
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 system-wide 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 to give the communities a voice in the provision of vital
10 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 system-wide approach may provide economies
2 of 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 entity for the Maui region as a first
6 step to more regional control for all regions, to be governed by
7 a community-based regional board and to provide the necessary
8 authority to the regional entities to accomplish the goal of
9 community-based governance.

10 SECTION 2. Chapter 323F, Hawaii Revised Statutes, is
11 amended by adding four new sections to be appropriately
12 designated and to read as follows:

13 **§323F-A Regional entities and transfer of assets.** There
14 may be one regional entity for each of the five regions
15 specified in section 323F-2 as established by law. Each
16 regional entity shall be a public body corporate and politic and
17 an instrumentality and agency of the State. All health systems
18 assets and health systems liabilities of a region shall be
19 transferred to the regional entity upon establishment.

20 **§323F-B Establishment of a regional entity for Maui**
21 **county.** There shall be established a regional entity for the
22 county of Maui, except for the county of Kalawao, that shall



1 consist of Kula hospital, Lanai community hospital, and Maui
2 memorial medical center, and all other public health facilities
3 created or acquired hereafter by the regional entity within the
4 region.

5 **§323F-C Regional boards.** (a) Each regional entity shall
6 be governed by a regional board of directors to consist of not
7 less than seven members and not more than fifteen members as
8 determined by the regional board to carry out the duties and
9 responsibilities of the regional entity. A regional board shall
10 initially consist of eleven members to be appointed as follows:

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

14 (A) Two members shall be appointed from a list, which
15 shall not include physicians, of four individuals
16 submitted by the speaker of the house of
17 representatives; and

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



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

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

6 (B) Three members, who shall not be physicians, may
7 be medical and health care providers and
8 professionals, consumers, and knowledgeable
9 individuals in appropriate areas such as business
10 and law;

11 and

12 (3) Three physicians shall be appointed by majority vote
13 of the medical staff of the public health facilities
14 in the region present at a duly noticed meeting from a
15 list of qualified candidates submitted by the medical
16 executive committees in the region.

17 Two initial members nominated by the speaker of the house of
18 representatives and the president of the senate, respectively,
19 shall serve for a term of two years. One initial member
20 appointed by the medical executive committees shall serve for a
21 term of two years. One initial member appointed by the regional
22 management advisory committee shall serve a term of two years.



1 The remaining initial members and all members appointed
2 thereafter shall be appointed for a term of three years;
3 provided that new members shall be selected by a two-thirds
4 affirmative vote of the existing board members at a duly noticed
5 public meeting. Each regional board shall elect its own
6 chairperson.

7 (b) Each regional board shall be responsible for local
8 governance, control, and administration of services in its
9 respective region. Each regional board shall be as
10 proportionately represented as practicable.

11 (c) Any member of a regional board may be removed for
12 cause by a two-thirds majority vote of the regional board's
13 voting members. For purposes of this section, cause shall
14 include, without limitation:

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

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



1 §323F-D Regional chief executive officers; exempt

2 positions. (a) Upon the formation of a regional entity and
3 corresponding regional board, a regional board may appoint,
4 exempt from chapter 76 and section 26-35(a)(4), a regional chief
5 executive officer of the regional entity whose salary shall be
6 set by the appropriate regional board. A regional chief
7 executive officer may also appoint as necessary other personnel,
8 exempt from chapters 76 and 89, to work directly for the
9 regional chief executive officer and the appropriate regional
10 board.

11 (b) Any regional board or its designee may dismiss its
12 exempt personnel with or without cause; provided that removal
13 without cause shall not prejudice any contract rights of
14 personnel.

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



1 officer by October 31, 2007. Hospital administrators and
2 assistant administrators appointed before July 1, 1983, may
3 maintain their permanent civil service status as provided in
4 chapter 76."

5 SECTION 3. Section 323F-1, Hawaii Revised Statutes, is
6 amended by adding two new definitions to be appropriately
7 inserted and to read as follows:

8 "Regional board" means a regional board of a regional
9 entity of the corporation.

10 "Regional entity" means an entity that is wholly owned by
11 the corporation and responsible for regional governance, control
12 and administration of services in its region."

13 SECTION 4. Section 26-55, Hawaii Revised Statutes, is
14 amended:

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

16 "(e) Nothing in this section shall be construed as in any
17 manner affecting the civil service laws applicable to the
18 several counties, the judiciary, or the Hawaii health systems
19 corporation[~~7~~] or any of its regional entities, which shall
20 remain the same as if this chapter had not been enacted.

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



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

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

12 SECTION 5. Section 28-8.3, Hawaii Revised Statutes, is
13 amended:

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

15 "(a) No department of the State other than the attorney
16 general may employ or retain any attorney, by contract or
17 otherwise, for the purpose of representing the State or the
18 department in any litigation, rendering legal counsel to the
19 department, or drafting legal documents for the department;
20 provided that the foregoing provision shall not apply to the
21 employment or retention of attorneys:



- 1 (1) By the public utilities commission, the labor and
- 2 industrial relations appeals board, and the Hawaii
- 3 labor relations board;
- 4 (2) By any court or judicial or legislative office of the
- 5 State;
- 6 (3) By the legislative reference bureau;
- 7 (4) By any compilation commission that may be constituted
- 8 from time to time;
- 9 (5) By the real estate commission for any action involving
- 10 the real estate recovery fund;
- 11 (6) By the contractors license board for any action
- 12 involving the contractors recovery fund;
- 13 (7) By the trustees for any action involving the travel
- 14 agency recovery fund;
- 15 (8) By the office of Hawaiian affairs;
- 16 (9) By the department of commerce and consumer affairs for
- 17 the enforcement of violations of chapters 480 and 485;
- 18 (10) As grand jury counsel;
- 19 (11) By the Hawaiian home lands trust individual claims
- 20 review panel;
- 21 (12) By the Hawaii health systems corporation or any of its
- 22 regional entities, or any of its facilities;



- 1 (13) By the auditor;
- 2 (14) By the office of ombudsman;
- 3 (15) By the insurance division;
- 4 (16) By the University of Hawaii;
- 5 (17) By the Kahoolawe island reserve commission;
- 6 (18) By the division of consumer advocacy;
- 7 (19) By the office of elections;
- 8 (20) By the campaign spending commission;
- 9 (21) By the Hawaii tourism authority, as provided in
- 10 section 201B-2.5; or
- 11 (22) By a department, in the event the attorney general,
- 12 for reasons deemed by the attorney general good and
- 13 sufficient, declines, to employ or retain an attorney
- 14 for a department; provided that the governor thereupon
- 15 waives the provision of this section."

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

17 "(c) Every attorney employed by any department on a full-

18 time basis, except an attorney employed by the public utilities

19 commission, the labor and industrial relations appeals board,

20 the Hawaii labor relations board, the office of Hawaiian

21 affairs, the Hawaii health systems corporation[7] or any of its

22 regional entities, the department of commerce and consumer



1 affairs in prosecution of consumer complaints, insurance
2 division, the division of consumer advocacy, the University of
3 Hawaii, the Hawaii tourism authority as provided in section
4 201B-2.5, the Hawaiian home lands trust individual claims review
5 panel, or as grand jury counsel, shall be a deputy attorney
6 general."

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

9 "(a) There is established in the state treasury an
10 interagency federal revenue maximization revolving fund, into
11 which shall be deposited all funds and proceeds collected from
12 the federal government and third-party payors for costs not
13 previously claimed by the State, with the exception of proceeds
14 collected for services provided by the Hawaii health systems
15 corporation[~~7~~] or any of its regional entities, for
16 reimbursement of federally-funded state programs. For purposes
17 of this chapter, federally-funded state programs include but
18 shall not be limited to those federally-funded programs within
19 the departments of human services and health, and shall not
20 include the federally-funded program within the department of
21 education as provided in [~~+~~]section[~~+~~] 302A-1406. Expenditures
22 and transfers from the fund shall be made by the comptroller in



1 proportional allocations established by the comptroller and the
2 director of finance. Transfers shall be made to the department
3 claiming the reimbursement for expenses incurred related to
4 federal fund reimbursement claims and to the general fund of the
5 State. Moneys in the fund may be expended for consultant
6 services rendered under subsection (b)."

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

9 **"§36-27 Transfers from special funds for central service**
10 **expenses.** Except as provided in this section, and
11 notwithstanding any other law to the contrary, from time to
12 time, the director of finance, for the purpose of defraying the
13 prorated estimate of central service expenses of government in
14 relation to all special funds, except the:

- 15 (1) Special out-of-school time instructional program fund
16 under section 302A-1310;
- 17 (2) School cafeteria special funds of the department of
18 education;
- 19 (3) Special funds of the University of Hawaii;
- 20 (4) State educational facilities improvement special fund;
- 21 (5) Convention center enterprise special fund under
22 section 201B-8;



- 1 (6) Special funds established by section 206E-6;
- 2 (7) Housing loan program revenue bond special fund;
- 3 (8) Housing project bond special fund;
- 4 (9) Aloha Tower fund created by section 206J-17;
- 5 (10) Funds of the employees' retirement system created by
- 6 section 88-109;
- 7 (11) Unemployment compensation fund established under
- 8 section 383-121;
- 9 (12) Hawaii hurricane relief fund established under chapter
- 10 431P;
- 11 (13) Hawaii health systems corporation special funds[+] and
- 12 the special funds of any of the regional entities of
- 13 the Hawaii health systems corporation;
- 14 (14) Tourism special fund established under section
- 15 201B-11;
- 16 (15) Universal service fund established under chapter 269;
- 17 (16) Integrated tax information management systems special
- 18 fund under section 231-3.2;
- 19 (17) Emergency and budget reserve fund under section
- 20 328L-3;
- 21 (18) Public schools special fees and charges fund under
- 22 section 302A-1130(f);



- 1 (19) Sport fish special fund under section 187A-9.5;
- 2 (20) Neurotrauma special fund under section 321H-4;
- 3 (21) Deposit beverage container deposit special fund under
4 section 342G-104;
- 5 (22) Glass advance disposal fee special fund established by
6 section 342G-82;
- 7 (23) Center for nursing special fund under section [†]304A-
8 2163[†];
- 9 (24) Passenger facility charge special fund established by
10 section 261-5.5;
- 11 (25) Solicitation of funds for charitable purposes special
12 fund established by section 467B-15;
- 13 (26) Land conservation fund established by section 173A-5;
- 14 (27) Court interpreting services revolving fund under
15 section 607-1.5;
- 16 (28) Trauma system special fund under section 321-22.5;
- 17 (29) Hawaii cancer research special fund;
- 18 (30) Community health centers special fund; and
- 19 (31) Emergency medical services special fund[†];
- 20 shall deduct five per cent of all receipts of all other special
21 funds, which deduction shall be transferred to the general fund
22 of the State and become general realizations of the State. All



1 officers of the State and other persons having power to allocate
2 or disburse any special funds shall cooperate with the director
3 in effecting these transfers. To determine the proper revenue
4 base upon which the central service assessment is to be
5 calculated, the director shall adopt rules pursuant to chapter
6 91 for the purpose of suspending or limiting the application of
7 the central service assessment of any fund. No later than
8 twenty days prior to the convening of each regular session of
9 the legislature, the director shall report all central service
10 assessments made during the preceding fiscal year.[+]"

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

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

- 14 (1) Transportation use special fund established by section
15 261D-1;
- 16 (2) Special out-of-school time instructional program fund
17 under section 302A-1310;
- 18 (3) School cafeteria special funds of the department of
19 education;
- 20 (4) Special funds of the University of Hawaii;
- 21 (5) State educational facilities improvement special fund;
- 22 (6) Special funds established by section 206E-6;



- 1 (7) Aloha Tower fund created by section 206J-17;
- 2 (8) Funds of the employees' retirement system created by
3 section 88-109;
- 4 (9) Unemployment compensation fund established under
5 section 383-121;
- 6 (10) Hawaii hurricane relief fund established under chapter
7 431P;
- 8 (11) Convention center enterprise special fund established
9 under section 201B-8;
- 10 (12) Hawaii health systems corporation special funds[+] and
11 the special funds of any of the regional entitiess of
12 the Hawaii health systems corporation;
- 13 (13) Tourism special fund established under section
14 201B-11;
- 15 (14) Universal service fund established under chapter 269;
- 16 (15) Integrated tax information management systems special
17 fund under section 231-3.2;
- 18 (16) Emergency and budget reserve fund under section
19 328L-3;
- 20 (17) Public schools special fees and charges fund under
21 section 302A-1130(f);
- 22 (18) Sport fish special fund under section 187A-9.5;



- 1 (19) Neurotrauma special fund under section 321H-4;
- 2 (20) Center for nursing special fund under section [†]304A-
- 3 2163[†];
- 4 (21) Passenger facility charge special fund established by
- 5 section 261-5.5;
- 6 (22) Court interpreting services revolving fund under
- 7 section 607-1.5;
- 8 (23) Trauma system special fund under section 321-22.5;
- 9 (24) Hawaii cancer research special fund;
- 10 (25) Community health centers special fund; and
- 11 (26) Emergency medical services special fund[†];

12 shall be responsible for its pro rata share of the

13 administrative expenses incurred by the department responsible

14 for the operations supported by the special fund concerned.[†]"

15 SECTION 9. Section 37-53, Hawaii Revised Statutes, is

16 amended to read as follows:

17 "**§37-53 Transfer of special funds.** At any time during a

18 fiscal year, notwithstanding any other law to the contrary, any

19 department may, with the approval of the governor or the

20 director of finance if so delegated by the governor, transfer

21 from any special fund relating to such department to the general

22 revenues of the State all or any portion of moneys determined to



1 be in excess of fiscal year requirements for such special fund,
2 except for special funds under the control of the department of
3 transportation relating to highways, airports, transportation
4 use, and harbors activities, special funds under the control of
5 the Hawaii health systems corporation[7] or any of its regional
6 entities, and special funds of the University of Hawaii. At any
7 time the department of transportation, with the approval of the
8 governor or the director of finance if so delegated by the
9 governor, may transfer from any special fund under the control
10 of the department of transportation, or from any account within
11 any such special fund, to the general revenues of the State or
12 to any other special fund under the control of the department of
13 transportation all or any portion of moneys determined to be in
14 excess of requirements for the ensuing twelve months determined
15 as prescribed by rules adopted pursuant to chapter 91; provided
16 that no such transfer shall be made which would cause a
17 violation of federal law or federal grant agreements."

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

20 "(d) No appropriation transfers or changes between
21 programs or agencies shall be made without legislative
22 authorization; provided that:



- 1 (1) Authorized transfers or changes, when made, shall be
2 reported to the legislature;
- 3 (2) Except with respect to appropriations to fund
4 financing agreements under chapter 37D, the University
5 of Hawaii shall have the flexibility to transfer
6 appropriated funds and positions for the operating
7 cost category among programs, among cost elements in a
8 program, and between quarters, as applicable; except
9 with respect to appropriations to fund financing
10 agreements under chapter 37D, the department of
11 education shall have the flexibility to transfer
12 appropriated funds and positions for the operating
13 cost category among programs and among cost elements
14 in a program, and between quarters, as applicable; and
15 the Hawaii health systems corporation or any of its
16 regional entities shall have the flexibility to
17 transfer special fund appropriations among community
18 hospitals facilities as applicable; provided that the
19 Hawaii health systems corporation and any of its
20 regional entities shall maintain the integrity and
21 services of each individual facility and shall not
22 transfer appropriations out of any facility that would



1 result in a reduction of services offered by the
2 facility, with due regard for statutory requirements,
3 changing conditions, the needs of the programs, and
4 the effective utilization of resources; and

5 (3) The university and the department of education shall
6 account for each transfer implemented under this
7 subsection in quarterly reports to the governor and
8 annual reports at the end of each fiscal year to the
9 legislature and the governor, which shall be prepared
10 in the form and manner prescribed by the governor and
11 shall include information on the sources and uses of
12 the transfer."

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

16 "Agency" or "participating agency" means the judiciary,
17 any executive department, any independent commission, any board,
18 any authority, any bureau, any office, any other establishment
19 of the State (except the legislature and its agencies), or any
20 public corporation that is supported in whole or in part by
21 state funds, or any agent thereof, authorized by law to expend
22 available moneys; provided that the Hawaii health systems



1 corporation and any of its regional entities shall not be
2 governed by this chapter for any financing agreement unless it
3 elects to do so."

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

6 "**§37D-2 Financing agreements.** (a) There is hereby
7 established and authorized the financing agreement program of
8 the State. Any agency desiring to acquire or improve projects
9 through the financing agreement program established and
10 authorized by this chapter shall submit a written request to the
11 department providing such information as the department shall
12 require. Notwithstanding any other law to the contrary, and
13 except for the Hawaii health systems corporation[?] and any of
14 its regional entities, only with the approval by the attorney
15 general as to form and legality and upon the written request of
16 one or more participating agencies may the department enter into
17 a financing agreement in accordance with this chapter, except
18 that the board of regents of the University of Hawaii may enter
19 into a financing agreement in accordance with this chapter
20 without the approval of the director and of the attorney general
21 as to form and legality if the principal amount of the financing
22 agreement does not exceed \$3,000,000. A financing agreement may



1 be entered into by the department on behalf of one or more
2 participating agencies at any time (before or after commencement
3 or completion of any improvements or acquisitions to be
4 financed) and shall be upon terms and conditions the department
5 finds to be advantageous. In each case of a written request by
6 the judiciary to participate in the financing agreement program,
7 the department shall implement the request; provided that the
8 related financing agreement shall be upon terms and conditions
9 the department finds to be advantageous. Any financing
10 agreement entered into by the department without the approval
11 required by this section shall be void and of no effect. A
12 single financing agreement may finance a single item or multiple
13 items of property to be used by multiple agencies or may finance
14 a single item or multiple items of property to be used by a
15 single agency. The department shall bill any participating
16 agency that benefits from property acquired with the proceeds of
17 a financing agreement for such participating agency's pro rata
18 share of:

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



1 (2) The financing costs, including the principal and
2 interest components of the financing agreement and
3 insurance premiums[+],
4 on a monthly or other periodic basis, and may deposit payments
5 received in connection with the billings with a trustee as
6 security for a financing agreement. Any participating agency
7 receiving such a bill shall be authorized and shall pay the
8 amounts billed from the available moneys.

9 (b) Financing agreements shall be subject to the following
10 limitations:

11 (1) Amounts payable by a participating agency to or upon
12 the direction of the department in respect to a
13 project and by the department under a financing
14 agreement shall be limited to available moneys. In no
15 circumstance shall the department be obligated to pay
16 amounts due under a financing agreement from any
17 source other than available moneys. If, by reason of
18 insufficient available moneys or other reason, amounts
19 due under a financing agreement are not paid when due,
20 the lender may exercise any property right that the
21 department has granted to it in the financing
22 agreement, against the property that was purchased



1 with the proceeds of the financing agreement, and
2 apply the amounts so received toward payments
3 scheduled to be made by the department under the
4 financing agreement;

5 (2) No property rights may be granted in property unless
6 the property is being acquired, is to be substantially
7 improved, is to be refinanced with the proceeds of a
8 financing agreement, or is land on which the property
9 is located;

10 (3) Notwithstanding any other law to the contrary, and
11 except for the Hawaii health systems corporation and
12 any of its regional entities, and as otherwise
13 provided in this section with respect to the
14 University of Hawaii, and except as provided in
15 chapter 323F as to the Hawaii health systems
16 corporation[7] and any of its regional entities, an
17 agency shall not have the power to enter into a
18 financing agreement, except through the department as
19 authorized by this chapter, and nothing in this
20 chapter shall be construed to authorize the sale,
21 lease, or other disposition of property owned by an
22 agency;



1 (4) Except as otherwise provided in this section with
 2 respect to the University of Hawaii, the sale,
 3 assignment, or other disposition of any financing
 4 agreements, including certificates of participation
 5 relating thereto, shall require the approval of the
 6 director; and

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

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

12 1. By amending the definition of "chief executive" to
 13 read:

14 "Chief executive" means the governor, the respective
 15 mayors, the chief justice of the supreme court, [~~and~~] the chief
 16 executive officer of the Hawaii health systems corporation[~~-~~],
 17 and the regional chief executive officer of any regional entity
 18 of the Hawaii health systems corporation. It may include the
 19 superintendent of education and the president of the University
 20 of Hawaii with respect to their employees on any matter that
 21 applies to employees in general, including employees who are not
 22 covered by this chapter."



1 2. By amending the definition of "employer" or "public
2 employer" to read:

3 "Employer" or "public employer" means the governor in the
4 case of the State, the respective mayors in the case of the
5 counties, the chief justice of the supreme court in the case of
6 the judiciary, the board of education in the case of the
7 department of education, the board of regents in the case of the
8 University of Hawaii, the Hawaii health systems corporation
9 board in the case of the Hawaii health systems corporation[7]
10 and any regional board in the case of a regional board of a
11 regional entity of the Hawaii health systems corporation, and
12 any individual who represents one of the employers or acts in
13 their interest in dealing with public employees. In the case of
14 the judiciary, the administrative director of the courts shall
15 be the employer in lieu of the chief justice for purposes which
16 the chief justice determines would be prudent or necessary to
17 avoid conflict."

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

19 "Jurisdiction" means the State, the city and county of
20 Honolulu, the county of Hawaii, the county of Maui, the county
21 of Kauai, the judiciary, the department of education, the
22 University of Hawaii, and the Hawaii health systems



1 corporation[-], and any regional entity of the Hawaii health
2 systems corporation."

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

5 "(c) The merit appeals board shall adopt rules of practice
6 and procedure consistent with section 76-14 and in accordance
7 with chapter 91, except that, in the case of the judiciary and
8 the Hawaii health systems corporation[-] and regional entities
9 of the Hawaii health systems corporation, the adoption,
10 amendment, or repeal of rules shall be subject to the approval
11 of their respective chief executives. The rules shall recognize
12 that the merit appeals board shall sit as an appellate body and
13 that matters of policy, methodology, and administration are left
14 for determination by the director. The rules may provide for
15 the sharing of specific expenses among the parties that are
16 directly incurred as a result of an appeal as the merit appeals
17 board deems would be equitable and appropriate, including but
18 not limited to expenses for transcription costs or for services,
19 including traveling and per diem costs, provided by persons
20 other than the board members or permanent staff of the board.
21 Official business of the merit appeals board shall be conducted



1 in meetings open to the public, except as provided in chapter
2 92."

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

5 1. By amending the definition of "employer" or "public
6 employer" to read:

7 "Employer" or "public employer" means the governor in the
8 case of the State, the respective mayors in the case of the
9 counties, the chief justice of the supreme court in the case of
10 the judiciary, the board of education in the case of the
11 department of education, the board of regents in the case of the
12 University of Hawaii, the Hawaii health systems corporation
13 board in the case of the Hawaii health systems corporation[7] or
14 any regional board of a regional entity of the Hawaii health
15 systems corporation, and any individual who represents one of
16 these employers or acts in their interest in dealing with public
17 employees. In the case of the judiciary, the administrative
18 director of the courts shall be the employer in lieu of the
19 chief justice for purposes which the chief justice determines
20 would be prudent or necessary to avoid conflict."

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



1 "Jurisdiction" means the State, the city and county of
2 Honolulu, the county of Hawaii, the county of Maui, the county
3 of Kauai, the judiciary, and the Hawaii health systems
4 corporation[+] or any of its regional entities."

5 3. By amending the definition of "legislative body" to
6 read:

7 "Legislative body" means the legislature in the case of
8 the State, including the judiciary, the department of education,
9 the University of Hawaii, and the Hawaii health systems
10 corporation[+] or any of its regional entities; the city
11 council, in the case of the city and county of Honolulu; and the
12 respective county councils, in the case of the counties of
13 Hawaii, Maui, and Kauai."

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

16 "(d) For the purpose of negotiating a collective
17 bargaining agreement, the public employer of an appropriate
18 bargaining unit shall mean the governor together with the
19 following employers:

20 (1) For bargaining units (1), (2), (3), (4), (9), (10),
21 and (13), the governor shall have six votes and the
22 mayors, the chief justice, and the Hawaii health



1 systems corporation board and each of the regional
2 boards of the regional entities of the Hawaii health
3 systems corporation shall each have one vote if they
4 have employees in the particular bargaining unit;

5 (2) For bargaining units (11) and (12), the governor shall
6 have four votes and the mayors shall each have one
7 vote;

8 (3) For bargaining units (5) and (6), the governor shall
9 have three votes, the board of education shall have
10 two votes, and the superintendent of education shall
11 have one vote; and

12 (4) For bargaining units (7) and (8), the governor shall
13 have three votes, the board of regents of the
14 University of Hawaii shall have two votes, and the
15 president of the University of Hawaii shall have one
16 vote.

17 Any decision to be reached by the applicable employer group
18 shall be on the basis of simple majority, except when a
19 bargaining unit includes county employees from more than one
20 county. In such case, the simple majority shall include at
21 least one county."

22



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

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

- 5 (1) One member from region I who resides in the city and
6 county of Honolulu;
- 7 (2) One member from region II who resides in the county of
8 Kauai;
- 9 (3) One member from region III who resides in the county
10 of Maui;
- 11 (4) One member from region IV who resides in the eastern
12 section of the county of Hawaii;
- 13 (5) One member from region V who resides in the western
14 section of the county of Hawaii;
- 15 (6) One member from region II who resides in the county of
16 Kauai or from region III who resides in the district
17 of Hana or on the island of Lanai; provided that in no
18 event shall the member be appointed from the same
19 region for two consecutive terms; and
- 20 (7) Four at-large members who reside in the State.



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

4 The eleventh and twelfth ~~[member,]~~ members, who shall serve
5 as ~~[a]~~ voting ~~[member,]~~ members, shall be ~~[a physician]~~
6 physicians with active medical staff privileges at one of the
7 corporation's public health facilities. The physician ~~[member]~~
8 members shall serve a term of two years. ~~[The initial physician~~
9 ~~member shall be from region II, and subsequent physician members~~
10 ~~shall come from regions IV, III, and V respectively. The~~
11 ~~physician member position shall continue to rotate in this~~
12 ~~order.]~~ The physician ~~[member]~~ members shall be appointed to
13 the corporation board by a simple majority vote of the ~~[members~~
14 ~~of the executive public health facility management advisory~~
15 ~~committee]~~ corporation board from a list of qualified nominees
16 submitted by the public health facility management advisory
17 committee ~~[for the region from which the physician member is to~~
18 ~~be chosen.]~~ or by any regional board. The corporation board
19 shall attempt to choose physicians from different regions and to
20 rotate the appointments from the five regions. If for any
21 reason a physician member is unable to serve a full term, the



1 remainder of that term shall be filled by a physician from the
2 same region.

3 The thirteenth member shall be the director of health or
4 the director's designee, who shall serve as an ex officio,
5 voting member.

6 Appointments to the corporation board~~[, with the exception~~
7 ~~of the chairperson of the executive public health facility~~
8 ~~management advisory committee and the regional physician member,~~
9 ~~shall be made by the governor,]~~ shall be subject to confirmation
10 by the senate pursuant to section 26-34. Prior to the transfer
11 date, the public health facility management advisory committees
12 appointed pursuant to section 323-66 for each county may
13 recommend names to the governor for each position on the
14 corporation board designated for a region which corresponds to
15 its county. ~~[After the transfer date, the public health~~
16 ~~facility management advisory committees appointed pursuant to~~
17 ~~section 323F-10 for each region may make such recommendations to~~
18 ~~the governor.]~~ The appointed board members, except for the
19 physician members, shall serve for a term of four years;
20 provided that upon the initial appointment of the first ten
21 members:



- 1 (1) Two at-large members shall be appointed for a term of
2 two years;
- 3 (2) Three at-large members shall be appointed for a term
4 of three years; and
- 5 (3) Five regional members shall be appointed for a term of
6 four years.

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

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

12 "**§323F-4 Board meetings.** (a) The corporation board and
13 any regional board shall meet no fewer than four times a year[-]
14 without regard to chapter 92. [~~All meetings of the corporation~~
15 ~~board shall be subject to chapter 92, except that in addition to~~
16 ~~matters exempted pursuant to law, the corporation board may~~
17 ~~elect to hold an executive meeting for the consideration of any~~
18 ~~matters set forth in section 323F-6.]~~

19 (b) All business of the corporation board and any regional
20 board shall be conducted at a regular or special meeting at
21 which a quorum is present, consisting of at least a majority of
22 the directors then in office. Any action of the corporation



1 board or any regional board shall require the affirmative vote
2 of a majority of those present and voting at the meeting; except
3 that a vote of two-thirds of the [~~members~~] entire membership of
4 the [~~corporation~~] respective board then in office shall be
5 required for any of the following actions:

- 6 (1) Removal by the corporation board or any regional board
7 of one of its members[~~, with the exception of the~~
8 ~~eleventh and twelfth members set forth in section~~
9 ~~323F-3, who may only be removed pursuant to sections~~
10 ~~323F-10 and 323F-10.5~~];
- 11 (2) Amendment by the corporation board or any regional
12 board of its bylaws;
- 13 (3) Hiring or removing the chief executive officer of the
14 corporation or the chief executive officer of any
15 regional entity; and
- 16 (4) Any other actions as provided by the corporation
17 bylaws or by any regional entity bylaws."

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

20 "[+]§323F-5[+] **Disclosure of interests.** All corporation
21 and regional board members and employees of the corporation and
22 any regional entity shall be subject to chapter 84."



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

3 "[~~f~~]**§323F-6**[~~f~~] **Records.** The corporation and any regional
4 entity shall be subject to the requirements of chapter 92F,
5 except that the following categories of government records shall
6 not be required to be disclosed:

7 (1) Applications for credentials or staff privileges at
8 any of the corporation's or regional entity's medical
9 facilities, records from peer review proceedings, and
10 medical records; and

11 (2) Marketing strategies, strategic plans, evaluations,
12 assessments, negotiations, or rates and charges, the
13 disclosure of which would raise the cost of
14 procurement or give a manifestly unfair advantage to
15 any competitor or to any person or entity seeking to
16 do business or proposing to enter into an agreement
17 with the corporation or regional entity or any of
18 [~~its~~] their facilities.

19 Any person denied access to any such government records
20 shall have available the remedies specified in sections 92F-15
21 and 92F-15.5. Government records protected from disclosure by
22 this section shall be subject to the interagency disclosure



1 provisions of section 92F-19. Section 624-25.5 shall apply to
2 this part notwithstanding anything to the contrary contained in
3 this section."

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

6 "**§323F-7 Duties and powers of the corporation~~[-]~~ and**
7 **regional entities.** (a) Notwithstanding any other law to the
8 contrary, the corporation and any regional entity shall have and
9 exercise the following duties and powers~~[+]~~; provided that any
10 regional entity may agree to allow the corporation to maintain
11 any of the following duties and powers:

- 12 (1) Developing its own policies, procedures, and rules
13 necessary or appropriate to plan, operate, manage, and
14 control the system of public health facilities and
15 services without regard to chapter 91;
- 16 (2) Evaluating the need for health facilities and
17 services;
- 18 (3) Entering into and performing any contracts, leases,
19 cooperative agreements, or other transactions
20 whatsoever that may be necessary or appropriate in the
21 performance of its purposes and responsibilities, and
22 on terms it may deem appropriate, with either:



1 (A) Any agency or instrumentality of the United
2 States, or with any state, territory, or
3 possession, or with any subdivision thereof; or

4 (B) Any person, firm, association, or corporation,
5 whether operated on a for-profit or not-for-
6 profit basis;

7 provided that the transaction furthers the public
8 interest;

9 (4) Conducting activities and entering into business
10 relationships as the corporation board or any regional
11 board deems necessary or appropriate, including but
12 not limited to:

13 (A) Creating nonprofit corporations, including but
14 not limited to charitable fund-raising
15 foundations, to be controlled wholly by the
16 corporation or any regional entity, or jointly
17 with others;

18 (B) Establishing, subscribing to, and owning stock in
19 business corporations individually or jointly
20 with others; and

21 (C) Entering into partnerships and other joint
22 venture arrangements, or participating in



1 alliances, purchasing consortia, health insurance
2 pools, or other cooperative arrangements, with
3 any public or private entity; provided that any
4 corporation, venture, or relationship entered
5 into under this section furthers the public
6 interest; provided further that this paragraph
7 shall not be construed to authorize the
8 corporation or any regional entity to abrogate
9 any responsibility or obligation under paragraph
10 (15);

11 (5) Participating in and developing prepaid health care
12 service and insurance programs and other alternative
13 health care delivery programs, including programs
14 involving the acceptance of capitated payments or
15 premiums that include the assumption of financial and
16 actuarial risk;

17 (6) Executing, in accordance with all applicable bylaws,
18 rules, and laws, all instruments necessary or
19 appropriate in the exercise of any of the
20 corporation's and any regional entity's powers;

21 (7) Preparing and executing all corporation or regional
22 entity budgets, policies, and procedures;



- 1 (8) Setting rates and charges for all services provided by
2 the corporation or any regional entity without regard
3 to chapter 91;
- 4 (9) Developing a corporation-wide or regional entity-wide
5 hospital personnel system that is subject to chapters
6 76 and 89;
- 7 (10) Developing the corporation's and any regional entity's
8 capital and strategic plans;
- 9 (11) Suing and being sued; provided that the corporation
10 and any regional entity shall enjoy the same sovereign
11 immunity available to the State;
- 12 (12) Making and altering corporation board or regional
13 board bylaws for its organization and management
14 without regard to chapter 91;
- 15 (13) Adopting rules, without regard to chapter 91,
16 governing the exercise of its powers and the
17 fulfillment of its purpose under this chapter;
- 18 (14) Entering into any contract or agreement whatsoever,
19 not inconsistent with this chapter or the laws of this
20 State, and authorizing the corporation, regional
21 entities, and chief executive [~~officer~~] officers to
22 enter into all contracts, execute all instruments, and



- 1 do all things necessary or appropriate in the exercise
2 of the powers granted in this chapter, including
3 securing the payment of bonds;
- 4 (15) Issuing revenue bonds subject to the approval of the
5 legislature; provided that all revenue bonds shall be
6 issued pursuant to part III, chapter 39;
- 7 (16) Reimbursing the state general fund for debt service on
8 general obligation bonds or reimbursable general
9 obligation bonds issued by the State for the purposes
10 of the corporation[+] or any regional entity;
- 11 (17) Pledging or assigning all or any part of the receipts
12 and revenues of the corporation or any regional entity
13 for purposes of meeting bond or health systems
14 liabilities;
- 15 (18) Owning, purchasing, leasing, exchanging, or otherwise
16 acquiring property, whether real, personal or mixed,
17 tangible or intangible, and of any interest therein,
18 in the name of the corporation[+] or any regional
19 entity, which property is not owned or controlled by
20 the State but is owned or controlled by the
21 corporation[+] or any regional entity;



- 1 (19) Maintaining, improving, pledging, mortgaging, selling,
2 or otherwise holding or disposing of property, whether
3 real, personal or mixed, tangible or intangible, and
4 of any interest therein, at any time and manner, in
5 furtherance of the purposes and mission of the
6 corporation[+] or any regional entity; provided that
7 the corporation or any regional entity legally holds
8 or controls the property in its own name; provided
9 further that the corporation or any regional entity
10 shall not sell, assign, lease, hypothecate, mortgage,
11 pledge, give, or dispose of all or substantially all
12 of its property;
- 13 (20) Purchasing insurance and creating captive insurers in
14 any arrangement deemed in the best interest of the
15 corporation[-] or any regional entity, including but
16 not limited to funding and payment of deductibles and
17 purchase of reinsurance;
- 18 (21) Acquiring by condemnation, pursuant to chapter 101,
19 any real property required by the corporation or any
20 regional entity to carry out the powers granted by
21 this chapter;



- 1 (22) Depositing any moneys of the corporation or any
2 regional entity in any banking institution within or
3 without the State, and appointing, for the purpose of
4 making deposits, one or more persons to act as
5 custodians of the moneys of the corporation[+] or any
6 regional entity;
- 7 (23) Contracting for and accepting any gifts, grants, and
8 loans of funds, property, or any other aid in any form
9 from the federal government, the State, any state
10 agency, or any other source, or any combination
11 thereof, and complying, subject to this chapter, with
12 the terms and conditions thereof;
- 13 (24) Providing health and medical services for the public
14 directly or by agreement or lease with any person,
15 firm, or private or public corporation or association
16 through or in the health facilities of the corporation
17 or any regional entity or otherwise;
- 18 (25) Approving medical staff bylaws, rules, and medical
19 staff appointments and reappointments for all public
20 health facilities[+] of the corporation or any
21 regional entity, including without limitation,
22 determining the conditions under which a health



1 professional may be extended the privilege of
2 practicing within a health facility, and adopting and
3 implementing reasonable rules, without regard to
4 chapter 91, for the credentialing and peer review of
5 all persons and health professionals within the
6 facility;

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



1 interest on the deposit, including, without
2 limitation, time deposits evidenced by
3 certificates of deposit. Any bank or financial
4 institution incorporated under the laws of this
5 State may act as depository of any funds of the
6 corporation or any regional entity and may issue
7 indemnity bonds or may pledge securities as may
8 be required by the corporation board[+] or any
9 regional board; and

10 (B) Notwithstanding subparagraph (A), contracting
11 with the holders of any of its notes or bonds as
12 to the custody, collection, securing, investment,
13 and payment of any moneys of the corporation or
14 any regional entity and of any moneys held in
15 trust or otherwise for the payment of notes or
16 bonds and carrying out the contract. Moneys held
17 in trust or otherwise for the payment of notes or
18 bonds or in any way to secure notes or bonds, and
19 deposits of such moneys, may be secured in the
20 same manner as moneys of the corporation[+] or
21 any regional entity, and all banks and trust



1 companies are authorized to give security for the
2 deposits;

3 (27) Entering into any agreement with the State including
4 but not limited to contracts for the provision of
5 goods, services, and facilities in support of the
6 corporation's programs[~~7~~] or any regional entity's
7 programs, and contracting for the provision of
8 services to or on behalf of the State;

9 (28) Having a seal and altering the same at pleasure;

10 (29) Waiving, by means that the corporation or any regional
11 entity deems appropriate, the exemption from federal
12 income taxation of interest on the corporation's or
13 any regional entity's bonds, notes, or other
14 obligations provided by the Internal Revenue Code of
15 1986, as amended, or any other federal statute
16 providing a similar exemption;

17 (30) Developing internal policies and procedures for the
18 procurement of goods and services, consistent with the
19 goals of public accountability and public procurement
20 practices;

21 (31) Authorizing and establishing positions;



1 (32) Calling upon the attorney general for such legal
2 services as the corporation or any regional entity may
3 require; and

4 (33) Having and exercising all rights and powers necessary
5 or incidental to or implied from the specific powers
6 granted in this chapter, which specific powers shall
7 not be considered as a limitation upon any power
8 necessary or appropriate to carry out the purposes and
9 intent of this chapter.

10 (b) The corporation or any regional entity shall not be
11 subject to chapters 36 to 38, 40, and 41D, except as otherwise
12 provided in this chapter.

13 (c) The duties and powers granted to the corporation or
14 any regional entity may not be used to enter into contractual or
15 business relationships [~~which~~] that have the practical effect of
16 allowing or are intended to allow the private sector
17 counterparts to replace existing employee positions or
18 responsibilities within the corporation or any regional entity
19 or its facilities; provided the corporation or any regional
20 entity shall be allowed to enter into such relationships to the
21 extent and for the purposes that the division of community



1 hospitals could have done under collective bargaining contracts
2 which were in effect for the 1995-1996 fiscal year."

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

5 "**§323F-8 Chief executive officer; exempt positions.** (a)

6 The corporation board may appoint, exempt from chapter 76 and
7 section 26-35(a)(4), a chief executive officer of the
8 corporation whose salary shall be set by the corporation board.
9 The chief executive officer may also appoint up to eighteen
10 other personnel, exempt from chapters 76 and 89, to work
11 directly for the chief executive officer and the corporate
12 board.

13 (b) The corporation board or its designee may discharge
14 its exempt personnel with or without cause; provided that
15 removal without cause shall not prejudice any contract rights of
16 personnel.

17 (c) The corporation's chief executive officer or the chief
18 executive officer's designee may appoint, exempt from chapters
19 76 and 89, hospital administrators, assistant administrators,
20 directors of nursing, medical directors, and staff physicians,
21 to facilitate the management of facilities within the
22 corporation; provided that directors of nursing appointed before



1 July 1, 1998, may maintain their civil service status as
2 provided in chapter 76 by so communicating in writing to the
3 chief executive officer by October 31, 1998. Hospital
4 administrators and assistant administrators appointed before
5 July 1, 1983, may maintain their permanent civil service status
6 as provided in chapter 76.

7 (d) The authority to appoint hospital administrators,
8 assistant administrators, directors of nursing, medical
9 directors, and staff physicians provided for under subsection
10 (c) shall be superseded by section 323F-D for the region
11 affected upon the establishment of a regional entity and
12 corresponding regional board."

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

15 "[~~f~~]**§323F-9**[+] **Hiring of attorneys.** The corporation and
16 any regional entity may employ or retain any attorney, by
17 contract or otherwise, for the purpose of representing the
18 corporation or any regional entity in any litigation, rendering
19 legal counsel to the corporation[~~r~~] or any regional entity, or
20 drafting legal documents for the corporation."

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



1 **"§323F-10 Regional public health facility management**
2 **advisory committees.** (a) On the transfer date, there shall be
3 established within the corporation for each region, a public
4 health facility management advisory committee to consist of nine
5 members initially to be appointed by the chief executive officer
6 of the corporation with the advice of the hospital
7 administrators of the facilities in the affected regions. The
8 members shall serve for a term of four years; provided that upon
9 the initial appointment of the members, two shall be appointed
10 for a term of one year, two for a term of two years, two for a
11 term of three years, and three for a term of four years.

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

20 Each regional management advisory committee shall include
21 medical and health care providers, consumers, and knowledgeable
22 individuals in other appropriate areas such as business and law;



1 provided that at least one member shall be a physician with
2 active medical staff privileges at one of the region's public
3 health facilities. At least three members of the committee
4 shall be consumers.

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

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



1 The members of the regional committees shall serve without
2 compensation, but shall be reimbursed for traveling expenses
3 incurred in the performance of their duties. The corporation
4 shall provide for the necessary expenses of the committees;
5 provided that no expenses may be incurred without prior
6 authorization by the chief executive officer.

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

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



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

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

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

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



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

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

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

9 "[~~§~~]**§323F-10.6**[~~§~~] **Peer review and credentialing.**

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

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

18 "[~~§~~]**§323F-11**[~~§~~] **Executive branch; noninterference.**

19 Notwithstanding any other law to the contrary, the governor and
20 executive branch agencies shall limit their responsibilities to
21 that of review and oversight when the corporation or any
22 regional entity receives general funds from the State to



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

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

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

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



1 The corporation or any regional entity may provide
2 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 entity's bonds, notes, or other instruments of
8 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 entity shall develop budgetary
14 guidelines, and may allocate to each facility reasonable
15 [~~corporation~~] corporate administrative costs, including funds
16 determined by the corporation or any regional entity to be
17 needed from or provided to each facility to:

18 (1) Repay corporation or any regional entity debts;

19 (2) Provide subsidies to any facility determined to be
20 unable to fund from within that facility's programs
21 and services deemed essential to community needs; and

22 (3) Maintain appropriate reserves.



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

10 (d) The corporation, with the exception of facilities
11 within regions where a regional entity has been formed, may
12 share in any facility's surplus and may offset any facility's
13 deficits. Any regional entity may share in the surplus of any
14 facility within its region and may offset any facility deficits
15 within its region. Obligations undertaken by a facility shall
16 be paid only from funds of that facility, unless the corporation
17 board or regional board, or its authorized agent explicitly
18 agrees to guarantee the obligation.

19 (e) In accordance with each annual facility budget, each
20 facility of the corporation or any regional entity shall:

21 (1) Bill and collect for its services;

22 (2) Maintain bank accounts; and



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

3 (f) The corporation or any regional entity may elect to
4 manage its own capital improvement project and funds, either
5 directly or indirectly by contract; provided that annual reports
6 of the project moneys are provided to the governor and
7 legislature.

8 (g) The corporation board or any regional board may hold
9 public informational meetings on its budget. Representatives of
10 any county government, state government, or any other person
11 having an interest in the budget, shall have the right to be
12 heard at the meetings."

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

15 "[~~+~~]**§323F-22**[~~+~~] **Annual audit and report; disclosure of**
16 **revenue projections.** (a) The corporation or any regional
17 entity shall engage a certified public accountant to conduct an
18 annual audit of its financial affairs, books, and records in
19 accordance with generally accepted accounting principles. The
20 corporation shall submit to the governor and the legislature
21 within one hundred fifty days after the close of the
22 corporation's fiscal year, a report that shall include the



1 audited financial report for that fiscal year[-] for the
2 corporation and any regional entity.

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

7 (1) The projected revenues for each health care facility;

8 (2) A list of all proposed capital improvement projects
9 planned for implementation during the following fiscal
10 year; and

11 (3) All reports submitted by regional public health
12 facility management advisory committees pursuant to
13 section 323F-10(c).

14 (c) Each regional board may prepare a report for inclusion
15 with the corporation's annual report and audit which shall
16 include but not be limited to comments and analyses on the
17 services provided by the regional entity to its respective
18 region."

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

21 "[+] **§323F-23** [+] **Exemption from taxation.** The corporation
22 or any regional entity shall not be required to pay assessments



1 levied by any county, nor shall the corporation be required to
2 pay state taxes of any kind."

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

5 "[~~§~~§323F-24[~~§~~] **Budget oversight.** The corporation's and
6 any regional entity's operating and capital improvement budgets
7 shall not be subject to review or approval by the governor or
8 any state agency, except where state general funds or capital
9 improvement moneys are requested. If general funds or capital
10 improvement moneys are requested, then the corporation or any
11 regional entity shall include with its request, the proposed
12 budget for which the funds or moneys are to be included. The
13 corporation or any regional entity shall submit its budgets
14 annually to the legislature for review and approval at least
15 twenty days prior to the convening of the regular legislative
16 session, beginning with the budgets for the 1997-1998 fiscal
17 years."

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

20 "(a) The corporation and any regional entity shall notify
21 the legislature of any planned substantial reduction or
22 elimination of direct patient care services."



1 SECTION 33. It is the intent of this Act that all rights,
2 powers, functions, assets, and operations of the Hawaii health
3 systems corporation, with respect to the health facilities in
4 each region, including the facilities themselves, be conveyed to
5 the corresponding regional entities at such time that the
6 regional entities are established, such that all of the
7 activities and services of the health facilities are continued
8 without interruption by the establishment of the corresponding
9 regional entities. This Act shall be construed with this
10 intent.

11 SECTION 34. All rights, powers, functions, and duties of
12 the Hawaii health systems corporation shall be transferred to a
13 corresponding regional entity upon establishment of the regional
14 entity.

15 The assets, including but not limited to hospital funds
16 relating to health facilities in each region shall be conveyed
17 to a corresponding regional entity at such time that the
18 regional entity is established.

19 Upon establishment, a regional entity shall assume the
20 responsibility of the Hawaii health systems corporation with
21 respect to the corresponding region, for all contracts,
22 agreements, and leases for commodities, services, property, and



1 supplies utilized by the Hawaii health systems corporation, all
2 of which shall be transferred to the corresponding regional
3 entity, including real property leases.

4 All officers and employees whose functions are transferred
5 by this Act shall be transferred with their functions and shall
6 continue to perform their regular duties upon their transfer,
7 subject to the state personnel laws and this Act.

8 No officer or employee of the State having tenure shall
9 suffer any loss of salary, seniority, prior service credit,
10 vacation, sick leave, or other employee benefit or privilege as
11 a consequence of this Act, and such officer or employee may be
12 transferred or appointed to a civil service position without the
13 necessity of examination; provided that the officer or employee
14 possesses the minimum qualifications for the position to which
15 transferred or appointed; and provided that subsequent changes
16 in status may be made pursuant to applicable civil service laws.

17 An officer or employee of the State who does not have
18 tenure and who may be transferred or appointed to a civil
19 service position as a consequence of this Act, shall become a
20 civil service employee without the loss of salary, seniority,
21 prior service credit, vacation, sick leave, or other employee
22 benefits or privileges and without the necessity of examination;



1 provided that the officer or employee possesses the minimum
2 qualifications for the position to which transferred or
3 appointed.

4 If an office or position held by an officer or employee
5 having tenure is abolished, the officer or employee shall not
6 thereby be separated from public employment, but shall remain in
7 the employment of the executive branch of the State with the
8 same pay and classification and shall be transferred to some
9 other office or position for which the officer or employee is
10 eligible under the personnel laws of the State, provided that
11 minimum qualifications are met.

12 Any officer or employee transferred to any regional entity
13 pursuant to this section who is a member of or benefits under
14 any existing pension or retirement fund system shall continue to
15 have all rights privileges, obligations, and status with respect
16 to that fund or system as are now prescribed by law, but during
17 the period of employment by a regional entity, all contributions
18 to that fund or system to be paid by the employer on account of
19 the officer or employee shall be paid by the corresponding
20 regional entity.

21 SECTION 35. All appropriations, records, equipment,
22 machines, files, supplies, contracts, books, papers, documents,



1 maps, and other personal property heretofore made, used,
2 acquired, or held by the Hawaii health systems corporation
3 relating to the functions transferred to a regional entity shall
4 be transferred with the functions to which they relate upon the
5 establishment of the regional entity.

6 SECTION 36. (a) Any regional entity, in carrying out its
7 duties and responsibilities, may enter into appropriate
8 agreements with the Hawaii health systems corporation, if
9 necessary, to utilize the corresponding regional health
10 facilities and real property under the control of the Hawaii
11 health systems corporation prior to the establishment of the
12 regional entity. Each agreement shall require compensation of a
13 nominal amount for the use of any facilities or real property.
14 Until the agreements are finalized, any regional entity shall be
15 entitled to use the facilities and real property of the Hawaii
16 health systems corporation located within the corresponding
17 region.

18 (b) State agencies shall continue to provide to any
19 regional entity, without charge, for six months after the
20 establishment of regional entity, services that the state
21 agencies provided to the Hawaii health systems corporation until



1 the corresponding regional entity enters into a written contract
2 with the state agencies or chooses to terminate the services.

3 (c) Any regional entity shall assume and honor the terms
4 of all collective bargaining agreements applicable to employees
5 of the Hawaii health systems corporation, with respect to the
6 employees of the health facilities within that region. Upon
7 expiration of those agreements, the regional entity, as
8 appropriate and allowable, may negotiate collective bargaining
9 agreements or sub-agreements under chapter 89, Hawaii Revised
10 Statutes, to address its needs for efficiency and effectiveness.

11 (d) Upon establishment, a regional entity shall assume and
12 honor all responsibilities and obligations transferred to it
13 from the Hawaii health systems corporation regarding the
14 imposition of rates, rents, fees, and charges for the use of
15 health facilities pursuant to section 323-70, Hawaii Revised
16 Statutes. In no way shall this Act be construed as allowing any
17 regional entity or the Hawaii health systems corporation to
18 abrogate these responsibilities and obligations.

19 SECTION 37. There is appropriated out of the general
20 revenues of the State of Hawaii the sum of \$ or so much
21 thereof as may be necessary for fiscal year 2007-2008 to support



1 the transition from the Hawaii health systems corporation to the
2 regional entity for the Maui region.

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

5 SECTION 38. All Acts passed prior to or during this
6 regular session of 2007, whether enacted before or after passage
7 of this Act, shall be interpreted to conform to this Act, unless
8 the Acts specifically provide that this Act is being amended.
9 Insofar as this Act is inconsistent with the provisions of any
10 other law, this Act shall control.

11 SECTION 39. This Act does not affect rights and duties
12 that matured, penalties that were incurred, and proceedings that
13 were begun, before its effective date.

14 SECTION 40. In codifying the new sections added by section
15 2 of this Act, the revisor of statutes shall substitute
16 appropriate section numbers for the letters used in designating
17 the new sections in this Act.

18 SECTION 41. Statutory material to be repealed is bracketed
19 and stricken. New statutory material is underscored.

20 SECTION 42. This Act shall take effect on January 1, 2500,
21 except that section 37 shall take effect on January 1, 2500.



Report Title:

Hawaii Health Systems Corp; Maui Regional Entity

Description:

Allows for creation of regional entities and regional boards for the five regions within the Hawaii Health Systems Corporation. Establishes the Maui regional entity and regional board. Appropriation. (HB1704 HD1)

