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Senate Committee on Human Services & Public Housing

S.B. 2151, Relating to Long Term Care Ombudsman

**Testimony of Noemi Pendleton
Director of Executive Office on Aging
Attached Agency to Department of Health**

Tuesday, January 29, 2008

1:30 p.m. Conference Room 016

- 1 **Department's Position:** The Department of Health and the Executive Office on Aging
2 appreciates the intent of this measure, provided that its passage does not replace or adversely
3 impact the priorities set forth in the Executive Supplemental Budget.
- 4 **Fiscal Implications:** There is an unspecified appropriation of general funds for fiscal year 2008-
5 2009 to the Department of Health.
- 6 **Purpose and Justification:** The purpose of S.B. 2151 is to expand the long-term care
7 ombudsman program by adding three additional ombudsman program positions, one for each
8 neighboring county, and to provide funding to support those 3 programs.
- 9 Per the Older Americans Act of 1965 (OAA), the role of the Long Term Care Ombudsman
10 (LTCO) is to "serve on a full-time basis and shall, personally or through representatives of the
11 Office, identify, investigate, and resolve complaints that are made by, or on behalf of residents,
12 and relate to action, inaction, or decisions that may adversely affect the health, safety, welfare and
13 rights of residents."

1 The LTCO Program (LTCOP) advocates for seniors living in licensed nursing facilities (NF),
2 assisted living facilities (AL), adult residential care homes (ARCH) and expanded ARCHs. That
3 total population in Hawai'i is approximately 8,129 residents in 503 facilities.

4 The OAA mandates all residents "have regular and timely access to the LTCOP services." The
5 U.S. Administration on Aging (AOA) interprets this as "every resident is visited quarterly."
6 Hawaii has 120 Neighbor Island LTC facilities (NFs, ARCHs, ALs).

7 The ultimate goal of the LTCOP is to have a volunteer Ombudsman Representative in
8 every facility visiting residents weekly so they can respond more quickly to residents' concerns.
9 They can provide more regular and consistent visits to facilities and be more pro-active in
10 preventing potential abuse, neglect and exploitation of our Kupuna.

11 Currently, there are three qualified Ombudsman specialists in the Executive Office on
12 Aging who are charged with assuring advocacy and patient rights protection for seniors living in
13 licensed care facilities throughout the state.

14 EOA respectfully requests that on page 1, lines 3 and 7(b) the word "state" be added to
15 read "state long-term care ombudsman" as this is the official title in both the state and federal
16 levels.

17 Should there be additional staff, the LTCOP could provide: more trainings for facility
18 staff promoting individualized care/cultural change; better and more consistent routine facility
19 monitoring to help residents resolve concerns at the facility level; better monitoring of federal and
20 state laws and regulations; more community education presentations for consumers; more
21 consultations to facility staff to help reduce problems; more technical support for Resident and
22 Family Councils; more time to explore other ways to increase total program funding; and greater
23 ability to increase the number of certified volunteer ombudsmen.

24 Thank you for this opportunity to testify.



HAWAII DISABILITY RIGHTS CENTER

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TESTIMONY TO THE TWENTY-FOURTH STATE LEGISLATURE, 2008 SESSION

To: Senate Committee on Human Services and Public Housing

From: Gary L. Smith, President
Hawaii Disability Rights Center

Re: Senate Bill 2151
Relating to Long Term Care Ombudsman

Hearing: Tuesday, January 29, 2008 1:30 PM
Conference Room 016, State Capitol

Members of the Committee on Human Services and Public Housing:

Thank you for the opportunity to provide testimony supporting Senate Bill 2151, Relating to Long Term Care Ombudsman

I am Gary L. Smith, President of the Hawaii Disability Rights Center, formerly known as the Protection and Advocacy Agency of Hawaii (P&A). As you may know, we are the agency mandated by federal law and designated by Executive Order to protect and advocate for the human, civil and legal rights of Hawaii's estimated 180,000 people with disabilities.

We support this bill because it is important that the neighbor island residents receive the services that the Long Term Care Ombudsman provides. We have worked with their office inasmuch as there are certain situations where the needs of our respective clients have overlapped. We have always found the office to be helpful and to be providing a very valuable service. Passage of this bill will enable them to better offer these services to all citizens of our state.

Thank you for the opportunity to provide testimony in support of this bill.





Randy Perreira *Executive Director*
Tel: 808 543-0011 Fax: 808 528-0922

HAWAII GOVERNMENT EMPLOYEES ASSOCIATION

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888 MILILANI STREET, SUITE 601 • HONOLULU, HAWAII 96813-2991

Nora A. Nomura *Deputy Executive Director*
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The Senate
The Twenty-Fourth Legislature, State of Hawaii
Regular Session of 2008

Committee on Human Services and Public Housing
Senator Suzanne Chun Oakland, Chair
Senator Les Ihara, Jr., Vice Chair

Testimony by
HGEA/AFSCME Local 152, AFL-CIO
January 29, 2008

S.B. 2151 – RELATING TO LONG-TERM CARE OMBUDSMAN

The Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO, supports S.B. 2151, companion to H.B. 2289, which “expands the Long-Term Care Ombudsman (LTCO) by adding three additional ombudsman positions, one for each neighboring county.” Hawaii is one of only five remaining states which does not have a “local” or “regional” ombudsman program. This bill will finally bring us up to speed with every other state, Puerto Rico, Guam and the District of Columbia.

The neighbor island residents have been waiting over thirty years to have the same “regular and timely access to services” provided by the LTCO program as Oahu and have been paying the same federal and state taxes. By having a “local” ombudsman who knows the “local” people and “local” culture, that person can be a better advocate and is more accessible to service their community. The response time to address complaints and concerns will be done more timely; more regular and consistent visits to facilities can be conducted and be more pro-active in preventing abuse, neglect and exploitation of our Kupuna. The goal of the LTCO program is one volunteer for every long-term care facility. Neighbor island residents have waited long enough and are entitled to a full-time advocate.

Currently the needs of Hawaii’s long-term care residents are not being met nor are we meeting the federal mandate. With adequate staffing and funding, Hawaii will be able to deliver the services and provide the quality of care our Kupuna’s should be receiving. We ask for your consideration of this proposal.

Thank you for the opportunity to testify in support of this measure.

Respectfully submitted,

Nora A. Nomura
Deputy Executive Director



Honorable Senators,

I am completely flabbergasted by this incredibly discriminatory legislative action in the proposed SB2408, which would make smoking a legal product illegal in ones own personal dwelling space.

The argument that this space is public housing and therefore under the governments supervision or jurisdiction is ludicrous and the epitome of the mother of all governmental intrusions. It is a social engineering abomination and it must not be allowed.

This is a blatant trampling of everything it means to be an AMERICAN CITIZEN, the right to freedom, liberty, justice and the pursuit of Happiness are supposed to be our inalienable rights, as per the United States Constitution. But somehow, apparently not so in Hawaii.

The fact that this bill targets the poorest of the poor is despicable. Punish them with a sin tax, and then make them homeless as well, all without a shred of empirical scientific data providing any untoward risk from SHS exposure. Great idea.

I strongly oppose SB2408 and any other furthering of smoking ban type of legislation.

Remember, this is an election year and you will all be held accountable to everyone of the 200,000 smoking citizens in this State.

Thank you for your time and consideration of this opinion.

Jolyn Tenn
Co-Chair
Hawaii Smokers Alliance
808-721-8384

The Twenty-Fourth Legislature
Regular Session of 2008

THE SENATE
Committee on Human Services and Public Housing
Senator Suzanne Chun Oakland, Chair
Senator Les Ihara, Jr., Vice Chair

State Capitol, Conference Room 016
Tuesday, January 29, 2008; 1:30 p.m.

**STATEMENT OF THE ILWU LOCAL 142 ON S.B. 2151
RELATING TO LONG-TERM CARE OMBUDSMAN**

The ILWU Local 142 supports S.B. 2151, which expands the long-term care ombudsman program by adding three additional ombudsman positions, one for each neighboring country.

As an organization with members on every island, the ILWU supports additional personnel to allow the long-term care ombudsman to monitor long-term care facilities and resolve complaints against long-term care providers. With additional staff, the program can provide training to family members and facility employees, can improve working relationships with providers, and ultimately ensure that better quality care will be provided to those in need of long-term care.

The ILWU urges passage of S.B. 2151. Thank you for considering our testimony.



Laura Manis Testifier

1 copy

COMMITTEE ON HUMAN SERVICES AND PUBLIC HOUSING

Senator Suzanne Chun Oakland, Chair

Senator Les Ihara, Jr., Vice Chair

Tuesday, January 29, 1:15pm, Room 016

SB 2151 RELATING TO LONG-TERM CARE OMBUDSMAN. Expands the long-term care ombudsman program by adding three additional ombudsman positions, one for each neighboring county.

SUPPORT

This testimony is being submitted on behalf Kokua Council whose mission includes advocating for the health of the elderly and those vulnerable populations who can not advocate for themselves.

Situated within the Executive Office on Aging, this statewide program requires the ombudsman to visit all 44 nursing homes and 537 adult residential care homes on six islands for a total of 6,300 beds. The program is currently staffed by only two full-time program specialists who must process complaints, educate volunteers and keep records.

We are concerned with the quality of care in long term care facilities that in this bill will fortunately, include foster homes, previously not covered.

We believe that since Neighbor Island residents pay the same federal and state taxes as Oahu, they should have the same access to the services provided by the LTC Ombudsman.

The expense of airfares, meals, overnight lodging or flying Honolulu's Ombudsman to the neighbor islands will be mitigated by having an onsite Ombudsman.

A regional ombudsman better serves the local community by knowing the local culture and people, will have greater access to the local area agency on aging, the County Council and legislative representatives. They can respond more quickly to complaints and concerns, provide more regular visits and be more proactive in preventing abuse, neglect and exploitation, can use local media for recruiting volunteers and do regular training of facility workers and volunteers.

We suggest REMOVING THIS from page 4, line 10 [provided that resident records shall be divulged only with the written consent of the resident or the resident's legal representative;] because a guardian may have a vested interest and stand to gain by closed records. This will protect the interests of patients who are physically and/or mentally unable to give consent. The bill provides adequate privacy protections.

We ask that you will support this bill.

Laura G. Manis, Legislative Chair, Kokua Council
tel. 597-8838



For Tues, Jan 29th
1:30 pm
Senate HSP

National Association of Social Workers

Hawaii Chapter

January 25, 2008

TO: Senator Suzanne Chun Oakland, Chair
And members of the Senate Human Services and Public Housing Committee

FROM: Debbie Shimizu, LSW
National Association of Social Workers, Hawaii

RE: SB 2151 Relating to Long-Term Care Ombudsman- **SUPPORT**

Chair Chun Oakland and members of the Senate Human Services and Public Housing Committee, I am Debbie Shimizu, Executive Director of the National Association of Social Workers, Hawaii (NASW). I am testifying in **SUPPORT** of SB 2151 to expand the long-term care ombudsman program to each of the neighbor islands.

In 2007, the Office of the Long-Term Care Ombudsman was established within the Executive Office on Aging. However, only 1 Ombudsman position was created leaving neighbor island residents without the same access to services provided by the Long-Term Care Ombudsman program. Furthermore, federal standards developed by the Administration on Aging (AOA) recommends **at a minimum** 1 ombudsman per 2,000 beds. (See Institute of Medicine's 1995 report, "Real People Real Problems: An Evaluation of the Long-Term Care Ombudsman Programs of the Older Americans Act.") With a total of 8,606 long-term care residents, that means Hawaii needs 4 ombudsmen to meet the minimum standard.

With the increasing population of elderly in the community, we need to establish a long-term care ombudsman on the other islands to ensure their safety in nursing homes, care homes and community foster homes.

Thank you for the opportunity to testify in SUPPORT of SB 2151.

Submitted in support of S.B. 2151 to:

COMMITTEE ON HUMAN SERVICES AND PUBLIC HOUSING

Senator Suzanne Chun Oakland, Chair

Senator Les Ihara, Jr., Vice Chair

S.B. 2151 Relating to Long Term Care Ombudsman

Conference Room 016, 1:30 p.m.

January 29, 2008

Testimony of Michael Ragsdale, RN, JD

Nurse

Attorney (Law offices of Davis Levin Livingston)

Former State Long Term Care Ombudsman

I am writing in **support of proposed S.B. 2151** which "expands the LTCOP by adding three additional ombudsman positions, one for each neighboring county."

I am currently an attorney in private practice with the law firm of Davis Levin Livingston. In addition to being an attorney, I have been a Registered Nurse for the past 22 years and worked in several local hospitals, nursing homes and clinics. Most important to my support of S.B. 2151, I also served as the State Long Term Care Ombudsman (LTCO) from 1993 to 1994 and worked as a Medicare Advocate for the Legal Aid Society of Hawaii assisting clients who were denied Medicare. As a result of my experiences in "elder care" and the State Long Term Care Ombudsman Program, I am very familiar with the program, the federal and state mandates and the people of Hawaii whom the program serves.

As the State Long Term Care Ombudsman from 1993 to 1994 serving the entire state of Hawaii, I saw first hand the problems of elder abuse, neglect and exploitation. It was my responsibility to respond to complaints, mediate solutions and improve the quality of life of Hawaii's elder population. Unfortunately, because there was just one of me, but thousands of elder residences, I never felt that I was able to meet the mandates required by both federal and state law. The need for additional positions to serve the elder people of Hawaii existed back in 1994 when I left the position and the need exists today. In fact, with the aging of our population, the need will only grow as the numbers of Hawaii's elderly residents increases in the coming years.

It is important to point out that Hawaii is a unique state because water separates regions of our state. Having only one State Long Term Care Ombudsman on Oahu serving the entire state of Hawaii is simply inadequate to fully and timely meet the needs of Hawaii's elderly population. This is why I support proposed S.B. 2151.

Giving the State Long Term Care Ombudsman Program the resources (additional positions) now will assure that Hawaii's elderly population will be cared for in the future. You and I may not currently fall into the population (elderly) in which the State Long Term Care Ombudsman serves, but we will some day. More importantly your support of S.B. 2151 shows that you care about our elderly population TODAY, even if you and I are currently not directly served by the State Long Term Care Ombudsman Program.

I support S.B. 2151 and I ask that you too support S.B. 2151.

Thank you.



Michael A. Ragsdale, RN, JD

LATE TESTIMONY

January 28, 2008

chun-oakland

Dear Ms. Inouye:

Please support Senate Bill 2151 for the allocation of funds for Hawaii's Ombudsman program. That the bill has made it this far is encouraging and so critical for the health, safety, and well-being of Hawaii's elders.

I'm a former resident of the Big Island, but my parents live here. My father is frail and suffers cognitive and physical deficits from dementia, Parkinson's disease, and other health problems. He recently entered a nursing home. My mom & my four siblings and I are suddenly immersed in the complex and overwhelming world of elder-care. My siblings and I live in different parts of the mainland so this leaves my parents alone much of the time. Although I am a nurse and work for an agency that regulates long-term care settings in Washington State, nothing in my professional world prepared me for the myriad of issues one faces when confronted with care for elderly parents. As I prepare to return to my home in Washington, I worry about who and how best to advocate for them should there be concerns about the care my father receives in any long-term care setting here.

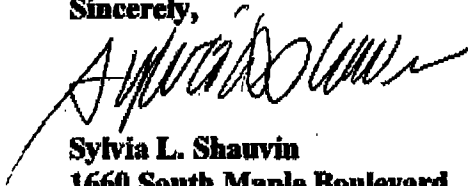
There is a huge need for objective "eyes & ears" to visit long-term care settings, perhaps even more desperately on the neighboring islands. Access to services and resources has a way of trickling down slowly to areas outside Oahu. As I've observed and acquainted myself with residents, families/visitors, and nursing home staff, several issues are apparent: 1) Residents who reside in long-term settings are largely from a generation in which people believe they should not "make waves" or complain, so they don't when things are less than satisfactory, 2) Many Residents and their loved ones belong to cultures that embrace the idea that it is not acceptable to complain or openly express their needs/wishes, and 3) Residents are frequently related to or friends with staff in the nursing home—while this can promote staff's investment in providing quality care, the converse could be true because this could result in Residents/visitors/families being more reluctant to voice concerns/complaints. These reasons support the need for Ombudsmen presence in long-term care facilities.

Advocacy for the elderly in Washington State has evolved over time and the state boasts significant strides for the protection of elders from abuse, neglect, and exploitation. The Ombudsman program there can be credited for playing a huge part in advocacy and protection of the elderly. No doubt, such efforts take time, lots of hard work, and money but we can't afford not to put forth these efforts. Our elders deserve all the support and resources we can give them because of investments and contributions they've made for our communities over the course of their lives. They are no less significant than our youth, and make up a huge percentage of voters. Someday, most of us will be elderly.

Page 2 of 2

I am heartened by the support Hawaii's media, the public, and legislators have put forth so far to champion the Ombudsman program. That said, I urge you to continue the momentum and applaud you for your work. Thank you for your consideration.

Sincerely,



**Sylvia L. Chauvin
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Sylvia.chauvin@comcast.net**

To the Honorable members of the Senate Committee on Human Services and Public Housing, who are having a public hearing on S.B. 2151 Relating to Long Term Care Ombudsman on January 29, 2008, @ 1:30 p.m., in Room 016

Aloha kakou

I am writing in support of S.B. 2151 because the State Long Term Care Ombudsman Program (LTCOP) is important to the fulfillment of our mission as an Area Agency on Aging (Maui County Office on Aging), with both federal and state mandates, under the Older Americans Act (OAA), as reauthorized and amended in 2006. The LTCOP also has similar mandates and I know you understand, then, the "synergy" that both our programs experience and try to nurture.

S.B. 2151 which "expands the LTCOP by adding three additional ombudsman positions, one for each neighbor island county." I know that Hawai'i can be proud that it was one of the first states to pilot the LTCOP back in 1975, three years before it became a federal mandate.

The National Institute of Medicine's 1995 report, "Real People, Real Problems: An Evaluation of the Long-Term Care Ombudsman Programs of the OAA" recommends at a minimum 1 ombudsman per 2,000 residents.

- Hawaii has 1 ombudsman per 4,065 residents.
- National average is 1 ombudsman to 2,208 beds.
- If we include "certified" facilities like

foster homes (which this bill does) that will increase the number of residents by 1,752 for a grand total of 9,881.

The OAA mandates all residents "have regular and timely access to the LTCOP services." The kupuna my office serves pay the same federal and state taxes as those who reside on O'ahu yet they don't have the same "regular and timely access to services" provided by the LTCOP. I am very concerned about this. For this reason I support S.B. 2151. I also support S.B. 2151 because a "local" Ombudsman can better serve the local community. For various reasons, he/she would not only "know" the community but can take advantage of local networks and partnerships to deliver services in a more effective, efficient and certainly more timely manner. Also, with the addition of three local ombudsmen, the LTCOP could improve its compliance with its federal mandates. As with other parts of our aging network, I believe the LTCOP needs to "catch up" to the growing needs of an increasing aging population, especially the frail aged in institutional and step down care.

Me ka mahalo pono.

John A. H. Tomoso, MSW, ACSW, LSW
Maui County Executive on Aging
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