
A BILL FOR AN ACT

RELATING TO HEALTH.

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

1 SECTION 1. The legislature recognizes that the State's
2 community hospital system, the Hawaii health systems
3 corporation, is the fourth largest public hospital system in the
4 nation. The Hawaii health systems corporation's public health
5 facilities provide essential safety-net hospital and long-term
6 care services throughout the State and are often the only
7 hospitals in many rural communities. Due to rapid changes
8 taking place in the health care industry, the legislature
9 acknowledges that the governing structure of the State's public
10 hospital system must provide the appropriate flexibility and
11 autonomy needed to compete, remain viable, and respond to the
12 needs of the specific communities served.

13 The current administrative arrangement places the public
14 hospital system within a single state agency, the Hawaii health
15 systems corporation. This arrangement is the result of the
16 passage of landmark legislation, Act 262, Session Laws of Hawaii
17 1996, after years of study. Act 262 was largely the result of
18 the work of a task force established pursuant to Act 266,



1 Session Laws of Hawaii 1994, charged with studying the
2 establishment of an agency for community hospitals. On December
3 20, 1994, the task force issued its report entitled The
4 Preliminary Report of the Governor's Task Force on the
5 Establishment of An Agency for Community Hospitals, to the
6 governor and the legislature. Many of the recommendations of
7 the task force were adopted by the legislature, resulting in
8 passage of Act 262, and the creation of the Hawaii health
9 systems corporation in 1996.

10 One significant recommendation of the task force included
11 the establishment of regional boards of directors, along with
12 the systemwide board. The task force stated, at page 4 of its
13 report: "The Hawaii Health Systems Corporation should
14 administer the state facilities in a decentralized fashion, with
15 the facilities to be grouped into five regions. Three regions
16 should be formed for the facilities of Kauai, Oahu and Maui
17 Counties respectively, and the Big Island should be divided into
18 Eastern and Western regions. Each region should have an
19 operating Board of Directors consisting of nine members.
20 Regional Boards should be initially appointed by the Governor
21 with the advice and consent of the Senate, and should



1 subsequently be self perpetuating (i.e., with future Board
2 appointments made by the current Board)."

3 During the conference committee hearings on Senate Bill No.
4 2522, which ultimately became Act 262, the regional board
5 concept was replaced with regional management advisory
6 committees. The latter represent the communities where the
7 hospitals are located and meet with the management of the
8 facilities and the Hawaii health systems corporation executives
9 in order to give the communities a voice in the provision of
10 vital safety-net hospital services.

11 The legislature finds that the Hawaii health systems
12 corporation has developed strong administrative and clinical
13 leadership in some regions and is now ready for the
14 implementation of more regional control. Furthermore, regional
15 control would enhance the ability of the local communities to
16 participate in the decision-making and control of their
17 community hospitals. While the management advisory committees
18 have been effective in representing their communities, their
19 role has only been advisory. Local communities are in the best
20 position to make the critical decisions relating to operation of
21 their community hospitals. The hospitals should still engage in
22 statewide activities through the Hawaii health systems



1 corporation where a systemwide approach may provide economies of
2 scale and efficiencies.

3 The purpose of this Act is to affirm the State's commitment
4 to provide quality health care for the people of the State, by
5 establishing a regional subsidiary corporation for the Maui
6 region as a first step to more regional control for all regions,
7 to be governed by a community-based regional board and to
8 provide the necessary authority to the regional subsidiary
9 corporations to accomplish the goal of community-based
10 governance.

11 SECTION 2. Section 323F-1, Hawaii Revised Statutes, is
12 amended by adding two new definitions to be appropriately
13 inserted and to read as follows:

14 "Regional board" means a regional board of a regional
15 subsidiary corporation of the corporation.

16 "Regional subsidiary corporation" means a subsidiary
17 corporation for a region which is wholly owned by the
18 corporation."

19 SECTION 3. Chapter 323F, Hawaii Revised Statutes, is
20 amended by adding four new sections to be appropriately
21 designated and to read as follows:



1 **"§323F-A Regional subsidiary corporations and transfer of**
2 **assets.** There may be one regional subsidiary corporation for
3 each of the five regions specified in section 323F-2 as
4 established by law. Each regional subsidiary corporation shall
5 be a public body corporate and politic and an instrumentality
6 and agency of the State. All health systems assets and health
7 systems liabilities of a region shall be transferred to the
8 regional subsidiary corporation upon establishment.

9 **§323F-B Establishment of a regional subsidiary corporation**
10 **for Maui county.** There shall be established a regional
11 subsidiary corporation for the county of Maui, except for the
12 county of Kalawao, that shall consist of Kula hospital, Lanai
13 community hospital, and Maui memorial medical center, and all
14 other public health facilities created or acquired hereafter by
15 the regional subsidiary corporation within the region.

16 **§323F-C Regional boards.** (a) Each regional subsidiary
17 corporation shall be governed by a regional board of directors
18 to consist of not less than seven members and not more than
19 fifteen members as determined by the regional board to carry out
20 the duties and responsibilities of the regional subsidiary
21 corporation. A regional board shall initially consist of eleven
22 members to be appointed as follows:



1 (1) Four members shall be appointed by the governor within
2 thirty days of receipt of a list of candidates as
3 follows:

4 (A) Two members shall be appointed from a list, which
5 shall not include physicians, of four individuals
6 submitted by the speaker of the house of
7 representatives; and

8 (B) Two members shall be appointed from a list, which
9 shall not include physicians, of four individuals
10 submitted by the president of the senate;

11 (2) Four members shall be appointed by the regional public
12 health facility management advisory committee for the
13 region as follows:

14 (A) One member, who shall not be a physician, shall
15 be a member of the corporation board; and

16 (B) Three members, who shall not be physicians, may
17 be medical and health care providers and
18 professionals, consumers, and knowledgeable
19 individuals in appropriate areas such as business
20 and law; and

21 (3) Three physicians shall be appointed by majority vote
22 of the medical staff of the public health facilities



1 in the region present at a duly noticed meeting from a
2 list of qualified candidates submitted by the medical
3 executive committees in the region.

4 Two initial members nominated by the speaker of the house of
5 representatives and the president of the senate, respectively,
6 shall serve for a term of two years. One initial member
7 appointed by the medical executive committees shall serve for a
8 term of two years. One initial member appointed by the regional
9 management advisory committee shall serve a term of two years.

10 The remaining initial members and all members appointed
11 thereafter shall be appointed for a term of three years;
12 provided that new members shall be selected by a two-thirds
13 affirmative vote of the existing board members at a duly noticed
14 public meeting. Each regional board shall elect its own
15 chairperson.

16 (b) Each regional board shall be responsible for local
17 governance, control, and administration of services in its
18 respective region. Each regional board shall be as
19 proportionately represented as practicable.

20 (c) Any member of a regional board may be removed for
21 cause by a two-thirds majority vote of the regional board's



1 voting members. For purposes of this section, cause shall
2 include, without limitation:

- 3 (1) Malfeasance in office;
4 (2) Failure to attend regularly called meetings;
5 (3) Sentencing for conviction of a felony; or
6 (4) Any other cause that may render a member incapable or
7 unfit to discharge the duties required under this
8 chapter.

9 Conviction of a felony consistent with section 831-3.1, shall
10 automatically and immediately disqualify a board member.

11 **§323F-D Regional chief executive officers; exempt**
12 **positions.** (a) Upon the formation of a regional subsidiary
13 corporation and corresponding regional board, a regional board
14 may appoint, exempt from chapter 76 and section 26-35(a)(4), a
15 regional chief executive officer of the regional subsidiary
16 corporation whose salary shall be set by the appropriate
17 regional board. A regional chief executive officer may also
18 appoint as necessary other personnel, exempt from chapters 76
19 and 89, to work directly for the regional chief executive
20 officer and the appropriate regional board.

21 (b) Any regional board or its designee may dismiss its
22 exempt personnel with or without cause; provided that removal



1 without cause shall not prejudice any contract rights of
2 personnel.

3 (c) The regional chief executive officer or designee may
4 appoint, exempt from chapters 76 and 89, hospital
5 administrators, assistant administrators, directors of nursing,
6 medical directors, and staff physicians, to facilitate the
7 management of facilities within the regional subsidiary
8 corporation; provided that directors of nursing appointed before
9 July 1, 1998, may maintain their civil service status as
10 provided in chapter 76 by so communicating in writing to the
11 regional chief executive officer by October 31, 2007. Hospital
12 administrators and assistant administrators appointed before
13 July 1, 1983, may maintain their permanent civil service status
14 as provided in chapter 76."

15 SECTION 4. Section 26-55, Hawaii Revised Statutes, is
16 amended:

17 1. By amending subsection (e) to read:

18 "(e) Nothing in this section shall be construed as in any
19 manner affecting the civil service laws applicable to the
20 several counties, the judiciary, or the Hawaii health systems
21 corporation[7] or any of its regional subsidiary corporations,



1 which shall remain the same as if this chapter had not been
2 enacted.

3 2. By amending subsection (g) to read:

4 "(g) The department of human resources development shall
5 submit, no later than twenty days prior to the convening of each
6 regular session [~~of the legislature~~] beginning with the regular
7 session of 2007, a report of the number of exempt positions that
8 were converted to civil service positions during the previous
9 twelve months. The report shall include but not be limited to:

- 10 (1) When the position was established;
- 11 (2) The purpose of the position;
- 12 (3) Rationale for the conversion; and
- 13 (4) How many exempt positions remain in each state
14 department after the conversions."

15 SECTION 5. Section 28-8.3, Hawaii Revised Statutes, is
16 amended:

17 1. By amending subsection (a) to read:

18 "(a) No department of the State other than the attorney
19 general may employ or retain any attorney, by contract or
20 otherwise, for the purpose of representing the State or the
21 department in any litigation, rendering legal counsel to the
22 department, or drafting legal documents for the department;



1 provided that the foregoing provision shall not apply to the
2 employment or retention of attorneys:

3 (1) By the public utilities commission, the labor and
4 industrial relations appeals board, and the Hawaii
5 labor relations board;

6 (2) By any court or judicial or legislative office of the
7 State;

8 (3) By the legislative reference bureau;

9 (4) By any compilation commission that may be constituted
10 from time to time;

11 (5) By the real estate commission for any action involving
12 the real estate recovery fund;

13 (6) By the contractors license board for any action
14 involving the contractors recovery fund;

15 (7) By the trustees for any action involving the travel
16 agency recovery fund;

17 (8) By the office of Hawaiian affairs;

18 (9) By the department of commerce and consumer affairs for
19 the enforcement of violations of chapters 480 and 485;

20 (10) As grand jury counsel;

21 (11) By the Hawaiian home lands trust individual claims
22 review panel;



1 (12) By the Hawaii health systems corporation or any of its
2 regional subsidiary corporations, or any of its
3 facilities;

4 (13) By the auditor;

5 (14) By the office of ombudsman;

6 (15) By the insurance division;

7 (16) By the University of Hawaii;

8 (17) By the Kahoolawe island reserve commission;

9 (18) By the division of consumer advocacy;

10 (19) By the office of elections;

11 (20) By the campaign spending commission;

12 (21) By the Hawaii tourism authority, as provided in
13 section 201B-2.5; or

14 (22) By a department, in the event the attorney general,
15 for reasons deemed by the attorney general good and
16 sufficient, declines, to employ or retain an attorney
17 for a department; provided that the governor thereupon
18 waives the provision of this section."

19 2. By amending subsection (c) to read:

20 "(c) Every attorney employed by any department on a full-
21 time basis, except an attorney employed by the public utilities
22 commission, the labor and industrial relations appeals board,



1 the Hawaii labor relations board, the office of Hawaiian
2 affairs, the Hawaii health systems corporation[7] or any of its
3 regional subsidiary corporations, the department of commerce and
4 consumer affairs in prosecution of consumer complaints,
5 insurance division, the division of consumer advocacy, the
6 University of Hawaii, the Hawaii tourism authority as provided
7 in section 201B-2.5, the Hawaiian home lands trust individual
8 claims review panel, or as grand jury counsel, shall be a deputy
9 attorney general."

10 SECTION 6. Section 29-24, Hawaii Revised Statutes, is
11 amended by amending subsection (a) to read as follows:

12 "(a) There is established in the state treasury an
13 interagency federal revenue maximization revolving fund into
14 which shall be deposited all funds and proceeds collected from
15 the federal government and third-party payors for costs not
16 previously claimed by the State, with the exception of proceeds
17 collected for services provided by the Hawaii health systems
18 corporation[7] or any of its regional subsidiary corporations,
19 for reimbursement of federally-funded state programs. For
20 purposes of this chapter, federally-funded state programs
21 include but shall not be limited to those federally-funded
22 programs within the departments of human services and health,



1 and shall not include the federally-funded program within the
2 department of education as provided in [+]section[+] 302A-1406.
3 Expenditures and transfers from the fund shall be made by the
4 comptroller in proportional allocations established by the
5 comptroller and the director of finance. Transfers shall be
6 made to the department claiming the reimbursement for expenses
7 incurred related to federal fund reimbursement claims and to the
8 general fund of the State. Moneys in the fund may be expended
9 for consultant services rendered under subsection (b)."

10 SECTION 7. Section 36-27, Hawaii Revised Statutes, is
11 amended to read as follows:

12 **"§36-27 Transfers from special funds for central service**
13 **expenses.** Except as provided in this section, and
14 notwithstanding any other law to the contrary, from time to
15 time, the director of finance, for the purpose of defraying the
16 prorated estimate of central service expenses of government in
17 relation to all special funds, except the:

18 (1) Special out-of-school time instructional program fund
19 under section 302A-1310;

20 (2) School cafeteria special funds of the department of
21 education;

22 (3) Special funds of the University of Hawaii;



- 1 (4) State educational facilities improvement special fund;
- 2 (5) Convention center enterprise special fund under
- 3 section 201B-8;
- 4 (6) Special funds established by section 206E-6;
- 5 (7) Housing loan program revenue bond special fund;
- 6 (8) Housing project bond special fund;
- 7 (9) Aloha Tower fund created by section 206J-17;
- 8 (10) Funds of the employees' retirement system created by
- 9 section 88-109;
- 10 (11) Unemployment compensation fund established under
- 11 section 383-121;
- 12 (12) Hawaii hurricane relief fund established under chapter
- 13 431P;
- 14 (13) Hawaii health systems corporation special funds[+] and
- 15 the special funds of any of the regional subsidiary
- 16 corporations of the Hawaii health systems corporation;
- 17 (14) Tourism special fund established under section
- 18 201B-11;
- 19 (15) Universal service fund established under chapter 269;
- 20 (16) Integrated tax information management systems special
- 21 fund under section 231-3.2;



- 1 (17) Emergency and budget reserve fund under section
- 2 328L-3;
- 3 (18) Public schools special fees and charges fund under
- 4 section 302A-1130(f);
- 5 (19) Sport fish special fund under section 187A-9.5;
- 6 (20) Neurotrauma special fund under section 321H-4;
- 7 (21) Deposit beverage container deposit special fund under
- 8 section 342G-104;
- 9 (22) Glass advance disposal fee special fund established by
- 10 section 342G-82;
- 11 (23) Center for nursing special fund under section [†]304A-
- 12 2163[†];
- 13 (24) Passenger facility charge special fund established by
- 14 section 261-5.5;
- 15 (25) Solicitation of funds for charitable purposes special
- 16 fund established by section 467B-15;
- 17 (26) Land conservation fund established by section 173A-5;
- 18 (27) Court interpreting services revolving fund under
- 19 section 607-1.5;
- 20 (28) Trauma system special fund under section 321-22.5;
- 21 (29) Hawaii cancer research special fund;
- 22 (30) Community health centers special fund; and



1 (31) Emergency medical services special fund[+];
2 shall deduct five per cent of all receipts of all other special
3 funds, which deduction shall be transferred to the general fund
4 of the State and become general realizations of the State. All
5 officers of the State and other persons having power to allocate
6 or disburse any special funds shall cooperate with the director
7 in effecting these transfers. To determine the proper revenue
8 base upon which the central service assessment is to be
9 calculated, the director shall adopt rules pursuant to chapter
10 91 for the purpose of suspending or limiting the application of
11 the central service assessment of any fund. No later than
12 twenty days prior to the convening of each regular session of
13 the legislature, the director shall report all central service
14 assessments made during the preceding fiscal year.[+]"

15 SECTION 8. Section 36-30, Hawaii Revised Statutes, is
16 amended by amending subsection (a) to read as follows:

17 "(a) Each special fund, except the:

18 (1) Transportation use special fund established by section
19 261D-1;

20 (2) Special out-of-school time instructional program fund
21 under section 302A-1310;



- 1 (3) School cafeteria special funds of the department of
2 education;
- 3 (4) Special funds of the University of Hawaii;
- 4 (5) State educational facilities improvement special fund;
- 5 (6) Special funds established by section 206E-6;
- 6 (7) Aloha Tower fund created by section 206J-17;
- 7 (8) Funds of the employees' retirement system created by
8 section 88-109;
- 9 (9) Unemployment compensation fund established under
10 section 383-121;
- 11 (10) Hawaii hurricane relief fund established under chapter
12 431P;
- 13 (11) Convention center enterprise special fund established
14 under section 201B-8;
- 15 (12) Hawaii health systems corporation special funds[+] and
16 the special funds of any of the regional subsidiary
17 corporations of the Hawaii health systems corporation;
- 18 (13) Tourism special fund established under section
19 201B-11;
- 20 (14) Universal service fund established under chapter 269;
- 21 (15) Integrated tax information management systems special
22 fund under section 231-3.2;



- 1 (16) Emergency and budget reserve fund under section
- 2 328L-3;
- 3 (17) Public schools special fees and charges fund under
- 4 section 302A-1130(f);
- 5 (18) Sport fish special fund under section 187A-9.5;
- 6 (19) Neurotrauma special fund under section 321H-4;
- 7 (20) Center for nursing special fund under section [†]304A-
- 8 2163[†];
- 9 (21) Passenger facility charge special fund established by
- 10 section 261-5.5;
- 11 (22) Court interpreting services revolving fund under
- 12 section 607-1.5;
- 13 (23) Trauma system special fund under section 321-22.5;
- 14 (24) Hawaii cancer research special fund;
- 15 (25) Community health centers special fund; and
- 16 (26) Emergency medical services special fund[†];
- 17 shall be responsible for its pro rata share of the
- 18 administrative expenses incurred by the department responsible
- 19 for the operations supported by the special fund concerned.[†]"

20 SECTION 9. Section 37-53, Hawaii Revised Statutes, is
21 amended to read as follows:



1 **"§37-53 Transfer of special funds.** At any time during a
2 fiscal year, notwithstanding any other law to the contrary, any
3 department may, with the approval of the governor or the
4 director of finance if so delegated by the governor, transfer
5 from any special fund relating to such department to the general
6 revenues of the State all or any portion of moneys determined to
7 be in excess of fiscal year requirements for such special fund,
8 except for special funds under the control of the department of
9 transportation relating to highways, airports, transportation
10 use, and harbors activities, special funds under the control of
11 the Hawaii health systems corporation[7] or any of its regional
12 subsidiary corporations, and special funds of the University of
13 Hawaii. At any time the department of transportation, with the
14 approval of the governor or the director of finance if so
15 delegated by the governor, may transfer from any special fund
16 under the control of the department of transportation, or from
17 any account within any such special fund, to the general
18 revenues of the State or to any other special fund under the
19 control of the department of transportation all or any portion
20 of moneys determined to be in excess of requirements for the
21 ensuing twelve months determined as prescribed by rules adopted
22 pursuant to chapter 91; provided that no such transfer shall be



1 made which would cause a violation of federal law or federal
2 grant agreements."

3 SECTION 10. Section 37-74, Hawaii Revised Statutes, is
4 amended by amending subsection (d) to read as follows:

5 "(d) No appropriation transfers or changes between
6 programs or agencies shall be made without legislative
7 authorization; provided that:

8 (1) Authorized transfers or changes, when made, shall be
9 reported to the legislature;

10 (2) Except with respect to appropriations to fund
11 financing agreements under chapter 37D, the University
12 of Hawaii shall have the flexibility to transfer
13 appropriated funds and positions for the operating
14 cost category among programs, among cost elements in a
15 program, and between quarters, as applicable; except
16 with respect to appropriations to fund financing
17 agreements under chapter 37D, the department of
18 education shall have the flexibility to transfer
19 appropriated funds and positions for the operating
20 cost category among programs and among cost elements
21 in a program, and between quarters, as applicable; and
22 the Hawaii health systems corporation or any of its



1 regional subsidiary corporations shall have the
2 flexibility to transfer special fund appropriations
3 among community hospitals facilities as applicable;
4 provided that the Hawaii health systems corporation
5 and any of its regional subsidiary corporations shall
6 maintain the integrity and services of each individual
7 facility and shall not transfer appropriations out of
8 any facility that would result in a reduction of
9 services offered by the facility, with due regard for
10 statutory requirements, changing conditions, the needs
11 of the programs, and the effective utilization of
12 resources; and

- 13 (3) The university and the department of education shall
14 account for each transfer implemented under this
15 subsection in quarterly reports to the governor and
16 annual reports at the end of each fiscal year to the
17 legislature and the governor, which shall be prepared
18 in the form and manner prescribed by the governor and
19 shall include information on the sources and uses of
20 the transfer."



1 SECTION 11. Section 37D-1, Hawaii Revised Statutes, is
2 amended by amending the definition of ""agency" or
3 "participating agency"" to read as follows:

4 ""Agency" or "participating agency" means the judiciary,
5 any executive department, any independent commission, any board,
6 any authority, any bureau, any office, any other establishment
7 of the State (except the legislature and its agencies), or any
8 public corporation that is supported in whole or in part by
9 state funds, or any agent thereof, authorized by law to expend
10 available moneys; provided that the Hawaii health systems
11 corporation and any of its regional subsidiary corporations
12 shall not be governed by this chapter for any financing
13 agreement unless it elects to do so."

14 SECTION 12. Section 37D-2, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "**§37D-2 Financing agreements.** (a) There is hereby
17 established and authorized the financing agreement program of
18 the State. Any agency desiring to acquire or improve projects
19 through the financing agreement program established and
20 authorized by this chapter shall submit a written request to the
21 department providing such information as the department shall
22 require. Notwithstanding any other law to the contrary, and



1 except for the Hawaii health systems corporation[7] and any of
2 its regional subsidiary corporations, only with the approval by
3 the attorney general as to form and legality and upon the
4 written request of one or more participating agencies may the
5 department enter into a financing agreement in accordance with
6 this chapter, except that the board of regents of the University
7 of Hawaii may enter into a financing agreement in accordance
8 with this chapter without the approval of the director and of
9 the attorney general as to form and legality if the principal
10 amount of the financing agreement does not exceed \$3,000,000. A
11 financing agreement may be entered into by the department on
12 behalf of one or more participating agencies at any time (before
13 or after commencement or completion of any improvements or
14 acquisitions to be financed) and shall be upon terms and
15 conditions the department finds to be advantageous. In each
16 case of a written request by the judiciary to participate in the
17 financing agreement program, the department shall implement the
18 request; provided that the related financing agreement shall be
19 upon terms and conditions the department finds to be
20 advantageous. Any financing agreement entered into by the
21 department without the approval required by this section shall
22 be void and of no effect. A single financing agreement may



1 finance a single item or multiple items of property to be used
2 by multiple agencies or may finance a single item or multiple
3 items of property to be used by a single agency. The department
4 shall bill any participating agency that benefits from property
5 acquired with the proceeds of a financing agreement for such
6 participating agency's pro rata share of:

7 (1) The department's costs of administration of the
8 financing agreement program; and

9 (2) The financing costs, including the principal and
10 interest components of the financing agreement and
11 insurance premiums;

12 on a monthly or other periodic basis, and may deposit payments
13 received in connection with the billings with a trustee as
14 security for a financing agreement. Any participating agency
15 receiving such a bill shall be authorized and shall pay the
16 amounts billed from the available moneys.

17 (b) Financing agreements shall be subject to the following
18 limitations:

19 (1) Amounts payable by a participating agency to or upon
20 the direction of the department in respect to a
21 project and by the department under a financing
22 agreement shall be limited to available moneys. In no



1 circumstance shall the department be obligated to pay
2 amounts due under a financing agreement from any
3 source other than available moneys. If, by reason of
4 insufficient available moneys or other reason, amounts
5 due under a financing agreement are not paid when due,
6 the lender may exercise any property right that the
7 department has granted to it in the financing
8 agreement, against the property that was purchased
9 with the proceeds of the financing agreement, and
10 apply the amounts so received toward payments
11 scheduled to be made by the department under the
12 financing agreement;

13 (2) No property rights may be granted in property unless
14 the property is being acquired, is to be substantially
15 improved, is to be refinanced with the proceeds of a
16 financing agreement, or is land on which the property
17 is located;

18 (3) Notwithstanding any other law to the contrary, and
19 except for the Hawaii health systems corporation and
20 any of its regional subsidiary corporations, and as
21 otherwise provided in this section with respect to the
22 University of Hawaii, and except as provided in



1 chapter 323F as to the Hawaii health systems
2 corporation[7] and any of its regional subsidiary
3 corporations, an agency shall not have the power to
4 enter into a financing agreement, except through the
5 department as authorized by this chapter, and nothing
6 in this chapter shall be construed to authorize the
7 sale, lease, or other disposition of property owned by
8 an agency;

9 (4) Except as otherwise provided in this section with
10 respect to the University of Hawaii, the sale,
11 assignment, or other disposition of any financing
12 agreements, including certificates of participation
13 relating thereto, shall require the approval of the
14 director; and

15 (5) The department shall not be subject to chapter 103D
16 and any and all other requirements of law for
17 competitive bidding for financing agreements."

18 SECTION 13. Section 76-11, Hawaii Revised Statutes, is
19 amended as follows:

20 1. By amending the definition of "chief executive" to
21 read:



1 "Chief executive" means the governor, the respective
2 mayors, the chief justice of the supreme court, [~~and~~] the chief
3 executive officer of the Hawaii health systems corporation[~~]~~,
4 and the regional chief executive officer of any regional
5 subsidiary corporation of the Hawaii health systems corporation.
6 It may include the superintendent of education and the president
7 of the University of Hawaii with respect to their employees on
8 any matter that applies to employees in general, including
9 employees who are not covered by this chapter."

10 2. By amending the definition of "'employer" or "public
11 employer"' to read:

12 "'Employer" or "public employer" means the governor in the
13 case of the State, the respective mayors in the case of the
14 counties, the chief justice of the supreme court in the case of
15 the judiciary, the board of education in the case of the
16 department of education, the board of regents in the case of the
17 University of Hawaii, the Hawaii health systems corporation
18 board in the case of the Hawaii health systems corporation[~~]~~
19 and any regional board in the case of a regional board of a
20 regional subsidiary corporation of the Hawaii health systems
21 corporation, and any individual who represents one of the
22 employers or acts in their interest in dealing with public



1 employees. In the case of the judiciary, the administrative
2 director of the courts shall be the employer in lieu of the
3 chief justice for purposes which the chief justice determines
4 would be prudent or necessary to avoid conflict."

5 3. By amending the definition of "jurisdiction" to read:

6 "Jurisdiction" means the State, the city and county of
7 Honolulu, the county of Hawaii, the county of Maui, the county
8 of Kauai, the judiciary, the department of education, the
9 University of Hawaii, and the Hawaii health systems
10 corporation~~[-]~~, and any regional subsidiary corporation of the
11 Hawaii health systems corporation."

12 SECTION 14. Section 76-47, Hawaii Revised Statutes, is
13 amended by amending subsection (c) to read:

14 "(c) The merit appeals board shall adopt rules of practice
15 and procedure consistent with section 76-14 and in accordance
16 with chapter 91, except that, in the case of the judiciary and
17 the Hawaii health systems corporation~~[-]~~ and regional subsidiary
18 corporations of the Hawaii health systems corporation, the
19 adoption, amendment, or repeal of rules shall be subject to the
20 approval of their respective chief executives. The rules shall
21 recognize that the merit appeals board shall sit as an appellate
22 body and that matters of policy, methodology, and administration



1 are left for determination by the director. The rules may
2 provide for the sharing of specific expenses among the parties
3 that are directly incurred as a result of an appeal as the merit
4 appeals board deems would be equitable and appropriate,
5 including but not limited to expenses for transcription costs or
6 for services, including traveling and per diem costs, provided
7 by persons other than the board members or permanent staff of
8 the board. Official business of the merit appeals board shall
9 be conducted in meetings open to the public, except as provided
10 in chapter 92."

11 SECTION 15. Section 89-2, Hawaii Revised Statutes, is
12 amended as follows:

13 1. By amending the definition of "'employer" or "public
14 employer"' to read:

15 "'Employer" or "public employer" means the governor in the
16 case of the State, the respective mayors in the case of the
17 counties, the chief justice of the supreme court in the case of
18 the judiciary, the board of education in the case of the
19 department of education, the board of regents in the case of the
20 University of Hawaii, the Hawaii health systems corporation
21 board in the case of the Hawaii health systems corporation[7] or
22 any regional board of a regional subsidiary corporation of the



1 Hawaii health systems corporation, and any individual who
2 represents one of these employers or acts in their interest in
3 dealing with public employees. In the case of the judiciary,
4 the administrative director of the courts shall be the employer
5 in lieu of the chief justice for purposes which the chief
6 justice determines would be prudent or necessary to avoid
7 conflict."

8 2. By amending the definition of "jurisdiction" to read:

9 ""Jurisdiction" means the State, the city and county of
10 Honolulu, the county of Hawaii, the county of Maui, the county
11 of Kauai, the judiciary, and the Hawaii health systems
12 corporation~~[-]~~ or any of its regional subsidiary corporations."

13 3. By amending the definition of "legislative body" to
14 read:

15 ""Legislative body" means the legislature in the case of
16 the State, including the judiciary, the department of education,
17 the University of Hawaii, and the Hawaii health systems
18 corporation~~[+]~~ or any of its regional subsidiary corporations;
19 the city council, in the case of the city and county of
20 Honolulu; and the respective county councils, in the case of the
21 counties of Hawaii, Maui, and Kauai."



1 SECTION 16. Section 89-6, Hawaii Revised Statutes, is
2 amended by amending subsection (d) to read as follows:

3 "(d) For the purpose of negotiating a collective
4 bargaining agreement, the public employer of an appropriate
5 bargaining unit shall mean the governor together with the
6 following employers:

7 (1) For bargaining units (1), (2), (3), (4), (9), (10),
8 and (13), the governor shall have six votes and the
9 mayors, the chief justice, and the Hawaii health
10 systems corporation board and each of the regional
11 boards of the regional subsidiary corporations of the
12 Hawaii health systems corporation shall each have one
13 vote if they have employees in the particular
14 bargaining unit;

15 (2) For bargaining units (11) and (12), the governor shall
16 have four votes and the mayors shall each have one
17 vote;

18 (3) For bargaining units (5) and (6), the governor shall
19 have three votes, the board of education shall have
20 two votes, and the superintendent of education shall
21 have one vote;



1 (4) For bargaining units (7) and (8), the governor shall
2 have three votes, the board of regents of the
3 University of Hawaii shall have two votes, and the
4 president of the University of Hawaii shall have one
5 vote.

6 Any decision to be reached by the applicable employer group
7 shall be on the basis of simple majority, except when a
8 bargaining unit includes county employees from more than one
9 county. In such case, the simple majority shall include at
10 least one county."

11 SECTION 17. Section 323F-3, Hawaii Revised Statutes, is
12 amended by amending subsection (b) to read as follows:

13 "(b) Ten members of the corporation board shall be
14 appointed by the governor as follows:

15 (1) One member from region I who resides in the city and
16 county of Honolulu;

17 (2) One member from region II who resides in the county of
18 Kauai;

19 (3) One member from region III who resides in the county
20 of Maui;

21 (4) One member from region IV who resides in the eastern
22 section of the county of Hawaii;



1 (5) One member from region V who resides in the western
2 section of the county of Hawaii;

3 (6) One member from region II who resides in the county of
4 Kauai or from region III who resides in the district
5 of Hana or on the island of Lanai; provided that in no
6 event shall the member be appointed from the same
7 region for two consecutive terms; and

8 (7) Four at-large members who reside in the State.

9 ~~[The eleventh member shall be the chairperson of the
10 executive public health facility management advisory committee,
11 who shall serve as an ex officio, voting member.]~~

12 The eleventh and twelfth ~~[member,]~~ members, who shall serve
13 as ~~[a]~~ voting ~~[member,]~~ members, shall be ~~[a physician]~~
14 physicians with active medical staff privileges at one of the
15 corporation's public health facilities. The physician ~~[member]~~
16 members shall serve a term of two years. ~~[The initial physician
17 member shall be from region II, and subsequent physician members
18 shall come from regions IV, III, and V respectively. The
19 physician member position shall continue to rotate in this
20 order.]~~ The physician ~~[member]~~ members shall be appointed to
21 the corporation board by a simple majority vote of the ~~[members
22 of the executive public health facility management advisory~~



1 ~~committee]~~ corporation board from a list of qualified nominees
2 submitted by the public health facility management advisory
3 committee [~~for the region from which the physician member is to~~
4 ~~be chosen.~~] or by any regional board. The corporation board
5 shall attempt to choose physicians from different regions and to
6 rotate the appointments from the five regions. If for any
7 reason a physician member is unable to serve a full term, the
8 remainder of that term shall be filled by a physician from the
9 same region.

10 The thirteenth member shall be the director of health or
11 the director's designee, who shall serve as an ex officio,
12 voting member.

13 Appointments to the corporation board[~~, with the exception~~
14 ~~of the chairperson of the executive public health facility~~
15 ~~management advisory committee and the regional physician member,~~
16 ~~shall be made by the governor,~~] shall be subject to confirmation
17 by the senate pursuant to section 26-34. Prior to the transfer
18 date, the public health facility management advisory committees
19 appointed pursuant to section 323-66 for each county may
20 recommend names to the governor for each position on the
21 corporation board designated for a region which corresponds to
22 its county. [~~After the transfer date, the public health~~



1 ~~facility management advisory committees appointed pursuant to~~
2 ~~section 323F-10 for each region may make such recommendations to~~
3 ~~the governor.]~~ The appointed board members, except for the
4 physician members, shall serve for a term of four years;
5 provided that upon the initial appointment of the first ten
6 members:

7 (1) Two at-large members shall be appointed for a term of
8 two years;

9 (2) Three at-large members shall be appointed for a term
10 of three years; and

11 (3) Five regional members shall be appointed for a term of
12 four years.

13 Any vacancy shall be filled in the same manner provided for the
14 original appointments. The corporation board shall elect its
15 own chair from among its members."

16 SECTION 18. Section 323F-4, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "**§323F-4 Board meetings.** (a) The corporation board and
19 any regional board shall meet no fewer than four times a year~~[-]~~
20 without regard to chapter 92. ~~[All meetings of the corporation~~
21 ~~board shall be subject to chapter 92, except that in addition to~~
22 ~~matters exempted pursuant to law, the corporation board may~~



1 ~~elect to hold an executive meeting for the consideration of any~~
2 ~~matters set forth in section 323F-6.]~~

3 (b) All business of the corporation board and any regional
4 board shall be conducted at a regular or special meeting at
5 which a quorum is present, consisting of at least a majority of
6 the directors then in office. Any action of the corporation
7 board or any regional board shall require the affirmative vote
8 of a majority of those present and voting at the meeting; except
9 that a vote of two-thirds of the [~~members~~] entire membership of
10 the [~~corporation~~] respective board then in office shall be
11 required for any of the following actions:

12 (1) Removal by the corporation board or any regional board
13 of one of its members[~~, with the exception of the~~
14 ~~eleventh and twelfth members set forth in section~~
15 ~~323F-3, who may only be removed pursuant to sections~~
16 ~~323F-10 and 323F-10.5];~~

17 (2) Amendment by the corporation board or any regional
18 board of its bylaws;

19 (3) Hiring or removing the chief executive officer of the
20 corporation or the chief executive officer of any
21 regional subsidiary corporation; and



1 (4) Any other actions as provided by the corporation
 2 bylaws or by any regional subsidiary corporation
 3 bylaws."

4 SECTION 19. Section 323F-5, Hawaii Revised Statutes, is
 5 amended to read as follows:

6 " **[+]§323F-5[+]** **Disclosure of interests.** All corporation
 7 and regional board members and employees of the corporation and
 8 any regional subsidiary corporation shall be subject to chapter
 9 84."

10 SECTION 20. Section 323F-6, Hawaii Revised Statutes, is
 11 amended to read as follows:

12 " **[+]§323F-6[+]** **Records.** The corporation and any regional
 13 subsidiary corporation shall be subject to the requirements of
 14 chapter 92F, except that the following categories of government
 15 records shall not be required to be disclosed:

16 (1) Applications for credentials or staff privileges at
 17 any of the corporation's or regional subsidiary
 18 corporation's medical facilities, records from peer
 19 review proceedings, and medical records; and

20 (2) Marketing strategies, strategic plans, evaluations,
 21 assessments, negotiations, or rates and charges, the
 22 disclosure of which would raise the cost of



1 procurement or give a manifestly unfair advantage to
2 any competitor or to any person or entity seeking to
3 do business or proposing to enter into an agreement
4 with the corporation or regional subsidiary
5 corporation or any of [~~its~~] their facilities.

6 Any person denied access to any such government records
7 shall have available the remedies specified in sections 92F-15
8 and 92F-15.5. Government records protected from disclosure by
9 this section shall be subject to the interagency disclosure
10 provisions of section 92F-19. Section 624-25.5 shall apply to
11 this part notwithstanding anything to the contrary contained in
12 this section."

13 SECTION 21. Section 323F-7, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "**§323F-7 Duties and powers of the corporation~~[-]~~ and**
16 **regional subsidiary corporations.** (a) Notwithstanding any
17 other law to the contrary, the corporation and any regional
18 subsidiary corporation shall have and exercise the following
19 duties and powers~~[+]~~; provided that any regional subsidiary
20 corporation may agree to allow the corporation to maintain any
21 of the following duties and powers:



- 1 (1) Developing its own policies, procedures, and rules
2 necessary or appropriate to plan, operate, manage, and
3 control the system of public health facilities and
4 services without regard to chapter 91;
- 5 (2) Evaluating the need for health facilities and
6 services;
- 7 (3) Entering into and performing any contracts, leases,
8 cooperative agreements, or other transactions
9 whatsoever that may be necessary or appropriate in the
10 performance of its purposes and responsibilities, and
11 on terms it may deem appropriate, with either:
- 12 (A) Any agency or instrumentality of the United
13 States, or with any state, territory, or
14 possession, or with any subdivision thereof; or
- 15 (B) Any person, firm, association, or corporation,
16 whether operated on a for-profit or not-for-
17 profit basis;
- 18 provided that the transaction furthers the public
19 interest;
- 20 (4) Conducting activities and entering into business
21 relationships as the corporation board or any regional



1 board deems necessary or appropriate, including but
2 not limited to:

3 (A) Creating nonprofit corporations, including but
4 not limited to charitable fund-raising
5 foundations, to be controlled wholly by the
6 corporation or any regional subsidiary
7 corporation, or jointly with others;

8 (B) Establishing, subscribing to, and owning stock in
9 business corporations individually or jointly
10 with others; and

11 (C) Entering into partnerships and other joint
12 venture arrangements, or participating in
13 alliances, purchasing consortia, health insurance
14 pools, or other cooperative arrangements, with
15 any public or private entity; provided that any
16 corporation, venture, or relationship entered
17 into under this section furthers the public
18 interest; provided further that this paragraph
19 shall not be construed to authorize the
20 corporation or any regional subsidiary
21 corporation to abrogate any responsibility or
22 obligation under paragraph (15);



- 1 (5) Participating in and developing prepaid health care
2 service and insurance programs and other alternative
3 health care delivery programs, including programs
4 involving the acceptance of capitated payments or
5 premiums that include the assumption of financial and
6 actuarial risk;
- 7 (6) Executing, in accordance with all applicable bylaws,
8 rules, and laws, all instruments necessary or
9 appropriate in the exercise of any of the
10 corporation's and any regional subsidiary
11 corporation's powers;
- 12 (7) Preparing and executing all corporation or regional
13 subsidiary corporation budgets, policies, and
14 procedures;
- 15 (8) Setting rates and charges for all services provided by
16 the corporation or any regional subsidiary corporation
17 without regard to chapter 91;
- 18 (9) Developing a corporation-wide or regional subsidiary
19 corporation-wide hospital personnel system that is
20 subject to chapters 76 and 89;
- 21 (10) Developing the corporation's and any regional
22 subsidiary corporation's capital and strategic plans;



- 1 (11) Suing and being sued; provided that the corporation
2 and any regional subsidiary corporation shall enjoy
3 the same sovereign immunity available to the State;
- 4 (12) Making and altering corporation board or regional
5 board bylaws for its organization and management
6 without regard to chapter 91;
- 7 (13) Adopting rules, without regard to chapter 91,
8 governing the exercise of its powers and the
9 fulfillment of its purpose under this chapter;
- 10 (14) Entering into any contract or agreement whatsoever,
11 not inconsistent with this chapter or the laws of this
12 State, and authorizing the corporation, regional
13 subsidiary corporations, and chief executive [~~officer~~]
14 officers to enter into all contracts, execute all
15 instruments, and do all things necessary or
16 appropriate in the exercise of the powers granted in
17 this chapter, including securing the payment of bonds;
- 18 (15) Issuing revenue bonds subject to the approval of the
19 legislature; provided that all revenue bonds shall be
20 issued pursuant to part III, chapter 39;
- 21 (16) Reimbursing the state general fund for debt service on
22 general obligation bonds or reimbursable general



- 1 obligation bonds issued by the State for the purposes
2 of the corporation[+] or any regional subsidiary
3 corporation;
- 4 (17) Pledging or assigning all or any part of the receipts
5 and revenues of the corporation or any regional
6 subsidiary corporation for purposes of meeting bond or
7 health systems liabilities;
- 8 (18) Owning, purchasing, leasing, exchanging, or otherwise
9 acquiring property, whether real, personal or mixed,
10 tangible or intangible, and of any interest therein,
11 in the name of the corporation[+] or any regional
12 subsidiary corporation, which property is not owned or
13 controlled by the State but is owned or controlled by
14 the corporation[+] or any regional subsidiary
15 corporation;
- 16 (19) Maintaining, improving, pledging, mortgaging, selling,
17 or otherwise holding or disposing of property, whether
18 real, personal or mixed, tangible or intangible, and
19 of any interest therein, at any time and manner, in
20 furtherance of the purposes and mission of the
21 corporation[+] or any regional subsidiary corporation;
22 provided that the corporation or any regional



1 subsidiary corporation legally holds or controls the
2 property in its own name; provided further that the
3 corporation or any regional subsidiary corporation
4 shall not sell, assign, lease, hypothecate, mortgage,
5 pledge, give, or dispose of all or substantially all
6 of its property;

7 (20) Purchasing insurance and creating captive insurers in
8 any arrangement deemed in the best interest of the
9 corporation~~[7]~~ or any regional subsidiary corporation,
10 including but not limited to funding and payment of
11 deductibles and purchase of reinsurance;

12 (21) Acquiring by condemnation, pursuant to chapter 101,
13 any real property required by the corporation or any
14 regional subsidiary corporation to carry out the
15 powers granted by this chapter;

16 (22) Depositing any moneys of the corporation or any
17 regional subsidiary corporation in any banking
18 institution within or without the State, and
19 appointing, for the purpose of making deposits, one or
20 more persons to act as custodians of the moneys of the
21 corporation~~[7]~~ or any regional subsidiary corporation;



- 1 (23) Contracting for and accepting any gifts, grants, and
2 loans of funds, property, or any other aid in any form
3 from the federal government, the State, any state
4 agency, or any other source, or any combination
5 thereof, and complying, subject to this chapter, with
6 the terms and conditions thereof;
- 7 (24) Providing health and medical services for the public
8 directly or by agreement or lease with any person,
9 firm, or private or public corporation or association
10 through or in the health facilities of the corporation
11 or any regional subsidiary corporation or otherwise;
- 12 (25) Approving medical staff bylaws, rules, and medical
13 staff appointments and reappointments for all public
14 health facilities~~[7]~~ of the corporation or any
15 regional subsidiary corporation, including without
16 limitation, determining the conditions under which a
17 health professional may be extended the privilege of
18 practicing within a health facility, and adopting and
19 implementing reasonable rules, without regard to
20 chapter 91, for the credentialing and peer review of
21 all persons and health professionals within the
22 facility;



1 (26) (A) Investing any funds not required for immediate
2 disbursement in property or in securities that
3 meet the standard for investments established in
4 chapter 88 as provided by the corporation
5 board[+] or any regional board; provided the
6 investment assists the corporation or any
7 regional subsidiary corporation in carrying out
8 its public purposes; selling from time to time
9 securities thus purchased and held, and
10 depositing any securities in any bank or
11 financial institution within or without the
12 State. Any funds deposited in a banking
13 institution or in any depository authorized in
14 this section shall be secured in a manner and
15 subject to terms and conditions as the
16 corporation board or any regional board may
17 determine, with or without payment of any
18 interest on the deposit, including, without
19 limitation, time deposits evidenced by
20 certificates of deposit. Any bank or financial
21 institution incorporated under the laws of this
22 State may act as depository of any funds of the



1 corporation or any regional subsidiary
2 corporation and may issue indemnity bonds or may
3 pledge securities as may be required by the
4 corporation board[+] or any regional board; and
5 (B) Notwithstanding subparagraph (A), contracting
6 with the holders of any of its notes or bonds as
7 to the custody, collection, securing, investment,
8 and payment of any moneys of the corporation or
9 any regional subsidiary corporation and of any
10 moneys held in trust or otherwise for the payment
11 of notes or bonds and carrying out the contract.
12 Moneys held in trust or otherwise for the payment
13 of notes or bonds or in any way to secure notes
14 or bonds, and deposits of such moneys, may be
15 secured in the same manner as moneys of the
16 corporation[-] or any regional subsidiary
17 corporation and all banks and trust companies are
18 authorized to give security for the deposits;
19 (27) Entering into any agreement with the State including
20 but not limited to contracts for the provision of
21 goods, services, and facilities in support of the
22 corporation's programs[-] or any regional subsidiary



- 1 corporation's programs, and contracting for the
2 provision of services to or on behalf of the State;
- 3 (28) Having a seal and altering the same at pleasure;
- 4 (29) Waiving, by means that the corporation or any regional
5 subsidiary corporation deems appropriate, the
6 exemption from federal income taxation of interest on
7 the corporation's or any regional subsidiary
8 corporation's bonds, notes, or other obligations
9 provided by the Internal Revenue Code of 1986, as
10 amended, or any other federal statute providing a
11 similar exemption;
- 12 (30) Developing internal policies and procedures for the
13 procurement of goods and services, consistent with the
14 goals of public accountability and public procurement
15 practices;
- 16 (31) Authorizing and establishing positions;
- 17 (32) Calling upon the attorney general for such legal
18 services as the corporation or any regional subsidiary
19 corporation may require; and
- 20 (33) Having and exercising all rights and powers necessary
21 or incidental to or implied from the specific powers
22 granted in this chapter, which specific powers shall



1 not be considered as a limitation upon any power
2 necessary or appropriate to carry out the purposes and
3 intent of this chapter.

4 (b) The corporation or any regional subsidiary corporation
5 shall not be subject to chapters 36 to 38, 40, and 41D, except
6 as otherwise provided in this chapter.

7 (c) The duties and powers granted to the corporation or
8 any regional subsidiary corporation may not be used to enter
9 into contractual or business relationships [~~which~~] that have the
10 practical effect of allowing or are intended to allow the
11 private sector counterparts to replace existing employee
12 positions or responsibilities within the corporation or any
13 regional subsidiary corporation or its facilities; provided the
14 corporation or any regional subsidiary corporation shall be
15 allowed to enter into such relationships to the extent and for
16 the purposes that the division of community hospitals could have
17 done under collective bargaining contracts which were in effect
18 for the 1995-1996 fiscal year."

19 SECTION 22. Section 323F-8, Hawaii Revised Statutes, is
20 amended to read as follows:

21 "**§323F-8 Chief executive officer; exempt positions.** (a)

22 The corporation board may appoint, exempt from chapter 76 and



1 section 26-35(a)(4), a chief executive officer of the
2 corporation whose salary shall be set by the corporation board.
3 The chief executive officer may also appoint up to eighteen
4 other personnel, exempt from chapters 76 and 89, to work
5 directly for the chief executive officer and the corporate
6 board.

7 (b) The corporation board or its designee may discharge
8 its exempt personnel with or without cause; provided that
9 removal without cause shall not prejudice any contract rights of
10 personnel.

11 (c) The corporation's chief executive officer or the chief
12 executive officer's designee may appoint, exempt from chapters
13 76 and 89, hospital administrators, assistant administrators,
14 directors of nursing, medical directors, and staff physicians,
15 to facilitate the management of facilities within the
16 corporation; provided that directors of nursing appointed before
17 July 1, 1998, may maintain their civil service status as
18 provided in chapter 76 by so communicating in writing to the
19 chief executive officer by October 31, 1998. Hospital
20 administrators and assistant administrators appointed before
21 July 1, 1983, may maintain their permanent civil service status
22 as provided in chapter 76.



1 (d) The authority to appoint hospital administrators,
2 assistant administrators, directors of nursing, medical
3 directors, and staff physicians provided for under subsection
4 (c) shall be superseded by section 323F-D for the region
5 affected upon the establishment of a regional subsidiary
6 corporation and corresponding regional board."

7 SECTION 23. Section 323F-9, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "[+]§323F-9[+] **Hiring of attorneys.** The corporation and
10 any regional subsidiary corporation may employ or retain any
11 attorney, by contract or otherwise, for the purpose of
12 representing the corporation or any regional subsidiary
13 corporation in any litigation, rendering legal counsel to the
14 corporation[7] or any regional subsidiary corporation, or
15 drafting legal documents for the corporation."

16 SECTION 24. Section 323F-10, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "**§323F-10 Regional public health facility management**
19 **advisory committees.** (a) On the transfer date, there shall be
20 established within the corporation for each region, a public
21 health facility management advisory committee to consist of nine
22 members initially to be appointed by the chief executive officer



1 of the corporation with the advice of the hospital
2 administrators of the facilities in the affected regions. The
3 members shall serve for a term of four years; provided that upon
4 the initial appointment of the members, two shall be appointed
5 for a term of one year, two for a term of two years, two for a
6 term of three years, and three for a term of four years.

7 Following the initial appointments by the chief executive
8 officer of the corporation board, any vacancies on a regional
9 committee shall be filled by a simple majority vote of the
10 members of the executive committee from a list of qualified
11 nominees submitted by the regional committee in which the
12 vacancy occurred. If a regional committee vacancy remains
13 unfilled for more than thirty days, that vacancy may be filled
14 by the chief executive officer of the corporation.

15 Each regional management advisory committee shall include
16 medical and health care providers, consumers, and knowledgeable
17 individuals in other appropriate areas such as business and law;
18 provided that at least one member shall be a physician with
19 active medical staff privileges at one of the region's public
20 health facilities. At least three members of the committee
21 shall be consumers.



1 The management advisory committee for the East Hawaii
2 region shall have three members who reside in the Ka`u district,
3 three members who reside in the Hamakua/North Hilo districts,
4 and three members who reside in the South Hilo/Puna districts.
5 The management advisory committee for the West Hawaii region
6 shall have not less than three members who reside in the North
7 Kohala/South Kohala districts.

8 Each regional committee shall select its own chairperson
9 and vice chairperson and shall adopt rules governing the terms
10 for removal of its chairperson from the executive management
11 advisory committee. In the event of a regional committee voting
12 to remove its chairperson who concurrently sits on the
13 corporation board, that vote shall be unanimous. In the event
14 of a regional committee voting to remove its physician member
15 from the corporation board, that vote shall also be unanimous.
16 Each regional committee may also adopt other rules as it may
17 consider necessary for the conduct of its business.

18 The members of the regional committees shall serve without
19 compensation, but shall be reimbursed for traveling expenses
20 incurred in the performance of their duties. The corporation
21 shall provide for the necessary expenses of the committees;



1 provided that no expenses may be incurred without prior
2 authorization by the chief executive officer.

3 (b) Each regional committee shall sit in an advisory
4 capacity to the chief executive officer on matters concerning
5 the formulation of regional operational and capital improvement
6 budgets, and the planning, construction, improvement,
7 maintenance, and operation of public health facilities within
8 its respective jurisdiction and shall sit in an advisory
9 capacity to the governor on matters concerning the nominees for
10 positions on the corporation board. Nothing in this section
11 shall be construed as precluding or preventing the committees
12 from coordinating their efforts and activities with the facility
13 administrators within their counties.

14 (c) Each regional committee may prepare a report for
15 inclusion with the corporation's annual report and audit which
16 shall include but not be limited to comments and analyses on the
17 corporation's regional operational and capital improvement
18 budgets for its respective region.

19 (d) Upon the formation of a regional subsidiary
20 corporation's initial board, subsections (a), (b), and (c) shall
21 no longer apply to the region in which the regional subsidiary
22 corporation has been formed."



1 SECTION 25. Section 323F-10.5, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "[+]§323F-10.5[+] **Executive public health facility**
4 **management advisory committee; establishment.** (a) There is
5 established within the corporation an executive public health
6 facility management advisory committee to consist of the
7 chairpersons of each of the five regional public health facility
8 management advisory committees. The executive committee shall,
9 through its chairperson, represent the interests of all regional
10 committees on the corporation board.

11 (b) The executive committee shall select its own
12 chairperson to serve on the corporation board and shall adopt
13 rules governing the terms of office and removal from the
14 corporation board. The executive committee shall also adopt
15 rules governing the terms of office for each of the five
16 regional committee chairpersons. The executive committee may
17 also adopt other rules as it may consider necessary for the
18 conduct of its business.

19 (c) The members of the executive committee shall serve
20 without compensation, but shall be reimbursed for reasonable
21 expenses incurred in the performance of their duties.



1 (d) Upon the formation of a regional subsidiary
2 corporation's initial board, subsections (a), (b), and (c) shall
3 no longer apply to the region in which the regional subsidiary
4 corporation has been formed."

5 SECTION 26. Section 323F-10.6, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "[+]§323F-10.6[+] **Peer review and credentialing.**

8 ~~[Corporation board or other committee meetings pertaining to~~
9 ~~peer review and credentialing matters shall not be subject to~~
10 ~~part I of chapter 92.] Peer review activities shall be subject~~
11 ~~to [the provisions of] chapters 663 and 671D and all other~~
12 ~~provisions and restrictions of medical peer review committees~~
13 ~~established by state law."~~

14 SECTION 27. Section 323F-11, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "[+]§323F-11[+] **Executive branch; noninterference.**

17 Notwithstanding any other law to the contrary, the governor and
18 executive branch agencies shall limit their responsibilities to
19 that of review and oversight when the corporation or any
20 regional subsidiary corporation receives general funds from the
21 State to subsidize the operating budgets of deficit facilities.
22 The governor and executive branch agencies shall not interfere



1 with the systemic change, capacity building, advocacy, budget,
2 personnel, system plan development, or plan implementation
3 activities of the corporation~~[+]~~ or any regional subsidiary
4 corporation. The governor and executive branch agencies shall
5 not interfere with the ability of the corporation or any
6 regional subsidiary corporation to function as a multiple
7 facility public hospital system delivering health care services
8 to the residents of the State."

9 SECTION 28. Section 323F-21, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "[+]§323F-21[+] **Fiscal provisions.** (a) There is created
12 in the state treasury a special fund to be known as the health
13 systems special fund into which shall be deposited all fees,
14 proceeds, reimbursements, and the like owed to or received by
15 the corporation, any regional subsidiary corporation, and ~~[its]~~
16 their facilities, except as herein provided. The special fund
17 shall be used solely to fulfill the purposes outlined in this
18 chapter.

19 The corporation or any regional subsidiary corporation may
20 establish and maintain within ~~[its]~~ the special fund, accounts
21 that may be necessary and appropriate to carry out its purposes
22 and responsibilities.



1 The corporation or any regional subsidiary corporation may
2 provide reasonable reserves for any of the following purposes:

3 (1) Insurance deductibles;

4 (2) The improvement, replacement, or expansion of its
5 facilities or services;

6 (3) The securing of the corporation's or any regional
7 subsidiary corporation's bonds, notes, or other
8 instruments of indebtedness; or

9 (4) Any other purpose it deems necessary or appropriate in
10 the performance of its purposes and responsibilities.

11 (b) The corporation board and any regional board shall
12 develop annual operating and capital budgets for each facility.

13 The corporation and any regional subsidiary corporation shall
14 develop budgetary guidelines, and may allocate to each facility
15 reasonable [~~corporation~~] corporate administrative costs,

16 including funds determined by the corporation or any regional
17 subsidiary corporation to be needed from or provided to each
18 facility to:

19 (1) Repay corporation or any regional subsidiary
20 corporation debts;



1 (2) Provide subsidies to any facility determined to be
2 unable to fund from within that facility's programs
3 and services deemed essential to community needs; and
4 (3) Maintain appropriate reserves.

5 (c) The corporation or any regional subsidiary corporation
6 shall develop annual corporation or any regional subsidiary
7 corporation operating and capital budgets, taking into account
8 anticipated surpluses from or subsidies to the facilities
9 pursuant to the annual guidelines described in this section,
10 accumulated corporation or any regional subsidiary corporation
11 reserves and accounts, subsidies, if any, that are determined to
12 be needed from the general fund, and other sources of
13 corporation-wide or any regional subsidiary corporation-wide
14 income as may be identified.

15 (d) The corporation, with the exception of facilities
16 within regions where a regional subsidiary corporation has been
17 formed, may share in any facility's surplus and may offset any
18 facility's deficits. Any regional subsidiary corporation may
19 share in the surplus of any facility within its region and may
20 offset any facility deficits within its region. Obligations
21 undertaken by a facility shall be paid only from funds of that



1 facility, unless the corporation board or regional board, or its
2 authorized agent explicitly agrees to guarantee the obligation.

3 (e) In accordance with each annual facility budget, each
4 facility of the corporation or any regional subsidiary
5 corporation shall:

6 (1) Bill and collect for its services;

7 (2) Maintain bank accounts; and

8 (3) Pay for needed personnel, supplies, equipment, and
9 other operational and capital expenditures.

10 (f) The corporation or any regional subsidiary corporation
11 may elect to manage its own capital improvement project and
12 funds, either directly or indirectly by contract; provided that
13 annual reports of the project moneys are provided to the
14 governor and legislature.

15 (g) The corporation board or any regional board may hold
16 public informational meetings on its budget. Representatives of
17 any county government, state government, or any other person
18 having an interest in the budget, shall have the right to be
19 heard at the meetings."

20 SECTION 29. Section 323F-22, Hawaii Revised Statutes, is
21 amended to read as follows:



1 "[+]§323F-22[+] **Annual audit and report; disclosure of**
2 **revenue projections.** (a) The corporation or any regional
3 subsidiary corporation shall engage a certified public
4 accountant to conduct an annual audit of its financial affairs,
5 books, and records in accordance with generally accepted
6 accounting principles. The corporation shall submit to the
7 governor and the legislature within one hundred fifty days after
8 the close of the corporation's fiscal year, a report that shall
9 include the audited financial report for that fiscal year~~[+]~~ for
10 the corporation and any regional subsidiary corporation.

11 (b) In addition to the submittal of the audit required
12 under subsection (a), the corporation shall submit a report to
13 the legislature at least twenty days prior to the convening of
14 each regular session that shall include but not be limited to:

- 15 (1) The projected revenues for each health care facility;
16 (2) A list of all proposed capital improvement projects
17 planned for implementation during the following fiscal
18 year; and
19 (3) All reports submitted by regional public health
20 facility management advisory committees pursuant to
21 section 323F-10(c).



1 (c) Each regional board may prepare a report for inclusion
2 with the corporation's annual report and audit which shall
3 include but not be limited to comments and analyses on the
4 services provided by the regional subsidiary corporation to its
5 respective region."

6 SECTION 30. Section 323F-23, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "[+]§323F-23[+] **Exemption from taxation.** The corporation
9 or any regional subsidiary corporation shall not be required to
10 pay assessments levied by any county, nor shall the corporation
11 be required to pay state taxes of any kind."

12 SECTION 31. Section 323F-24, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "[+]§323F-24[+] **Budget oversight.** The corporation's and
15 any regional subsidiary corporation's operating and capital
16 improvement budgets shall not be subject to review or approval
17 by the governor or any state agency, except where state general
18 funds or capital improvement moneys are requested. If general
19 funds or capital improvement moneys are requested, then the
20 corporation or any regional subsidiary corporation shall include
21 with its request, the proposed budget for which the funds or
22 moneys are to be included. The corporation or any regional



1 subsidiary corporation shall submit its budgets annually to the
2 legislature for review and approval at least twenty days prior
3 to the convening of the regular legislative session, beginning
4 with the budgets for the 1997-1998 fiscal years."

5 SECTION 32. Section 323F-31, Hawaii Revised Statutes, is
6 amended by amending subsection (a) to read as follows:

7 "(a) The corporation and any regional subsidiary
8 corporation shall notify the legislature of any planned
9 substantial reduction or elimination of direct patient care
10 services."

11 SECTION 33. It is the intent of this Act that all rights,
12 powers, functions, assets, and operations of the Hawaii health
13 systems corporation, with respect to the health facilities in
14 each region, including the facilities themselves, be conveyed to
15 the corresponding regional subsidiary corporations at such time
16 that the regional subsidiary corporations are established, such
17 that all of the activities and services of the health facilities
18 are continued without interruption by the establishment of the
19 corresponding regional subsidiary corporations. This Act shall
20 be construed with this intent.

21 SECTION 34. All rights, powers, functions, and duties of
22 the Hawaii health systems corporation shall be transferred to a



1 corresponding regional subsidiary corporation upon establishment
2 of the regional subsidiary corporation.

3 The assets, including but not limited to hospital funds
4 relating to health facilities in each region shall be conveyed
5 to a corresponding regional subsidiary corporation at such time
6 that the regional subsidiary corporation is established.

7 Upon establishment, a regional subsidiary corporation shall
8 assume the responsibility of the Hawaii health systems
9 corporation with respect to the corresponding region, for all
10 contracts, agreements, and leases for commodities, services,
11 property, and supplies utilized by the Hawaii health systems
12 corporation, all of which shall be transferred to the
13 corresponding regional subsidiary corporation including real
14 property leases.

15 All officers and employees whose functions are transferred
16 by this Act shall be transferred with their functions and shall
17 continue to perform their regular duties upon their transfer,
18 subject to the state personnel laws and this Act.

19 No officer or employee of the State having tenure shall
20 suffer any loss of salary, seniority, prior service credit,
21 vacation, sick leave, or other employee benefit or privilege as
22 a consequence of this Act, and such officer or employee may be



1 transferred or appointed to a civil service position without the
2 necessity of examination; provided that the officer or employee
3 possesses the minimum qualifications for the position to which
4 transferred or appointed; and provided that subsequent changes
5 in status may be made pursuant to applicable civil service laws.

6 An officer or employee of the State who does not have
7 tenure and who may be transferred or appointed to a civil
8 service position as a consequence of this Act, shall become a
9 civil service employee without the loss of salary, seniority,
10 prior service credit, vacation, sick leave, or other employee
11 benefits or privileges and without the necessity of examination;
12 provided that the officer or employee possesses the minimum
13 qualifications for the position to which transferred or
14 appointed.

15 If an office or position held by an officer or employee
16 having tenure is abolished, the officer or employee shall not
17 thereby be separated from public employment, but shall remain in
18 the employment of the executive branch of the State with the
19 same pay and classification and shall be transferred to some
20 other office or position for which the officer or employee is
21 eligible under the personnel laws of the State, provided that
22 minimum qualifications are met.



1 Any officer or employee transferred to any regional
2 subsidiary corporation pursuant to this section who is a member
3 of or benefits under any existing pension or retirement fund
4 system shall continue to have all rights privileges,
5 obligations, and status with respect to that fund or system as
6 are now prescribed by law, but during the period of employment
7 by a regional subsidiary corporation, all contributions to that
8 fund or system to be paid by the employer on account of the
9 officer or employee shall be paid by the corresponding regional
10 subsidiary corporation.

11 SECTION 35. All appropriations, records, equipment,
12 machines, files, supplies, contracts, books, papers, documents,
13 maps, and other personal property heretofore made, used,
14 acquired, or held by the Hawaii health systems corporation
15 relating to the functions transferred to a regional subsidiary
16 corporation shall be transferred with the functions to which
17 they relate upon the establishment of the regional subsidiary
18 corporation.

19 SECTION 36. (a) Any regional subsidiary corporation, in
20 carrying out its duties and responsibilities, may enter into
21 appropriate agreements with the Hawaii health systems
22 corporation, if necessary, to utilize the corresponding regional



1 health facilities and real property under the control of the
2 Hawaii health systems corporation prior to the establishment of
3 the regional subsidiary corporation. Each agreement shall
4 require compensation of a nominal amount for the use of any
5 facilities or real property. Until the agreements are
6 finalized, any regional subsidiary corporation shall be entitled
7 to use the facilities and real property of the Hawaii health
8 systems corporation located within the corresponding region.

9 (b) State agencies shall continue to provide to any
10 regional subsidiary corporation, without charge, for six months
11 after the establishment of regional subsidiary corporation,
12 services that the state agencies provided to the Hawaii health
13 systems corporation until the corresponding regional subsidiary
14 corporation enters into a written contract with the state
15 agencies or chooses to terminate the services.

16 (c) Any regional subsidiary corporation shall assume and
17 honor the terms of all collective bargaining agreements
18 applicable to employees of the Hawaii health systems
19 corporation, with respect to the employees of the health
20 facilities within that region. Upon expiration of those
21 agreements, the regional subsidiary corporation, as appropriate
22 and allowable, may negotiate collective bargaining agreements or



1 sub-agreements under chapter 89, Hawaii Revised Statutes, to
2 address its needs for efficiency and effectiveness.

3 (d) Upon establishment, a regional subsidiary corporation
4 shall assume and honor all responsibilities and obligations
5 transferred to it from the Hawaii health systems corporation
6 regarding the imposition of rates, rents, fees, and charges for
7 the use of health facilities pursuant to section 323-70, Hawaii
8 Revised Statutes. In no way shall this Act be construed as
9 allowing any regional subsidiary corporation or the Hawaii
10 health systems corporation to abrogate these responsibilities
11 and obligations.

12 SECTION 37. There is appropriated out of the general
13 revenues of the State of Hawaii the sum of \$, or so much
14 thereof as may be necessary for fiscal year 2007-2008, to
15 support the transition from the Hawaii health systems
16 corporation to the regional subsidiary corporation for the Maui
17 region.

18 The sum appropriated shall be expended by the Hawaii health
19 systems corporation for the purposes of this Act.

20 SECTION 38. All Acts passed prior to or during this
21 regular session of 2007, whether enacted before or after passage
22 of this Act, shall be interpreted to conform to this Act, unless



1 the Acts specifically provide that this Act is being amended.
2 Insofar as this Act is inconsistent with the provisions of any
3 other law, this Act shall control.

4 SECTION 39. This Act does not affect rights and duties
5 that matured, penalties that were incurred, and proceedings that
6 were begun, before its effective date.

7 SECTION 40. In codifying the new sections added by section
8 3 of this Act, the revisor of statutes shall substitute
9 appropriate section numbers for the letters used in designating
10 the new sections in this Act.

11 SECTION 41. Statutory material to be repealed is bracketed
12 and stricken. New statutory material is underscored.

13 SECTION 42. This Act shall take effect upon its approval,
14 except that section 37 shall take effect on July 1, 2007.

15

INTRODUCED BY:



JAN 24 2007



Report Title:

Hawaii Health Systems Corp; Maui Regional Subsidiary Corporation

Description:

Allows for creation of regional subsidiary corporations and regional boards for the five regions within the Hawaii health systems corporation. Establishes the Maui regional subsidiary corporation and regional board. Appropriation.

