

SB 1138



LINDA LINGLE
GOVERNOR

MARIE C LADERTA
CHIEF NEGOTIATOR

HAROLD DeCOSTA
DEPUTY CHIEF NEGOTIATOR

STATE OF HAWAII
OFFICE OF COLLECTIVE BARGAINING
EXECUTIVE OFFICE OF THE GOVERNOR
235 S. BERETANIA STREET, SUITE 1201
HONOLULU, HAWAII 96813

February 12, 2009

TESTIMONY TO THE
SENATE COMMITTEES ON HEALTH & LABOR
For Hearing on Friday, February 13, 2009
2:45 p.m., Conference Room 016

By

MARIE C. LADERTA
CHIEF NEGOTIATOR

Senate Bill No. 1138
Relating to Hawaii Health Systems Corporation

WRITTEN TESTIMONY ONLY

CHAIRPERSONS IGE AND TAKAMINE AND MEMBERS OF THE SENATE
COMMITTEES ON HEALTH & LABOR:

The purpose of S. B. No. 1138 is to provide Hawaii Health Systems Corporation ("HHSC") the ability to establish their own personnel system for newly hired workers after July 1, 2009 and create a dual workforce by establishing two (2) separate collective bargaining units.

The Office of Collective Bargaining has **strong concerns** with the proposed amendments to Chapter 89, HRS.

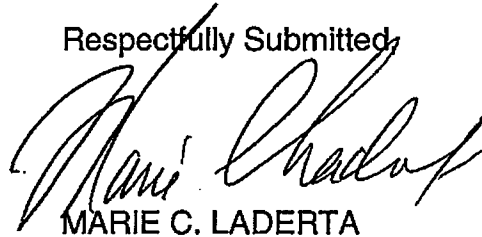
This bill provides that the Governor would not have any votes versus the six votes that she has now for the existing bargaining unit employees. In order to maintain continuity between similar bargaining units, fiscal control over cost items, and ensure

the continued viability of management rights, the Governor should have a majority vote on collective bargaining negotiations for similar bargaining unit employees.

In addition, the bill is not clear as to how the new personnel system will work to enhance operational efficiency.

Thank you for the opportunity to testify on this measure.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Marie Laderta", written in a cursive style.

MARIE C. LADERTA

WRITTEN ONLY

TESTIMONY BY GEORGINA K. KAWAMURA
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE SENATE COMMITTEES ON HEALTH AND LABOR
ON
SENATE BILL NO. 1138

February 13, 2009

RELATING TO HAWAII HEALTH SYSTEMS CORPORATION

The purpose of Senate Bill No. 1138 is to establish a separate personnel system for the Hawaii Health Systems Corporation.

The Legislature created the Hawaii Health Systems Corporation by Act 262, Session Laws of Hawaii 1996, for the purpose of providing quality and cost effective health care for all the people in the State served by the publicly owned and operated community hospital facilities. Because the Hawaii Health Systems Corporation has been operating under a revenue shortfall, State general fund subsidies have been required to continue hospital operations. The intent of this bill is to reduce the need for these subsidies by creating a more flexible personnel system for employees hired after July 1, 2009, including:

1. Allowing the Hawaii Health Systems Corporation to negotiate its own collective bargaining agreements, and creating two new bargaining units, (14) for employees currently in bargaining units (1) Nonsupervisory employees in blue collar positions and (10) Institutional, Health, and Correctional workers; and (15) for employees currently in bargaining units (2) Supervisory employees in blue collar positions, (3) Nonsupervisory employees in white collar positions, (4) Supervisory employees in white collar positions; (9) Registered Professional Nurses, and (13) Professional and Scientific employees, who cannot be included in any of the other bargaining units.

2. Creating a new retirement system separate from the State Employees' Retirement System.

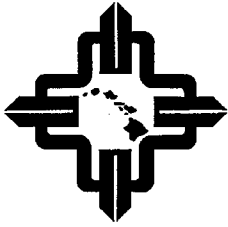
3. Creating a new health benefits plan separate from the State employees' benefits plans.

While we support forming separate bargaining units and the right to strike for Hawaii Health Systems Corporation employees, we cannot support the bill in its current form due to the employer approval voting structure it implements. While the Hawaii Health Systems Corporation has been operating under a revenue shortfall, collective bargaining agreements for the Hawaii Health Systems Corporation employees have been funded out of the State general fund. Assuming this practice continues, this bill would place the Governor in the position of having no vote in the approval of Hawaii Health Systems collective bargaining agreements, yet having to fund the cost of any agreement agreed to by the Hawaii Health Systems Corporation and the regional boards. This voting arrangement would also allow the Hawaii Health Systems Corporation to unilaterally create precedents for similar public employees in other bargaining units. A voting arrangement giving the Governor at least an equal number of votes as the Hawaii Health Systems Corporation/regional boards needs to be incorporated to preserve the fiscal integrity of the State.

The Hawaii Employer-Union Trust Fund Board has taken the position that the Employer-Union Trust Fund would best be able to provide health benefits for public employees and retirees. As long as the Hawaii Health Systems Corporation employees remain public employees, we do not support removing these employees from the Hawaii Employer-Union Trust Fund.

Similarly, it is not clear that the Hawaii Health Systems would be able to provide for more effectively managed retirement benefits for their employers given the economies of scale of the State Employees' Retirement System. As long as Hawaii Health Systems Corporation employees remain public employees, we do not support removing these employees from the Hawaii Employees' Retirement System.

Overall, while we recognize the importance of seeking measures to eliminate general fund subsidies for the Hawaii Health Systems Corporation, we cannot support this bill without stronger assurances that provisions of this bill will bring about that end.



HAWAII HEALTH SYSTEMS
C O R P O R A T I O N

"Touching Lives Every Day"

Joint Hearing

Committee on Health
Senator David Y. Ige, Chair
Senator Josh Green, M.D., Vice Chair

Committee on Labor
Senator Dwight Y. Takamine, Chair
Senator Brian T. Taniguchi, Vice Chair

Friday, February 13, 2009
2:45 PM
Conference Room 016
Hawaii State Capitol

SB 1138 RELATING TO THE HAWAII HEALTH SYSTEMS CORPORATION
Establishes a new and separate personnel system for employees of the corporation hired on or after the effective date of the bill; authorizes the establishment of a new retirement benefits program and employee health benefits program through collective bargaining negotiations for employees in the new personnel system. Employees of the new personnel system would be exempt from civil service, but appropriately included or excluded from two new collective bargaining units pursuant to our Collective Bargaining Law. All employees hired before the effective date of this Act would not be impacted by this Act.

Thomas M. Driskill, Jr.
President and Chief Executive Officer
Hawaii Health Systems Corporation (HHSC)

On behalf of the Hawaii Health Systems Corporation (HHSC) Corporate Board of Directors, thank you for the opportunity to provide testimony in support of SB 1138 which was developed to enhance operational efficiency and to decrease personnel-related expenses. The present civil service system includes a very expensive retirement plan and a similarly costly health insurance benefit program that provides for free health insurance for retirees. These programs have contributed significantly to the fiscal shortfalls of HHSC.

Specifically, this bill provides that all current employees of HHSC will continue to receive compensation and benefits that are being provided by the respective collective bargaining agreements and existing statutes, such employees are essentially "grandfathered" into the existing civil service system. Such employees will continue to

3675 KILAUEA AVENUE • HONOLULU, HAWAII 96816 • PHONE: (808) 733-4020 • FAX: (808) 733-4028

retain such benefits until they retire or leave service. However, all new employees hired by the corporation on or after the effective date of this bill would be placed in a “new personnel system” and would be exempt from civil service established by Chapter 76. The status of the new employees would be similar to employees in bargaining units 05 (teachers), 06 (educational officers), 07 (UH faculty) and 08 (administrative, professional and technical personnel of UH). They would also receive a different compensation and benefit package which would include retirement and health benefit programs that are separate and apart from the Employees Retirement System (ERS) and the Employer Union Trust Fund (EUTF). These new employees would be included in two new collective bargaining units, BU 14 and BU 15, established under Chapter 89. When the exclusive representatives for these new units are elected and confirmed, negotiations may ensue on the compensation and benefit package that will have been previously established for employees in the new personnel system.

Besides salaries, the biggest expenses that we have to pay for are contributions to the State ERS and to the EUTF. Reductions in these areas would play a significant role in reducing our State subsidies. Since our current workforce was hired under the benefit plans provided by the ERS and EUTF, it would not be fair nor appropriate to reduce such benefits. However, a less expensive benefit package could be established for employees that will be hired by HHSC in the future and on a corresponding basis hourly wages could be raised to meet or exceed industry standards. The employees would receive representation under the provisions of Chapter 89. As written, the two new bargaining units have the right to strike and only HHSC will have the votes in reaching a collective bargaining negotiations decision.

We have estimated that, based on forecast attrition rates, HHSC could realize system-wide cumulative savings between approximately \$84,726,428 and \$123,568,000 in reduced retirement plan costs and reduced or eliminated costs for retiree health care, over eight years for employees in the new bargaining units. Also, we have estimated that, if paid time off for vacation and sick leave was reduced to 25 to 30 days per year, similar to paid time off for employees in other healthcare systems in Hawaii, HHSC could realize system-wide cumulative savings between approximately \$51,689,000 and \$61,629,000 over eight years, for employees in new collective bargaining units.

In further reviewing the bill, we have noted some inconsistencies and the necessity for technical amendments to resolve these issues. Attached for your consideration is a proposed SB 1138 SD1 with suggested amendments (amended language is highlighted in yellow) to provide for such clarification.

On behalf of HHSC and the HHSC Corporate Board of Directors, we strongly support this proposed legislation, which will make it possible for the corporation to become more efficient in providing quality health care services in the rural communities of Hawaii and here in Honolulu.

Your support for SB 1138 with proposed amendments is greatly appreciated.
Thank you.

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, February 12, 2009 9:37 AM
To: HTHTestimony
Cc: jwalker1@hhsc.org
Subject: Testimony for SB1138 on 2/13/2009 2:45:00 PM

Categories: Green Category, Blue Category

Testimony for HTH-LBR 2/13/2009 2:45:00 PM SB1138

Conference room: 016
Testifier position: support
Testifier will be present: No
Submitted by: Jerry Walker
Organization: West Kauai Medical Center
Address: 4643 Waimea Canyon Drive Waimea, Hi 96796
Phone: 808-338-9422
E-mail: jwalker1@hhsc.org
Submitted on: 2/12/2009

Comments:

The Kauai Region includes the West Kauai Medical Center / KVMH; West Kauai Clinics - Waimea, Eleele, Kalaheo; Mahelona Medical Center / SMMH, supports SB1138. The bill would create a new personnel system and all new employees would be members of the system. The results would be a cost savings from the current system were retirement and health fund cost exceed the community standard.

To: HTLTestimony@capitol.hawaii.gov

Subject: SB1138 – Relating to Hawaii Health Systems Corporation

Senate Committee on Health and Committee on Labor
Friday, February 13, 2009
Conference Room #016
2:45 PM

My name is Odetta Fujimori, a retiree and former ERS trustee. I am offering testimony to express my concern to the language of SB1138 which would allow the Hawaii Health Systems Corporation (HHSC) to establish its own retirement system. I have no objection of their desire to establish a personnel system to meet their unique needs.

Since its inception, the state of Hawaii's public employees' retirement system, has never failed its retirees and beneficiaries in providing them with their monthly and bi-monthly pension checks. Timely payments into the system by the employers and automatic deductions from each employee's paycheck, along with responsible investing and positive returns are reasons for ERS' ability to meet its obligation.

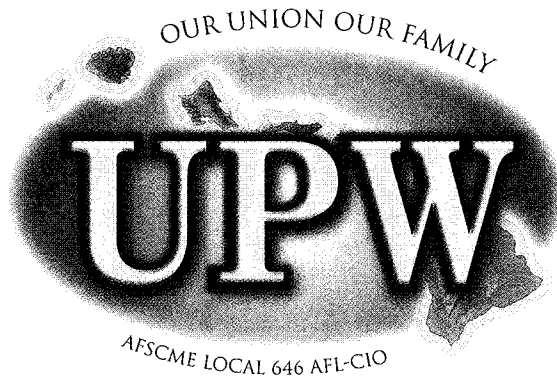
The ERS' unfunded liability was an issue until recently, when the legislature passed legislation to have the employers pay their fair share to meet their obligations for a fully funded retirement system. (This is a long-range endeavor and ERS should be one hundred percent funded sometime during the mid-30s.)

The Hawaii Health Systems Corporation appears to want out of its obligation by creating its own retirement system. This is wrong and selfish and should not be permitted. Using this means to address its fiscal crisis is not the answer and may cause even greater problems for HHSC. Instead, HHSC should be providing its employees with a secure defined benefits retirement system offered through the state's ERS.

Please look at SB1138 carefully and delete the section that allows HHSC to create its own retirement system.

Sincerely,

Odetta Fujimori



The Senate
The Twenty-Fifth Legislature
Regular Session of 2009

Committee on Health

Senator David Y. Ige, Chair
Senator Josh Green, M.D., Vice Chair

Committee on Labor

Senator Dwight Y. Takamine, Chair
Senator Brian T. Taniguchi, Vice Chair

DATE: Friday, February 13, 2009
TIME: 2:45 p.m.
PLACE: Conference Room 016
State Capitol
415 South Beretania Street

**TESTIMONY OF THE UNITED PUBLIC WORKERS, AFSCME, LOCAL 646,
AFL-CIO ON S.B. 1138 RELATING TO HAWAII HEALTH SYSTEMS CORP.**

My name is Dayton M. Nakanelua, and I am the state director of the United Public Workers, AFSCME, Local 646, AFL-CIO (UPW). The UPW currently represents approximately 8,700 blue collar, non-supervisory employees in bargaining unit 1, and 2,800 institutional, health, and correctional workers in bargaining unit 10 in the State of Hawaii and the various counties. We oppose Senate Bill No. 1138 which proposes to combine employees currently in bargaining units 1 and 10 (who are represented by the UPW in HHSC) into a new bargaining 14, to combine employees currently in bargaining units 2, 3, 4, 9, and 13 (who are represented by the HGEA in HHSC), into a new bargaining unit 15, to allow for outsourcing of services at the

discretion of the corporate board or any regional system board, and to establish a new pension and health benefits system for new hires of the Hawaii Health System Corporation (HHSC).

For the reasons stated in our testimony in opposition to Senate Bill No. 518 (which is scheduled for hearing after this bill on February 13, 2009), we oppose the creation of new bargaining units under Section 89-6, Hawaii Revised Statutes (HRS). Although this measure is less likely to result in a decertification process which could oust HGEA or UPW as exclusive bargaining representatives it does eliminate the statutory right to strike of bargaining unit 1 employees. In addition, the measure changes the nature of the multi-employer bargaining process which currently involves the governor, the mayors, the chief justice, and the HHSC board at the negotiating table over the master agreements under Section 89-6 (d), HRS. HHSC is an agency of the state and should remain a responsibility of all governmental authorities including the Governor of the State. The exclusion of representatives of the Governor, the chief justice, and the mayors from the affairs of HHSC undermines the accountability required for meaningful collective bargaining, and encourages unnecessary fragmentation of governmental functions. Moreover, HHSC currently has the flexibility to negotiate supplemental agreements under Section 89-6 (e), HRS, to address unique or special needs of its own.

With respect to "outsourcing" which is authorized in Section 7 of this measure our reasons for opposition are contained in our testimony in opposition to Senate Bill No. 1136 (which was scheduled earlier for hearing today). We incorporate by reference herein our written testimony on S.B. No. 1136. Although this measure expands "outsourcing" to non-profit entities it does not materially change the fact that such contracting out violates the merit principle and eliminates the

reasonable job security afforded to HHSC employees at a critical time. What is being proposed initially is at least a three tiered system of personnel management, i.e., one for employees covered under current collective bargaining agreements, another for those who are hired on and after July 1, 2009, and the third for those who are outsourced by the HHSC corporate board or regional system boards. Such a system is inefficient, and ultimately encourages privatization of services which we oppose.

In Section 2 of this measure what is being contemplated is an entirely new pension and health benefits system for new hires of HHSC on and after July 1, 2009. We are opposed to such a change for the very same reasons which persuaded the legislature in 1970 not to allow any governmental entity to negotiate over retirement benefits as set forth in chapter 88. Historically, the retirement system which applies to all state and county employees pre-dates collective bargaining and the accrued benefits provided by ERS have been entitled to constitutional protection under Article XVI, Section 2 of the State Constitution. See Kaho`ohanohano v. State 114 Hawai`i 302, 338, 162 P.3d 696, 732 (2007) (where the court held that Article XVI, Section 2 protects the "sources of those benefits," i.e., the amounts of state and county contributions). The adequacy of retirement benefits which has been closely linked to provisions for retiree health benefits is largely due to the broad scope of coverage and uniformity under one statute. For all of the foregoing reasons we oppose the passage of this measure.

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, February 12, 2009 4:44 PM
To: HTHTestimony
Cc: egreenia@hhsc.org
Subject: Testimony for SB1138 on 2/13/2009 2:45:00 PM

Categories: Green Category, Blue Category

Testimony for HTH-LBR 2/13/2009 2:45:00 PM SB1138

Conference room: 016
Testifier position: support
Testifier will be present: No
Submitted by: Earl Greenia
Organization: Kona Community Hospital
Address:
Phone:
E-mail: egreenia@hhsc.org
Submitted on: 2/12/2009

Comments:

This important bill will provide HHSC hospitals greater flexibility to manage personnel expenses.



HAWAII GOVERNMENT EMPLOYEES ASSOCIATION
AFSCME Local 152, AFL-CIO

RANDY PERREIRA
Executive Director
Tel: 808.543.0011
Fax: 808.528.0922

NORA A. NOMURA
Deputy Executive Director
Tel: 808.543.0003
Fax: 808.528.0922

DEREK M. MIZUNO
Deputy Executive Director
Tel: 808.543.0055
Fax: 808.523.6879

The Twenty-Fifth Legislature, State of Hawaii
Hawaii State Senate
Committee on Health
Committee on Labor

Testimony by
Hawaii Government Employees Association
February 13, 2009

S.B. 1138 – RELATING TO THE
HAWAII HEALTH SYSTEMS
CORPORATION

The Hawaii Government Employees Association opposes the purpose and intent of S.B. 1138. The bill authorizes the Hawaii Health Systems Corporation to establish its own personnel and retirement systems and health benefits plan separate from the existing ones for employees hired on or after July 1, 2009. It also would establish two additional bargaining units for HHSC employees by amending Chapter 89, HRS.

This proposal will create a two-tier system with different personnel, retirement and health benefits for employees based upon the date of hire, which will lead to potentially serious morale problems because one group of employees will have better benefits and conditions of employment than the other. It will also complicate collective bargaining negotiations considerably.

The current collective bargaining, personnel, retirement systems, along with the health insurance available to employees, provides uniformity and helps to ensure that employees are treated fairly and consistently across jurisdictions. The existing personnel systems allow for supplemental agreements and memoranda of understand to address specific situations and problems within their jurisdiction and affecting their employees.

There is no need for such drastic changes as proposed in this legislation.

Thank you for the opportunity to express our opposition about S.B. 1138.

Respectfully submitted,

Nora A. Nomura
Deputy Executive Director

The Twenty-Fifth Legislature
Regular Session of 2009

THE SENATE

Committee on Health

Sen. David Y. Ige, Chair
Sen. Josh Green, M.D., Vice Chair

Committee on Labor

Sen. Dwight Y. Takamine, Chair
Sen. Brian T. Taniguchi, Vice Chair

State Capitol, Conference Room 016
Friday, February 13, 2009; 2:45 p.m.

STATEMENT OF THE ILWU LOCAL 142 ON S.B. 61, S.B. 1136, S.B. 1138, S.B. 518

The ILWU Local 142 wishes to express concerns and questions about S.B. 61, S.B. 1136, S.B. 1138, and S.B. 518, all related to Hawaii Health Systems Corporation. We comment on these bills as the representative of thousands of ILWU members and retirees who are consumers of services provided by Hawaii Health Systems Corporation.

S.B. 61 will permit Hawaii Health Systems Corporation to be a private nonprofit entity, presumably able to raise its own funds and continue to be the health care safety net by providing affordable, accessible and quality health care. But what happens if the nonprofit corporation is not financially viable? Can the corporation close up shop? What then happens to the "safety net" of services for those in remote areas of the neighbor islands?

S.B. 1136 proposes to outsource certain services of HHSC. The bill does not specify what services would be outsourced, but it is likely that civil service positions would be lost. Yet no one has been able to say, definitively, that outsourcing will produce better, more cost-effective outcomes. In order for HHSC to save money, the workers retained by the outsourcing entity must pay them less than current workers are paid, a distasteful likelihood. In addition, HHSC will be paying the outsourcing entity for management services.

S.B. 1138 and S.B. 518 appears designed to diminish collective bargaining, which we are opposed to on principle. Setting up separate retirement and personnel systems and bargaining units seem unnecessary and costly but are likely mechanisms to eliminate collective bargaining altogether.

The ILWU requests that the Committees consider our concerns and the potential that needed safety net services will be jeopardized by these proposals. Thank you for the opportunity to testify on these measures.