

JAN 22 2021

SENATE RESOLUTION

REQUESTING THE LEGISLATIVE REFERENCE BUREAU TO CONDUCT A STUDY
OF THE NECESSITY FOR THE CERTIFICATE OF NEED PROCESS UNDER
CHAPTER 323D, HAWAII REVISED STATUTES.

1 WHEREAS, Certificate of Need (CON) programs are state-level
2 regulatory programs that require approval from a state health
3 planning agency for construction, expansion, and major capital
4 expenditures by health care facilities and services; and
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6 WHEREAS, Hawaii's CON law, codified in part V of chapter
7 323D, Hawaii Revised Statutes, was established in 1975 in
8 response to the National Health Planning and Resources
9 Development Act of 1974 (NHPRDA), which conditioned the award of
10 federal public health service grants upon a state's adoption of
11 such regulatory measures; and
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13 WHEREAS, in 1987, the federal mandate and funding
14 provisions of NHPRDA were repealed; and
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16 WHEREAS, since the repeal of NHPRDA, twelve states have
17 fully repealed their CON programs, while several other states
18 have narrowed the application of their CON laws to only certain
19 types of facilities; and
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21 WHEREAS, Hawaii's law requires the State Health Planning
22 and Development Agency to approve a CON for the construction,
23 expansion, alteration, conversion, development, initiation, or
24 modification of all health care facilities or health care
25 services in the State; and
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27 WHEREAS, like many other states' CON laws, Hawaii's CON law
28 is intended to provide a coordinated system that links statewide
29 planning for health services with facilities development; and



S.R. NO. 4

1 WHEREAS, Hawaii's CON Program, like other programs
2 nationwide, has been criticized on several bases, which include:

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- 4 (1) Hampering the efficient performance of health care
5 markets by creating barriers to entry and expansion,
6 restricting free and open competition, and limiting
7 consumer choice, resulting in higher prices;
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 - 9 (2) Hampering innovation and improvements in the delivery
10 of better health care by limiting competition;
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 - 12 (3) Inconsistency in the administration of the program;
13 and
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 - 15 (4) Not achieving its objective of controlling health care
16 costs; and
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18 WHEREAS, national health care reform and other changes
19 taking place in the health care marketplace make it appropriate
20 to examine the relevancy of Hawaii's CON program and its effects
21 on health care access, quality, and costs; now, therefore,
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23 BE IT RESOLVED by the Senate of the Thirty-first
24 Legislature of the State of Hawaii, Regular Session of 2021,
25 that the Legislative Reference Bureau is requested to conduct a
26 study of the necessity for the CON process under chapter 323D,
27 Hawaii Revised Statutes, with respect to:

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- 29 (1) The role of the CON program;
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 - 31 (2) Whether certain facilities, types of facilities, or
32 services should be exempt from the CON process; and
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 - 34 (3) Whether modifications made to the CON process in other
35 states may be beneficial to implement in Hawaii; and
36

37 BE IT FURTHER RESOLVED that the Legislative Reference
38 Bureau is requested to make appropriate recommendations to
39 eliminate or modify the CON process; and



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1 BE IT FURTHER RESOLVED that the Legislative Reference
2 Bureau is requested to submit a report of its findings and
3 recommendations regarding the CON process, including any
4 proposed legislation, to the Legislature no later than twenty
5 days prior to the convening of the Regular Session of 2022; and
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7 BE IT FURTHER RESOLVED that certified copies of this
8 Resolution be transmitted to the Director of Health,
9 Administrator of the State Health Planning and Development
10 Agency, and Director of the Legislative Reference Bureau.
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OFFERED BY: _____

A handwritten signature in black ink, appearing to be 'J. H. K.', is written over a horizontal line.