



GOV. MSG. NO. 853

EXECUTIVE CHAMBERS
HONOLULU

LINDA LINGLE
GOVERNOR

July 16, 2009

The Honorable Colleen Hanabusa, President
and Members of the Senate
Twenty-Fifth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

Re: Senate Bill No. 1673 SD2 HD2 CD1

On July 15, 2009, Senate Bill No. 1673, entitled "A Bill for an Act Relating to the Hawaii Health Systems Corporation" became law without my signature, pursuant to Section 16 of Article III of the State Constitution.

The purpose of this omnibus bill is to make changes to the laws that affect the operations of the Hawaii Health Systems Corporation (HHSC), the regional system boards, and their facilities. The legislation attempts to begin the reforms necessary to strengthen the network of thirteen public hospitals in our state. However, I am concerned that this bill is unclear in several important respects which will make implementation difficult.

One important reform made by this bill is that it would allow individual facilities to transition into various other legal entities, including non-profit, for-profit, or public benefit corporations. The bill states that upon its transition, "all liabilities of the regional system or facility related to collective bargaining contracts negotiated by the State, shall become the responsibility of the State[.]"

This provision is unclear because it does not define which liabilities are being addressed. It could be interpreted that only pending collective bargaining disputes, grievances, or issues become the responsibility of the State once the facility has transitioned into a new legal entity. However, it could also be argued that this provision means that the State must continue to pay the wages for the State workers after the facility has transitioned to a private entity. This lack of clarity could cause significant problems. In addition, this provision could create a sizeable financial burden for the State since there are no limitations contained in the bill. I believe this section must be clarified before any transitions occur.

Second, it appears that the "transition" language in the bill would authorize a HHSC facility to become a private entity. However, the bill as currently written does not specifically state that this new entity would be exempt from chapters 76 and 89, Hawaii Revised Statutes, the civil service laws and collective bargaining laws, respectively.

In 1997 the Hawaii Supreme Court held that the government could not privatize one of its operations without express statutory authority. In 2004, the Hawaii Supreme Court further held that the privatization of another government operation was legal because there was a statute that mandated the privatization. This bill does not mandate privatization of HHSC facilities, but by implication allows for it.

Because there is no direct precedent, it is difficult to predict whether the Hawaii appellate courts would find this to be sufficient language to permit HHSC facilities to become private entities and abolish their civil service positions. This uncertainty could cause lengthy and costly litigation that should be avoided by clearer drafting of the law.

Additionally, we remain concerned that this bill transfers to the Department of Health liabilities and debts that the HHSC hospitals accrued prior to June 30, 1996. It is unclear how this transfer will occur under generally accepted accounting principles, since the receivables are not properly reflected on the books of the corporation.

While certain provisions in this bill make small steps towards reforms needed to improve the viability of our public hospital system, such as allowing criminal background checks, I had hoped for more aggressive and comprehensive efforts to address the fiscal problems of the public hospitals. My Administration has outlined a vision for reform, which was presented to the Legislature by the State's Director of Health, Dr. Chiome Fukino, that deserves serious consideration.

It will be necessary to amend this law in the next legislative session to resolve the ambiguities in the bill.

For the foregoing reasons, I allowed Senate Bill No. 1673 to become law as Act 182, effective July 15, 2009, without my signature.

Sincerely,

A handwritten signature in black ink, appearing to read "Linda Lingle", with a stylized, flowing script.

LINDA LINGLE

A BILL FOR AN ACT

RELATING TO THE HAWAII HEALTH SYSTEMS CORPORATION.

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

1 SECTION 1. The legislature finds that the Hawaii health
2 systems corporation is the fourth largest public hospital system
3 in the nation and operates public health care facilities that
4 provide essential safety-net hospital and long-term care
5 services throughout the State. The legislature further finds
6 that the continued financial challenges faced by the Hawaii
7 health systems corporation and the State pose a risk to the
8 public health care services provided by the Hawaii health
9 systems corporation. In addition, these factors hinder efforts
10 to improve the quality of health care services provided to the
11 public.

12 Prominent national studies have demonstrated that many
13 public hospital systems have struggled financially for a variety
14 of reasons, including providing a disproportionate level of
15 uncompensated and under-compensated care as compared to private
16 hospital systems and because of constraints and inefficiencies
17 inherent in operating as a governmental agency. As a result, an



1 increasing number of public hospitals have converted to non-
2 public status.

3 While the legislature recognizes the fact that the system
4 of public hospitals in the State will continue to require state
5 subsidies, the legislature finds that allowing the operations of
6 the regional systems of the Hawaii health systems corporation
7 and their facilities to transition into a corporation or
8 corporations, while providing support during the transition,
9 will improve the operations and efficiencies of the Hawaii
10 health systems corporation and benefit the health care of the
11 people of the State of Hawaii. The legislature further finds
12 that it is essential that this transition be an option available
13 to the various regional systems and facilities of the Hawaii
14 health systems corporation as the change needs to be carefully
15 evaluated by the community representatives that comprise the
16 regional system boards. Furthermore, the legislature finds that
17 the Hawaii health systems corporation must stay intact in order
18 to provide central support services to the regional systems and
19 facilities seeking to remain a part of this valuable state
20 agency.



PART I

SECTION 2. Section 323F-31, Hawaii Revised Statutes, is amended to read as follows:

"§323F-31 Maintenance of services. (a) ~~[The corporation and each regional system board shall notify the legislature of any planned substantial reduction or elimination of direct patient care services.]~~ No planned substantial reduction or elimination of direct patient care services at any facility shall be undertaken unless all of the following requirements are met:

- (1) An initial determination is made by the regional chief executive officer as to critical and emergency services which shall not be subject to reduction or elimination pursuant to this section;
- (2) The plan of the facility to substantially reduce or eliminate any direct patient care services at the health facility shall first be presented to the regional system board for its approval;
- (3) Subsequent to the requisite regional system board approval, the regional chief executive officer shall present the plan to the community in which the facility is located, at a community informational



1 meeting, in order to obtain community input on the
2 plan; and

3 (4) Provided that if the regional system board approves
4 the plan, the plan as approved by the regional system
5 board shall be submitted to the corporation board for
6 ratification.

7 ~~(b) [No substantial reduction or elimination of direct~~
8 ~~patient care services at any facility shall be undertaken by the~~
9 ~~corporation without the approval of the legislature.]~~ After the
10 community informational meeting, but at least twenty days prior
11 to the implementation of the plan approved by the regional
12 system board, the regional system board shall give notice of
13 implementation of the plan to the governor, senate president,
14 and the speaker of the house of representatives.

15 ~~(c) [The legislature shall maintain review and oversight~~
16 ~~authority over the provision of direct patient care services~~
17 ~~provided at each facility and may intervene to counter or~~
18 ~~restrict any substantial reduction or elimination of patient~~
19 ~~care services.]~~ The decision of the regional system board shall
20 be the final decision with respect to the plan. Implementation
21 of the plan shall commence and continue, provided that no
22 legislation is enacted that:



- 1 (1) Requires the reinstatement and continuation of the
2 direct patient care services that are subject to
3 reduction or elimination under the plan; and
4 (2) Includes an appropriation of additional moneys
5 sufficient to adequately fund the mandated
6 reinstatement and continuation of the subject direct
7 patient care services."

PART II

SECTION 3. Community hospitals; liabilities prior to

July 1, 1996; assumption by department of health; report. (a)

On July 1, 2009, the department of health shall assume the total amount of all liabilities and debts or other obligations of the Hawaii health systems corporation that had been accrued up to June 30, 1996, by the community hospitals while the community hospitals were operating within the division of community hospitals of the department of health. The department of health, with the assistance and cooperation of the Hawaii health systems corporation, shall determine the final amount of the liabilities and debts or other obligations to be transferred to and assumed by the department of health pursuant this subsection.



1 (b) The department of health shall report to the
2 legislature the details of the total amount of liabilities and
3 debts or other obligations transferred from the Hawaii health
4 systems corporation and assumed by the department pursuant to
5 subsection (a) no later than December 1, 2009.

6 SECTION 4. Section 88-125, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "§88-125 Contributions by certain state agencies. (a)
9 Each of the departments and agencies hereinafter described
10 [and], the office of Hawaiian affairs, and the Hawaii health
11 systems corporation shall reimburse the State for the respective
12 amounts payable by the State to cover the liability of the State
13 to the various funds of the system on account of the employees
14 in [such] the departments and agencies [and], the trustees of
15 the office of Hawaiian affairs[-], and the employees of the
16 Hawaii health systems corporation. This provision shall apply
17 to any department or agency of the State [which] that is
18 authorized by law to fix, regulate, and collect rents, rates,
19 fees, or charges of any nature. ~~[The provisions herein]~~ This
20 subsection shall not apply as to rental units receiving federal
21 subsidies until approval has been obtained from the appropriate
22 federal agency.



1 (b) Whenever any department or agency of the State or the
2 Hawaii health systems corporation receives federal-aid funds
3 ~~[which]~~ that may be expended for the purpose of covering the
4 liability of the State to the various funds of the system, the
5 department or agency or the Hawaii health systems corporation
6 shall set aside a portion of these funds sufficient to cover the
7 amount of the State's liability to the various funds of the
8 system on account of the employees in the department or agency
9 or the Hawaii health systems corporation whose compensation is
10 paid in whole or part from federal funds.

11 (c) The amount payable by each department or agency of the
12 State, ~~[or]~~ the office of Hawaiian affairs, or the Hawaii health
13 systems corporation, covered by this section shall be determined
14 at least quarterly by the department of budget and finance on
15 the basis of the payroll of the employees of the department or
16 agency, ~~[or]~~ trustees of the office of Hawaiian affairs, or the
17 Hawaii health systems corporation who are members of the system
18 in the same manner the allocation of employer contributions is
19 determined in section 88-123. The comptroller of the State, the
20 office of Hawaiian affairs, the Hawaii health systems
21 corporation, or any department or agency having control of its
22 own funds ~~[shall]~~, upon information furnished by the department



1 of budget and finance, shall issue a check for the proper amount
2 to the director of finance, charging the same to the appropriate
3 fund. The director of finance shall place all such sums to the
4 credit of the State as part payment of the State's contributions
5 to the various funds of the system.

6 (d) With respect to the Hawaii health systems corporation
7 only, this section shall be operative with respect to costs
8 accrued beginning July 1, 1996."

9 PART III

10 SECTION 5. Chapter 89, Hawaii Revised Statutes, is amended
11 by adding a new section to be appropriately designated and to
12 read as follows:

13 "§89- Negotiating authority; Hawaii health systems
14 corporation. Notwithstanding any law to the contrary, including
15 section 89-6(d), the Hawaii health systems corporation or any of
16 the regional boards, as a sole employer negotiator, may
17 negotiate with the exclusive representative of any appropriate
18 bargaining unit and execute memorandums of understanding for
19 employees under its control to alter any existing or new
20 collective bargaining agreement on any item or items subject to
21 section 89-9."

22 PART IV



1 SECTION 6. Chapter 323F, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§323F- Criminal history record checks. (a) The
5 corporation may request a criminal history record check of
6 persons who are employed or seeking employment, or are current
7 or prospective contractors, providers, or volunteers in any of
8 the corporation's health facilities, in accordance with section
9 846-2.7.

10 (b) For the purpose of this section, the criminal history
11 record check shall be performed by the Hawaii criminal justice
12 data center. The Hawaii criminal justice data center may assess
13 providers and contractors a reasonable fee for criminal history
14 record checks performed. Providers and contractors shall be
15 responsible for payment to the Hawaii criminal justice data
16 center of the fee for the criminal history record checks.

17 (c) Any person who is a current or prospective member of
18 the corporation board or regional system board; employed or who
19 seeks employment with the corporation; or is a current or
20 prospective contractor, provider, or volunteer in any of the
21 corporation's health facilities may be required to provide to the
22 corporation:



1 (1) Personal identifying information including name,
2 social security number, and date of birth;

3 (2) Written consent for the corporation to obtain criminal
4 history record check information for verification; and

5 (3) Written consent to be fingerprinted for the purpose of
6 a criminal history record check.

7 Information obtained pursuant to subsection (a) and this
8 subsection shall be used by the corporation exclusively for the
9 purposes of this section.

10 (d) Any inquiry into or consideration of the criminal
11 history record of an employee or prospective employee of the
12 corporation shall be limited to that which is allowed under
13 section 378-2.5 or required under federal law.

14 (e) A current or prospective contractor, provider, or
15 volunteer or a current or prospective member of the corporation
16 board or regional system board who has been convicted of a
17 criminal offense for which incarceration is a sentencing option,
18 may be terminated, released, or not used. This action shall be
19 based on the corporation's analysis of whether the nature and
20 circumstances of the crime may pose a risk to the health,
21 safety, or well-being of patients, residents, and organizations
22 in its health facilities.



1 (f) For the purposes of this section:

2 "Contractor" means any individual who enters into a
3 contract or agreement to provide services to the patients or
4 residents in any of the corporation's health facilities.

5 "Criminal history record check" means an examination of an
6 individual's criminal history records by means including
7 fingerprint analysis and name inquiry into state and national
8 criminal history record files.

9 "Provider" means any individual who currently provides or
10 intends to enter into a contract or agreement to provide
11 services to the patients or residents in any of the
12 corporation's health facilities, or is a student in any program
13 at any of the corporation's health facilities."

14 SECTION 7. Section 846-2.7, Hawaii Revised Statutes, is
15 amended by amending subsection (b) to read as follows:

16 "(b) Criminal history record checks may be conducted by:

17 (1) The department of health on operators of adult foster
18 homes or developmental disabilities domiciliary homes
19 and their employees, as provided by section 333F-22;

20 (2) The department of health on prospective employees,
21 persons seeking to serve as providers, or
22 subcontractors in positions that place them in direct



1 contact with clients when providing non-witnessed
2 direct mental health services as provided by section
3 321-171.5;

4 (3) The department of health on all applicants for
5 licensure for, operators for, and prospective
6 employees, and volunteers at one or more of the
7 following: skilled nursing facility, intermediate
8 care facility, adult residential care home, expanded
9 adult residential care home, assisted living facility,
10 home health agency, hospice, adult day health center,
11 special treatment facility, therapeutic living
12 program, intermediate care facility for the mentally
13 retarded, hospital, rural health center and
14 rehabilitation agency, and, in the case of any of the
15 above-related facilities operating in a private
16 residence, on any adult living in the facility other
17 than the client as provided by section 321-15.2;

18 (4) The department of education on employees, prospective
19 employees, and teacher trainees in any public school
20 in positions that necessitate close proximity to
21 children as provided by section 302A-601.5;



- 1 (5) The counties on employees and prospective employees
2 who may be in positions that place them in close
3 proximity to children in recreation or child care
4 programs and services;
- 5 (6) The county liquor commissions on applicants for liquor
6 licenses as provided by section 281-53.5;
- 7 (7) The department of human services on operators and
8 employees of child caring institutions, child placing
9 organizations, and foster boarding homes as provided
10 by section 346-17;
- 11 (8) The department of human services on prospective
12 adoptive parents as established under section
13 346-19.7;
- 14 (9) The department of human services on applicants to
15 operate child care facilities, prospective employees
16 of the applicant, and new employees of the provider
17 after registration or licensure as provided by section
18 346-154;
- 19 (10) The department of human services on persons exempt
20 pursuant to section 346-152 to be eligible to provide
21 child care and receive child care subsidies as
22 provided by section 346-152.5;



- 1 (11) The department of human services on operators and
2 employees of home and community-based case management
3 agencies and operators and other adults, except for
4 adults in care, residing in foster family homes as
5 provided by section 346-335;
- 6 (12) The department of human services on staff members of
7 the Hawaii youth correctional facility as provided by
8 section 352-5.5;
- 9 (13) The department of human services on employees,
10 prospective employees, and volunteers of contracted
11 providers and subcontractors in positions that place
12 them in close proximity to youth when providing
13 services on behalf of the office or the Hawaii youth
14 correctional facility as provided by section 352D-4.3;
- 15 (14) The judiciary on employees and applicants at detention
16 and shelter facilities as provided by section 571-34;
- 17 (15) The department of public safety on employees and
18 prospective employees who are directly involved with
19 the treatment and care of persons committed to a
20 correctional facility or who possess police powers
21 including the power of arrest as provided by section
22 353C-5;



- 1 (16) The department of commerce and consumer affairs on
2 applicants for private detective or private guard
3 licensure as provided by section 463-9;
- 4 (17) Private schools and designated organizations on
5 employees and prospective employees who may be in
6 positions that necessitate close proximity to
7 children; provided that private schools and designated
8 organizations receive only indications of the states
9 from which the national criminal history record
10 information was provided [~~as provided by~~] pursuant to
11 section 302C-1;
- 12 (18) The public library system on employees and prospective
13 employees whose positions place them in close
14 proximity to children as provided by section
15 302A-601.5;
- 16 (19) The State or any of its branches, political
17 subdivisions, or agencies on applicants and employees
18 holding a position that has the same type of contact
19 with children, vulnerable adults, or persons committed
20 to a correctional facility as other public employees
21 who hold positions that are authorized by law to



1 require criminal history record checks as a condition
2 of employment as provided by section 78-2.7;

3 (20) The department of human services on licensed adult day
4 care center operators, employees, new employees,
5 subcontracted service providers and their employees,
6 and adult volunteers as provided by section 346-97;

7 (21) The department of human services on purchase of
8 service contracted and subcontracted service providers
9 and their employees serving clients of the adult and
10 community care services branch, as provided by section
11 346-97;

12 (22) The department of human services on foster grandparent
13 program, retired and senior volunteer program, senior
14 companion program, and respite companion program
15 participants as provided by section 346-97;

16 (23) The department of human services on contracted and
17 subcontracted service providers and their current and
18 prospective employees that provide home and community-
19 based services under Section 1915(c) of the Social
20 Security Act (Title 42 United States Code Section
21 1396n(c)), or under any other applicable section or
22 sections of the Social Security Act for the purposes



1 of providing home and community-based services, as
2 provided by section 346-97;

3 (24) The department of commerce and consumer affairs on
4 proposed directors and executive officers of a bank,
5 savings bank, savings and loan association, trust
6 company, and depository financial services loan
7 company as provided by section 412:3-201;

8 (25) The department of commerce and consumer affairs on
9 proposed directors and executive officers of a
10 nondepository financial services loan company as
11 provided by section 412:3-301;

12 (26) The department of commerce and consumer affairs on the
13 original chartering applicants and proposed executive
14 officers of a credit union as provided by section
15 412:10-103;

16 [†] (27) [†] The department of commerce and consumer affairs on:

17 (A) Each principal of every non-corporate applicant
18 for a money transmitter license; and

19 (B) The executive officers, key shareholders, and
20 managers in charge of a money transmitter's
21 activities of every corporate applicant for a
22 money transmitter license,



1 as provided by section 489D-9; [and]

2 (28) The Hawaii health systems corporation on:

3 (A) Employees;

4 (B) Applicants seeking employment;

5 (C) Current or prospective members of the corporation

6 board or regional system board; or

7 (D) Current or prospective volunteers, providers, or

8 contractors,

9 in any of the corporation's health facilities as

10 provided by section 323F- ; and

11 ~~[(28)]~~ (29) Any other organization, entity, or the State,
12 its branches, political subdivisions, or agencies as
13 may be authorized by state law."

14 PART V

15 SECTION 8. Chapter 323F, Hawaii Revised Statutes, is
16 amended by adding two new sections to be appropriately
17 designated and to read as follows:

18 "§323F- Transition of Hawaii health systems regional
19 system or health facility to a new entity. (a) Notwithstanding
20 any other law to the contrary, including but not limited to
21 section 27-1 and chapter 171, any of the regional systems or
22 individual facilities of the Hawaii health systems corporation



1 is hereby authorized to transition into a new legal entity in
2 any form recognized under the laws of the State, including but
3 not limited to:

4 (1) A non-profit corporation;

5 (2) A for-profit corporation;

6 (3) A municipal facility;

7 (4) A public benefit corporation; or

8 (5) Any two or more of the entities in paragraphs (1)
9 through (4).

10 A transition shall occur through the sale, lease, or transfer of
11 all or substantially all of the assets of the facility or
12 regional system, except for real property which shall only be
13 transferred by lease. Any transition shall comply with chapter
14 323D.

15 (b) A transition shall only occur upon approval of the
16 appropriate regional system board in the case of a regional
17 system or individual facility transition, or upon approval of
18 the regional system boards and the corporation in the case of
19 the transition of the entire corporation. Any transition shall
20 be subject to legal review by the attorney general who shall
21 approve the transition if satisfied that the transition conforms
22 to all applicable laws, subject to the review of the director of



1 the department of budget and finance who shall approve the
2 transition if it conforms to all applicable financing
3 procedures, and subject to the governor's approval. In addition
4 the transition shall be subject to the following terms and
5 conditions:

- 6 (1) All proceeds from the sale, lease, or transfer of
7 assets shall be used for health care services in the
8 respective regional system or facility, except that
9 real property shall only be transferred by lease;
- 10 (2) Any and all liabilities of a regional system or
11 facility transitioning into a new entity that were
12 transferred to the Hawaii health systems corporation
13 upon its creation by Act 262, Session Laws of Hawaii
14 1996, and all liabilities of the regional system or
15 facility related to collective bargaining contracts
16 negotiated by the State, shall become the
17 responsibility of the State; and
- 18 (3) During the period of transition:
- 19 (A) The State shall continue to fund the provision of
20 health care services provided for by the regional
21 system or individual facility; and



1 (B) All applicable provisions of this chapter shall
2 continue to apply.

3 Upon the completion of the transition of all the facilities
4 in a regional system to a new entity, the regional system board
5 for that regional system shall terminate; provided that if not
6 all of a regional system's facilities are transitioned to a new
7 entity, the existing regional system board shall not terminate
8 but shall continue to retain jurisdiction over those facilities
9 remaining in the regional system.

10 §323F- Regional system board; community hospitals;
11 community health centers; collaboration. Each regional system
12 board and each community hospital under the jurisdiction of the
13 corporation shall collaborate with community health centers
14 within their respective geographic jurisdictions to maximize
15 funding from the state and federal governments to:

16 (1) Maximize reimbursement for health care services
17 provided;

18 (2) Acquire funds for capital investment;

19 (3) Provide expanded hours of service; and

20 (4) Ensure the provision of the appropriate level of care
21 to the community served by each community health
22 center."



SECTION 9. Section 323F-3, Hawaii Revised Statutes, is

amended to read as follows:

"§323F-3 Corporation board. (a) The corporation shall be governed by a ~~[fifteen-member]~~ twelve-member board of directors that shall carry out the duties and responsibilities of the corporation other than those duties and responsibilities relating to the establishment of any captive insurance company pursuant to section ~~[+]~~323F-7(c)(20) ~~[+]~~ and the operation thereof.

(b) ~~[Twelve]~~ The members of the corporation board shall be appointed as follows:

(1) ~~[Two members from regional system I who reside in the city and county of Honolulu shall be appointed by the governor from a list consisting of four individuals, two individuals submitted by the speaker of the house of representatives and two individuals submitted by the president of the senate within fifteen days of July 1, 2007; provided that this list shall not include physicians;]~~ The director of health as an ex-officio, non-voting member;

(2) ~~[Two members from regional system II who reside in the county of Kauai shall be appointed by the governor~~



1 ~~from a list consisting of four individuals, two~~
2 ~~individuals submitted by the speaker of the house of~~
3 ~~representatives and two individuals submitted by the~~
4 ~~president of the senate within fifteen days of July 1,~~
5 ~~2007; provided that this list shall not include~~
6 ~~physicians;]~~ The five regional chief executive
7 officers as ex-officio, voting members; and

8 (3) ~~[Two members from regional system III who reside in~~
9 ~~the county of Maui shall be appointed by the governor~~
10 ~~from a list consisting of four individuals, two~~
11 ~~individuals submitted by the speaker of the house of~~
12 ~~representatives and two individuals submitted by the~~
13 ~~president of the senate within fifteen days of July 1,~~
14 ~~2007; provided that this list shall not include~~
15 ~~physicians;]~~ Two members who reside in the county of
16 Maui who shall be appointed by the Maui regional
17 system board;

18 (4) ~~[Two members from regional system IV]~~ One member who
19 ~~[reside]~~ resides in the eastern section of the county
20 of Hawaii who shall be appointed by ~~[the governor from~~
21 ~~a list consisting of four individuals, two individuals~~
22 ~~submitted by the speaker of the house of~~



1 ~~representatives and two individuals submitted by the~~
2 ~~president of the senate within fifteen days of July 1,~~
3 ~~2007; provided that this list shall not include~~
4 ~~physicians;]~~ the East Hawaii regional system board;

5 (5) ~~[Two members from regional system V]~~ One member who
6 ~~[reside]~~ resides in the western section of the county
7 of Hawaii who shall be appointed by the ~~[governor from~~
8 ~~a list consisting of four individuals, two individuals~~
9 ~~submitted by the speaker of the house of~~
10 ~~representatives and two individuals submitted by the~~
11 ~~president of the senate within fifteen days of July 1,~~
12 ~~2007; provided that this list shall not include~~
13 ~~physicians; and]~~ West Hawaii regional system board;

14 (6) ~~[Two additional members who reside in the State shall~~
15 ~~be appointed by the governor.]~~ One member who resides
16 on the island of Kauai who shall be appointed by the
17 Kauai regional system board; and

18 (7) One member who resides on the island of Oahu who shall
19 be appointed by the Oahu regional system board.

20 ~~[The thirteenth and fourteenth members, who shall serve as~~
21 ~~voting members, shall be physicians with active medical staff~~
22 ~~privileges at one of the corporation's public health facilities.~~



1 ~~The physician members shall each serve a term of two years. The~~
2 ~~initial physician members shall be from regional system II, and~~
3 ~~subsequent physician members shall come from regional systems~~
4 ~~IV, III, and V respectively. The physician member positions~~
5 ~~shall continue to rotate in this order. The physician members~~
6 ~~shall be appointed to the corporation board by a two thirds~~
7 ~~majority vote of the corporation board from a list of qualified~~
8 ~~nominees submitted by the public health facility management~~
9 ~~advisory committees or by any regional system board. If for any~~
10 ~~reason a physician member is unable to serve a full term, the~~
11 ~~remainder of that term shall be filled by a physician from the~~
12 ~~same regional system.~~

13 ~~The fifteenth member shall be the director of health or the~~
14 ~~director's designee, who shall serve as an ex officio, voting~~
15 ~~member.~~

16 ~~Appointments to the corporation board, with the exception~~
17 ~~of the chairperson of the executive public health facility~~
18 ~~management advisory committee and the regional physician member,~~
19 ~~shall be made by the governor, subject to confirmation by the~~
20 ~~senate pursuant to section 26-34.]~~

21 ~~The appointed board members shall serve for a term of four~~
22 ~~years; provided that the [first member appointed from each~~



1 ~~regional system shall be appointed for a term of two years.]~~
2 terms of the initial appointments shall be as follows: one of
3 the initial members from the county of Maui shall be appointed
4 to serve a term of two years and the other shall be appointed to
5 serve a term of four years; the initial member from East Hawaii
6 shall be appointed to serve a term of two years; the initial
7 member from West Hawaii shall be appointed to serve a term of
8 four years; the initial member from the island of Kauai shall be
9 appointed to serve a term of two years; and the initial member
10 from the island of Oahu shall be appointed to serve a term of
11 four years.

12 Any vacancy shall be filled in the same manner provided for
13 the original appointments. The corporation board shall elect
14 its own chair from among its members. Appointments to the
15 corporation board shall be as representative as possible of the
16 system's stakeholders as outlined in this subsection.

17 (c) The selection, appointment, and confirmation of any
18 nominee shall be based on ensuring that board members have
19 diverse and beneficial perspectives and experiences and that
20 they include, to the extent possible, representatives of the
21 medical, business, management, law, finance, and health sectors,
22 and patients or consumers. Members of the board shall serve



1 without compensation but may be reimbursed for actual expenses,
2 including travel expenses incurred in the performance of their
3 duties.

4 (d) Any member of the board may be removed for cause [by
5 ~~the governor or for cause~~] by vote of a two-thirds majority of
6 the board's members then in office. For purposes of this
7 section, cause shall include without limitation:

8 (1) Malfeasance in office;

9 (2) Failure to attend regularly called meetings;

10 (3) Sentencing for conviction of a felony, to the extent
11 allowed by section 831-2; or

12 (4) Any other cause that may render a member incapable or
13 unfit to discharge the duties required under this
14 chapter.

15 Filing nomination papers for elective office or appointment to
16 elective office, or conviction of a felony consistent with
17 section 831-3.1, shall automatically and immediately disqualify
18 a board member from office."

19 SECTION 10. Section 323F-3.5, Hawaii Revised Statutes, is
20 amended by amending subsection (d) to read as follows:

21 "(d) Each regional system board shall [be]:



- 1 (1) Be responsible for local governance, operations, and
2 administration of the delivery of services in its
3 respective regional system as set forth in this
4 chapter and as further delegated by the corporation[~~-~~
5 ~~Each regional system board shall include~~];
6 (2) Include medical and health care providers and
7 professionals, consumers, and knowledgeable
8 individuals in other appropriate areas, such as
9 business, finance, and law; provided that no more than
10 three members of the regional system board shall be
11 physicians[~~.- Each regional system board shall be~~];
12 (3) Be as balanced and representative of the community
13 stakeholders as possible[~~-~~]; and
14 (4) Have the powers, duties, and responsibilities that are
15 specific to the regional system board as provided in
16 this chapter."

17 SECTION 11. Section 323F-4, Hawaii Revised Statutes, is
18 amended by amending subsection (b) to read as follows:

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



1 and each regional system board shall adopt procedural rules for
2 meetings, not subject to chapter 91, that shall include
3 provisions for meetings via electronic and telephonic
4 communications and other methods that allow the boards to
5 conduct business in a timely and efficient manner. Any action
6 of the corporation board or each regional system board shall
7 require the affirmative vote of a majority of those present and
8 voting at the meeting; except that a vote of two-thirds of the
9 entire membership of the respective board then in office shall
10 be required for any of the following actions:

- 11 (1) Removal by the corporation board or respective
12 regional system board of one of its members;
- 13 (2) Amendment by the corporation or a regional system
14 board of its bylaws;
- 15 (3) Hiring or removing [~~the chief executive officer of the~~
16 ~~corporation or~~] a regional chief executive officer;
- 17 (4) Filling of vacancies on a board; and
- 18 (5) Any other actions as provided by the corporation or
19 regional system board bylaws [-], except the hiring or
20 removing of the chief executive officer of the
21 corporation."

1 SECTION 12. Section 323F-7, Hawaii Revised Statutes, is
2 amended by amending subsection (c) and (d) to read as follows:

3 "(c) Notwithstanding any other law to the contrary, the
4 corporation and any of the regional system boards shall exercise
5 the following duties and powers:

- 6 (1) Developing corporation-wide policies, procedures, and
7 rules necessary or appropriate to plan, operate,
8 manage, and control the system of public health
9 facilities and services without regard to chapter 91;
10 provided that each regional system board shall be
11 responsible for its own policies, procedures, and
12 rules necessary or appropriate to plan, operate,
13 manage, and control the public health facilities
14 within its own regional system consistent with
15 [~~corporate~~] corporation policies;
- 16 (2) Evaluating the need for additional health facilities
17 and services; provided that each regional system board
18 shall be responsible for the evaluation within its own
19 regional system;
- 20 (3) Entering into and performing any contracts, leases,
21 cooperative agreements, partnerships, or other
22 transactions whatsoever that may be necessary or



1 appropriate in the performance of its purposes and
2 responsibilities, and on terms the corporation, or
3 regional system boards, may deem appropriate, with
4 either:

- 5 (A) Any agency or instrumentality of the United
6 States, or with any state, territory, or
7 possession, or with any subdivision thereof; or
8 (B) Any person, firm, association, partnership, or
9 corporation, whether operated on a for-profit or
10 not-for-profit basis;

11 provided that the transaction furthers the public
12 interest; and provided further that if any dispute
13 arises between any contract, lease, cooperative
14 agreement, partnership, or other transaction entered
15 into by the corporation and a regional system board
16 with regard to matters solely within that regional
17 system, after July 1, 2007, the contract, lease,
18 cooperative agreement, partnership, or other
19 transaction entered into by the regional system board
20 shall prevail; and provided further that such
21 agreements are consistent with corporation policies;



1 (4) Conducting activities and entering into business
2 relationships as the corporation board, or any
3 regional system board, deems necessary or appropriate,
4 including but not limited to:

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

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

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



1 abrogate any responsibility or obligation under
2 paragraph (15);

3 provided that each regional system board shall be
4 responsible for conducting the activities under this
5 paragraph in its own regional system consistent with
6 policies established by the corporation board;

7 (5) Participating in and developing prepaid health care
8 service and insurance programs and other alternative
9 health care delivery programs, including programs
10 involving the acceptance of capitated payments or
11 premiums that include the assumption of financial and
12 actuarial risk; provided that each regional system
13 board shall be responsible for conducting the
14 activities under this paragraph in its own regional
15 system consistent with policies established by the
16 corporation board;

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

21 (7) Preparing and executing all corporation-wide budgets,
22 policies, and procedures or any regional system



1 budgets, policies, and procedures; provided that the
2 regional system boards shall submit their regional and
3 facility budgets to the corporation to be consolidated
4 into a corporation-wide budget for purposes of
5 corporation-wide planning and appropriation requests.
6 Regional system and facility budgets shall be received
7 by the corporation and shall be included in the
8 corporation-wide budget upon submittal to the
9 corporation;

- 10 (8) Setting rates and charges for all services provided by
11 the corporation without regard to chapter 91; provided
12 that the duty and power of the corporation board shall
13 be limited to approving the rates and charges
14 developed by the regional system boards for the
15 regional system's facilities and services. Rates and
16 charges may vary among regional systems and facilities
17 and may be consolidated with the rates of other
18 regional systems into one charge master. Third-party
19 payer contracts may be negotiated at the corporation-
20 wide level with input from the regional systems,
21 taking into consideration the rates set by the
22 regional system boards. For purposes of securing



1 revenue bonds, the corporation or regional system
2 board may covenant to set, and if necessary increase,
3 rates and charges as needed to pay debt service and
4 related obligations plus a coverage factor;

5 (9) Developing a corporation-wide hospital system that is
6 subject to chapters 76 and 89; provided that
7 employment of regional system and facility personnel
8 shall be the responsibility of the regional system
9 boards pursuant to corporation-wide policies and
10 procedures, applicable laws, rules, regulations, and
11 collective bargaining agreements;

12 (10) Developing the corporation's corporation-wide capital
13 and strategic plans or any regional system board's
14 capital and strategic plans; provided that each
15 regional system board shall be responsible for
16 development of capital and strategic plans in its own
17 regional system that shall be consistent with, and
18 incorporated into, the overall corporation-wide plans;
19 and provided further that the corporation and each
20 regional system board shall be entitled to undertake
21 the acquisition, construction, and improvement of



1 property, facilities, and equipment to carry out these
2 capital and strategic plans;

3 (11) Suing and being sued; provided that only the
4 corporation may sue or be sued; and provided further
5 that the corporation and regional system boards shall
6 enjoy the same sovereign immunity available to the
7 State;

8 (12) Making and altering corporation board and regional
9 system board bylaws for its organization and
10 management without regard to chapter 91 and consistent
11 with this chapter; provided that each regional system
12 board shall be responsible for the final approval of
13 its regional system board bylaws;

14 (13) Adopting rules without regard to chapter 91 governing
15 the exercise of the corporation's or regional system
16 boards' powers and the fulfillment of its purpose
17 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 system boards, and chief executive officers to enter
22 into all contracts, execute all instruments, and do



1 all things necessary or appropriate in the exercise of
2 the powers granted in this chapter, including securing
3 the payment of bonds; provided that the corporation
4 board shall delegate to a regional system board its
5 authority to enter into and execute contracts or
6 agreements relating to matters exclusively affecting
7 that regional system; provided further that a regional
8 system board shall exercise this power consistent with
9 corporation-wide policies; and provided further that
10 contracts or agreements executed by a regional system
11 board shall encumber only the regional subaccounts of
12 that regional system board;

13 (15) Issuing revenue bonds up to \$100,000,000 subject to
14 the approval of the governor or the director of
15 finance; provided that:

16 (A) All revenue bonds shall be issued pursuant to
17 part III, chapter 39;

18 (B) The corporation and any regional system board
19 shall have the power to issue revenue bonds in
20 any amount without regard to any limitation in
21 chapter 39; and



1 (C) The corporation shall have the power to incur
2 debt, including the issuance of revenue bonds in
3 any amount, and the regional system boards shall
4 have the power to issue revenue bonds in any
5 amount upon approval by the corporation board;

6 (16) Reimbursing the state general fund for debt service on
7 general obligation bonds or reimbursable general
8 obligation bonds issued by the State for the purposes
9 of the corporation or any regional system board;

10 (17) Pledging or assigning all or any part of the receipts,
11 revenues, and other financial assets of the
12 corporation or the regional system boards for purposes
13 of meeting or securing bond or health systems
14 liabilities; provided that each regional system board
15 shall be responsible for conducting the activities
16 under this paragraph in its own regional system. Any
17 pledge or assignment by the corporation or any
18 regional system board to secure revenue bonds or
19 health system liabilities shall be valid and binding
20 in accordance with its terms against the pledgor,
21 creditors, and all others asserting rights thereto
22 from the time the pledge or assignment is made,



1 without the need of physical delivery, recordation,
2 filing, or further act. The corporation shall not
3 take or omit to take any act that would interfere
4 with, impair, or adversely affect any pledge [ef] or
5 assignment by a regional system board pursuant to this
6 chapter. In connection with issuing revenue bonds or
7 related obligations, consistent with corporation
8 policies and procedures, any regional system board may
9 make such other covenants, binding on the regional
10 system board and the corporation, that the regional
11 system board determines to be necessary or appropriate
12 to establish and maintain security for the revenue
13 bonds or related obligations;

14 (18) Owning, purchasing, leasing, exchanging, or otherwise
15 acquiring property, whether real, personal, or mixed,
16 tangible or intangible, and of any interest therein,
17 in the name of the corporation, which property is not
18 owned or controlled by the State but is owned or
19 controlled by the corporation; provided that:

20 (A) Regional system boards shall have custodial
21 control over facilities and physical assets in
22 their respective regional systems. A regional



1 system board may own, purchase, lease, exchange,
2 or otherwise acquire property, whether real,
3 personal, or ~~mix,~~ mixed, tangible or
4 intangible, and of any interest therein, other
5 than property owned or controlled by the
6 corporation, in the name of the regional system
7 board; provided further that a regional system
8 board shall be subject to section 323F-3.5; and

9 (B) Each regional system board shall be responsible
10 for conducting the activities under this
11 paragraph in its own regional system;

12 (19) Maintaining, improving, pledging, mortgaging, selling,
13 or otherwise holding or disposing of property, whether
14 real, personal, or mixed, tangible or intangible, and
15 of any interest therein, at any time and manner, in
16 furtherance of the purposes and mission of the
17 corporation or any regional system board; provided
18 that the corporation or any regional system board
19 legally holds or controls the property in its own
20 name; provided further that other than to secure
21 revenue bonds and related obligations and agents, and
22 to transition into a new entity, the corporation or



1 any regional system board shall not sell, assign,
2 lease, hypothecate, mortgage, pledge, give, or dispose
3 of all or substantially all of its property; and
4 provided further that each regional system board shall
5 be responsible for conducting the activities under
6 this paragraph in its own regional system, and control
7 over such property shall be delegated to each regional
8 system board; provided further that this paragraph
9 shall not be construed to authorize the sale, pledge,
10 or mortgage of real property under the control of the
11 corporation or a regional system board;

- 12 (20) Purchasing insurance and creating captive insurers in
13 any arrangement deemed in the best interest of the
14 corporation, including but not limited to funding and
15 payment of deductibles and purchase of reinsurance;
16 provided that only the corporation shall have the
17 power to create captive insurers to benefit public
18 health facilities and operations in all regional
19 systems; and provided further that a regional system
20 board may purchase insurance for its regional system
21 in collaboration with the other regional systems and



1 the corporation until captive coverage is provided by
2 the corporation;

3 (21) Acquiring by condemnation, pursuant to chapter 101,
4 any real property required by the corporation to carry
5 out the powers granted by this chapter;

6 (22) Depositing any moneys of the corporation or any
7 regional system board in any banking institution
8 within or without the State, and appointing, for the
9 purpose of making deposits, one or more persons to act
10 as custodians of the moneys of the corporation[+] or
11 any regional system board; provided that regional
12 system boards may deposit moneys in banking
13 institutions pursuant to corporation-wide guidelines
14 established by the corporation board;

15 (23) Contracting for and accepting any gifts, grants, and
16 loans of funds, property, or any other aid in any form
17 from the federal government, the State, any state
18 agency, or any other source, or any combination
19 thereof, and complying, subject to this chapter, with
20 the terms and conditions thereof; provided that the
21 regional system boards shall be responsible for
22 contracting for and accepting any gifts, grants,



1 loans, property, or other aid if intended to benefit
2 the public health facilities and operations
3 exclusively in their respective regional systems; and
4 provided further that all contracting for or
5 acceptance of gifts, grants, loans, property, or other
6 aid shall be consistent with corporation-wide policies
7 established by the corporation board;

8 (24) Providing health and medical services for the public
9 directly or by agreement or lease with any person,
10 firm, or private or public corporation, partnership,
11 or association through or in the health facilities of
12 the corporation or regional system boards or
13 otherwise; provided that the regional system boards
14 shall be responsible for conducting the activities
15 under this paragraph in their respective regional
16 systems;

17 (25) Approving medical staff bylaws, rules, and medical
18 staff appointments and reappointments for all public
19 health facilities of the corporation or any regional
20 system board, including but not limited to determining
21 the conditions under which a health professional may
22 be extended the privilege of practicing within a



1 health facility, as determined by the respective
2 regional system board and consistent with [~~corporate-~~
3 ~~wide~~] corporation-wide policies, and adopting and
4 implementing reasonable rules, without regard to
5 chapter 91, for the credentialing and peer review of
6 all persons and health professionals within the
7 facility; provided that regional system boards shall
8 be the governing body responsible for all medical
9 staff organization, peer review, and credentialing
10 activities to the extent allowed by law;

11 (26) (A) Investing any funds not required for immediate
12 disbursement in property or in securities that
13 meet the standard for investments established in
14 chapter 88 as provided by the corporation board
15 or any regional system board; provided that
16 proceeds of bonds and moneys pledged to secure
17 bonds may be invested in obligations permitted by
18 any document that authorizes the issuance or
19 securing of bonds; and provided further that the
20 investment assists the corporation or any
21 regional system board in carrying out its public
22 purposes; selling from time to time securities



1 thus purchased and held, and depositing any
2 securities in any bank or financial institution
3 within or without the State. Any funds deposited
4 in a banking institution or in any depository
5 authorized in this section shall be secured in a
6 manner and subject to terms and conditions as the
7 corporation board or a regional system board may
8 determine, with or without payment of any
9 interest on the deposit, including without
10 limitation time deposits evidenced by
11 certificates of deposit. Any bank or financial
12 institution incorporated under the laws of this
13 State may act as depository of any funds of the
14 corporation or a regional system board and may
15 issue indemnity bonds or may pledge securities as
16 may be required by the corporation or regional
17 system board; provided that regional system
18 boards may exercise the powers under this
19 subsection with respect to financial assets of
20 the regional system consistent with corporation-
21 wide policies; and



1 (B) Notwithstanding subparagraph (A), contracting
2 with the holders of any of its notes or bonds as
3 to the custody, collection, securing, investment,
4 and payment of any moneys of the corporation or
5 regional system board and of any moneys held in
6 trust or otherwise for the payment of notes or
7 bonds and carrying out the contract. Moneys held
8 in trust or otherwise for the payment of notes or
9 bonds or in any way to secure notes or bonds, and
10 deposits of such moneys, may be secured in the
11 same manner as moneys of the corporation or
12 regional system board, and all banks and trust
13 companies are authorized to give security for the
14 deposits;

15 (27) Entering into any agreement with the State, including
16 but not limited to contracts for the provision of
17 goods, services, and facilities in support of the
18 corporation's programs or the regional system boards'
19 programs, and contracting for the provision of
20 services to or on behalf of the State; provided that
21 the regional system boards shall be responsible for
22 entering into agreements to provide goods, services,



1 and facilities in support of programs in their
2 respective regional systems consistent with
3 corporation-wide policies;

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

5 (29) Waiving, by means that the corporation or regional
6 system board deems appropriate, the exemption from
7 federal income taxation of interest on the
8 corporation's or regional system boards' bonds, notes,
9 or other obligations provided by the Internal Revenue
10 Code of 1986, as amended, or any other federal statute
11 providing a similar exemption;

12 (30) Developing internal policies and procedures for the
13 procurement of goods and services, consistent with the
14 goals of public accountability and public procurement
15 practices, and subject to management and financial
16 legislative audits; provided that the regional system
17 boards shall be responsible for developing internal
18 policies and procedures for each of their regional
19 systems consistent with the corporation's policies and
20 procedures; and further provided that:



1 (A) The regional system boards and the [corporate]
2 corporation board shall enjoy the exemption under
3 section 103-53(e);

4 (B) The regional system boards shall enjoy the
5 exemption under chapter 103D; and

6 (C) The corporation shall be subject to chapter 103D;

7 (31) Authorizing and establishing positions; provided that
8 regional system boards shall be responsible for hiring
9 and firing regional and facility personnel consistent
10 with corporation policies, except a regional chief
11 executive officer [~~and regional chief financial~~
12 ~~officer~~] shall only be hired or dismissed upon the
13 approval of the regional system board [~~and the~~
14 ~~corporation board~~] as further set forth in section
15 323F-8.5;

16 (32) Having and exercising all rights and powers necessary
17 or incidental to or implied from the specific powers
18 granted in this chapter, which specific powers shall
19 not be considered as a limitation upon any power
20 necessary or appropriate to carry out the purposes and
21 intent of this chapter; provided that the regional
22 system boards shall be responsible for having and



1 exercising all powers and rights with respect to
2 matters in their regional systems consistent with the
3 law; and

4 (33) Each regional system, through its regional system
5 board, shall:

6 (A) Develop policies and procedures necessary or
7 appropriate to plan, operate, manage, and control
8 the day-to-day operations of facilities within
9 the regional system that are consistent with
10 corporation-wide policies;

11 (B) Exercise custodial control over and use of all
12 assets of the corporation that are located in the
13 regional system pursuant to this chapter; and

14 (C) Expend funds within its approved regional system
15 budget and expend additional funds in excess of
16 its approved regional system budget upon approval
17 of the corporation board.

18 (d) Each regional system board shall not be subject to
19 chapters 36 to 38, 40, 41D, and 103D as well as part I of
20 chapter 92 and shall enjoy the exemptions contained in sections
21 102-2 and 103-53(e), except as otherwise provided in this
22 chapter. The corporation shall not be subject to chapters 36 to



1 38, 40, and 41D, as well as part I of chapter 92, and shall
2 enjoy the exemptions contained in sections 102-2 and 103-
3 53(e) [-]; provided that the exemption provided under this
4 subsection to chapter 37D shall only apply to financing
5 agreements of \$5,000,000 or less; provided further that the
6 aggregate value of financing agreements per fiscal year shall
7 not exceed \$25,000,000."

8 SECTION 13. Section 323F-8, Hawaii Revised Statutes, is
9 amended by amending subsections (a) and (b) to read as follows:

10 "(a) The corporation board may appoint, [~~exempt from~~
11 ~~chapter 76 and section 26-35(a)(4),~~] by majority vote of its
12 entire membership, a chief executive officer of the corporation
13 whose salary shall be set by the corporation board[-] and who
14 shall be exempt from chapter 76 and section 26-35(a)(4). The
15 chief executive officer may also appoint up to eighteen other
16 personnel, exempt from chapters 76 and 89, to work directly for
17 the chief executive officer and the corporate board.

18 (b) The corporation board or its designee may discharge
19 its exempt personnel with or without cause; provided that
20 removal without cause shall not prejudice any contract rights of
21 personnel.



1 The discharge of the chief executive officer shall require
2 a majority vote of the entire membership of the corporation
3 board."

4 SECTION 14. Section 323F-8.5, Hawaii Revised Statutes, is
5 amended by amending its title and subsections (a) and (b) to
6 read as follows:

7 "~~[+]§323F-8.5[+]~~ Regional chief executive officer; exempt
8 position. (a) Upon establishment~~[, and until December 31,~~
9 2008], a regional system board may appoint a regional chief
10 executive officer ~~[and regional chief financial officer]~~ whose
11 salary shall be set by the corresponding regional system board
12 and may discharge a regional chief executive officer ~~[or~~
13 ~~regional chief financial officer for cause, consistent with~~
14 ~~subsection (b)]~~; provided that the position shall be exempt from
15 chapter 76 and section 26-35(a)(4). ~~[Effective January 1, 2009,~~
16 ~~the hiring and firing of the regional chief executive officers~~
17 ~~shall be subject to approval of both the regional system board~~
18 ~~and the corporation board.]~~ Each regional chief executive
19 officer may also appoint, as necessary, other personnel, exempt
20 from chapters 76 and 89, to work directly for the regional chief
21 executive officer for the regional system and for the
22 corresponding regional system board.



1 (b) Any regional system board or its designee may
2 discharge its exempt personnel with or without cause; provided
3 that removal without cause shall not prejudice any contract
4 rights of personnel [~~and provided further that the discharge of~~
5 ~~a regional chief executive officer shall be limited to the~~
6 ~~reasons outlined in section 323F 3.5(e) up to December 31, 2008.~~
7 ~~Effective January 1, 2009, regional chief executive officers and~~
8 ~~other exempt personnel shall be subject to discipline, including~~
9 ~~discharge, in accordance with duly executed contracts, laws~~
10 ~~governing exempt personnel of the State, and regional system~~
11 ~~policies adopted in accordance with corporate policies]. "~~

12 SECTION 15. Section 323F-22, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "§323F-22 Annual audit and report; disclosure of revenue
15 projections[-]; internal performance audit. (a) The
16 corporation shall engage a certified public accountant to
17 conduct an annual audit of its financial affairs, books, and
18 records in accordance with generally accepted accounting
19 principles. The corporation, in consultation with a regional
20 system board, may permit or require a regional system board to
21 retain an audit firm to conduct an independent audit of the
22 regional system. Each regional system board shall submit the



1 results of the annual audit to the corporation board within one
2 hundred twenty days after the close of the regional system
3 board's fiscal year. The corporation shall submit to the
4 governor and the legislature, within one hundred fifty days
5 after the close of the corporation's fiscal year, a report that
6 shall include the audited financial report for that fiscal year
7 for the corporation and each regional system board.

8 (b) In addition to the submittal of the audit required
9 under subsection (a), the corporation, in cooperation with the
10 regional system boards, shall submit a report to the legislature
11 at least twenty days prior to the convening of each regular
12 session that shall include but not be limited to:

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

20 (c) The regional system boards shall prepare a report for
21 inclusion with the corporation's annual report and audit.



1 (d) There shall be an annual internal audit of the
2 management and operations of the corporation and regions. The
3 corporation, in cooperation with the regional system boards,
4 shall submit a report to the legislature at least twenty days
5 prior to the convening of each regular session on the results of
6 the annual internal audit of the management and operations of
7 the corporation and regions."

PART VI

9 SECTION 16. (a) Notwithstanding any law to the contrary,
10 including section 26-34, Hawaii Revised Statutes, the terms of
11 the two members of the Hawaii health systems corporation board
12 appointed by the governor pursuant to section 323F-3(b)(6),
13 Hawaii Revised Statutes, as that provision of law read on the
14 day prior to the effective date of this Act, and the two
15 physician members required to have active medical staff
16 privileges at one of the corporation's health facilities
17 appointed by the governor pursuant to section 323F-3(b), Hawaii
18 Revised Statutes, as that provision of law read on the day prior
19 to the effective date of this Act, shall expire on June 30,
20 2009.

21 (b) The Hawaii health systems corporation board, in
22 consultation with the regional system boards, shall implement



1 the board member reduction requirement under section 9 no later
2 than July 1, 2010. Any reduction in membership effectuated by
3 the Hawaii health systems corporation board shall maintain
4 adequate regional representation.

5 PART VII

6 SECTION 17. If any provision of this Act, or the
7 application thereof to any person or circumstance is held
8 invalid, the invalidity does not affect other provisions or
9 applications of the Act, which can be given effect without the
10 invalid provision or application, and to this end the provisions
11 of this Act are severable.

12 SECTION 18. This Act does not affect rights and duties
13 that matured, penalties that were incurred, and proceedings that
14 were begun before its effective date.

15 SECTION 19. Statutory material to be repealed is bracketed
16 and stricken. New statutory material is underscored.

17 SECTION 20. This Act shall take effect on July 1, 2009.

APPROVED this day of , 2009

GOVERNOR OF THE STATE OF HAWAII