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# SENATE CONCURRENT RESOLUTION

REQUESTING THE CONVENING OF A LEGISLATIVE WORKING GROUP TO  
EVALUATE AND MAKE RECOMMENDATIONS REGARDING THE POLICIES  
AND PROCEDURES OF THE STATE HEALTH PLANNING AND DEVELOPMENT  
AGENCY AND PREPARATION OF AND AMENDMENTS TO THE STATE  
HEALTH SERVICES AND FACILITIES PLAN.

1           WHEREAS, the government's role in health care planning had  
2 its beginnings with the Hill-Burton Act of 1946 which authorized  
3 federal funds for hospital construction; and  
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5           WHEREAS, in 1966 the Federal Comprehensive Health Planning  
6 Act (Public Law 89-749) mandated all states to establish health  
7 planning agencies in order to receive federal funding through  
8 the Hill-Burton Act, Social Security Act, and other related  
9 federal funding programs; and  
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11           WHEREAS, Congress amended the Social Security Act in 1972  
12 to give states the power to deny Medicare, Medicaid, and other  
13 government reimbursements to facilities with major capital  
14 projects that were not approved by the state's health planning  
15 agency; and  
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17           WHEREAS, in 1974, Congress enacted Public Law 63-641 which  
18 more firmly tied a state's receipt of federal funding for health  
19 care, including grants, to adoption of a Certificate of Need  
20 Program as a sub-function of a state's health planning agency;  
21 and  
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23           WHEREAS, Public Law 96-79 required that all regulatory  
24 Certificate of Need decisions follow a state's regional health  
25 plan as developed by the appropriate planning committees; and  
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27           WHEREAS, pursuant to Act 152, Session Laws of Hawaii 1976,  
28 the Legislature established the State Health Planning and  
29 Development Agency (SHPDA); and  
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1           WHEREAS, in Act 152, the Legislature recognizes that health  
2 planning for the State is a complex area that requires the input  
3 of persons of various interests and representing various  
4 geographical areas; and  
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6           WHEREAS, the Legislature also found that the process of  
7 health planning must seek to best meet the health needs of the  
8 State, as perceived by the residents of the State who, depending  
9 upon the community of residence, may perceive different needs;  
10 and  
11

12           WHEREAS, the development of health programs, services, and  
13 facilities largely follows the growth of the State in some  
14 areas, while other areas may not have adequate services  
15 available; and  
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17           WHEREAS, the purpose of Act 152 is to "ensure the pragmatic  
18 health planning of the State by providing a permanent vehicle  
19 for citizen input into the health planning process, so that the  
20 total health services plan of the State will be based on  
21 informed decision-making"; and  
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23           WHEREAS, in establishing health planning as a function of  
24 the State, the Legislature directed SHPDA to conduct health  
25 planning services and to implement the State Health Services and  
26 Facilities Plan; and  
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28           WHEREAS, section 323D-15, Hawaii Revised Statutes, states  
29 that the State Health Services and Facilities Plan shall address  
30 the health care needs of the State, including inpatient care,  
31 health care facilities, and special needs; and  
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33           WHEREAS, section 323D-15, Hawaii Revised Statutes, also  
34 requires that the State Health Services and Facilities Plan  
35 provide for the reduction or elimination of underutilized,  
36 redundant, or inappropriate health care facilities and health  
37 care services; and  
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39           WHEREAS, section 91-1, Hawaii Revised Statutes, states that  
40 a "rule" is an agency's statement of general or particular  
41 applicability and future effect that implements, interprets, or  
42 prescribes laws or policy, or describes the organization,  
43 procedure, or practice requirements of the agency, and that the  
44 term does not include regulations concerning only the internal



1 management of an agency and not affecting private rights of or  
2 procedures available to the public; declaratory rulings issued  
3 pursuant to section 91-8, Hawaii Revised Statutes; and intra-  
4 agency memoranda; and  
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6 WHEREAS, chapter 92, Hawaii Revised Statutes, Hawaii's  
7 Sunshine Law, expressly declares that it is the policy of the  
8 State that the formation and conduct of public policy, including  
9 the discussions, deliberations, decisions, and actions of  
10 government agencies, shall be conducted as openly as possible;  
11 and  
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13 WHEREAS, Hawaii's Sunshine Law declares the Legislature's  
14 intent that provisions requiring open meetings be liberally  
15 construed and the provisions providing exceptions to open  
16 meeting requirements be strictly construed against closed  
17 meetings requiring that, minus certain exceptions, all  
18 discussions, deliberations, decisions, and actions of a board or  
19 commission relating to official business must be conducted as  
20 part of a public meeting; and  
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22 WHEREAS, section 323D-17, Hawaii Revised Statutes, requires  
23 that in preparation of the State Health Services and Facilities  
24 Plan or amendments to the plan, public hearings be held in  
25 compliance with chapters 91 and 92, Hawaii Revised Statutes;  
26 now, therefore,  
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28 BE IT RESOLVED by the Senate of the Twenty-sixth  
29 Legislature of the State of Hawaii, Regular Session of 2011, the  
30 House of Representatives concurring, that the Health Committee  
31 Chairs in the Senate and House of Representatives are requested  
32 to convene a working group during the interim between the  
33 Regular Session of 2011 and the Regular Session of 2012 to:  
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- 35 (1) Evaluate whether SHPDA is subject to Hawaii's Sunshine  
36 Law, chapter 92, Hawaii Revised Statutes;  
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- 38 (2) Evaluate whether the State Health Services and  
39 Facilities Plan is an agency rule that is subject to  
40 chapter 91, Hawaii Revised Statutes, and whether the  
41 preparation of the State Health Services and  
42 Facilities Plan or any amendments thereto are required  
43 to go through the public hearing process in



1 conformance with chapters 91 and 92, Hawaii Revised  
2 Statutes; and

3  
4 (3) Recommend ways to improve SHPDA's efficiency as it  
5 determines certificates of need; and

6  
7 BE IT FURTHER RESOLVED that nothing in this Concurrent  
8 Resolution be used in any legal dispute or judicial proceeding,  
9 nor any of the terms of this Concurrent Resolution be applied  
10 retroactively from the date of adoption of this Concurrent  
11 Resolution; and

12  
13 BE IT FURTHER RESOLVED that certified copies of this  
14 Concurrent Resolution be transmitted to the Governor, President  
15 of the Senate, Speaker of the House of Representatives, Director  
16 of Health, Administrator of the State Health Planning and  
17 Development Agency, Chairperson of the Statewide Health  
18 Coordinating Council, Chairpersons of the Subarea Health  
19 Planning Councils, Chairperson of the Plan Development  
20 Committee, and Mayor of each county.

