HB 1567

HD2

EDT/HTH

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GOVERNOR

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SENATE COMMITTEE ON ECONOMIC DEVELOPMENT & TECHNOLOGY AND HEALTH
TESTIMONY REGARDING HB 1567 HD 2
RELATING TO SKILLED NURSING FACILITIES

TESTIFIER: KURT KAWAFUCHI, DIRECTOR OF TAXATION (OR DESIGNEE)
DATE: MARCH 16, 2009
TIME: 2:30PM
ROOM: 016

This measure seeks to create skilled nursing facilities to be qualify as businesses for the Enterprise Zones administered by the Department of Business, Economic Development & Tourism.

The Department of Taxation (Department) **opposes the revenue loss** anticipated by this measure.

NOT FACTORED INTO EXECUTIVE BUDGET

The Department points out that this legislation has not been factored into the Executive Budget and has not been prioritized as a means of tax relief this legislative session. The Department cannot support the tax provision in this measure because it is not factored into the budget. The Department must be cognizant of the biennium budget and financial plan. This measure has not been factored into either. Given the forecasted decrease in revenue collections, this measure would add to the budget shortfall.

REVENUE IMPACT

Assuming a current effective date, the tax component of this measure will result in the following revenue losses:

- $120,000 in FY2010;
- $320,000 in FY2011:
- $400,000 in FY2012;
- $480,000 in FY2013;
- $331,800 inFY2014; and
- $51,800 in FY2015

METHODOLOGY

The revenue estimate is based on construction of a new skilled nursing facility with 100 beds. Construction costs are estimated to be $20 million, incurred over 4 years beginning in fiscal year 2010 (15% the first year, 25% in years 2 and 3, and 35% in year 4). The estimates are based on payroll of $35,000 per bed. Gross receipts are estimated at $60,200 per bed, beginning in 2014. Unemployment insurance payments are assumed to be 2.5% of salaries. Taxable income is assumed to equal 10% of the gross income and to be subject to tax at a rate of 6.25%. It is assumed two such facilities will be built in the first and second year after this bill passes.

FY2010, $120,000 (1st fac.)
FY2011, $200,000 (1st fac.) + $120,000 (2nd fac.) = $320,000
FY2012, $200,000 (1st fac.) + $200,000 (2nd fac.) = $400,000
FY2013, $280,000 (1st fac.) + $200,000 (2nd fac.) = $480,000
FY2014, $51,800 (1st fac.) + $280,000 (2nd fac.) = $331,800
FY2015, $51,800 (2nd fac.)

LINDA LINGLE
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DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM

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Statement of
THEODORE E. LIU
Director
Department of Business, Economic Development, and Tourism
before the
SENATE COMMITTEES ON
ECONOMIC DEVELOPMENT AND TECHNOLOGY
AND
HEALTH

Monday, March 16, 2009
2:30 p.m.
State Capitol, Conference Room 016

in consideration of
HB 1567 HD2
RELATING TO SKILLED NURSING FACILITIES.

Chairs Fukunaga and Ige, and Vice-Chairs Baker and Green; Members of the Committees on Economic Development and Technology and Health:

The Department appreciates the intent of this measure which would make skilled nursing facilities located within an Enterprise Zone eligible for tax and other benefits under the EZ program; however, given the current fiscal difficulties, it would not be prudent to pursue enactment at this time. We defer to the Department of Taxation to ascertain the financial impact of this measure.

Hawaii's Enterprise Zones (EZ) Partnership Program was established by the Legislature in 1986 to help stimulate certain types of businesses to locate and provide employment in areas where they are needed most. At the end of 2007, a total of 199 companies were enrolled in the EZ program. Of those enrolled companies, one percent was involved in medical research, while another half percent was involved in medical equipment repair or maintenance of assistive technology equipment used by disabled persons. Nursing homes and medical facilities are underrepresented in enterprise zones.

We note that the purpose of this measure is to help stimulate the development of nursing home care facilities. We would like to note that the job creation requirement of 10% or more per year required by the Enterprise Zone law may be difficult for nursing homes to meet, thereby precluding them from taking advantage of EZ benefits. In addition, the GET exemption benefit would apply to the customer's bill and does not add to the nursing home's bottom line.

Similarly, EZ income tax credits only apply to the bottom line if the facility is profitable and owes State income tax. Thus, the EZ program's impact in encouraging the establishment of nursing facilities may be minimal.

Thank you for the opportunity to offer these comments.

TESTIMONY ON BEHALF OF HB1567 HD2

Faye Lincoln, Vice-President
Policy & Government Relations
Avalon Health Care, Inc.

Hearing Date: March 16, 2009

Hearing Time: 2:30 pm

Measure # HB1567 Relating to Skilled Nursing Facilities; Enterprise Zone

Honorable Committee Members:

Thank you for the privilege of providing testimony on behalf of Avalon Health Care, Inc., a large provider of skilled nursing home services in Hawaii. Avalon operates and manages three facilities with 490 beds. Two facilities operate in Honolulu and one facility is managed in Hilo, Hawaii.

While we are writing in **support of HB 1567 Skilled Nursing Facilities; Enterprise Zone Benefits** which proposes to create an enterprise zone for skilled nursing facilities operating in Hawaii, **we request reconsideration of the original language in the Senate bill and propose amending the House version of the bill accordingly.**

This bill creates an enterprise zone for a skilled nursing facility (SNF) which begins operations as a new facility or an existing facility which expands its operations. Such operations would benefit by being exempted from paying Hawaii General Excise Tax

Current geographic locations for enterprise zones have been identified in the state, but are limiting for the purposes of SNF operations. The House version of the bill allows for a SNF to be built or expanded only in a current enterprise zone. **We believe that a SNF that is built or expanded should be considered an enterprise zone regardless of the geographical location due to the under-bedded situation throughout the state.**

This bill would provide an appropriate tax incentive to develop new skilled nursing facility beds through the Certificate of Need process. Presently, the majority of facilities in the islands run an occupancy capacity between 95% and 97%. This is generally indicative of an under-bedded situation for residents who require this level of service.

Many hospitals have a back-log or waiting list of residents with general or specialty skilled nursing facility needs. They are unable to admit to such facilities when the beds are already filled to capacity. There is also a need for providing services to behavioral health residents requiring long term care – either from community-based psychiatric hospitals, the state hospital or acute hospitals holding patients with medical needs co-existing with a psychiatric diagnosis. There are not enough available beds to provide incentives for the development of specialty services. **This situation is a problem throughout the state, not just in traditionally documented "enterprise zones".**

Skilled nursing facility (SNF) operators are interested in building new facilities or renovating old facilities into new SNF operations, but the availability of land and the cost of new construction or renovation restricts the ability to establish financially sound programs, especially in Honolulu. New construction in the islands currently runs between $400 - $450 per sq. ft. A smaller 150 bed facility may be approximately 130,000 – 140,000 sq. ft. This brings the cost of a new facility between $50 - $60 million and greater for a facility with more spacious rooms and greater square footage to the building. Creation of an Enterprise Zone for SNFs would be extremely beneficial by 100% exemption from the General Excise Tax for both the Developer / Operator and Contractor.

However, the enterprise zone for SNFs should be throughout the state, not just in the currently designated enterprise zones. Limiting the geographical locations will not provide the needed incentive to expand SNF beds throughout the state.

Given the limited Medicare and state MedQuest reimbursement rates, SNFs will have extreme difficulty developing a financially viable program unless some tax incentives are available for newly created programs. Start-up SNFs also must carry a large amount of losses in the early years of operation as they build up their census to full occupancy levels. Exemption from the GET will strengthen a start-up facility financially.

Ultimately, the demand for building new beds is controlled by the State Health Development Agency (SHPDA) through their Certificate of Need program. This Division under the Department of Human Services ensures that the total number of new or expanded beds which are built is based on the current and future need of SNF capacity in the state.

Additional benefits of creating an Enterprise Zone for SNFs include:

- An 80% reduction of state income tax the first year of operations, which reduces by 10% each year for six or more years*
- An additional income tax reduction equal to 80% of annual Unemployment Insurance premiums the first year, which is reduced by 10% each year for six or more years*
- Priority building permit processing
- Zoning or building permit waivers or variances as appropriate
- Property tax adjustments
- Priority consideration for federal job training or community development funds

* Income tax adjustments are no greater than 100% of tax due

This bill helps to provide a needed incentive to create new beds by exempting such facilities from the excise tax. While this incentive alone will not guarantee financial success of a new facility, it will be a good start towards this goal.

Avalon would ask the Members of the Senate Committee to reconsider the language in HB 1567 by amending it to expand an enterprise zone for skilled nursing facilities to be throughout the state, and not just in currently existing geographic enterprise zones.

Thank you for the opportunity to provide this testimony. If you have any further questions, please do not hesitate to contact me at (801) – 518-6565.

Sincerely,

Faye Lincoln, Vice-President