

STAND. COM. REP. NO.

3506

Honolulu, Hawaii

MAY 15 2020

RE: S.C.R. No. 102  
S.D. 1

Honorable Ronald D. Kouchi  
President of the Senate  
Thirtieth State Legislature  
Regular Session of 2020  
State of Hawaii

Sir:

Your Committees on Government Operations and Labor, Culture and the Arts, to which was referred S.C.R. No. 102 entitled:

"SENATE CONCURRENT RESOLUTION REQUESTING THE LEGISLATIVE REFERENCE BUREAU TO CONDUCT A STUDY ON THE FEASIBILITY OF ENACTING STATUTORY AUTHORITY FOR COLLECTIVE NEGOTIATION BETWEEN PHYSICIANS AND HEALTH CARE INSURERS IN HAWAII TO RESTRAIN OR BALANCE THE MONOPSONISTIC MARKET POWER OF HEALTHCARE INSURERS OVER INDEPENDENT PHYSICIANS,"

beg leave to report as follows:

The purpose and intent of this measure is to request the Legislative Reference Bureau to conduct a study on the feasibility of enacting statutory authority to collectively negotiate between the physicians and health care insurers in Hawaii.

Your Committees received testimony in support of this measure from the Mayor of the County of Hawaii, Hawaii Medical Association, Hawaii Vision Clinic, Hawaii Physician Shortage Crisis Task Force, and nine individuals. Your Committees received testimony in opposition to this measure from the Hawaii Medical Services Association. Your Committees received comments on this measure from the Legislative Reference Bureau.

Your Committees find that this measure aims for an improved and stronger contractual relationship between physicians and insurers, as well as stronger and more coherent programs aimed at



improving access to care for the people of Hawaii. According to testimony received by your Committees, studying the feasibility of enacting statutory authority compliant with the Parker Immunity Doctrine to allow collective negotiation between physicians and health insurers in Hawaii may be outside the Legislative Reference Bureau's expertise. Your Committees note that Hawaii is the only state in the nation that possesses an explicit exemption from the federal Employee Retirement Income Security Act of 1974, for its Prepaid Health Care Act, codified as Chapter 393, Hawaii Revised Statutes. Your Committees further note that as a study regarding the impacts of enacting statutory authority legislation requires legal analysis, it may be more appropriate for the Department of the Attorney General to conduct the study on this matter.

Your Committees have amended this measure by:

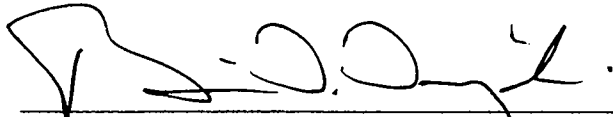
- (1) Amending the title of the resolution to read:  
"REQUESTING THE LEGISLATIVE REFERENCE BUREAU TO CONDUCT A STUDY RELATING TO STATUTORY AUTHORITY TO ALLOW COLLECTIVE NEGOTIATION BETWEEN PHYSICIANS AND HEALTH CARE INSURERS IN HAWAII TO RESTRAIN OR BALANCE THE MONOPSONISTIC MARKET POWER OF HEALTHCARE INSURERS OVER INDEPENDENT PHYSICIANS.";
- (2) Deleting the request for the Legislative Reference Bureau to study the feasibility of enacting a statute complaint with the Parker Doctrine in Hawaii;
- (3) Inserting language that would add to the scope of the study, whether and how adopting legislation authorizing collective negotiations between competing physicians and health benefit plans may impact Hawaii's exemption from the federal Employee Retirement Income Security Act of 1974 for its Prepaid Health Care Act; and
- (4) Making a technical, nonsubstantive amendment for the purposes of clarity and consistency.

As affirmed by the records of votes of the members of your Committees on Government Operations and Labor, Culture and the Arts that are attached to this report, your Committees concur with the intent and purpose of S.C.R. No. 102, as amended herein, and recommend that it be referred to your Committee on Commerce,



Consumer Protection, and Health, in the form attached hereto as  
S.C.R. No. 102, S.D. 1.

Respectfully submitted on  
behalf of the members of the  
Committees on Government  
Operations and Labor, Culture  
and the Arts,

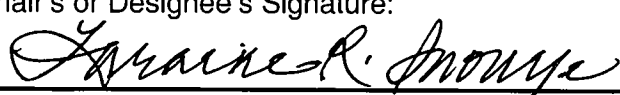
  
BRIAN T. TANIGUCHI, Chair

  
LAURA H. THIELEN, Chair



The Senate  
Thirtieth Legislature  
State of Hawai'i


**Record of Votes**  
**Committee on Government Operations**  
**GVO**

Bill / Resolution No.:* <b>SCR 102</b>	Committee Referral: <b>GVO/LCA, CPH</b>	Date: <b>3/12/2020</b>		
<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
THIELEN, Laura H. (C)	✓			
INOUYE, Lorraine R. (VC)	✓			
BAKER, Rosalyn H.	✓			
KANUHA, Dru Mamo	✓			
FEVELLA, Kurt				✓
<b>TOTAL</b>	<b>4</b>			<b>1</b>
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
<b>Distribution:</b> Original     Yellow     Pink     Goldenrod File with Committee Report     Clerk's Office     Drafting Agency     Committee File Copy				

\*Only one measure per Record of Votes

The Senate  
Thirtieth Legislature  
State of Hawai'i

**Record of Votes**  
**Committee on Labor, Culture and the Arts**  
**LCA**

Bill / Resolution No.:* <b>SCR 102</b>	Committee Referral: <b>GVO/LCA, CPH</b>	Date: <b>3/12/20</b>		
<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
TANIGUCHI, Brian T. (C)	✓			
IHARA, Jr., Les (VC)	✓			
CHANG, Stanley	✓			
GABBARD, Mike	✓			
FEVELLA, Kurt				✓
<b>TOTAL</b>	<b>4</b>	<b>0</b>	<b>0</b>	<b>1</b>
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
<b>Distribution:</b> Original     Yellow     Pink     Goldenrod File with Committee Report     Clerk's Office     Drafting Agency     Committee File Copy				

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