 236 other events at the Stadium or on its premises. Of the 236 other events, 158 were Swap Meets, which brought in over 60% of the Stadium's revenues.

Clearly, under the Stadium Board's oversight, the Stadium has generated revenues from many sources other than the University of Hawaii football program. It has also served a far broader purpose than hosting football games for the University of Hawaii. This is true to its purpose, to serve as a venue for all events that require its features and capacity. Furthermore, the Stadium Authority and the Stadium management continue to seek sources of revenue to maximize the benefit it provides to the people of Hawaii.

In a single high-profile concert in 2007 the Stadium brought in \$700,000 of revenue. It is not clear why H.B. 2429, H.D. 1, assumes that a University of Hawaii Stadium Corporation comprised of members with the same experiences as the Aloha Stadium Board would be able to generate more revenues than the Aloha Stadium Board. Once again, change to achieve this purpose appears to be change for change's sake.

The bill's proposal to use the net income generated by the Stadium for the University of Hawaii athletic program ignores the fact that the Stadium needs more money for on-going maintenance and refurbishment of the Stadium itself. A good use of the net income would be to partially pay off the debt of the G.O. bond financing of the complete refurbishment that the Stadium sorely needs. The visitors, fans, and tenants of the Stadium would be well served by using the money they contribute to the Stadium to keep the

Stadium safe and a pleasant place to participate in or watch events of all kinds.

The Aloha Stadium Board is fully supportive of the University of Hawaii athletic program. It has waived the rent for the University of Hawaii football team's use of the Stadium. It has also released parking spaces to the University to award to its sponsors and boosters.

Siphoning off "net income" to the University of Hawaii athletic program is false economy, especially when it would force the Stadium to ask the Legislature for replacement dollars out of the General Fund to do the repair and refurbishment that needs to be done.

In its current form, this bill proposes a couple of changes to increase revenues. One is to authorize the renaming of Aloha Stadium in exchange for a fee or other consideration. The other is to authorize bonuses for the Stadium Manager and Deputy Stadium Manager based on

revenues. If these are good ideas, they can be addressed by providing the Stadium Authority with this authority. The bill makes no provision for enabling the University of Hawaii Stadium Corporation, by its member's qualifications or by the governance of the Corporation, to be more effective than the existing Stadium Authority.

In summary, this bill attempts to channel more money to the UH athletic program but offers no compelling argument why it would succeed in doing so. In addition, this bill may divert attention from the very pressing need to move forward with the complete repair and refurbishment of the Stadium that the visitors, fans, and tenants of the Stadium deserve and paid for. And, diverting money from the Stadium to the University of Hawaii's athletic program is false economy. Instead of providing funds to the University's athletic program through this bill's circuitous

"CORPORATION"
⇒ Run like
a business
Reinvests
its money
maintain
moral
ability to
stay in
business
first
then it gives
away money
for other
purposes

and un-business like

process, it would be more effective to simply and directly appropriate the funds to the University.

DAGS recommends that this bill be held.

Thank you for the opportunity to testify on this matter.