

SB2540

Measure Title: RELATING TO THE DEPARTMENT OF HEALTH.

Report Title: Department of Health Forensic Facility; Governor's Negotiation

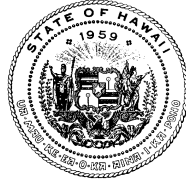
Description: Authorizes the governor to negotiate with any person for the development or expansion of a forensic facility of the department of health.

Companion:

Package: None

Current Referral: CPH, WAM

Introducer(s): TOKUDA, BAKER, INOUE, Dela Cruz, Gabbard



STATE OF HAWAII
DEPARTMENT OF HEALTH
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doh.testimony@doh.hawaii.gov

Testimony SUPPORTING SB2540
Relating to the Department of Health

SENATOR ROSALYN H. BAKER, CHAIR
SENATE COMMITTEE ON COMMERCE, CONSUMER PROTECTION AND HEALTH
Hearing Date: February 4, 2016, 9:00 a.m. Room Number: 229

1 **Fiscal Implications:** Undetermined at this time.

2 **Department Testimony:** The Department of Health (DOH) supports this measure. We thank
3 the Legislature for its continued support and in particular the intent of the initiatives in the bills
4 on today's committee agenda. Only through a combination of financing support, building a new
5 facility, support in rebuilding community programs, and fundamental policy changes will Hawaii
6 be able to effectively address the needs of its citizens, the operation of the Hawaii State Hospital
7 (HSH), and be able to provide an effective continuum of mental health supports. Separately, we
8 will be addressing measures the Governor and others have introduced regarding policy and
9 staffing challenges. Clearly, all three branches of government play a critical role in making this
10 system function effectively.

11 The purpose of the measure is to authorize the governor to negotiate with any person for
12 the development or expansion of a forensic facility of the DOH. The DOH is in desperate need
13 of a new building at the Hawaii State Hospital TODAY.

14 This proposed legislation would permit the governor to use a 'fast track' process, which
15 should have the new building completed and operational in as little as three years from now. We

1 defer to other agencies, specifically Administration and General Services and the Attorney
2 General, regarding technical and legal aspects of what is being proposed.

3 The capacity issues at the HSH have been at crisis levels for years. Overcrowding was
4 part of the reason the United States Department of Justice filed a Civil Rights for
5 Institutionalized Persons (CRIPA) lawsuit against the State of Hawaii in 1991. The high census
6 is expected to continue increase into the foreseeable future.

7 The HSH Master Plan, originally completed in 2005, and updated in 2015, calls for the
8 design and construction of a 144 bed secure patient care facility to house high-risk patients.
9 However, according to the current timeline, the design and construction of the new building is
10 expected to take as much as five to eight years. Much of that delay will be due to the process of
11 procuring services and obtaining the necessary permitting. Those processes are governed by a
12 myriad of laws, rules, and procedures, all of which will add delay to the completion of this
13 much-needed project.

14 The time has come for the construction of a new, state of the art, secure building to house
15 the increasing number of high risk forensic patients ordered by the courts into the HSH. The
16 number of individuals ordered to the DOH for care and custody, and the severity of their charges,
17 has long exceeded the available physical space available in which to house and treat them. The
18 DOH projects the HSH will have continued increase in admissions for the foreseeable future.
19 Our state needs this new facility. This legislation will potentially speed the process up
20 considerably.

- 1 Thank you for the opportunity to testify.
- 2 **Offered Amendments: (none)**

From: mailinglist@capitol.hawaii.gov
To: [CPH Testimony](#)
Cc: Sarah.Allen@hawaii.gov
Subject: Submitted testimony for SB2540 on Feb 4, 2016 09:00AM
Date: Monday, February 01, 2016 12:51:21 PM
Attachments: [SB2540-T-SPO_16-02-04_FINAL.pdf](#)

SB2540

Submitted on: 2/1/2016

Testimony for CPH on Feb 4, 2016 09:00AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Sarah Allen	State Procurement Office	Comments Only	No

Comments: Please refer to complete testimony. To summarize, there is no compelling reason to statutorily exempt the Department of Health for the development or expansion of a forensic facility from the Code. The SPO recommends deleting Page 1, lines 15 and 16; Page 2, lines 1 and 2. SPO also recommends amending the language on Page 2, Section 2, lines 18 through 21, to read as follows: “§334 – Development or expansion of a forensic facility of the department of health. (a) Notwithstanding any other law to the contrary, the governor, with the assistance of the director, may contract with any person, pursuant to 103D, Hawaii Revised Statutes for the development or ...”

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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DAVID Y. IGE
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SARAH ALLEN
ADMINISTRATOR

PAULA A. YOUNGLING
ASSISTANT ADMINISTRATOR

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TESTIMONY
OF
SARAH ALLEN, ADMINISTRATOR
STATE PROCUREMENT OFFICE

TO THE SENATE COMMITTEE
ON
COMMERCE, CONSUMER PROTECTION, AND HEALTH

February 4, 2016, 9:00 AM

Senate Bill No. 2540
RELATING TO THE DEPARTMENT OF HEALTH

Chair Baker, Vice-Chair Kidani, and members of the committee, thank you for the opportunity to submit testimony on SB 2540. The State Procurement Office supports the intent of this bill, but opposes the exemption language on page 2, SECTION 1, lines 1 to 2. SPO also opposes the language on page 2, Section 2, lines 20, page 3, line 1, allowing the governor, with the assistance of the director, to negotiate with any person for the development or expansion of a forensic facility.

Statutory exemptions are contrary to the Hawaii Public Procurement Code (Code), section 103D-102, HRS, on the applicability of the chapter that states in part "...shall apply to all procurement contracts made by governmental bodies whether the consideration for the contract is cash, revenues, realizations, receipts, or earnings..." Any governmental agency with the authority to expend funds should be in compliance with chapter 103D, which promotes the policy of fair and equitable treatment of all persons who deal with the procurement system; fosters effective broad-based competition; and increases public confidence in public procurement.

One of public procurement's primary objectives is to provide everyone equal opportunity to compete for government contracts, to prevent favoritism, collusion, or fraud in the awarding of contracts. Another critical objective is to ensure disclosure and public visibility into the way tax-payer dollars are being spent. As such, along with open competition the Code provides safeguards to ensure procurement integrity, determination of fair and reasonable pricing, public notice, and transparency. The Code also provides consistency in the manner in which purchasing agencies procure goods, services, and construction.

Exemptions to the Code mean that all procurements made with taxpayer monies for this authority, will not have the same oversight, accountability and transparency requirements mandated by those procurements processes provided in the Code. It means that there is no requirement for due diligence, proper planning or consideration of protections for the State in contract terms and conditions, nor are there any set requirements to conduct cost and price analysis and market research or post-award contract management. It also means the authority is not required to adhere to the Code's procurement integrity laws.

To provide fairness and consistency, and due process for vendors/contractors, the Code offers a legal and contractual remedy process to resolve protested solicitations and awards, which includes impartial reviews by the Department of Commerce and Consumer Affairs administrative hearings process and the ability to request judicial review. The protest process also protects agencies and taxpayers from onerous and baseless protests, minimizes delays and disruptions in the award of contracts, and supports a prompt resolution.

To ensure all vendors/contractors who seek public contracts compete on equal footing they are required to demonstrate compliance with Hawaii laws. The Code requires potential vendors/contractors to comply with Hawaii laws prior to award of a contract, i.e. DOTAX Tax Clearance Certificate including IRS certification, DLIR Certificate of Compliance; DCCA Certificate of Good Standing; or Hawaii Compliance Express (HCE) Certificate of vendor compliance. Upon completion of goods provided or services performed, and before final payment is made, a vendor/contractor is again required to demonstrate compliance with Hawaii laws, thereby assuring that public funds are paid to compliant vendors/contractors.

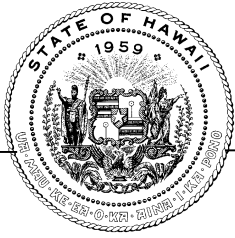
Open bidding procedures assures that the State obtains value, and potential vendors/contractors are treated fairly. Those who lack a working knowledge of the Code, may view it as a cumbersome process. The SPO believes that it is vital to good government to have a fair and consistent process to award government contracts that hold agencies responsible and accountable for their actions.

The SPO is against exempting the Department of Health for the development or expansion of a forensic facility from the Code, as it is not in the best interest of government, the business community, and the general public. The Code establishes a time-tested, fair, reliable set of rules and processes for award of contracts.

In conclusion, there is no compelling reason to statutorily exempt the Department of Health for the development or expansion of a forensic facility from the Code. The SPO recommends deleting Page 1, lines 15 and 16; Page 2, lines 1 and 2. SPO also recommends amending the language on Page 2, Section 2, lines 18 through 21, to read as follows:

“§334 – Development or expansion of a forensic facility of the department of health. (a)
Notwithstanding any other law to the contrary, the governor, with the assistance of the director, may ~~negotiate~~ contract with any person, pursuant to 103D, Hawaii Revised Statutes for the development or ...”

Thank you.



OFFICE OF ENVIRONMENTAL QUALITY CONTROL

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Testimony of
SCOTT GLENN
Interim Director

before the
SENATE COMMITTEE ON COMMERCE, CONSUMER PROTECTION, AND HEALTH

Thursday, February 04, 2016

9:00 AM

State Capitol, Conference Room 229

in SUPPORT of
SENATE BILL 2540
RELATING TO THE DEPARTMENT OF HEALTH

Chair Baker, Vice Chair Kidani, and Members of the Senate Committee on Commerce, Consumer Protection, and Health,

The Office of Environmental Quality Control (OEQC) administers Hawaii Revised Statutes (HRS) Chapter 343, Environmental Impact Statements (EIS). The purpose of the EIS law is to “establish a system of environmental review which ensures that environmental concerns are given appropriate consideration in decision making along with economic and technical considerations” (HRS §343-1). Additionally, the OEQC serves “the Governor in an advisory capacity on all matters relating to environmental quality control,” as directed in HRS §341-3.

SB 2540 proposes to authorize the Governor to negotiate with any person for the development or expansion of a forensic facility of the department of health.

The OEQC supports SB 2540.

Thank you for the opportunity to testify on this measure.

From: mailinglist@capitol.hawaii.gov
To: [CPH Testimony](#)
Cc: ollo1188@hotmail.com
Subject: Submitted testimony for SB2540 on Feb 4, 2016 09:00AM
Date: Wednesday, February 03, 2016 11:18:29 AM

SB2540

Submitted on: 2/3/2016

Testimony for CPH on Feb 4, 2016 09:00AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Kim Murphy	Individual	Oppose	No

Comments: This will prevent TNRM which is necessary to control feral cats.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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