

STAND. COM. REP. NO.

1305

Honolulu, Hawaii

APR 15 2011

RE: S.C.R. No. 127  
S.D. 1

Honorable Shan S. Tsutsui  
President of the Senate  
Twenty-Sixth State Legislature  
Regular Session of 2011  
State of Hawaii

Sir:

Your Committee on Health, to which was referred S.C.R.  
No. 127 entitled:

"SENATE CONCURRENT RESOLUTION AFFIRMING THAT THE STATE HEALTH  
PLANNING AND DEVELOPMENT AGENCY IS SUBJECT TO HAWAII'S  
SUNSHINE LAW AND THAT THE STATE HEALTH SERVICES AND  
FACILITIES PLAN IS AN AGENCY RULE SUBJECT TO THE PUBLIC  
HEARING REQUIREMENTS OF CHAPTERS 91 AND 92, HAWAII REVISED  
STATUTES,"

begs leave to report as follows:

The purpose of this measure is to affirm that:

- (1) The State Health Planning and Development Agency (SHPDA)  
is subject to Hawaii's Sunshine Law, chapter 92, Hawaii  
Revised Statutes; and
- (2) The State Health Services and Facilities Plan (Plan) is  
an agency rule that is subject to chapter 91, Hawaii  
Revised Statutes, and the preparation of the Health  
Services and Facilities Plan or any amendments thereto  
is required to go through the public hearing process in  
conformance with the requirements of chapters 91 and 92,  
Hawaii Revised Statutes.

The intent of this measure is to ensure that the formation  
and conduct of public policy, including the discussions,  
deliberations, decisions, and actions of government agencies are  
conducted as openly as possible.

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Your Committee received testimony in opposition to this measure from the Department of Health and Kaiser Foundation Health Plan, Inc. Your Committee received comments on this measure from the Office of Information Practices of the Office of the Lieutenant Governor and the State Health Planning and Development Agency.

In light of the issues raised by this measure and testimony submitted on this measure, your Committee finds the need to establish a working group convened by the Chairs of the Senate and House Health Committees during the interim between the 2011 and 2012 Regular Sessions to further examine the issues raised by this measure and to recommend ways to improve the efficiency of SHPDA. Your Committee notes that it is not the intent of this measure, nor any prospective discussions regarding SHPDA's policies and procedures held pursuant to this measure, to intervene in ongoing legal disputes.

Accordingly, your Committee has amended this measure by:

- (1) Deleting language affirming that SHPDA is subject to Hawaii's Sunshine Law and that the Plan is an agency rule subject to chapter 91, Hawaii Revised Statutes, and related findings;
- (2) Adding language requesting the Health Committee Chairs in the Senate and House of Representatives to convene a working group during the interim between the Regular Session of 2011 and the Regular Session of 2012 to evaluate whether:
  - (A) SHPDA is subject to Hawaii's Sunshine Law, chapter 92, Hawaii Revised Statutes;
  - (B) The Plan is an agency rule that is subject to chapter 91, Hawaii Revised Statutes; and
  - (C) Preparation of the Plan or any amendments thereto are required to go through the public hearing process in conformance with chapters 91 and 92, Hawaii Revised Statutes;
- (3) Adding language indicating that nothing in the measure may be used in any legal dispute or judicial proceeding,



nor may any of the terms of the measure be applied retroactively from the effective date of the measure; and

- (4) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 127, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 127, S.D. 1.

Respectfully submitted on  
behalf of the members of the  
Committee on Health,



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JOSH GREEN, M.D., Chair



The Senate  
 Twenty-Sixth Legislature  
 State of Hawai'i

**Record of Votes**  
**Committee on Health**  
**HTH**

Bill / Resolution No.:* <i>SCR 127</i>	Committee Referral: <i>HTH</i>	Date: <i>4/13/11</i>
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The committee is reconsidering its previous decision on this measure.  
 If so, then the previous decision was to: \_\_\_\_\_

The Recommendation is:

Pass, unamended 2312      Pass, with amendments 2311      Hold 2310      Recommit 2313

Members	Aye	Aye (WR)	Nay	Excused
GREEN, M.D., Josh (C)	✓			
NISHIHARA, Clarence K. (VC)	✓			
BAKER, Rosalyn H.	✓			
CHUN OAKLAND, Suzanne				✓
SHIMABUKURO, Maile	✓			
WAKAI, Glenn				✓
SLOM, Sam				✓
<b>TOTAL</b>	<i>4</i>			<i>3</i>

Recommendation:  Adopted      Not Adopted

Chair's or Designee's Signature:  
*Clarence K. Nishihara*

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\*Only one measure per Record of Votes