



STATE OF HAWAII
DEPARTMENT OF HEALTH
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Testimony Supporting SB2540 H.D. 1
Relating to the Department of Health

REPRESENTATIVE SYLVIA LUKE, CHAIR
HOUSE COMMITTEE ON FINANCE

Hearing Date: March 30, 2016, 3:00 p.m. Room Number: 308

1 **Fiscal Implications:** This measure does not affect the \$160.5M request in the Governor's
2 Supplemental Budget, which should be appropriated in one lump-sum to assure timely
3 completion of the secure patient facility,

4 **Department Testimony:** SB2540 H.D. 1 proposes a combination of enhanced procurement and
5 public comment procedures to encourage completion of a new patient facility on the grounds of
6 the Hawaii State Hospital (HSH).

7 The Department of Health (DOH) respectfully defers to the State Procurement Office for
8 comments on the appropriateness of proposed procurement exemptions, and to the Department
9 of Accounting and General Services (DAGS) regarding project management timelines.

10 The focus of the DOH remains on the safety of our employees, patients, and community,
11 for which a new secured patient facility is a critical component. The DOH is appreciative of this
12 Legislature's support in seeing this project through to its end in as expeditious a manner as
13 possible.

14 To this end, the DOH and several Cabinet agencies have convened a Governor's Steering
15 Committee, meeting weekly, to execute the HSH Master Plan with the goal of completing the
16 new building within five years through the Design/Build project delivery system. Major
17 milestones have already been achieved, including:

18

- 1 • The demolition phase is under way for the dilapidated Goddard Building, specifically
2 asbestos and hazardous materials abatement;
- 3 • Public notice has been made for the application for a Certificate of Need, which is
4 required by law, and approval is expected shortly;
- 5 • The Environmental Impact Statement process has been initiated by the DAGS; and
6 • Pending approval of the Governor’s \$160.5M lump-sum appropriation request, the
7 Request For proposal (RFP) will be issued and the construction phase will begin.
8

9 However, the value of SB2540 H.D. 1 to enhance project momentum is dependent on
10 approval of the \$160.5M appropriation in the Governor’s Supplemental Budget Request.

11 Thank you for the opportunity to testify in support of the intent of SB2540 H.D. 1.

12 **Offered Amendments:** None

8DAVID Y. IGE
GOVERNOR



DOUGLAS MURDOCK
Comptroller
AUDREY HIDANO
Deputy Comptroller

STATE OF HAWAII
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
P.O. BOX 119, HONOLULU, HAWAII 96810-0119

WRITTEN TESTIMONY
OF
DOUGLAS MURDOCK, COMPTROLLER
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
TO THE
SENATE COMMITTEE
ON
HEALTH
ON
MARCH 30, 2016
S.B. 2540, H.D. 1

RELATING TO HEALTH

Chair Luke and members of the Committee, thank you for the opportunity to submit written testimony on S.B. 2540, H.D. 1.

The Department of Accounting and General Services (DAGS) supports the expedited completion of the Hawaii State Hospital forensic facility and offers the following comments for your consideration.

The current expedited project schedule includes advertising of a design-build contract during fiscal year 2016–2017 for award during fiscal year 2017-2018. As such, the full \$160,000,000 or so much thereof as may be necessary, will need to be appropriated for fiscal year 2017–2018 to allow for funds release and certification of availability prior to advertising.

Thank you for the opportunity to submit written testimony on this matter.

DAVID Y. IGE
GOVERNOR



SARAH ALLEN
ADMINISTRATOR

PAULA A. YOUNGLING
ASSISTANT ADMINISTRATOR

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TESTIMONY
OF
SARAH ALLEN, ADMINISTRATOR
STATE PROCUREMENT OFFICE

TO THE HOUSE COMMITTEE
ON
FINANCE

March 30, 2016, 3:00 pm

Senate Bill No. 2540 HD1

RELATING TO THE DEPARTMENT OF HEALTH

Chair Luke, Vice-Chair Nishimoto and members of the committee, thank you for the opportunity to submit testimony on SB 2540 HD1. The State Procurement Office supports the intent of this bill, but opposes the language on page 1, SECTION 1, lines 13 to 16, and page 2, lines 1-2, allowing the governor to negotiate and award a contract to develop or expand a forensic facility without the necessity of compliance with the procurement code.

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.

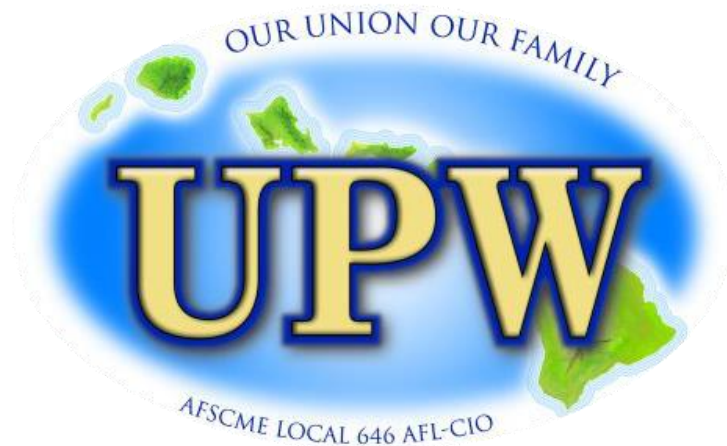
In conclusion, there is no compelling reason to statutorily exempt the Department of Health for the development or expansion of a forensic facility from the Code. The SPO recommends deleting Page 1, lines 13 to 16; Page 2, lines 1 and 2:

~~“Thus, the legislature authorizes the governor, through this Act, to negotiate directly with a person to develop or expand a forensic facility of the department of Health. The legislature intends that the governor may negotiate and award a contract to develop or expand a forensic facility without the necessity of compliance with the procurement code.”~~

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.



The Hawaii House of Representatives
The Twenty-Eighth Legislature
Regular Session of 2016

COMMITTEE ON FINANCE

Representative Sylvia Luke, Chair
Representative Scott Nishimoto, Vice Chair

DATE OF HEARING: Wednesday, March 30, 2016

TIME OF HEARING: 3:00 p.m.

PLACE OF HEARING: Conference Room 308

TESTIMONY ON SB2540, HD1 RELATING TO THE DEPARTMENT OF HEALTH

By Dayton M. Nakanelua,
State Director of the United Public Workers,
AFSCME, Local 646, AFL-CIO

My name is Dayton M. Nakanelua, state director of the United Public Workers, AFSCME, Local 646, and AFL-CIO (UPW). The UPW is the exclusive representative for approximately 11,000 public employees, which include blue collar, non-supervisory employees in Bargaining Unit 01 and institutional, health and correctional employees in Bargaining Unit 10, in the State of Hawaii and various counties.

The UPW supports the intent of SB2540, HD1 to build a new forensic facility at the Hawaii State Hospital. However, the UPW has concerns over certain aspects of the legislation. The bill intends that the governor may negotiate directly with any person for the development or expansion of a forensic facility of the department of Health without compliance with the Procurement Code. This is a major concern. If there is no competitive bid process it will be difficult to evaluate the proposed end product and services before any significant financial commitment by the state is made. There will be little or no transparency in the process for the public's information.

Of particular concern is the requirement for a useful life cycle cost analysis. This is an engineering economics process to evaluate alternatives and total cost over the entire life of a new forensic facility in its planning, design, implementation, operations and ultimate destruction of the facility after surpassing its useful life. Major assumptions as to cost, operating conditions, construction, design usefulness and efficiency, effects on inmates and their rehabilitation, effect on employees and the public and surrounding infrastructure are made for the thirty years life span of the forensic facility, all things being equal.

The concept of cost projections is not new but when life cycle cost analysis is applied to prison systems, the experience here is very limited. We hope the governor and his director will be guided by experienced life cycle cost analysis experts with strong experience in prison systems. When all the economic and engineering data is accumulated, it must answer how it will help prison inmates return to society as law-abiding citizens.

Thank you for the opportunity to submit this testimony.



HAWAII GOVERNMENT EMPLOYEES ASSOCIATION
AFSCME Local 152, AFL-CIO

RANDY PERREIRA, Executive Director • Tel: 808.543.0011 • Fax: 808.528.0922

LATE

The Twenty-Eighth Legislature, State of Hawaii
House of Representatives
Committee on Finance

Testimony by
Hawaii Government Employees Association

March 30, 2016

S.B. 2540, H.D. 1 – RELATING TO THE
DEPARTMENT OF HEALTH

The Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO, raises concerns over the purpose and intent of S.B. 2540, H.D.1, which authorizes the Governor, with the assistance of the director, to negotiate with any person for the development or expansion of a forensic facility of the Department of Health.

While it is prudent and necessary to expediently construct a new forensic facility at the Hawaii State Hospital to address the high census and to house forensic patients, we respectfully argue that bypassing procurement lends to favoritism when awarding contracts. Further, because this is a high-profile community need, the process should be completed in a transparent manner, where tax payers can follow how their money is being spent. Granting the Governor express authority to negotiate directly with any person just to expedite the process does not guarantee the design or construction of an adequate facility.

Thank you for the opportunity to raise concerns on S.B. 2540, H.D.1.

Respectfully submitted,

 Randy Perreira
Executive Director