

STAND. COM. REP. NO.

1548

Honolulu, Hawaii

APR 10 2015

RE: H.B. No. 1075  
H.D. 2  
S.D. 2

Honorable Donna Mercado Kim  
President of the Senate  
Twenty-Eighth State Legislature  
Regular Session of 2015  
State of Hawaii

Madam:

Your Committees on Judiciary and Labor and Ways and Means, to which was referred H.B. No. 1075, H.D. 2, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO HEALTH,"

beg leave to report as follows:

The purpose and intent of this measure is to authorize the Maui Regional System of the Hawaii Health Systems Corporation to enter into an agreement with a private entity to transition one or more of its facilities into a new private Hawaii nonprofit corporation.

Your Committees received testimony in support of this measure from the Hawaii Health Systems Corporation; Hale Makua Health Services; Healthcare Association of Hawaii; Brother Nature Foundation, Inc.; Hawaii Academy of Family Physicians; Hawaii Lodging & Tourism Association; Chamber of Commerce Hawaii; Maui Economic Development Board, Inc.; Maui Hotel & Lodging Association; Maui Pacific Cancer Institute; and fifty-five individuals. Your Committees received testimony in opposition to this measure from the Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO; United Public Workers, Local 646, AFL-CIO; Labor Caucus, Democratic Party of Hawaii; and fifteen individuals. Your Committees received comments on this measure from the Department of Budget and Finance, Office of Hawaiian Affairs, and four individuals.



Prior to the hearing on this measure, your Committees posted and made available for public review a proposed S.D. 2, which made various amendments to clarify the context and nature of the transactions necessary for a possible transition of a facility or facilities of the Maui Regional System to private ownership. Specifically, these amendments include:

- (1) Clarifying the purpose section under section 1 that the exploration of possible ventures with private partners has been an ongoing process as allowed under section 323F-7.6, Hawaii Revised Statutes, and potential private partners have expressed hesitation at proceeding in more detailed negotiations without further specific enabling legislation;
- (2) Adding the definition of "nonprofit management entity", which means a wholly-owned subsidiary of the private partner entity, the primary purpose of which is to operate and manage a facility that will undergo a transition;
- (3) Amending the definition of "transitioned facility" to specify certain minimum conditions that are required to be met to complete the transition;
- (4) Clarifying that the transition to a nonprofit management entity will involve the transfer of the exclusive right to conduct ongoing business at a facility together with various necessary business assets;
- (5) Specifying that the lease for real property will be an operating lease and contain various management terms and conditions for transfer of business assets of the relevant facility;
- (6) Simplifying the language regarding employment to allow increased flexibility in negotiations between the relevant parties;
- (7) Providing guidelines and standards for the nonprofit management entity of the Maui Regional System to seek annual operating support without regard to chapter 42F, Hawaii Revised Statutes;



- (8) Allowing the nonprofit management entity or Maui Regional System to seek capital project support without regard to chapter 42F, Hawaii Revised Statutes, based on a ten-year business plan to be included in the operating lease, and subject to similar standards as those specified for receiving funds for operating support;
- (9) Clarifying that the nonprofit management entity and its private entity parent company shall work together to coordinate and develop access to apply efficiencies of scale, expand and upgrade medical services for Maui residents, and use value-based contracting initiatives; and
- (10) Changing the effective date to July 1, 2015.

Your Committees received testimony in support of the proposed S.D. 2 from the Office of the Mayor, County of Maui; Hawaii Health Systems Corporation - Maui Region; Hawaii Pacific Health; Maui Memorial Medical Center Foundation; Maui Memorial Medical Center; Chamber of Commerce Hawaii; Maui Chamber of Commerce; and ten individuals. Your Committees received testimony in opposition to the proposed S.D. 2 from seven individuals. Your Committees received comments on the proposed S.D. 2 from the Department of Budget and Finance and Department of the Attorney General.

Your Committees find that health care is a very specialized, complex, and rapidly changing business where maintaining revenue is difficult and increasing revenue is particularly challenging. Hawaii Health Systems Corporation facilities can benefit from partners who can accelerate access to investments in areas such as health information technology, physician networks, quality improvement, supply chain management, and expertise in revenue cycle maximization.

Your Committees further finds that under Act 182, Session Laws of Hawaii 2009, the Legislature authorized any of the regional systems or individual facilities of the Hawaii Health Systems Corporation to transition into a new legal entity in any form recognized under the laws of the State. With the approval and support of its regional system board, at least one regional system has actively explored the possibilities of a public-private partnership allowed under section 323F-7.6, Hawaii Revised Statutes, including undertaking three formal solicitation efforts



to gauge the interest of potential private partners locally and nationally.

Your Committees further find that in 2012, a regional system submitted confidential information and memoranda describing the operational and financial landscape of its facilities to twelve different companies and contacted an additional eight entities to explore their interest in a possible partnership. However, during the course of these efforts, the Hawaii Health Systems Corporation determined that the majority of potential partners are hesitant to evaluate partnership opportunities without enabling legislation that addresses certain structural issues related to such a transaction.

Accordingly, the proposed S.D. 2 ensures that the people of Hawaii who live in areas served by the Hawaii Health Systems Corporation have continued access to comprehensive high quality health care services. The proposed S.D. 2 creates a statutory mechanism that enables the Maui Regional System Board of the Hawaii Health Systems Corporation to proceed with substantive negotiations with any private entity willing to ensure that the medical needs of Maui County residents and visitors alike will be met.

Your Committees have amended this measure by adopting the proposed S.D. 2 and further amending the proposed S.D. 2 by:

- (1) Adopting certain technical, nonsubstantive amendments suggested by the Department of the Attorney General;
- (2) Specifying that to qualify for state subsidies for operating costs, the nonprofit management entity or Maui Regional System shall, among other requirements, submit itemized financial statements, including reimbursement rates; and
- (3) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the records of votes of the members of your Committees on Judiciary and Labor and Ways and Means that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1075, H.D. 2, S.D. 1, as amended herein, and recommend that it pass Third Reading in the form attached hereto as H.B. No. 1075, H.D. 2, S.D. 2.



Respectfully submitted on  
behalf of the members of the  
Committees on Judiciary and  
Labor and Ways and Means,



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JILL N. TOKUDA, Chair



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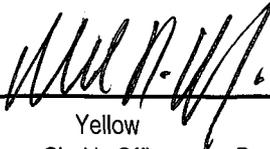
GILBERT S.C. KEITH-AGARAN, Chair





The Senate  
 Twenty-Eighth Legislature  
 State of Hawai'i

**Record of Votes**  
**Committee on Ways and Means**  
**WAM**

Bill / Resolution No.:*	Committee Referral:	Date:		
HB1075, HD2, SD1	HTH/CPN, JDL/WAM	4/8/15		
<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
TOKUDA, Jill N. (C)	✓			
KOUCHI, Ronald D. (VC)	✓			
CHUN OAKLAND, Suzanne	✓			
DELA CRUZ, Donovan M.		✓		
ENGLISH, J. Kalani	✓			
GALUTERIA, Brickwood	✓			
HARIMOTO, Breene				✓
INOUYE, Lorraine R.	✓			
RIVIERE, Gil	✓			
RUDERMAN, Russell E.		✓		
SLOM, Sam	✓			
<b>TOTAL</b>	9	2	0	1
Recommendation:				
<input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
				
Distribution:				
Original	Yellow	Pink	Goldenrod	
File with Committee Report	Clerk's Office	Drafting Agency	Committee File Copy	

\*Only one measure per Record of Votes