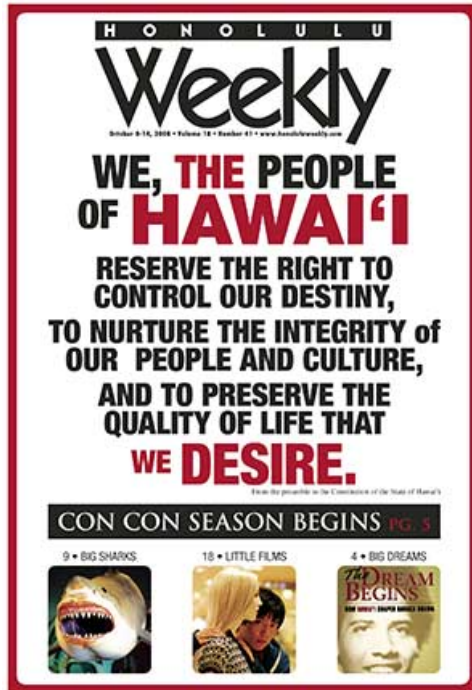


Learning to dance the ConCon

Hawai'i voters approach a big decision with little fanfare

by Joan Conrow / 10-8-2008



Never hold a ConCon in a down economic time, an O'ahu political insider recently observed, or you just might end up with nuclear power plants in Hawai'i.

Nuclear energy is just one of many hot topics that could be taken up if voters say yes to a Constitutional Convention, or ConCon, on the Nov. 4, ballot. Others include dismantling the Office of Hawaiian Affairs (OHA), decentralizing the board of education through local school boards, changing the state attorney general from an appointed to an elected position, forming a new department of energy and various social issues, such as same-sex marriage and abortion.

But discussions about a ConCon so far have focused mainly on the cost—estimated by the Legislative Reference Bureau at \$6.4 million to \$41.7 million—of conducting such a session, rather than whether

it's needed or the subjects that might be addressed.

"I don't think there's been public interest in having a ConCon," said **Rep. Mina Morita** (D-14, Northeast Kaua'i). "It's not a top of mind issue."



Most local voters don't give much thought to Hawai'i's Constitution except once every 10 years, when they're asked whether it should be revisited, and perhaps revised, through a ConCon. If a majority agrees, the state Legislature creates a process for selecting delegates, who attend a convention where they discuss and draft recommendations for changes to the state Constitution. These proposed amendments are then taken back to the voters for approval.

The last time a ConCon was held was 1978. As a result of that session, voters approved 33 constitutional amendments, including provisions that created OHA, expanded privacy rights and environmental protection measures, established Hawaiian as an official state language, set term limits for the positions of governor and lieutenant governor and required the state to adopt a balanced budget.

Since then, voters have twice been asked whether to hold another ConCon. They turned it down in 1988, while in 1998 the proposal was defeated when the courts ruled that blank ballots should be counted as “no” votes.

Now it’s up for a vote again, winning the endorsement of such politicians as Gov. Linda Lingle, Lt. Gov. James “Duke” Aiona, former U.S. Rep. Ed Case and Honolulu City Prosecutor Peter Carlisle, who has said he sees a ConCon as a way to “streamline the judicial process.” The Democratic Party, as well as the Hawai’i State Teachers Association and other labor unions, has come out against the measure.

Some supporters contend a ConCon should be convened precisely because it’s been so long since the last one was held. Values have changed during that time, they say, as well as conditions within the state, such as the population boom on the neighbor islands and the demise of plantation agriculture. They argue that the Constitution must be “modernized” to reflect those shifts.

Aiona said those who drafted the original document intended it to be a “living, evolving Constitution,” and that’s why they included language that requires voters to decide every 10 years if they want to hold a ConCon. “A Constitutional Convention would take our democracy back to the people,” he said.

Opponents, however, say there’s nothing wrong with the Constitution itself, and any issues that need addressing can be dealt with in other, less drastic ways.

“Compared to the rest of the states, we have a very progressive document,” Morita said, noting that the state Constitution grants citizens the right to privacy (including abortion), organize into unions in both the public and private sectors, and live in a clean and healthy environment. Hawai’i’s Bill of Rights is actually stronger than the one in the U.S. Constitution.

“Every time you have a convention, you open it up to wholesale changes,” Morita said. “I don’t think any issue has risen to a need for a ConCon.”



Wholesale changes amounting to a “soft revolution” are exactly what **Ira Rohter**, a University of Hawai’i political science professor, would like to see come about from a ConCon.

He advocates holding a “people’s ConCon” to decentralize Hawai’i’s state government, which he views as outmoded, unresponsive, cumbersome and heavily influenced by special interests. “My passion is allowing more average people to participate in a more meaningful way in making the decisions that affect their lives,” Rohter said.

But while Rohter believes “there’s a strong sense of people wanting to change the system,” he acknowledges that the challenge lies in getting them

to participate in the process. That effort is hampered by alienation, especially young people who are turned off to politics, he said, and Hawai'i's poor voter turnout.

No more than half of Hawai'i's eligible voters are registered, and only about 37 percent of those who are registered actually turn out to vote.

Still, Rohter finds hope in the recent interest generated by Democratic presidential nominee Sen. Barack Obama. "If it wasn't for the Obama thing, I would think it was more hypothetical than possible," he said of a ConCon that could generate sweeping change. "A whole lot of people feel absolutely frustrated by their government. If you give people a place to play and they know it has an effect, they'll show up. I think people are ready to go for it."

But with the Legislature charged with designing the ConCon, and the governor's office strongly supporting such a session, it remains to be seen whether average citizens would be given a place at the table.

"People are playing it as a feel good exercise, but there needs to be a concerted effort to get a broad spectrum of interests involved, and not just single-issues debates," Morita said. "There's a lack of understanding of what's a Constitutional issue."

In many situations, such as creating successful schools and achieving energy independence, the core issue isn't governance, but funding, Morita said.

Those on both sides of the debate have expressed concerns about special interests dominating both the ConCon vote and the actual session, if one is held. Critics point to the National Education Association, which recently donated \$325,000 to get local voters to reject a ConCon.

Others are worried that business interests, social conservatives and those opposed to Hawaiian entitlement programs will try at a ConCon to push through amendments that dismantle OHA, revoke the right to organize and forbid same-sex marriages.

"We shouldn't have a ConCon just because some people want to get rid of parts of the Constitution," Morita said, adding that she doesn't think the measure will fly this time around, anyway.

"We're going to see a massive anti-ConCon campaign to create a FUD effect," Rohter said, explaining that the acronym stands for fear, uncertainty and distortion.

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“There are so many issues at the top of people’s mind: the economy, the presidential election,” she said. “I just don’t think a ConCon would gain the momentum.”

Rohter, however, thinks a ConCon can’t wait. “Look down the road a bit and see the crash that’s down there,” he said. “There’s a vitality here that is so stunning and could be utilized, but the institutions are so narrow. I’m looking for a forum where this creative energy can be tapped.”