

STAND. COM. REP. NO.

2215

Honolulu, Hawaii

FEB 12 2010

RE: S.B. No. 2490
S.D. 1

Honorable Colleen Hanabusa
President of the Senate
Twenty-Fifth State Legislature
Regular Session of 2010
State of Hawaii

Madam:

Your Committee on Health, to which was referred S.B. No. 2490
entitled:

"A BILL FOR AN ACT RELATING TO COMMUNITY HEALTH CENTERS,"

begs leave to report as follows:

The purpose of this measure is to appropriate funds from the
Community Health Centers Special Fund for use by community health
centers in the State, and to require the Governor to release the
revenues in the Community Health Centers Special Fund for use in
fiscal year 2010-2011.

Your Committee received testimony in support of this measure
from the Department of Health; Hawai'i Primary Care Association;
Aloha Care; Hawaii Dental Hygienists Association; Waianae Coast
Comprehensive Health Center; Waimanalo Health Center; Waikiki
Health Center; Lanai Community Health Center; Ho'ola Lahui Hawaii;
Kailua Neighborhood Board No. 31; National Cornerstone Healthcare
Services Inc.; Bay Clinic, Inc.; and forty individuals. Comments
were received from the Department of the Attorney General.
Written testimony presented to the Committee may be reviewed on
the Legislature's website.

Your Committee finds that Act 316, Session Laws of Hawaii
2006, increased the state taxes on cigarettes, and allocated a
portion of the increased tax revenue to community health centers
in Hawaii. The amount of cigarette tax revenue collected in
fiscal year 2008-2009 for the benefit of community health centers
is estimated to be \$9,000,000, an average of less than \$600,000

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per community health center. The administration and the Department of Health have not released these revenues for use by community health centers in the State. The Department of Health testified that it supports this measure but it is restricted in what it can spend because of the budget ceiling. This measure addresses and remedies the budget limitation.

Your Committee notes that the Legislature is vested with the constitutional powers to make appropriations as provided in Article VII, section 9, of the Hawaii State Constitution. The Hawaii State Constitution is silent on any specific grant of authority to the Governor to restrict the expenditure of appropriated funds, instead the matter is relegated to law (Article VII, section 5). Furthermore, there is no specific statutory authority allowing the Governor to withhold the release of funds that have been appropriated by the Legislature. That authority is inferred from the allotment system.

Your Committee is of the opinion that the absence of any specific constitutional or statutory authority for the Governor to withhold the release of appropriated funds evinces a clear intent by the Legislature, which proposes constitutional amendments and enacts statutes, that the Governor should not have such authority. An opinion from the State Attorney General, as requested by your Committee, is only able to cite case law which relies upon judicial interpretation of constitutional and statutory law in an effort to fill in what is explicitly missing. Your Committee cannot accept such rationalization where the public health is concerned.

Your Committee has amended this measure by changing the effective date to July 1, 2010 to be consistent with the fiscal year appropriation.

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. 2490, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2490, S.D. 1, and be referred to the Committee on Ways and Means.



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

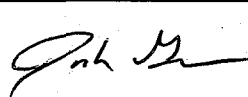
David Y. Lee

DAVID Y. LEE, Chair



The Senate
Twenty-Fifth Legislature
State of Hawaii

Record of Votes
Committee on Health
HTH

Bill / Resolution No.:* SB 2490	Committee Referral: HTH, WAM	Date: 2/8/10		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
IGE, David Y. (C)	✓			
GREEN, M.D., Josh (VC)	✓			
BAKER, Rosalyn H.	✓			
ESPERO, Will	✓			
NISHIHARA, Clarence K.	✓			
HEMMINGS, Fred	✓			
TOTAL	6	0	0	0
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: <div style="text-align:center;"></div>				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes