

STAND. COM. REP. NO.

1257

Honolulu, Hawaii

March 27, 2009

RE: S.B. No. 1673  
S.D. 2  
H.D. 1

Honorable Calvin K.Y. Say  
Speaker, House of Representatives  
Twenty-Fifth State Legislature  
Regular Session of 2009  
State of Hawaii

Sir:

Your Committee on Health, to which was referred S.B. No. 1673, S.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO THE HAWAII HEALTH SYSTEMS CORPORATION,"

begs leave to report as follows:

The purpose of this bill is to address the future of the Hawaii Health Systems Corporation and its regional boards.

Testimony on this bill, as received, was submitted by a variety of organizations. The Hawaii Health Systems Corporation and Hawaii Primary Care Association supported this bill. The Hawaii Government Employees Association expressed support for the general purpose and intent of this bill. The United Public Workers opposed this bill. The Hawaii Medical Service Association offered comments on part III of the bill.

Your Committee finds that the structure of the Hawaii Health Systems Corporation established by Act 290 of the Regular Session of 2007 has not worked well. The Hawaii Health Systems Corporation is expecting a \$62,000,000 operating budget shortfall. Many of the accounts payable of regional facilities are excessively delinquent, causing much hardship on vendors. Certain regional systems have incurred debts, secured by state property, that are of questionable prudence. Most importantly, Act 290 has caused confusion between the corporate board and regional boards

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regarding their respective powers and authority, resulting in inefficiency and ineffectiveness.

Because of these problems, your Committee has amended this bill by replacing the S.D. 1 contents with provisions that are consistent with the House Finance Committee's position regarding the Hawaii Health Systems Corporation, as set forth in House Bill No. 200, H.D. 1, the General Appropriations bill. In sum, this bill, as amended, transfers responsibility for the community hospitals to the Department of Health and abolishes the Hawaii Health Systems Corporation and its regional boards. For a two-year period from July 1, 2009, to June 30, 2011, the Department of Health is required to manage, operate, and maintain the community hospitals through a new Division of Community Hospitals headed by a Deputy Director appointed by the Director of Health.

During the two-year period, a Community Hospitals Transition Committee is required to conduct a study of the community hospital system. Comprised of members of the present Finance, Information Systems, and Audit Committee of the Hawaii Health Systems Corporation, the Transition Committee is to submit findings and recommendations to the Legislature by October 1, 2010, on the:

- (1) Types and levels of health care services that should be provided by community hospitals in the communities served;
- (2) Optimal operational structure for the community hospital system;
- (3) Best revenue source for dedication to the community hospitals; and
- (4) "Carve out" of the Maui region from the community hospital system.

The amended bill intends for the Legislature to use these findings and recommendations to enact legislation during the Regular Session of 2011, establishing a permanent structure for the community hospitals.

Your Committee recognizes that this bill, as amended, places substantial pressure on the Legislature to agree upon the appropriate action on a permanent structure. Part I of this bill, as amended, under which the Department of Health through the Division of Community Hospitals is required to manage, operate,



and maintain the community hospitals, will sunset on June 30, 2011. Consequently, if the Legislature fails to enact, before the sunset date, legislation establishing a permanent structure or extending the temporary transition structure, no state agency technically will be responsible for the community hospital system after June 30, 2011. Upon such failure, state law will then be silent on responsibility for the management of the community hospitals, forcing the community hospitals to be shut down. Your Committee has intentionally drafted this bill in this manner to force legislative action.

Your Committee intends that the placement of the community hospitals under the Department of Health for a two-year transition period be regarded as similar to the appointment of a trustee during a reorganization period. Your Committee believes that a de facto "trustee" is needed in the near term to address the immediate problems of the community hospital system. Your Committee finds that such a "trustee" should have the real, effective power and authority to make decisions concerning the community hospitals without necessity of prior presentation to and approval by a corporate board and regional boards. In this manner, responsibility and accountability for the community hospital system will be clear during the transition period. However, your Committee notes that, unlike a bankruptcy trustee, the Department of Health is not empowered under this bill, as amended, to abrogate any collective bargaining agreement with a public employees' union.

The following is a brief description of the parts of this bill, as amended.

As described previously, part I transfers responsibility for the management, operation, and maintenance of the community hospitals to the Department of Health. The Department is to perform this duty through a new Division of Community Hospitals headed by a Deputy Director, who is to be appointed by and is to report to the Director of Health. With respect to part I, your Committee notes the following:

- (1) The Division of Community Hospitals is intended to operate as a normal "state agency." The Division is not intended to be a body corporate or public instrumentality with independent powers;
- (2) The term "community hospital" is intended to include Maluhia Hospital and Leahi Hospital on Oahu, although



neither institution offers emergency services or acute care as does the usual "hospital";

- (3) The Division is authorized to reduce or eliminate direct patient care services at any community hospital without the prior approval of the Legislature. The Division, however, is required to give notice to the Legislature before substantially reducing or eliminating such services. Your Committee finds that the restriction under present law requiring legislative approval before substantially reducing or eliminating service is excessively burdensome, preventing efficient operations of the community hospitals. Notwithstanding this amendment, your Committee intends that the Division not reduce or eliminate patient care services at any community hospital if the reduction or elimination will endanger the health and safety of the community served; and
- (4) Section 323F-5, Hawaii Revised Statutes, which states that board members and employees of the Hawaii Health Systems Corporation are subject to the ethics code, is repealed as being no longer necessary. Your Committee does not intend that the repeal be construed as excluding community hospital officers and employees from the state ethics code.

Part II makes conforming amendments to various sections of the Hawaii Revised Statutes to reflect the transfer of responsibility under part I. Two of the major amendments make clear that the Department of Health will not be authorized to enter into financing agreements on its own or serve as the "public employer" for collective bargaining negotiations.

Part III establishes transition provisions. Your Committee emphasizes that this part does not authorize the Department of Health to terminate or modify any collective bargaining agreement with a public employees' union without the agreement of the union. Nor does part III require the retention by the Department of officers and employees of the Hawaii Health Systems Corporation whose positions are eliminated by the General Appropriations Act of 2009.

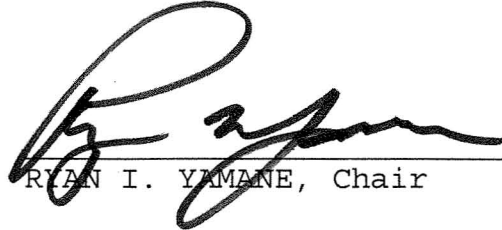
Part IV establishes a Community Hospitals Transition Committee to conduct the previously described study. The Transition Committee is to be comprised of the same members as the



current Finance, Information Systems, and Audit Committee of the Hawaii Health Systems Corporation who, your Committee understands, are doing exemplary work under the present structure. The Transition Committee is to submit its findings and recommendations to the Legislature before October 1, 2010, in order to give the Legislature sufficient time for review prior to the Regular Session of 2011.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1673, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1673, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Respectfully submitted on  
behalf of the members of the  
Committee on Health,



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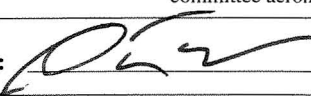
RYAN I. YAMANE, Chair



State of Hawaii  
House of Representatives  
The Twenty-fifth Legislature

HSCR1257

**Record of Votes of the Committee on Health**

<b>Bill/Resolution No.:</b> SB 1673, SD2	<b>Committee Referral:</b> HLT, FIN	<b>Date:</b> 3-24-09		
<input type="checkbox"/> The committee is reconsidering its previous decision on the measure.				
<b>The recommendation is to:</b> <input type="checkbox"/> Pass, unamended (as is) <input checked="" type="checkbox"/> Pass, with amendments (HD) <input type="checkbox"/> Hold <input type="checkbox"/> Pass short form bill with HD to recommit for future public hearing (recommit)				
HLT Members	Ayes	Ayes (WR)	Nays	Excused
1. YAMANE, Ryan I. (C)	/			
2. NISHIMOTO, Scott Y. (VC)	/			
3. BELATTI, Della Au				/
4. BERTRAM, Joe, III	/			
5. BROWER, Tom	/			
6. CARROLL, Mele				/
7. MIZUNO, John M.	/			
8. SHIMABUKURO, Maile S.L.	/			
9. FINNEGAN, Lynn		/		
<b>TOTAL (9)</b>	6	1		2
<b>The recommendation is:</b> <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted If joint referral, _____ did not support recommendation. <span style="margin-left: 100px;">committee acronym(s)</span>				
<b>Vice Chair's or designee's signature:</b> 				
<b>Distribution:</b> Original (White) – Committee      Duplicate (Yellow) – Chief Clerk's Office      Duplicate (Pink) – HMSO				