

JAN 22 2007

A BILL FOR AN ACT

RELATING TO HAWAII HEALTH SYSTEMS CORPORATION CONTRACTS.

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, Hawaii health systems corporation, is
3 the fourth largest public hospital system in the nation. The
4 Hawaii health systems corporation public health facilities
5 provide essential safety-net hospital and long term care
6 services throughout the State and are often the only hospitals
7 in many rural communities. Due to rapid changes taking place in
8 the health care industry, and the existence of conflicting
9 federal laws and regulations, the legislature acknowledges that
10 our public hospital system must be provided the authority to
11 operate with appropriate flexibility and autonomy in order to
12 remain viable and respond to the needs of the specific
13 communities served.

14 The purpose of this Act is to affirm the State's commitment
15 to provide quality health care for the people of our State, by
16 allowing the State's hospital system the flexibility to conduct
17 its contracting activities in a manner that is similar to that



1 used by nonprofit healthcare systems, and in compliance with
2 federal laws and regulations, while also following sound
3 procurement practices. This is accomplished by exempting the
4 Hawaii health systems corporation from various statutory
5 contracting requirements imposed on other state agencies.

6 SECTION 2. Section 323F-7, Hawaii Revised Statutes, is
7 amended by amending subsections (a) and (b) to read as follows:

8 "(a) Notwithstanding any other law to the contrary, the
9 corporation shall have and exercise the following duties and
10 powers:

11 (1) Developing its own policies, procedures, and rules
12 necessary or appropriate to plan, operate, manage, and
13 control the system of public health facilities and
14 services without regard to chapter 91;

15 (2) Evaluating the need for health facilities and
16 services;

17 (3) Entering into and performing any contracts, leases,
18 cooperative agreements, or other transactions
19 whatsoever that may be necessary or appropriate in the
20 performance of its purposes and responsibilities, and
21 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 deems necessary
11 or appropriate, including but not limited to:

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

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

19 (C) Entering into partnerships and other joint
20 venture arrangements, or participating in
21 alliances, purchasing consortia, health insurance
22 pools, or other cooperative arrangements, with



1 any public or private entity; provided that any
2 corporation, venture, or relationship entered
3 into under this section furthers the public
4 interest; provided further that this paragraph
5 shall not be construed to authorize the
6 corporation to abrogate any responsibility or
7 obligation under paragraph (15);

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

14 (6) Executing, in accordance with all applicable bylaws,
15 rules, and laws, all instruments necessary or
16 appropriate in the exercise of any of the
17 corporation's powers;

18 (7) Preparing and executing all corporation budgets,
19 policies, and procedures;

20 (8) Setting rates and charges for all services provided by
21 the corporation without regard to chapter 91;



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



- 1 (15) Issuing revenue bonds subject to the approval of the
2 legislature; provided that all revenue bonds shall be
3 issued pursuant to part III, chapter 39;
- 4 (16) Reimbursing the state general fund for debt service on
5 general obligation bonds or reimbursable general
6 obligation bonds issued by the State for the purposes
7 of the corporation;
- 8 (17) Pledging or assigning all or any part of the receipts
9 and revenues of the corporation for purposes of
10 meeting bond or health systems liabilities;
- 11 (18) Owning, purchasing, leasing, exchanging, or otherwise
12 acquiring property, whether real, personal or mixed,
13 tangible or intangible, and of any interest therein,
14 in the name of the corporation, which property is not
15 owned or controlled by the State but is owned or
16 controlled by the corporation;
- 17 (19) Maintaining, improving, pledging, mortgaging, selling,
18 or otherwise holding or disposing of property, whether
19 real, personal or mixed, tangible or intangible, and
20 of any interest therein, at any time and manner, in
21 furtherance of the purposes and mission of the
22 corporation; provided that the corporation legally



- 1 holds or controls the property in its own name;
2 provided further that the corporation shall not sell,
3 assign, lease, hypothecate, mortgage, pledge, give, or
4 dispose of all or substantially all of its property;
- 5 (20) Purchasing insurance and creating captive insurers in
6 any arrangement deemed in the best interest of the
7 corporation, including but not limited to funding and
8 payment of deductibles and purchase of reinsurance;
- 9 (21) Acquiring by condemnation, pursuant to chapter 101,
10 any real property required by the corporation to carry
11 out the powers granted by this chapter;
- 12 (22) Depositing any moneys of the corporation in any
13 banking institution within or without the State, and
14 appointing, for the purpose of making deposits, one or
15 more persons to act as custodians of the moneys of the
16 corporation;
- 17 (23) Contracting for and accepting any gifts, grants, and
18 loans of funds, property, or any other aid in any form
19 from the federal government, the State, any state
20 agency, or any other source, or any combination
21 thereof, and complying, subject to this chapter, with
22 the terms and conditions thereof;



1 (24) Providing health and medical services for the public
2 directly or by agreement or lease with any person,
3 firm, or private or public corporation or association
4 through or in the health facilities of the corporation
5 or otherwise;

6 (25) Approving medical staff bylaws, rules, and medical
7 staff appointments and reappointments for all public
8 health facilities, including without limitation,
9 determining the conditions under which a health
10 professional may be extended the privilege of
11 practicing within a health facility, and adopting and
12 implementing reasonable rules, without regard to
13 chapter 91, for the credentialing and peer review of
14 all persons and health professionals within the
15 facility;

16 (26) (A) Investing any funds not required for immediate
17 disbursement in property or in securities that
18 meet the standard for investments established in
19 chapter 88 as provided by the corporation board;
20 provided the investment assists the corporation
21 in carrying out its public purposes; selling from
22 time to time securities thus purchased and held,



1 and depositing any securities in any bank or
2 financial institution within or without the
3 State. Any funds deposited in a banking
4 institution or in any depository authorized in
5 this section shall be secured in a manner and
6 subject to terms and conditions as the
7 corporation board may determine, with or without
8 payment of any interest on the deposit,
9 including, without limitation, time deposits
10 evidenced by certificates of deposit. Any bank
11 or financial institution incorporated under the
12 laws of this State may act as depository of any
13 funds of the corporation and may issue indemnity
14 bonds or may pledge securities as may be required
15 by the corporation board; and

16 (B) Notwithstanding subparagraph (A), contracting
17 with the holders of any of its notes or bonds as
18 to the custody, collection, securing, investment,
19 and payment of any moneys of the corporation and
20 of any moneys held in trust or otherwise for the
21 payment of notes or bonds and carrying out the
22 contract. Moneys held in trust or otherwise for



1 the payment of notes or bonds or in any way to
2 secure notes or bonds, and deposits of such
3 moneys, may be secured in the same manner as
4 moneys of the corporation, and all banks and
5 trust companies are authorized to give security
6 for the deposits;

7 (27) Entering into any agreement with the State including
8 but not limited to contracts for the provision of
9 goods, services, and facilities in support of the
10 corporation's programs, and contracting for the
11 provision of services to or on behalf of the State;

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

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

19 (30) Developing internal policies and procedures for the
20 procurement of goods and services, consistent with the
21 goals of public accountability and public procurement
22 practices[+] but not subject to chapter 103D.



1 However, where possible, the corporation is encouraged
2 to use the provisions of chapter 103D; provided that
3 the use of one or more provisions of chapter 103D
4 shall not constitute a waiver of the exemption from
5 chapter 103D and shall not subject the corporation to
6 any other provision of chapter 103D;

7 (31) Authorizing and establishing positions;

8 (32) Calling upon the attorney general for such legal
9 services as the corporation may require; and

10 (33) Having and exercising all rights and powers necessary
11 or incidental to or implied from the specific powers
12 granted in this chapter, which specific powers shall
13 not be considered as a limitation upon any power
14 necessary or appropriate to carry out the purposes and
15 intent of this chapter.

16 (b) The corporation shall not be subject to chapters 36 to
17 38, 40, [~~and~~] 41D, 102, and 103D, and section 103-53, except as
18 otherwise provided in this chapter."

19 SECTION 3. Statutory material to be repealed is bracketed
20 and stricken. New statutory material is underscored.



1 SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY

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Report Title:

Hawaii Health Systems Corporation

Description:

Creates an exemption for the Hawaii health systems corporation from various statutory contracting requirements imposed on state agencies.

