

# S.B. NO. 1435

JAN 22 2007

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## A BILL FOR AN ACT

RELATING TO AN EXEMPTION FOR THE MALULANI HEALTH AND MEDICAL CENTER, L.L.C., PROJECT FROM THE CERTIFICATE OF NEED REQUIREMENT OF CHAPTER 323D, HAWAII REVISED STATUTES.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. This Act exempts the acute care medical  
2 facility that Malulani Health & Medical Center, L.L.C.,  
3 ("Malulani project") is proposing to build (and as is described  
4 in certificate of need application no. 05-25) from the  
5 certificate of need requirement of chapter 323D, Hawaii Revised  
6 Statutes.

7           Maui is in need of a new and additional acute care  
8 hospital. Maui is the only island with one acute care hospital.  
9 Despite the presence of Maui Memorial Hospital, the island of  
10 Maui faces a bed shortage and an exodus of doctors who do not  
11 have a state-of-the-art facility to handle modern medical  
12 procedures.

13           To serve the unmet medical needs of Maui residents, the  
14 Malulani project has proposed to build a second hospital on the  
15 island of Maui. As described in certificate of need application  
16 number 05-25, the Malulani project is designed to be a 150-bed  
17 full service, acute care community hospital and is intended to

1 function as an integrated, alternative, and state-of-the-art  
2 medical care facility and to complement the medical services  
3 that are currently provided by the current, sole hospital that  
4 is operating on Maui, which is Maui Memorial Hospital.

5 The initial Malulani project will cost \$211,800,000 to  
6 plan, build, equip, and operate the Malulani project facility.  
7 Notably, all of the funding is to be paid by private funds.

8 The Malulani project is substantially supported by a wide  
9 cross-segment of the population, including support from the  
10 Governor of Hawaii, the current and previous mayors of Maui  
11 County, many Maui physicians and other health professionals,  
12 several medical associations, other community organizations on  
13 Maui, and the residents of Maui.

14 Under the current law, no new modern, acute care hospital  
15 can be built on Maui unless a certificate of need is obtained  
16 from the state health planning and development agency in  
17 conformity with the provisions of chapter 323D, and the  
18 implementing rules for chapter 323D, chapter 11-186 of the  
19 Hawaii Administrative Rules.

20 In certificate of need application number 05-25, the  
21 Malulani project sought a certificate of need for such  
22 authorization to build this proposed acute care hospital on

1 Maui. Despite the widespread support for the Malulani project,  
2 the state health planning and development agency initially  
3 denied a certificate of need on application number 05-25. The  
4 Malulani project is currently seeking reconsideration of the  
5 state health planning and development agency's initial denial of  
6 a certificate of need.

7 Although the state health planning and development agency  
8 denied the Malulani project a certificate of need, the state  
9 health planning and development agency, in its written decision  
10 on certificate of need application number 05-25, recognized the  
11 need for a modern acute care hospital on Maui.

12 The legislature also finds that an additional acute care  
13 medical facility is needed on the island of Maui. This Act  
14 amends chapter 323D, Hawaii Revised Statutes, to exempt the  
15 Malulani project, as set forth certificate of need application  
16 number 05-25 (including supplementary filings in support of the  
17 certificate of need application number 05-25 up to the date of  
18 enactment of this Act) from the certificate of need requirement  
19 of chapter 323D, Hawaii Revised Statutes.

20 SECTION 2. Chapter 323D, Hawaii Revised Statutes, is  
21 amended by adding a new section to be appropriately designated  
22 and to read as follows:

1        "§323D- Exemption from certificate of need requirement.

2        (a) Notwithstanding any law to the contrary, the acute care  
3        facility proposed by Malulani Health & Medical Center, L.L.C.,  
4        in its certificate of need application number 05-25 that was  
5        submitted to the state health planning and development agency,  
6        shall be exempt from the requirements of this chapter. Such  
7        facility may be constructed and operated without a certificate  
8        of need so long as the facility is constructed and operated in  
9        conformity with certificate of need application 05-25, including  
10       any supplementary materials submitted prior to the enactment of  
11       this Act in connection with certificate of need application 05-  
12       25 to the state health planning and development agency in  
13       support of such application.

14       (b) A certificate of need must be obtained in accordance  
15       with this chapter for the following:

- 16       (1) Subsequent construction to the Malulani Health &  
17       Medical, L.L.C. facility that is not described in its  
18       certificate of need application number 05-25 or in its  
19       supplementary materials submitted prior to the date of  
20       enactment of this Act to the state health planning and  
21       development agency in connection with certificate of  
22       need application 05-25; and



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JUSTIFICATION SHEET

DEPARTMENT: Office of the Governor

TITLE: A BILL FOR AN ACT RELATING TO AN EXEMPTION FOR THE MALULANI HEALTH AND MEDICAL CENTER, L.L.C., PROJECT FROM THE CERTIFICATE OF NEED REQUIREMENT OF CHAPTER 323D, HAWAII REVISED STATUTES.

PURPOSE: Exempt the Malulani Health & Medical Center, L.L.C., proposal, to build a new, state-of-the-art hospital on Maui from the certificate of need (CON) requirement of chapter 323D, Hawaii Revised Statutes (HRS).

MEANS: Add a new section to chapter 323D, HRS.

JUSTIFICATION: Currently, chapter 323D, HRS, mandates that healthcare providers seek a CON from the Hawaii State Health Planning and Development Agency if they wish (1) to begin offering most types of health care services; (2) to end rendering most types of healthcare services; (3) to provide such services at a different location; or (4) to construct any type of medical or health facility. The purpose of chapter 323D, HRS, as stated in section 323D-1, is "to establish a health planning and resources development program to promote accessibility for all the people of the State to quality health care services at reasonable cost."

Maui is in need of a new and additional acute care hospital. Maui is the only island with one acute care hospital. Despite the presence of Maui Memorial Hospital, Maui island faces a bed shortage and an exodus of doctors who do not have a state-of-the-art facility to handle modern medical procedures.

To serve the unmet medical needs of Maui residents, the Malulani Health & Medical

Center, L.L.C., ("Malulani project") was proposed. The Malulani project filed a CON Application with the State Health Planning and Development Agency (SHPDA). This application was designated to be CON Application No. 05-25.

According to the application, the Malulani project was designed to be:

- A 150 bed full service, acute care community hospital; and
- An "integrated complementary, alternative and state-of-the-art medical care facility."

The Malulani project has received substantial support by:

- The Governor of this State, the current Mayor of Maui, and the previous Mayor of Maui;
- A substantial number of Maui doctors and several medical associations/ organizations;
- Other community organizations on Maui; and
- Many residents of Maui.

Despite this substantial support for the Malulani project, SHPDA denied a CON.

The Malulani project estimated that the project will cost \$211.8 million to plan, build, equip, and operate the facility--all of which was to be paid by private funds. The SHPDA's decision to deny the Malulani project a CON recognized the care and bed shortage on Maui.

To overcome the many competing pressures on this issue, this bill proposes a single, one time exemption for the Malulani project from the CON requirement of chapter 323D, HRS, so that private funds remain available and can be used to build such a facility.

This proposal amends chapter 323D, HRS, to exempt the Malulani project, CON Application No. 05-25 from the CON requirement.

Impact on the public: Increased access to quality health care in Hawaii, particularly on Maui. Patients (residents and tourists) will have better health care choices. Because the Malulani Health & Medical Center, L.L.C., will offer more life saving procedures, patients with life-threatening conditions will be at less risk, because treatment may proceed immediately and because Aerovac will not be required as frequently. Healthcare costs for the island of Maui may be reduced with the additional competition and with the reduced need for travel to other islands for treatment.

Impact on the department and other agencies: This new hospital will complement the services of Hawaii Health Systems Corporation and allow more sharing of the healthcare responsibilities on the island. The Department of Health will be charged with oversight of this facility similar to other hospitals.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: None.

OTHER AFFECTED AGENCIES: Department of Health; State Health Planning and Development Agency; Hawaii Health Systems Corporation.

EFFECTIVE DATE: Upon approval.