
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 purpose of this Act is to address the
2 community hospitals of the State. More specifically, this Act:

3 (1) Transfers, from July 1, 2010, until June 30, 2012, the
4 community hospitals from the Hawaii health systems
5 corporation to the department of health and abolishes
6 on June 30, 2010, the corporation and its regional
7 boards; and

8 (2) Establishes a community hospitals transition committee
9 to conduct a study of a permanent structure for the
10 community hospital system and submit its findings and
11 recommendations to the legislature before the
12 convening of the regular session of 2011.

13 PART I

14 TRANSFER OF COMMUNITY HOSPITALS TO DEPARTMENT OF HEALTH
15 FROM THE HAWAII HEALTH SYSTEMS CORPORATION AND REGIONAL BOARDS

16 SECTION 2. The purpose of this part is to amend chapter
17 323F, Hawaii Revised Statutes, to transfer the management,



1 operation, and maintenance of the community hospitals from the
2 Hawaii health systems corporation and its regional boards to the
3 department of health.

4 This part shall be operative from July 1, 2010, until June
5 30, 2012. The legislature intends that the community hospitals
6 transition committee conduct the study required under part IV
7 and report to the legislature before the convening of the
8 regular session of 2011 on the best organizational structure for
9 the community hospital system. The legislature intends to
10 review the study and take the necessary action during the
11 regular session of 2011 either to change the organizational
12 structure of the community hospital system or to make this part
13 permanent.

14 SECTION 3. Section 323F-1, Hawaii Revised Statutes, is
15 amended to read as follows:

16 **"§323F-1 Definitions.** As used in this chapter, unless the
17 context otherwise requires:

18 "Community hospital" means a health facility that, on June
19 30, 2010, was owned by the Hawaii health systems corporation or
20 any of its regional boards and, on July 1, 2010, is transferred
21 to the department of health pursuant to this Act.

22 Notwithstanding the use of the word "hospital," the term



1 includes a health facility that only provides long-term care and
2 no critical access, acute, or emergency health care.

3 "Consumer" means any individual who may ~~[utilize]~~ use a
4 ~~[Hawaii health systems facility]~~ community hospital for health
5 services and is not a provider.

6 ~~["Corporation" means the body corporate and politic known~~
7 ~~as the Hawaii health systems corporation.]~~

8 ~~"Corporation board" means the board of directors of the~~
9 ~~corporation.]~~

10 "Department" means the department of health.

11 "Director" means the director of health.

12 "Division" means the ~~[programs, services, and facilities~~
13 ~~operated by the department of health,~~7] division of community
14 hospitals~~[, prior to the transfer date]~~.

15 ~~["Health facility" means any one of the facilities that~~
16 ~~constitute the division of community hospitals.]~~

17 ~~"Health systems assets" means all property or rights in~~
18 ~~property, real, personal and mixed, tangible or intangible,~~
19 ~~existing on the transfer date, used by or accruing to the~~
20 ~~division in the normal course of its operations.]~~



1 "Provider" means any supplier of medical or health care
2 goods and services of the type provided at a ~~[Hawaii health~~
3 ~~systems faecility.]~~ community hospital.

4 ~~["Regional system board" means a community based governing~~
5 ~~board of directors of a regional system of the corporation.~~

6 ~~"Transfer date" means a date agreed to by the department~~
7 ~~and the corporation for the transfer of health systems assets to~~
8 ~~and the assumption of health systems liabilities, which includes~~
9 ~~without limitation, all debts or other obligations, contingent~~
10 ~~or certain, owing on such date, by the corporation.] "~~

11 SECTION 4. Section 323F-2, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "§323F-2 ~~[Hawaii health systems corporation.]~~ Community
14 hospital system; administered by department of health through
15 division of community hospitals. (a) There is established the
16 ~~[Hawaii health systems corporation, which shall be a public body~~
17 ~~corporate and politic and an instrumentality and agency of the~~
18 ~~State. The corporation shall be placed within the department of~~
19 ~~health for the administrative purposes specified in section 26-~~
20 ~~35(a)(6) only.]~~ community hospital system comprising all
21 community hospitals of the state government. The department of
22 health, through the division of community hospitals, shall



1 manage, operate, and maintain the community hospitals of the
2 system.

3 (b) The division shall be headed by the deputy director of
4 community hospitals, who shall be appointed by the director of
5 health without regard to chapter 76. The deputy director shall
6 report to and be under the supervision and direction of the
7 director of health.

8 The division shall be a state agency under the department
9 of health and shall not be, nor exercise any power as, a public
10 body corporate and politic or independent instrumentality or
11 agency of the State.

12 ~~[(b)]~~ (c) The ~~[corporate organization]~~ community hospital
13 system shall be divided into five ~~[regional systems],~~ regions as
14 follows:

- 15 (1) The Oahu ~~[regional health care system]~~ region;
16 (2) The Kauai ~~[regional health care system]~~ region;
17 (3) The Maui ~~[regional health care system]~~ region,
18 comprising the islands of Maui, Molokai, and Lanai;
19 (4) The east Hawaii ~~[regional health care system,~~
20 ~~comprising]~~ region, comprising the Puna district,
21 north Hilo district, south Hilo district, Hamakua
22 district, and Kau district; and



1 (5) The west Hawaii [~~regional health care system,~~
2 ~~comprising~~] region, comprising the north Kohala
3 district, south Kohala district, north Kona district,
4 and south Kona district;
5 [and] which shall be identified as [~~regional systems~~] regions I,
6 II, III, IV, and V, respectively. Each region shall comprise
7 the community hospitals within the boundaries of that region."

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

10 "**§323F-6 Records.** [~~The corporation and each regional~~
11 ~~system board~~] With respect to the community hospital system, the
12 department shall be subject to the requirements of chapter 92F,
13 except that the following categories of government records shall
14 not be required to be disclosed:

15 (1) Applications for credentials or staff privileges at
16 any of the [~~corporation's medical facilities,~~]
17 community hospitals, records from peer review
18 proceedings, and medical records; and

19 (2) Marketing strategies, strategic plans, evaluations,
20 assessments, negotiations, or rates and charges, the
21 disclosure of which would raise the cost of
22 procurement or give a manifestly unfair advantage to



1 any competitor or to any person or entity seeking to
2 do business or proposing to enter into an agreement
3 with ~~[a regional system board, the corporation,]~~ the
4 department or any of its ~~[facilities.]~~ community
5 hospitals.

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

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

15 "§323F-7 Duties and powers of the ~~[corporation and~~
16 ~~regional system boards.]~~ department. ~~[(a) Notwithstanding any~~
17 ~~other law to the contrary and unless otherwise specified, only~~
18 ~~those duties and powers related to corporation wide matters,~~
19 ~~including but not limited to corporation wide budgeting,~~
20 ~~personnel policies, procurement policies, fiscal policies,~~
21 ~~accounting policies, policies related to affiliations, joint~~
22 ~~ventures and contracts, regulatory compliance, risk management,~~



1 ~~continuing medical education programs, strategic planning, and~~
2 ~~capital planning, including the issuance of revenue bonds in any~~
3 ~~amount, shall be carried out by the corporation board in~~
4 ~~collaboration with the regional system boards. Duties and~~
5 ~~powers related to the operation of facilities within each~~
6 ~~regional system, including but not limited to regional system~~
7 ~~and facility budgeting, employment and removal of regional~~
8 ~~system and facility personnel, purchasing, regional system~~
9 ~~strategic and capital planning, organization, quality assurance,~~
10 ~~improvement and reporting, credentialing of medical staff, and~~
11 ~~the issuance of revenue bonds in any amount with corporation~~
12 ~~board approval, shall be carried out by the regional system~~
13 ~~boards, either directly or by delegation to regional and~~
14 ~~facility administration. Unless otherwise prohibited, the~~
15 ~~duties and powers granted to the corporation board may be~~
16 ~~delegated to the regional system boards.~~

17 ~~(b) Duties and powers exercised by the regional system~~
18 ~~boards under this chapter or delegated to the regional system~~
19 ~~boards by the corporation board shall be consistent with~~
20 ~~corporation wide policies. Wherever appropriate, corporation-~~
21 ~~wide policies shall take into account differences among regional~~
22 ~~systems and among types of facilities, particularly acute care,~~



1 ~~critical access, and long term care facilities within the~~
2 ~~system.~~

3 ~~New corporation wide policies, and major changes to~~
4 ~~existing policies other than those changes mandated by legal or~~
5 ~~regulatory requirements, shall be developed by the corporation~~
6 ~~board after consultation with a policies committee. The~~
7 ~~policies committee shall be made up of representatives of the~~
8 ~~corporation board and each regional system board or designees of~~
9 ~~each board. The corporation board shall have two~~
10 ~~representatives on this committee. The corporation board shall~~
11 ~~review and consider approval of the policies within thirty days~~
12 ~~of transmittal by the policies committee or at the next board~~
13 ~~meeting; provided that, if the policies committee fails to take~~
14 ~~action within thirty days of receiving the proposed policy, the~~
15 ~~corporation board may consider and adopt or reject or revise the~~
16 ~~policy. The regional system boards and corporation board, as~~
17 ~~needed, may submit a request to the committee to alter~~
18 ~~corporation wide policies along with detailed justification for~~
19 ~~the request. The regional system boards and the corporation~~
20 ~~board shall collaboratively establish a procedure to further~~
21 ~~implement this section.~~



1 ~~(c) Notwithstanding any other law to the contrary, the~~
2 ~~corporation and any of the regional system boards]~~ The
3 department shall exercise the following duties and powers[+], in
4 accordance with this chapter and other applicable law:

- 5 (1) Developing [~~corporation-wide~~] policies[+], and
6 procedures[, ~~and rules~~] necessary or appropriate to
7 plan, manage, operate, and maintain [~~manage, and~~
8 ~~control~~] the [~~system of public health facilities and~~
9 ~~services without regard to chapter 91; provided that~~
10 ~~each regional system board shall be responsible for~~
11 ~~its own policies, procedures, and rules necessary or~~
12 ~~appropriate to plan, operate, manage, and control the~~
13 ~~public health facilities within its own regional~~
14 ~~system consistent with corporate policies;~~] community
15 hospitals;
- 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;~~] and modifying the health care
20 services provided by the different community hospitals
21 to meet the basic health care needs of the communities
22 served;



1 ~~[(3) Entering into and performing any contracts, leases,~~
2 ~~cooperative agreements, partnerships, or other~~
3 ~~transactions whatsoever that may be necessary or~~
4 ~~appropriate in the performance of its purposes and~~
5 ~~responsibilities, and on terms the corporation, or~~
6 ~~regional system boards, may deem appropriate, with~~
7 ~~either.~~

8 ~~(A) Any agency or instrumentality of the United~~
9 ~~States, or with any state, territory, or~~
10 ~~possession, or with any subdivision thereof; or~~

11 ~~(B) Any person, firm, association, partnership, or~~
12 ~~corporation, whether operated on a for profit or~~
13 ~~not for profit basis;~~

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



1 ~~shall prevail; and provided further that such~~
2 ~~agreements are consistent with corporation policies;~~
3 ~~(4)]~~ (3) Conducting activities and entering into business
4 relationships as the ~~[corporation board, or any~~
5 ~~regional system board,]~~ department deems necessary or
6 appropriate, including ~~[but not limited to:~~
7 ~~(A) Creating nonprofit corporations, including but~~
8 ~~not limited to charitable fund raising~~
9 ~~foundations, to be controlled wholly by the~~
10 ~~corporation, any regional system board, or~~
11 ~~jointly with others;~~
12 ~~(B) Establishing, subscribing to, and owning stock in~~
13 ~~business corporations individually or jointly~~
14 ~~with others; and~~
15 ~~(C) Entering]~~ entering into partnerships and other
16 joint venture arrangements, or participating in
17 alliances, purchasing consortia, health insurance
18 pools, or other cooperative arrangements, with
19 any public or private entity; ~~[provided that any~~
20 ~~corporation, venture, or relationship entered~~
21 ~~into under this section furthers the public~~
22 ~~interest; provided further that this paragraph~~



1 ~~shall not be construed to authorize the~~
2 ~~corporation or a regional system board to~~
3 ~~abrogate any responsibility or obligation under~~
4 ~~paragraph (15);~~

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

9 ~~(5)]~~ (4) Participating in ~~[and developing]~~ prepaid health
10 care service and insurance programs and other
11 alternative health care delivery programs, including
12 programs involving the acceptance of capitated
13 payments or premiums that include the assumption of
14 financial and actuarial risk; ~~[provided that each~~
15 ~~regional system board shall be responsible for~~
16 ~~conducting the activities under this paragraph in its~~
17 ~~own regional system consistent with policies~~
18 ~~established by the corporation board;~~

19 ~~(6)]~~ (5) Executing, in accordance with all applicable
20 bylaws, rules, and laws, all instruments necessary or
21 appropriate ~~[in the exercise of any powers of the~~
22 ~~corporation or regional system boards;~~ for the



1 management, operation, and maintenance of the
2 community hospitals;

3 ~~[(7)]~~ (6) Preparing and executing all ~~[corporation-wide]~~
4 budgets, policies, and procedures ~~[or any regional~~
5 ~~system budgets, policies, and procedures; provided~~
6 ~~that the regional system boards shall submit their~~
7 ~~regional and facility budgets to the corporation to be~~
8 ~~consolidated into a corporation wide budget for~~
9 ~~purposes of corporation wide planning and~~
10 ~~appropriation requests. Regional system and facility~~
11 ~~budgets shall be received by the corporation and shall~~
12 ~~be included in the corporation wide budget upon~~
13 ~~submittal to the corporation;]~~ for the community
14 hospitals;

15 ~~[(8)]~~ (7) Setting rates and charges for all health care
16 services provided by the ~~[corporation without regard~~
17 ~~to chapter 91; provided that the duty and power of the~~
18 ~~corporation board shall be limited to approving the~~
19 ~~rates and charges developed by the regional system~~
20 ~~boards for the regional system's facilities and~~
21 ~~services.]~~ community hospitals. Rates and charges may
22 vary among ~~[regional systems and facilities and]~~ the



1 community hospitals of the different regions or may be
2 consolidated with the rates of [~~other regional~~
3 ~~systems~~] community hospitals of different regions into
4 one charge master. Third-party payer contracts [~~may~~]
5 shall be negotiated [~~at~~] by the [~~corporation-wide~~
6 ~~level with input from the regional systems, taking~~
7 ~~into consideration the rates set by the regional~~
8 ~~system boards. For purposes of securing revenue~~
9 ~~bonds, the corporation or regional system board may~~
10 ~~covenant to set, and if necessary increase, rates and~~
11 ~~charges as needed to pay debt service and related~~
12 ~~obligations plus a coverage factor,~~

13 ~~(9) Developing a corporation-wide hospital system that is~~
14 ~~subject to chapters 76 and 89; provided that~~
15 ~~employment of regional system and facility personnel~~
16 ~~shall be the responsibility of the regional system~~
17 ~~boards pursuant to corporation wide policies and~~
18 ~~procedures, applicable laws, rules, regulations, and~~
19 ~~collective bargaining agreements,]~~ department;

20 ~~[(10)]~~ (8) Developing [~~the corporation's corporation-wide~~]
21 capital and strategic plans [~~or any regional system~~
22 ~~board's capital and strategic plans; provided that~~



1 ~~each regional system board shall be responsible for~~
2 ~~development of capital and strategic plans in its own~~
3 ~~regional system that shall be consistent with, and~~
4 ~~incorporated into, the overall corporation wide plans,~~
5 ~~and provided further that the corporation and each~~
6 ~~regional system board shall be entitled to undertake~~
7 ~~the acquisition, construction, and improvement of~~
8 ~~property, facilities, and equipment to carry out these~~
9 ~~capital and strategic plans;~~

10 ~~(11) Suing and being sued; provided that only the~~
11 ~~corporation may sue or be sued; and provided further~~
12 ~~that the corporation and regional system boards shall~~
13 ~~enjoy the same sovereign immunity available to the~~
14 ~~State;~~

15 ~~(12) Making and altering corporation board and regional~~
16 ~~system board bylaws for its organization and~~
17 ~~management without regard to chapter 91 and consistent~~
18 ~~with this chapter; provided that each regional system~~
19 ~~board shall be responsible for the final approval of~~
20 ~~its regional system board bylaws,] for the community~~
21 ~~hospitals;~~



1 ~~[(13)]~~ (9) Adopting rules ~~[without regard to chapter 91]~~

2 governing the exercise of the ~~[corporation's or~~
3 ~~regional system boards']~~ department's powers and the
4 fulfillment of its purpose under this chapter;

5 ~~(14)~~ (10) Entering into any contract or agreement

6 whatsoever, not inconsistent with this chapter or the
7 laws of this State, ~~[and authorizing the corporation,~~
8 ~~regional system boards, and chief executive officers~~
9 ~~to enter into all contracts, execute all instruments,~~
10 ~~and do all things necessary or appropriate in the~~
11 ~~exercise of the powers granted in this chapter,~~
12 ~~including securing the payment of bonds; provided that~~
13 ~~the corporation board shall delegate to a regional~~
14 ~~system board its authority to enter into and execute~~
15 ~~contracts or agreements relating to matters~~
16 ~~exclusively affecting that regional system; provided~~
17 ~~further that a regional system board shall exercise~~
18 ~~this power consistent with corporation wide policies;~~
19 ~~and provided further that contracts or agreements~~
20 ~~executed by a regional system board shall encumber~~
21 ~~only the regional subaccounts of that regional system~~
22 ~~board;~~



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

4 ~~(A) All revenue bonds shall be issued pursuant to~~
5 ~~part III, chapter 39;~~

6 ~~(B) The corporation and any regional system board~~
7 ~~shall have the power to issue revenue bonds in~~
8 ~~any amount without regard to any limitation in~~
9 ~~chapter 39; and~~

10 ~~(C) The corporation shall have the power to incur~~
11 ~~debt, including the issuance of revenue bonds in~~
12 ~~any amount, and the regional system boards shall~~
13 ~~have the power to issue revenue bonds in any~~
14 ~~amount upon approval by the corporation board;~~

15 ~~(16) Reimbursing the state general fund for debt service on~~
16 ~~general obligation bonds or reimbursable general~~
17 ~~obligation bonds issued by the State for the purposes~~
18 ~~of the corporation or any regional system board;~~

19 ~~(17) Pledging or assigning all or any part of the receipts,~~
20 ~~revenues, and other financial assets of the~~
21 ~~corporation or the regional system boards for purposes~~
22 ~~of meeting or securing bond or health systems~~



1 ~~liabilities, provided that each regional system board~~
2 ~~shall be responsible for conducting the activities~~
3 ~~under this paragraph in its own regional system. Any~~
4 ~~pledge or assignment by the corporation or any~~
5 ~~regional system board to secure revenue bonds or~~
6 ~~health system liabilities shall be valid and binding~~
7 ~~in accordance with its terms against the pledgor,~~
8 ~~creditors, and all others asserting rights thereto~~
9 ~~from the time the pledge or assignment is made,~~
10 ~~without the need of physical delivery, recordation,~~
11 ~~filing, or further act. The corporation shall not~~
12 ~~take or omit to take any act that would interfere~~
13 ~~with, impair, or adversely affect any pledge of~~
14 ~~assignment by a regional system board pursuant to this~~
15 ~~chapter. In connection with issuing revenue bonds or~~
16 ~~related obligations, consistent with corporation~~
17 ~~policies and procedures, any regional system board may~~
18 ~~make such other covenants, binding on the regional~~
19 ~~system board and the corporation, that the regional~~
20 ~~system board determines to be necessary or appropriate~~
21 ~~to establish and maintain security for the revenue~~



1 ~~bonds or related obligations;~~ for the management,
2 operation, and maintenance of the community hospitals;

3 ~~(18)~~ (11) Owning, purchasing, leasing, exchanging, or
4 otherwise acquiring personal property~~[, whether real,~~
5 ~~personal or mixed, tangible or intangible, and of]~~ or
6 any interest therein~~[, in the name of the corporation,~~
7 ~~which property is not owned or controlled by the State~~
8 ~~but is owned or controlled by the corporation;~~
9 ~~provided that:~~

10 ~~(A)~~ ~~Regional system boards shall have custodial~~
11 ~~control over facilities and physical assets in~~
12 ~~their respective regional systems. A regional~~
13 ~~system board may own, purchase, lease, exchange,~~
14 ~~or otherwise acquire property, whether real,~~
15 ~~personal or mix, tangible or intangible, and of~~
16 ~~any interest therein, other than property owned~~
17 ~~or controlled by the corporation, in the name of~~
18 ~~the regional system board; provided further that~~
19 ~~a regional system board shall be subject to~~
20 ~~section 323F 3.5; and~~



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

~~(19) Maintaining, improving, pledging, mortgaging, selling,
or otherwise holding or disposing of property, whether
real, personal or mixed, tangible or intangible, and
of any interest therein, at any time and manner, in
furtherance of the purposes and mission of the
corporation or any regional system board; provided
that the corporation or any regional system board
legally holds or controls the property in its own
name; provided further that other than to secure
revenue bonds and related obligations and agents, the
corporation or any regional system board shall not
sell, assign, lease, hypothecate, mortgage, pledge,
give, or dispose of all or substantially all of its
property; and provided further that each regional
system board shall be responsible for conducting the
activities under this paragraph in its own regional
system, and control over such property shall be
delegated to each regional system board,] for the~~



1 management, operation, and maintenance of the
2 community hospitals;

3 ~~(20)~~ (12) Purchasing insurance [~~and creating captive~~
4 ~~insurers]~~ in any arrangement deemed in the best
5 interest of the [~~corporation,~~] community hospitals,
6 including [~~but not limited to~~] funding and payment of
7 deductibles and purchase of reinsurance; [~~provided~~
8 ~~that only the corporation shall have the power to~~
9 ~~create captive insurers to benefit public health~~
10 ~~facilities and operations in all regional systems; and~~
11 ~~provided further that a regional system board may~~
12 ~~purchase insurance for its regional system in~~
13 ~~collaboration with the other regional systems and the~~
14 ~~corporation until captive coverage is provided by the~~
15 ~~corporation;~~

16 ~~(21)~~ ~~Acquiring by condemnation, pursuant to chapter 101,~~
17 ~~any real property required by the corporation to carry~~
18 ~~out the powers granted by this chapter;~~

19 ~~(22)]~~ (13) Depositing any moneys of the [~~corporation or any~~
20 ~~regional system board]~~ division in [~~any banking~~
21 ~~institution within or without the State, and~~
22 ~~appointing, for the purpose of making deposits, one or~~



1 ~~more persons to act as custodians of the moneys of the~~
2 ~~corporation; or any regional system board; provided~~
3 ~~that regional system boards may deposit moneys in~~
4 ~~banking institutions pursuant to corporation wide~~
5 ~~guidelines established by the corporation board;]~~
6 accordance with policies and directives of the
7 department of budget and finance;

8 ~~[-(23) Contracting for and accepting]~~ (14) Accepting any
9 gifts, grants, ~~[and loans of funds,]~~ property, or any
10 other aid in any form from the federal government, the
11 State, any other state agency, or any other source, or
12 any combination thereof, and complying, subject to
13 this chapter, with the terms and conditions thereof;
14 ~~[provided that the regional system boards shall be~~
15 ~~responsible for contracting for and accepting any~~
16 ~~gifts, grants, loans, property, or other aid if~~
17 ~~intended to benefit the public health facilities and~~
18 ~~operations exclusively in their respective regional~~
19 ~~systems; and provided further that all contracting for~~
20 ~~or acceptance of gifts, grants, loans, property, or~~
21 ~~other aid shall be consistent with corporation wide~~
22 ~~policies established by the corporation board;~~



1 ~~(24)~~] (15) Providing health ~~[and medical]~~ care services for
2 the public directly or by agreement ~~[or lease]~~ with
3 any person, firm, or private or public corporation,
4 partnership, or association through or in the ~~[health~~
5 ~~facilities of the corporation or regional system~~
6 ~~boards or otherwise; provided that the regional system~~
7 ~~boards shall be responsible for conducting the~~
8 ~~activities under this paragraph in their respective~~
9 ~~regional systems;~~] community hospitals;

10 ~~[-(25)-]~~ (16) Approving medical staff bylaws, rules, and
11 medical staff appointments and reappointments for all
12 ~~[public health facilities of the corporation or any~~
13 ~~regional system board;~~] community hospitals, including
14 ~~[but not limited to]~~ determining the conditions under
15 which a health professional may be extended the
16 privilege of practicing within a ~~[health facility, as~~
17 ~~determined by the respective regional system board and~~
18 ~~consistent with corporate wide policies;~~] community
19 hospital and adopting and implementing reasonable
20 ~~[rules, without regard to chapter 91;~~] policies for
21 the credentialing and peer review of all persons and
22 health professionals within the ~~[facility; provided~~



1 ~~that regional system boards shall be the governing~~
2 ~~body responsible for all medical staff organization,~~
3 ~~peer review, and credentialing activities to the~~
4 ~~extent allowed by law;~~

5 ~~(26) (A) Investing any funds not required for immediate~~
6 ~~disbursement in property or in securities that~~
7 ~~meet the standard for investments established in~~
8 ~~chapter 88 as provided by the corporation board~~
9 ~~or any regional system board; provided that~~
10 ~~proceeds of bonds and moneys pledged to secure~~
11 ~~bonds may be invested in obligations permitted by~~
12 ~~any document that authorizes the issuance or~~
13 ~~securing of bonds; and provided further that the~~
14 ~~investment assists the corporation or any~~
15 ~~regional system board in carrying out its public~~
16 ~~purposes; selling from time to time securities~~
17 ~~thus purchased and held, and depositing any~~
18 ~~securities in any bank or financial institution~~
19 ~~within or without the State. Any funds deposited~~
20 ~~in a banking institution or in any depository~~
21 ~~authorized in this section shall be secured in a~~
22 ~~manner and subject to terms and conditions as the~~



1 ~~corporation board or a regional system board may~~
2 ~~determine, with or without payment of any~~
3 ~~interest on the deposit, including without~~
4 ~~limitation time deposits evidenced by~~
5 ~~certificates of deposit. Any bank or financial~~
6 ~~institution incorporated under the laws of this~~
7 ~~State may act as depository of any funds of the~~
8 ~~corporation or a regional system board and may~~
9 ~~issue indemnity bonds or may pledge securities as~~
10 ~~may be required by the corporation or regional~~
11 ~~system board; provided that regional system~~
12 ~~boards may exercise the powers under this~~
13 ~~subsection with respect to financial assets of~~
14 ~~the regional system consistent with corporation-~~
15 ~~wide policies; 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 or~~
20 ~~regional system board and of any moneys held in~~
21 ~~trust or otherwise for the payment of notes or~~
22 ~~bonds and carrying out the contract. Moneys held~~



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

8 [(27)] (17) Entering into any contract or agreement with
9 ~~[the State, including but not limited to contracts]~~ a
10 state agency for the provision of goods, services, and
11 facilities in support of the ~~[corporation's programs~~
12 ~~or the regional system boards' programs, and~~
13 ~~contracting for the provision of services to or on~~
14 ~~behalf of the State; provided that the regional system~~
15 ~~boards shall be responsible for entering into~~
16 ~~agreements to provide goods, services, and facilities~~
17 ~~in support of programs in their respective regional~~
18 ~~systems consistent with corporation wide policies;~~
19 (28) ~~Having a seal and altering the same at pleasure;~~
20 (29) ~~Waiving, by means that the corporation or regional~~
21 ~~system board deems appropriate, the exemption from~~
22 ~~federal income taxation of interest on the~~



1 ~~corporation's or regional system boards' bonds, notes,~~
2 ~~or other obligations provided by the Internal Revenue~~
3 ~~Code of 1986, as amended, or any other federal statute~~
4 ~~providing a similar exemption;~~

5 ~~(30) Developing internal policies and procedures for the~~
6 ~~procurement of goods and services, consistent with the~~
7 ~~goals of public accountability and public procurement~~
8 ~~practices, and subject to management and financial~~
9 ~~legislative audits, provided that the regional system~~
10 ~~boards shall be responsible for developing internal~~
11 ~~policies and procedures for each of their regional~~
12 ~~systems consistent with the corporation's policies and~~
13 ~~procedures; and further provided that:~~

14 ~~(A) The regional system boards and the corporate~~
15 ~~board shall enjoy the exemption under section~~
16 ~~103-53(e);~~

17 ~~(B) The regional system boards shall enjoy the~~
18 ~~exemption under chapter 103D; and~~

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

20 ~~(31) Authorizing and establishing positions; provided that~~
21 ~~regional system boards shall be responsible for hiring~~
22 ~~and firing regional and facility personnel consistent~~



1 ~~with corporation policies, except a regional chief~~
2 ~~executive officer and regional chief financial officer~~
3 ~~shall only be hired or dismissed upon the approval of~~
4 ~~the regional system board and the corporation board as~~
5 ~~further set forth in section 323F-8.5,~~

6 ~~(32) Having and exercising all rights and powers necessary~~
7 ~~or incidental to or implied from the specific powers~~
8 ~~granted in this chapter, which specific powers shall~~
9 ~~not be considered as a limitation upon any power~~
10 ~~necessary or appropriate to carry out the purposes and~~
11 ~~intent of this chapter, provided that the regional~~
12 ~~system boards shall be responsible for having and~~
13 ~~exercising all powers and rights with respect to~~
14 ~~matters in their regional systems consistent with the~~
15 ~~law; and~~

16 ~~(33) Each regional system, through its regional system~~
17 ~~board, shall:~~

18 ~~(A) Develop policies and procedures necessary or~~
19 ~~appropriate to plan, operate, manage, and control~~
20 ~~the day to day operations of facilities within~~
21 ~~the regional system that are consistent with~~
22 ~~corporation wide policies,~~



~~(B) Exercise custodial control over and use of all
assets of the corporation that are located in the
regional system pursuant to this chapter; and
(C) Expend funds within its approved regional system
budget and expend additional funds in excess of
its approved regional system budget upon approval
of the corporation board.] community hospitals;
and~~

(18) Establishing positions for the division and community
hospitals as authorized by relevant appropriations
acts and laws. Personnel occupying the positions
shall be subject to chapters 76 and 89, except as
otherwise provided under section 323F-8.

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

~~(e) The duties and powers granted to the corporation or
any regional system board may not be used to enter into~~



~~contractual or business relationships that have the practical effect of allowing or are intended to allow private sector counterparts to replace existing employee positions or responsibilities within the corporation or in any regional system or its facilities; provided the corporation or regional system boards shall be allowed to enter into such relationships to the extent and for the purposes that the division of community hospitals could have done under collective bargaining contracts that were in effect for the 1995-1996 fiscal year.] "~~

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

"§323F-8 ~~[Chief executive officer, exempt]~~ Exempt positions. (a) ~~[The corporation board may appoint, exempt from chapter 76 and section 26-35(a)(4), a chief executive officer of the corporation whose salary shall be set by the corporation board. The chief executive officer]~~ In addition to authorized civil service personnel, the director may [also] appoint [up to eighteen other] personnel [7] exempt from chapters 76 and 89, [to work directly for the chief executive officer and the corporate board.] as authorized by relevant appropriations acts and laws, for the management, operation, and maintenance of the community hospitals.



1 (b) The ~~[corporation board or its designee]~~ department 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.

5 (c) The ~~[corporation's chief executive officer or the~~
6 ~~chief executive officer's designee]~~ department may appoint,
7 exempt from chapters 76 and 89, hospital administrators,
8 assistant administrators, directors of nursing, medical
9 directors, and staff physicians, to facilitate the management,
10 operation, and maintenance of [facilities within the
11 ~~corporation, provided that directors of nursing appointed before~~
12 ~~July 1, 1998, may maintain their civil service status as~~
13 ~~provided in chapter 76 by so communicating in writing to the~~
14 ~~chief executive officer by October 31, 1998. Hospital~~
15 ~~administrators and assistant administrators appointed before~~
16 ~~July 1, 1983, may maintain their permanent civil service status~~
17 ~~as provided in chapter 76.]~~ the community hospitals.

18 (d) Hiring, firing, compensation packages, and other
19 personnel actions with respect to employees not covered by
20 chapter 76 and 89 shall be governed by policies and guidelines
21 established by the ~~[corporation,]~~ department and other laws,
22 except as otherwise provided in this chapter.



1 ~~[(c) Upon the establishment of a regional system board,~~
2 ~~the authority to appoint regional hospital administrators,~~
3 ~~assistant administrators, directors of nursing, medical~~
4 ~~directors, and staff physicians under subsection (c) shall be~~
5 ~~superseded by section 323F-8.5 for that regional system. No~~
6 ~~incumbent personnel shall lose a position without specific~~
7 ~~action taken by the regional system board.] "~~

8 SECTION 8. Section 323F-10, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "**§323F-10 Regional [public health facility] management**
11 **advisory committees.** (a) ~~[On the transfer date, there shall~~
12 ~~be] There is established within the [corporation] division for~~
13 ~~each region[7] a [public health facility] regional management~~
14 ~~advisory committee to consist of nine members [initially to be~~
15 ~~appointed by the chief executive officer of the corporation with~~
16 ~~the advice of the hospital administrators of the facilities in~~
17 ~~the affected regions]. The members shall serve for a term of~~
18 ~~four years[7, provided that upon the initial appointment of the~~
19 ~~members, two shall be appointed for a term of one year, two for~~
20 ~~a term of two years, two for a term of three years, and three~~
21 ~~for a term of four years].~~



1 On July 1, 2010, all members of the former public health
2 facility management advisory committee for a region shall become
3 members of the regional management advisory committee for that
4 region without necessity of reappointment; provided that their
5 terms shall end on June 30, 2012, notwithstanding the terms to
6 which they were previously appointed.

7 ~~[Following the initial appointments by the chief executive~~
8 ~~officer of the corporation board,]~~ From July 1, 2010, any
9 vacancies on a regional management advisory committee shall be
10 filled by ~~[a simple majority vote of the members of the~~
11 ~~executive committee from a list of qualified nominees submitted~~
12 ~~by the regional committee in which the vacancy occurred. If a~~
13 ~~regional committee vacancy remains unfilled for more than thirty~~
14 ~~days, that vacancy may be filled by the chief executive officer~~
15 ~~of the corporation.]~~ the director of health.

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



1 The regional management advisory committee for the East
2 Hawaii region shall have three members who reside in the Ka'u
3 district, three members who reside in the Hamakua/North Hilo
4 districts, and three members who reside in the South Hilo/Puna
5 districts.

6 The regional management advisory committee for the West
7 Hawaii region shall have not less than three members who reside
8 in the North Kohala/South Kohala districts.

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

21 The members of the regional management advisory committees
22 shall serve without compensation, but shall be reimbursed for



1 traveling expenses incurred in the performance of their duties.

2 The ~~[corporation]~~ department shall provide for the necessary
3 expenses of the committees; provided that no expenses may be
4 incurred without prior authorization by the ~~[chief executive~~
5 ~~officer.]~~ director.

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

19 (c) Each regional management advisory committee ~~[may]~~
20 shall prepare a report for inclusion with the ~~[corporation's]~~
21 department's annual report and audit~~[, which shall include but~~
22 ~~not be limited to comments and analyses on the corporation's~~



1 ~~regional operational and capital improvement budgets for its~~
2 ~~respective region.~~

3 ~~(d) Upon the establishment of a regional system board for~~
4 ~~a regional system pursuant to section 323F 3.5, this section~~
5 ~~shall no longer apply to that regional system]."~~

6 SECTION 9. Section 323F-10.5, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "§323F-10.5 [~~Executive public health facility~~] Community
9 hospital system management advisory committee; establishment.

10 (a) There is established [within] the [~~corporation an executive~~
11 ~~public health facility~~] community hospital system management
12 advisory committee to consist of the chairpersons of each of the
13 five regional [~~public health facility~~] management advisory
14 committees. The [~~executive~~] community hospital system
15 management advisory committee shall[, ~~through its chairperson,~~
16 ~~represent the interests of all regional committees on the~~
17 ~~corporation board.~~] provide advice to the department and
18 division on the management, operation, and maintenance of the
19 community hospitals.

20 [~~(b) The executive committee shall select its own~~
21 ~~chairperson to serve on the corporation board and shall adopt~~
22 ~~rules governing the terms of office and removal from the~~



1 ~~corporation board. The executive committee shall also adopt~~
2 ~~rules governing the terms of office for each of the five~~
3 ~~regional committee chairpersons. The executive committee may~~
4 ~~also adopt other rules as it may consider necessary for the~~
5 ~~conduct of its business.~~

6 ~~(e)]~~ (b) The members of the [executive] community hospital
7 system management advisory committee shall serve without
8 compensation, but shall be reimbursed for reasonable expenses
9 incurred in the performance of their duties.

10 ~~[(d) Upon the establishment of a regional system board for~~
11 ~~a regional system pursuant to section 323F-3.5, this section~~
12 ~~shall no longer apply to that regional system.] "~~

13 SECTION 10. Section 323F-10.6, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "**§323F-10.6 Peer review and credentialing.** Peer review
16 activities of the community hospitals and its officers and
17 employees shall be subject to chapters 663 and 671D and all
18 other provisions and restrictions of medical peer review
19 committees established by state law."

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



1 "§323F-21 **Fiscal provisions.** (a) There is created in the
2 state treasury a special fund to be known as the [health
3 ~~systems]~~ community hospital system special fund, into which
4 shall be deposited all fees, proceeds, reimbursements, and the
5 like owed to or received by the [~~corporation, any regional~~
6 ~~system board,~~] division and its [~~facilities, except as herein~~
7 ~~provided.~~] community hospitals. There shall be established,
8 within the special fund, regional subaccounts for each regional
9 system [~~board upon its establishment~~]. The special fund and the
10 regional subaccounts shall be used solely to fulfill the
11 purposes outlined in this chapter.

12 ~~[The corporation and each regional system board may~~
13 ~~establish and maintain, within the health systems special fund~~
14 ~~or any regional subaccount, any other accounts that may be~~
15 ~~necessary and appropriate to carry out its purposes and~~
16 ~~responsibilities.~~

17 ~~The corporation and any regional system board may deposit~~
18 ~~moneys into trustee accounts for the purposes of securing or~~
19 ~~issuing bonds.]~~

20 The [~~corporation and regional system boards~~] department may
21 provide reasonable reserves for any of the following purposes[+]
22 with respect to the community hospitals:



1 (1) Insurance deductibles;

2 (2) The improvement, replacement, or expansion of their
3 facilities, furniture, fixtures, equipment, or
4 services; or

5 ~~[(3) The securing of the corporation's or regional system~~
6 ~~boards' bonds, notes, or other instruments of~~
7 ~~indebtedness; or~~

8 ~~(4)]~~ (3) Any other purpose the ~~[corporation or the~~
9 ~~regional system boards deem]~~ department deems
10 necessary or appropriate in the performance of ~~[their]~~
11 the department's purposes and responsibilities ~~[.]~~
12 regarding the community hospital system.

13 (b) The ~~[corporation board and regional system boards]~~
14 department shall ~~[collaboratively]~~ develop budgetary guidelines
15 and annual operating and capital budgets for each ~~[facility,~~
16 community hospital, taking into account anticipated surpluses
17 from or subsidies to the ~~[facilities pursuant to the annual~~
18 ~~guidelines described in this section,~~ community hospital,
19 accumulated ~~[corporation and regional]~~ reserves and accounts ~~[.]~~
20 payable and receivable, subsidies, if any, that are determined
21 to be needed from the general fund, and other sources of
22 ~~[corporation wide and regional]~~ income as may be identified.



~~[Two year budgets will be approved for regional system boards,
in alignment with State of Hawaii biennium budgeting. The
corporate board shall not alter the two year budget of a
regional system except:~~

- ~~(1) Where state general funding is reduced;~~
- ~~(2) An emergency exists; or~~
- ~~(3) There is a renegotiated budget approved by a regional
system board.~~

~~The corporation and regional system boards shall collaboratively
develop budgetary guidelines and negotiate with each facility
reasonable corporation administrative costs, including funds
determined by the corporation or any regional system board to be
needed from or provided to each facility to:~~

- ~~(1) Repay corporation or regional system board debts;~~
- ~~(2) Provide subsidies to any facility determined to be
unable to fund from within that facility's programs
and services deemed essential to community needs; and~~
- ~~(3) Maintain appropriate reserves.~~

~~(c) The corporation and regional system boards shall
collaboratively develop annual corporation operating and capital
budgets, taking into account anticipated surpluses from or
subsidies to the facilities pursuant to the annual guidelines~~



1 ~~described in this section, accumulated corporation and regional~~
2 ~~system board reserves and accounts, subsidies, if any, that are~~
3 ~~determined to be needed from the general fund, and other sources~~
4 ~~of corporation wide and regional system board income as may be~~
5 ~~identified.~~

6 ~~(d) Beginning with the first of the legislative biennium~~
7 ~~budget years following the establishment of a regional system~~
8 ~~board, and for each biennium period thereafter, the corporation~~
9 ~~shall call together all the regional systems through~~
10 ~~representatives selected by each regional system board, and the~~
11 ~~chairs of the facility management advisory committees, if any,~~
12 ~~to determine which services and functions should be provided by~~
13 ~~the corporation for the next biennium budget period, consistent~~
14 ~~with this chapter. As part of the biennium budgeting process,~~
15 ~~the corporation board and the representatives of each regional~~
16 ~~system, working through the corporation board regional~~
17 ~~representatives, shall agree upon an allocation methodology for~~
18 ~~funding the agreed upon and statutorily created corporate~~
19 ~~services and functions.~~

20 ~~(e)]~~ (c) The ~~[corporation]~~ department may ~~[share in any~~
21 ~~facility's]~~ provide for the transfer of a community hospital's
22 surplus ~~[and may offset any facility's deficits as provided~~



1 ~~herein. Any regional system board shall share in the surplus of~~
2 ~~any facility within the regional system and shall offset any~~
3 ~~facility deficits within its regional system. Operating~~
4 ~~surpluses of the regional system board shall be reinvested in~~
5 ~~the operations of that regional system in any prudent manner,~~
6 ~~provided that upon request, and subject to authorization by the~~
7 ~~regional system board, the regional system board may share its~~
8 ~~surplus or resources with a facility outside of the regional~~
9 ~~system to benefit the corporation wide system of health care.~~
10 ~~Obligations undertaken by a facility shall be paid only from~~
11 ~~funds of that facility, unless the corporation board, the~~
12 ~~regional system board managing the facility, or an authorized~~
13 ~~agent explicitly agrees to guarantee the obligation. Loans and~~
14 ~~other transfers may be made between regional systems upon~~
15 ~~approval of the affected regional system boards to assist in the~~
16 ~~cash flow and operations of the public health facilities.~~

17 ~~(f) In accordance with each annual facility budget, and~~
18 ~~subject to policies established by the corporation board and by~~
19 ~~each regional system board, each facility of the corporation and~~
20 ~~regional system board, respectively, shall:~~

21 ~~(1) Bill and collect for its services;~~

22 ~~(2) Maintain bank accounts; and~~



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

~~(g) The corporation and each regional system board,
subject to policies established by the corporation and each
regional system board, respectively, may elect to manage its own
capital improvement project and funds, either directly or
indirectly by contract; provided that annual reports of the
project moneys are provided to the governor and legislature.] to
fund another community hospital's deficit.~~

~~[-(h)] (d) The [corporation board and regional system
boards] department may hold public informational meetings on
[their] the budgets[. Representatives of any county government,
state government, or any other person having an interest in the
budget, shall have the right to be heard at the meetings.] for
the community hospitals."~~

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

**"§323F-22 Annual audit and report; disclosure of revenue
projections. (a) The [corporation] department shall engage a
certified public accountant to conduct an annual audit of its
financial affairs, books, and records in accordance with
generally accepted accounting principles. [The corporation, in**



1 ~~consultation with a regional system board, may permit or require~~
2 ~~a regional system board to retain an audit firm to conduct an~~
3 ~~independent audit of the regional system. Each regional system~~
4 ~~board shall submit the results of the annual audit to the~~
5 ~~corporation board within one hundred twenty days after the close~~
6 ~~of the regional system board's fiscal year.] The [corporation]~~
7 department shall submit to the governor and the legislature,
8 within one hundred fifty days after the close of the
9 ~~[corporation's]~~ fiscal year, a report that shall include the
10 audited financial report for that fiscal year for the
11 ~~[corporation and each regional system board.]~~ division and its
12 community hospitals.

13 (b) In addition to the submittal of the audit required
14 under subsection (a), the ~~[corporation, in cooperation with the~~
15 ~~regional system boards,]~~ department shall submit a report to the
16 legislature at least twenty days prior to the convening of each
17 regular session that shall include ~~[but not be limited to:]~~ the
18 following:

19 (1) The projected revenues for each ~~[health care~~
20 ~~facility,]~~ community hospital; and



(2) A list of all proposed capital improvement projects
for the community hospitals that are planned for
implementation during the following fiscal year[~~7~~ and

~~(3) All reports submitted by regional public health
facility management advisory committees pursuant to
section 323F-10(e).~~

~~(e) The regional system boards shall prepare a report for
inclusion with the corporation's annual report and audit]."~~

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

"§323F-23 Exemption from taxation. The ~~[corporation and
each regional system board]~~ division and community hospitals
shall be exempt from paying any:

- (1) Assessments or taxes levied by any county; and
- (2) State taxes of any kind."

SECTION 14. Section 323F-31, Hawaii Revised Statutes, is
amended to read as follows:

"§323F-31 ~~[Maintenance]~~ Notification of planned
substantial reduction of services. (a) The ~~[corporation and
each regional system board]~~ department shall notify the
legislature of any planned substantial reduction or elimination
of direct patient care services~~[-]~~ at a community hospital. The



1 department shall provide the notification at least sixty days
2 before implementing the planned substantial reduction or
3 elimination; except that the department may provide the
4 notification within a shorter period if the planned substantial
5 reduction or elimination is the result of an emergency situation
6 that was unforeseeable at least sixty days before
7 implementation.

8 ~~[(b) No substantial reduction or elimination of direct~~
9 ~~patient care services at any facility shall be undertaken by the~~
10 ~~corporation without the approval of the legislature.]~~

11 ~~(c) The legislature shall maintain review and oversight~~
12 ~~authority over the provision of direct patient care services~~
13 ~~provided at each facility and may intervene to counter or~~
14 ~~restrict any substantial reduction or elimination of patient~~
15 ~~care services.]~~

16 (b) For the purposes of this section:

17 "Elimination of service" means a decision on a particular
18 service that is intended to result in no more operating
19 expenditure for that service.

20 "Substantial reduction of service" means a reduction of a
21 particular service that is reasonably expected to result in an
22 annual operating expenditure of ten per cent less than the



1 annual actual or budgeted operating expenditure for that service
2 in the previous fiscal year."

3 SECTION 15. Section 323F-32, Hawaii Revised Statutes, is
4 amended to read as follows:

5 " ~~[+]~~ §323F-32 ~~[+]~~ **Acquisition of Kahuku hospital.** (a)

6 Kahuku hospital on Oahu may be assimilated into the Hawaii
7 health systems corporation in a manner and to an extent that may
8 be negotiated between the former Hawaii health systems
9 corporation and Kahuku hospital. After assimilation, the
10 physical assets and the ground lease of Kahuku hospital shall
11 become the property of the corporation, and Kahuku hospital
12 shall be operated by the corporation.

13 ~~[(b)]~~ None of the liabilities of Kahuku hospital shall
14 become liabilities of the corporation.

15 ~~[(e)]~~ The corporation, at its discretion, may retain any or
16 all medical and nonmedical employees of Kahuku hospital.

17 ~~[(d)]~~ The corporation, without regard to section 323F-31,
18 may adjust the levels of services provided by Kahuku hospital.

19 ~~[(e)]~~ Kahuku hospital shall be exempt from chapter 102 and
20 section 103-53, and its board of directors, if any, shall be
21 exempt from part I of chapter 92.



1 ~~[-(f)]~~ The purchase of goods and services by or on behalf of
2 Kahuku hospital shall be exempt from chapters 103D and 103F.

3 ~~[-(g)]~~ Employees of Kahuku hospital shall be exempt from
4 chapters 76, 87A, 88, and 89, and shall not be considered ~~[as]~~
5 employees of the State.

6 (b) On July 1, 2010, Kahuku hospital shall be placed under
7 the division and managed, operated, and maintained under the
8 same terms and conditions as those in effect on June 30, 2010,
9 or as may be subsequently changed by the division."

10 SECTION 16. Section 323F-3, Hawaii Revised Statutes, is
11 repealed.

12 ~~["§323F-3 Corporation board. (a) The corporation shall~~
13 ~~be governed by a fifteen member board of directors that shall~~
14 ~~carry out the duties and responsibilities of the corporation~~
15 ~~other than those duties and responsibilities relating to the~~
16 ~~establishment of any captive insurance company pursuant to~~
17 ~~section [323F-7(c)(20)] and the operation thereof.~~

18 ~~(b) Twelve members of the corporation board shall be~~
19 ~~appointed as follows:~~

20 ~~(1) Two members from regional system I who reside in the~~
21 ~~city and county of Honolulu shall be appointed by the~~
22 ~~governor from a list consisting of four individuals,~~



1 ~~two individuals submitted by the speaker of the house~~
2 ~~of representatives and two individuals submitted by~~
3 ~~the president of the senate within fifteen days of~~
4 ~~July 1, 2007; provided that this list shall not~~
5 ~~include physicians;~~

6 ~~(2) Two members from regional system II who reside in the~~
7 ~~county of Kauai shall be appointed by the governor~~
8 ~~from a list consisting of four individuals, two~~
9 ~~individuals 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;~~

14 ~~(3) Two members from regional system III who reside in the~~
15 ~~county of Maui shall be appointed by the governor from~~
16 ~~a list consisting of four individuals, two individuals~~
17 ~~submitted by the speaker of the house of~~
18 ~~representatives and two individuals submitted by the~~
19 ~~president of the senate within fifteen days of July 1,~~
20 ~~2007; provided that this list shall not include~~
21 ~~physicians;~~



1 ~~(4) Two members from regional system IV who reside in the~~
2 ~~eastern section of the county of Hawaii shall be~~
3 ~~appointed by the governor from a list consisting of~~
4 ~~four individuals, two individuals submitted by the~~
5 ~~speaker of the house of representatives and two~~
6 ~~individuals submitted by the president of the senate~~
7 ~~within fifteen days of July 1, 2007; provided that~~
8 ~~this list shall not include physicians;~~

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

17 ~~(6) Two additional members who reside in the State shall~~
18 ~~be appointed by the governor.~~

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



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

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

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

20 ~~The appointed board members shall serve for a term of four~~
21 ~~years; provided that the first member appointed from each~~
22 ~~regional system shall be appointed for a term of two years.~~



1 ~~Any vacancy shall be filled in the same manner provided for~~
2 ~~the original appointments. The corporation board shall elect~~
3 ~~its own chair from among its members. Appointments to the~~
4 ~~corporation board shall be as representative as possible of the~~
5 ~~system's stakeholders as outlined in this subsection.~~

6 ~~(c) The selection, appointment, and confirmation of any~~
7 ~~nominee shall be based on ensuring that board members have~~
8 ~~diverse and beneficial perspectives and experiences and that~~
9 ~~they include, to the extent possible, representatives of the~~
10 ~~medical, business, management, law, finance, and health sectors,~~
11 ~~and patients or consumers. Members of the board shall serve~~
12 ~~without compensation but may be reimbursed for actual expenses,~~
13 ~~including travel expenses incurred in the performance of their~~
14 ~~duties.~~

15 ~~(d) Any member of the board may be removed for cause by~~
16 ~~the governor or for cause by vote of a two thirds majority of~~
17 ~~the board's members then in office. For purposes of this~~
18 ~~section, cause shall include without limitation:~~

19 ~~(1) Malfeasance in office;~~

20 ~~(2) Failure to attend regularly called meetings;~~

21 ~~(3) Sentencing for conviction of a felony, to the extent~~

22 ~~allowed by section 831-2, or~~



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

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

SECTION 17. Section 323F-3.5, Hawaii Revised Statutes, is
repealed.

~~"[§323F-3.5] Regional system boards. (a) There is
hereby established a regional system board of directors to
govern each of the five regional systems specified in section
323F-2, no later than January 1, 2008. The regional system
boards of directors shall carry out the duties and
responsibilities as set forth in this chapter and as further
delegated by the corporation.~~

~~(b) Upon its establishment, a regional system board shall
assume custodial care of all financial assets, real property,
including land, structures, and fixtures, or other physical
assets, such as personal property, including furnishings,
equipment, and inventory, of the corporation within its regional
system. No sale or encumbrance of any such real property or~~



1 ~~such other financial assets, physical assets of the corporation~~
2 ~~shall be permitted without the mutual consent of the Hawaii~~
3 ~~health systems corporation board and the appropriate regional~~
4 ~~system board. No additional debts or liabilities or superior~~
5 ~~debts shall be added by the corporation to any regional system~~
6 ~~board that would negatively impact the holders of bond notes.~~
7 ~~Each regional system board shall be liable for any liabilities~~
8 ~~arising from financial assets, real or personal property in its~~
9 ~~custodial care.~~

10 ~~(c) Each regional system shall be governed by a regional~~
11 ~~system board of directors to consist of not less than seven~~
12 ~~members and not more than fifteen members, as determined by the~~
13 ~~regional system board after the initial regional system board is~~
14 ~~established.~~

15 ~~(1) Each regional system board shall initially consist of~~
16 ~~twelve members to be appointed by the governor under~~
17 ~~section 26-34 or as provided in this section, as~~
18 ~~follows:~~

19 ~~(A) Four members shall be appointed by the governor~~
20 ~~within thirty days of receipt of a qualified list~~
21 ~~of candidates as follows:~~



1 ~~(i) Two members shall be chosen from a list of~~
2 ~~four individuals submitted by the speaker of~~
3 ~~the house of representatives within fifteen~~
4 ~~days of July 1, 2007; provided that this~~
5 ~~list shall not include physicians; and~~

6 ~~(ii) Two members shall be chosen from a list of~~
7 ~~four individuals submitted by the president~~
8 ~~of the senate within fifteen days of July 1,~~
9 ~~2007; provided that this list shall not~~
10 ~~include physicians;~~

11 ~~(B) Four members shall be appointed by the governor~~
12 ~~within thirty days from a list of eight~~
13 ~~individuals nominated by the regional public~~
14 ~~health facility management advisory committee~~
15 ~~within fifteen days of July 1, 2007. These~~
16 ~~individuals may be medical and health care~~
17 ~~providers and professionals, consumers, and~~
18 ~~knowledgeable individuals in other appropriate~~
19 ~~areas such as business, finance, and law;~~
20 ~~provided that these individuals shall not be~~
21 ~~physicians currently in active practice;~~



1 ~~(C) Three physicians shall be appointed by the~~
2 ~~governor within thirty days from a list submitted~~
3 ~~within fifteen days of July 1, 2007, of six~~
4 ~~physicians nominated by a majority vote of the~~
5 ~~medical staff of the public health facilities in~~
6 ~~the regional system present at a duly noticed~~
7 ~~meeting from a list of qualified candidates~~
8 ~~submitted by the medical executive committees in~~
9 ~~the regional system; and~~

10 ~~(D) The corporation board chairperson or~~
11 ~~chairperson's designee shall serve as an ex~~
12 ~~officio, nonvoting member of each regional system~~
13 ~~board;~~

14 ~~(2) One member of each regional system board nominated by~~
15 ~~the speaker of the house of representatives, the~~
16 ~~president of the senate, and medical executive~~
17 ~~committees in a regional system shall be appointed for~~
18 ~~a term of two years;~~

19 ~~(3) One member of each initial regional system board~~
20 ~~nominated by the regional public health facility~~
21 ~~management advisory committee for the regional system~~
22 ~~shall be appointed for a term of two years;~~



1 ~~(4) The remaining members of each initial regional system~~
2 ~~board and all members appointed thereafter shall be~~
3 ~~appointed for terms of three years; and~~

4 ~~(5) New regional system board members appointed to any~~
5 ~~regional system board after the initial regional~~
6 ~~system board shall be selected by a two thirds~~
7 ~~affirmative vote of the existing regional system board~~
8 ~~members.~~

9 ~~Except for the ex officio members of each regional system board,~~
10 ~~all other members of a regional system board shall be residents~~
11 ~~of the region. Each regional system board shall elect its own~~
12 ~~chair.~~

13 ~~(d) Each regional system board shall be responsible for~~
14 ~~local governance, operations, and administration of the delivery~~
15 ~~of services in its respective regional system as set forth in~~
16 ~~this chapter and as further delegated by the corporation. Each~~
17 ~~regional system board shall include medical and health care~~
18 ~~providers and professionals, consumers, and knowledgeable~~
19 ~~individuals in other appropriate areas, such as business,~~
20 ~~finance, and law; provided that no more than three members of~~
21 ~~the regional system board shall be physicians. Each regional~~



1 ~~system board shall be as balanced and representative of the~~
2 ~~community stakeholders as possible.~~

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

- 8 ~~(1) Malfeasance in office;~~
9 ~~(2) Persistent failure to attend regularly called~~
10 ~~meetings;~~
11 ~~(3) Sentencing for conviction of a felony, to the extent~~
12 ~~allowed by section 831-3.1; or~~
13 ~~(4) Any other cause that may render a member incapable of~~
14 ~~discharging or unfit to discharge the duties required~~
15 ~~under this chapter."]~~

16 SECTION 18. Section 323F-4, Hawaii Revised Statutes, is
17 repealed.

18 [~~"§323F-4 Board meetings. (a) The corporation board and~~
19 ~~each regional system board shall be exempt from part I of~~
20 ~~chapter 92 and shall meet no fewer than four times a year;~~
21 ~~provided that the regional system boards and the corporation~~
22 ~~board shall meet together at least once a year. Each regional~~



1 ~~board shall meet at least six times each year; provided that two~~
2 ~~of these meetings shall be public community meetings for the~~
3 ~~purpose of informing the community and taking comment on the~~
4 ~~regional system's performance if these meetings are in addition~~
5 ~~to the four board meetings. The public community meetings shall~~
6 ~~be advertised in a newspaper of general circulation in the~~
7 ~~regional system at least two weeks in advance.~~

8 ~~(b) All business of the corporation board and each~~
9 ~~regional system board shall be conducted at a regular or special~~
10 ~~meeting at which a quorum is present, consisting of at least a~~
11 ~~majority of the directors then in office. The corporation board~~
12 ~~and each regional system board shall adopt procedural rules for~~
13 ~~meetings, not subject to chapter 91, that shall include~~
14 ~~provisions for meetings via electronic and telephonic~~
15 ~~communications and other methods that allow the boards to~~
16 ~~conduct business in a timely and efficient manner. Any action~~
17 ~~of the corporation board or each regional system board shall~~
18 ~~require the affirmative vote of a majority of those present and~~
19 ~~voting at the meeting; except that a vote of two thirds of the~~
20 ~~entire membership of the respective board then in office shall~~
21 ~~be required for any of the following actions:~~



- ~~(1) Removal by the corporation board or respective regional system board of one of its members;~~
- ~~(2) Amendment by the corporation or a regional system board of its bylaws;~~
- ~~(3) Hiring or removing the chief executive officer of the corporation or regional chief executive officer;~~
- ~~(4) Filling of vacancies on a board; and~~
- ~~(5) Any other actions as provided by the corporation or regional system board bylaws."]~~

SECTION 19. Section 323F-4.5, Hawaii Revised Statutes, is repealed.

~~["**§323F-4.5** **Captive insurance board.** (a) There is established a ten member captive insurance board that shall carry out the corporation's duties and responsibilities relating to the establishment of any captive insurance company pursuant to section ~~[323F-7(c)(20)]~~ and the operation thereof.~~

~~(b) Eight members of the captive insurance board shall be appointed by the governor as follows:~~

- ~~(1) Three members from a list of five persons submitted by the president of the senate; provided that at least one of these members shall have experience in the insurance industry and financial matters;~~



~~(2) Three members from a list of five persons submitted by the speaker of the house of representatives; provided that at least one of these members shall have experience in the insurance industry and financial matters; and~~

~~(3) Two members, one of whom shall be the chief executive officer or chief financial officer of an insurer licensed to do business in the State and shall serve as a nonvoting member.~~

~~The director of health or the director's designee and the insurance commissioner or the commissioner's designee shall serve as ex officio, nonvoting members.~~

~~Any vacancy shall be filled in the same manner provided for the original appointments. The captive insurance board shall elect its own chair from among its members.~~

~~(c) The selection, appointment, and confirmation of any appointed nominee shall be based on ensuring that captive insurance board members have diverse and beneficial perspectives and experiences and that they include, to the extent possible, representatives of the insurance and/or finance sectors. Members of the captive insurance board shall serve without compensation but may be reimbursed for actual expenses,~~



1 ~~including travel expenses incurred in the performance of their~~
2 ~~duties.~~

3 ~~(d) Any appointed member of the captive insurance board~~
4 ~~may be removed for cause by the governor or for cause by vote of~~
5 ~~a two thirds majority of the captive insurance board members~~
6 ~~then in office. For purposes of this section, cause shall~~
7 ~~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, 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 ~~(e) No member of the captive insurance board shall be an~~
20 ~~employee or vendor of the corporation, or an immediate family~~
21 ~~member thereof. For purposes of this subsection, "immediate~~
22 ~~family member" means a corporation board employee's or vendor's~~



1 ~~spouse, child, parent, grandparent, or any related individual~~
2 ~~who resides in the same household of the employee or vendor."]~~

3 SECTION 20. Section 323F-5, Hawaii Revised Statutes, is
4 repealed.

5 ~~["§323F-5 Disclosure of interests. All corporation and~~
6 ~~regional system board members and employees of the corporation~~
7 ~~shall be subject to chapter 84."]~~

8 SECTION 21. Section 323F-7.5, Hawaii Revised Statutes, is
9 repealed.

10 ~~["[§323F-7.5] Regional system boards; delegated authority.~~
11 ~~If the Hawaii health systems corporation board is unable to act~~
12 ~~on important transactions in as timely a manner as the~~
13 ~~chairperson of the corporation board deems reasonable, the~~
14 ~~chairperson of the corporation board may further delegate~~
15 ~~authority to the regional system boards to take action on~~
16 ~~specific matters."]~~

17 SECTION 22. Section 323F-8.5, Hawaii Revised Statutes, is
18 repealed.

19 ~~["[§323F-8.5] Regional chief executive officer; exempt~~
20 ~~position. (a) Upon establishment, and until December 31, 2008,~~
21 ~~a regional system board may appoint a regional chief executive~~
22 ~~officer and regional chief financial officer whose salary shall~~



1 ~~be set by the corresponding regional system board and may~~
2 ~~discharge a regional chief executive officer or regional chief~~
3 ~~financial officer for cause, consistent with subsection (b);~~
4 ~~provided that the position shall be exempt from chapter 76 and~~
5 ~~section 26 35(a)(4). Effective January 1, 2009, the hiring and~~
6 ~~firing of the regional chief executive officers shall be subject~~
7 ~~to approval of both the regional system board and the~~
8 ~~corporation board. Each regional chief executive officer may~~
9 ~~also appoint, as necessary, other personnel, exempt from~~
10 ~~chapters 76 and 89, to work directly for the regional chief~~
11 ~~executive officer for the regional system and for the~~
12 ~~corresponding regional system board.~~

13 ~~(b) Any regional system board or its designee may~~
14 ~~discharge its exempt personnel with or without cause; provided~~
15 ~~that removal without cause shall not prejudice any contract~~
16 ~~rights of personnel; and provided further that the discharge of~~
17 ~~a regional chief executive officer shall be limited to the~~
18 ~~reasons outlined in section 323F 3.5(e) up to December 31, 2008.~~
19 ~~Effective January 1, 2009, regional chief executive officers and~~
20 ~~other exempt personnel shall be subject to discipline, including~~
21 ~~discharge, in accordance with duly executed contracts, laws~~



1 ~~governing exempt personnel of the State, and regional system~~
2 ~~policies adopted in accordance with corporate policies.~~

3 ~~(c) Each regional chief executive officer or their~~
4 ~~designees may appoint, exempt from chapters 76 and 89, hospital~~
5 ~~administrators, assistant administrators, directors of nursing,~~
6 ~~medical directors, and staff physicians, to facilitate the~~
7 ~~management of facilities within the regional system.~~

8 ~~(d) Hiring, firing, compensation packages, and other~~
9 ~~personnel actions with respect to employees not covered by~~
10 ~~chapters 76 and 89 shall be governed by policies adopted by each~~
11 ~~regional system board. These policies and guidelines shall be~~
12 ~~consistent with policies and guidelines adopted by the~~
13 ~~corporation board after consultation with the regional system~~
14 ~~boards-"]~~

15 SECTION 23. Section 323F-9, Hawaii Revised Statutes, is
16 repealed.

17 [~~"§323F-9 Hiring of attorneys. The corporation and~~
18 ~~regional system boards may employ or retain any attorney, by~~
19 ~~contract or otherwise, for the purpose of representing the~~
20 ~~corporation or regional system boards in any litigation,~~
21 ~~rendering legal counsel, or drafting legal documents for the~~
22 ~~corporation or regional system boards-"]~~



1 SECTION 24. Section 323F-11, Hawaii Revised Statutes, is
2 repealed.

3 ~~["§323F-11 Executive branch, noninterference.~~
4 ~~Notwithstanding any other law to the contrary, the governor and~~
5 ~~executive branch agencies shall limit their responsibilities to~~
6 ~~that of review and oversight when the corporation or regional~~
7 ~~system board receives general funds from the State to subsidize~~
8 ~~the operating budgets of deficit facilities. The governor and~~
9 ~~executive branch agencies shall not interfere with the systemic~~
10 ~~change, capacity building, advocacy, budget, personnel, system~~
11 ~~plan development, or plan implementation activities of the~~
12 ~~corporation or any regional system board. The governor and~~
13 ~~executive branch agencies shall not interfere with the ability~~
14 ~~of the corporation or regional system board to function as a~~
15 ~~multiple facility public hospital system delivering health care~~
16 ~~services to the residents of the State."]~~

17 SECTION 25. Section 323F-24, Hawaii Revised Statutes, is
18 repealed.

19 ~~["§323F-24 Budget oversight. The corporation's and each~~
20 ~~regional system board's operating and capital improvement~~
21 ~~budgets shall not be subject to review or approval by the~~
22 ~~governor or any state agency, except where state general funds~~



1 ~~or capital improvement moneys are requested. If general funds~~
2 ~~or capital improvement moneys are requested, then the~~
3 ~~corporation or any regional system board shall include, with its~~
4 ~~request, the proposed budget for which the funds or moneys are~~
5 ~~to be included. The corporation and regional system boards,~~
6 ~~once operational, shall collaboratively submit their budgets~~
7 ~~annually to the legislature for review and approval at least~~
8 ~~twenty days prior to the convening of the regular legislative~~
9 ~~session, beginning with the budgets for the 2010-2011 biennium~~
10 ~~fiscal years."]~~

PART II

CONFORMING AMENDMENTS

13 SECTION 26. The purpose of this part is to amend various
14 sections of the Hawaii Revised Statutes to conform to the
15 amendments made under part I.

16 SECTION 27. Section 26-5, Hawaii Revised Statutes, is
17 amended by amending subsection (e) to read as follows:

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



1 SECTION 28. Section 26-35.5, Hawaii Revised Statutes, is
2 amended as follows:

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

4 "(a) For purposes of this section, "member" means any
5 person who is appointed, in accordance with the law, to serve on
6 a temporary or permanent state board, including members of the
7 local school board of any charter school established under
8 chapter 302B, council, authority, committee, or commission,
9 established by law or elected to the board of education, or the
10 board of trustees of the employees' retirement system under
11 section 88-24 [~~or the corporation board of the Hawaii health~~
12 ~~systems corporation under section 323F-3 and its regional system~~
13 ~~boards under section 323F-3.5]~~; provided that "member" shall not
14 include any person elected to serve on a board or commission in
15 accordance with chapter 11 other than a person elected to serve
16 on the board of education."

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

18 "(e) The attorney general [~~or~~] or, in the case of the board
19 of regents of the University of Hawaii, [~~its~~] the university
20 general counsel [~~or in the case of the board of directors of~~
21 ~~the Hawaii health systems corporation under section 323F-3 or~~
22 ~~its regional system boards under [section] 323F-3.5, the~~



1 ~~attorneys retained by the board of directors of the Hawaii~~
2 ~~health systems corporation or its regional system boards under~~
3 ~~section 323F-9,]~~ shall represent and defend a member in any
4 civil action for which immunity is conferred under subsection
5 (b), or when the attorney general[7] or, if the action involves
6 a member of the board of regents, the university general
7 counsel[, ~~or, if the action involves a member of the board of~~
8 ~~directors of the Hawaii health systems corporation or its~~
9 ~~regional system boards, the attorneys retained by the board of~~
10 ~~directors of the Hawaii health systems corporation or its~~
11 ~~regional system boards,~~] determines that indemnification is
12 available to the member under subsection (c), and the member
13 against whom the action is brought has submitted a written
14 request for representation and has provided the attorney
15 general[7] or the university general counsel, in the case of an
16 action involving a member of the board of regents, [~~or the~~
17 ~~attorneys retained by the board of directors of the Hawaii~~
18 ~~health systems corporation or its regional system boards in the~~
19 ~~case of an action involving a member of the board of directors~~
20 ~~of the Hawaii health systems corporation or its regional system~~
21 ~~boards]~~ with all process or complaint served upon the member
22 within a reasonable period of time, but not more than five days



1 after being served with the process or complaint. The attorney
2 general [~~the~~] or the university general counsel [~~or an~~
3 ~~attorney retained by the board of directors of the Hawaii health~~
4 ~~systems corporation or its regional system boards~~] may terminate
5 the representation and defense of the member at any time if,
6 after representation and defense is accepted, the attorney
7 general [~~or~~] or the university general counsel [~~or an attorney~~
8 ~~retained by the board of directors of the Hawaii health systems~~
9 ~~corporation or one of its regional system boards~~] determines
10 that indemnification would not be available to the member under
11 subsection (c)."

12 SECTION 29. Section 28-8.3, Hawaii Revised Statutes, is
13 amended as follows:

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; provided that if the attorney general is
6 requested to provide representation to a court or
7 judicial office by the chief justice or the chief
8 justice's designee, or to a legislative office by the
9 speaker of the house of representatives and the
10 president of the senate jointly, and the attorney
11 general declines to provide such representation on the
12 grounds of conflict of interest, the attorney general
13 shall retain an attorney for the court, judicial, or
14 legislative office, subject to approval by the court,
15 judicial, or legislative office;
- 16 (3) By the legislative reference bureau;
- 17 (4) By any compilation commission that may be constituted
18 from time to time;
- 19 (5) By the real estate commission for any action involving
20 the real estate recovery fund;
- 21 (6) By the contractors license board for any action
22 involving the contractors recovery fund;



- 1 (7) By the trustees for any action involving the travel
2 agency recovery fund;
- 3 (8) By the office of Hawaiian affairs;
- 4 (9) By the department of commerce and consumer affairs for
5 the enforcement of violations of chapters 480 and
6 485A;
- 7 (10) As grand jury counsel;
- 8 (11) By the Hawaiian home lands trust individual claims
9 review panel;
- 10 ~~[-(12)- By the Hawaii health systems corporation, or its~~
11 ~~regional system boards, or any of their facilities;~~
- 12 ~~[-(13)-]~~ (12) By the auditor;
- 13 ~~[-(14)-]~~ (13) By the office of ombudsman;
- 14 ~~[-(15)-]~~ (14) By the insurance division;
- 15 ~~[-(16)-]~~ (15) By the University of Hawaii;
- 16 ~~[-(17)-]~~ (16) By the Kahoolawe island reserve commission;
- 17 ~~[-(18)-]~~ (17) By the division of consumer advocacy;
- 18 ~~[-(19)-]~~ (18) By the office of elections;
- 19 ~~[-(20)-]~~ (19) By the campaign spending commission;
- 20 ~~[-(21)-]~~ (20) By the Hawaii tourism authority, as provided in
21 section 201B-2.5; or



1 [~~(22)~~] (21) By a department, in the event the attorney
2 general, for reasons deemed by the attorney general
3 good and sufficient, declines to employ or retain an
4 attorney for a department; provided that the governor
5 thereupon waives the provision of this section."

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

7 "(c) Every attorney employed by any department on a full-
8 time basis, except an attorney employed by the public utilities
9 commission, the labor and industrial relations appeals board,
10 the Hawaii labor relations board, the office of Hawaiian
11 affairs, [~~the Hawaii health systems corporation or its regional~~
12 ~~system boards,~~] the department of commerce and consumer affairs
13 in prosecution of consumer complaints, the insurance division,
14 the division of consumer advocacy, the University of Hawaii, the
15 Hawaii tourism authority as provided in section 201B-2.5, the
16 Hawaiian home lands trust individual claims review panel, or as
17 grand jury counsel, shall be a deputy attorney general."

18 SECTION 30. Section 29-24, Hawaii Revised Statutes, is
19 amended by amending subsection (a) to read as follows:

20 "(a) There is established in the state treasury an
21 interagency federal revenue maximization revolving fund, into
22 which shall be deposited all funds and proceeds collected from



1 the federal government and third-party payers for costs not
2 previously claimed by the State, [~~with the exception of proceeds~~
3 ~~collected for services provided by the Hawaii health systems~~
4 ~~corporation or its regional system boards,~~] for reimbursement of
5 federally-funded state programs. For purposes of this chapter,
6 federally-funded state programs include but shall not be limited
7 to those federally-funded programs within the departments of
8 human services and health, and shall not include the federally-
9 funded program within the department of education as provided in
10 section 302A-1406. Expenditures and transfers from the fund
11 shall be made by the comptroller in proportional allocations
12 established by the comptroller and the director of finance.
13 Transfers shall be made to the department claiming the
14 reimbursement for expenses incurred related to federal fund
15 reimbursement claims and to the general fund of the State.
16 Moneys in the fund may be expended for consultant services
17 rendered under subsection (b)."

18 SECTION 31. Section 36-27, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "§36-27 Transfers from special funds for central service
21 expenses. Except as provided in this section, and
22 notwithstanding any other law to the contrary, from time to



1 time, the director of finance, for the purpose of defraying the
2 prorated estimate of central service expenses of government in
3 relation to all special funds, except the:

- 4 (1) Special out-of-school time instructional program fund
5 under section 302A-1310;
- 6 (2) School cafeteria special funds of the department of
7 education;
- 8 (3) Special funds of the University of Hawaii;
- 9 (4) State educational facilities improvement special fund;
- 10 (5) Convention center enterprise special fund under
11 section 201B-8;
- 12 (6) Special funds established by section 206E-6;
- 13 (7) Housing loan program revenue bond special fund;
- 14 (8) Housing project bond special fund;
- 15 (9) Aloha Tower fund created by section 206J-17;
- 16 (10) Funds of the employees' retirement system created by
17 section 88-109;
- 18 (11) Unemployment compensation fund established under
19 section 383-121;
- 20 (12) Hawaii hurricane relief fund established under chapter
21 431P;



- 1 (13) ~~[Hawaii health systems corporation special funds and~~
2 ~~the subaccounts of its regional system boards,]~~
3 Community hospital system special fund under section
4 323F-21;
- 5 (14) Tourism special fund established under section 201B-
6 11;
- 7 (15) Universal service fund established under chapter 269;
- 8 (16) Emergency and budget reserve fund under section 328L-
9 3;
- 10 (17) Public schools special fees and charges fund under
11 section 302A-1130(f);
- 12 (18) Sport fish special fund under section 187A-9.5;
- 13 (19) Neurotrauma special fund under section 321H-4;
- 14 (20) Deposit beverage container deposit special fund under
15 section 342G-104;
- 16 (21) Glass advance disposal fee special fund established by
17 section 342G-82;
- 18 (22) Center for nursing special fund under section 304A-
19 2163;
- 20 (23) Passenger facility charge special fund established by
21 section 261-5.5;



- 1 (24) Solicitation of funds for charitable purposes special
2 fund established by section 467B-15;
- 3 (25) Land conservation fund established by section 173A-5;
- 4 (26) Court interpreting services revolving fund under
5 section 607-1.5;
- 6 (27) Trauma system special fund under section 321-22.5;
- 7 (28) Hawaii cancer research special fund;
- 8 (29) Community health centers special fund;
- 9 (30) Emergency medical services special fund; and
- 10 (31) Rental motor vehicle customer facility charge special
11 fund established under section 261-5.6;
- 12 shall deduct five per cent of all receipts of all other special
13 funds, which deduction shall be transferred to the general fund
14 of the State and become general realizations of the State. All
15 officers of the State and other persons having power to allocate
16 or disburse any special funds shall cooperate with the director
17 in effecting these transfers. To determine the proper revenue
18 base upon which the central service assessment is to be
19 calculated, the director shall adopt rules pursuant to chapter
20 91 for the purpose of suspending or limiting the application of
21 the central service assessment of any fund. No later than
22 twenty days prior to the convening of each regular session of



1 the legislature, the director shall report all central service
2 assessments made during the preceding fiscal year."

3 SECTION 32. Section 36-30, Hawaii Revised Statutes, is
4 amended by amending subsection (a) to read as follows:

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

6 (1) Transportation use special fund established by section
7 261D-1;

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

10 (3) School cafeteria special funds of the department of
11 education;

12 (4) Special funds of the University of Hawaii;

13 (5) State educational facilities improvement special fund;

14 (6) Special funds established by section 206E-6;

15 (7) Aloha Tower fund created by section 206J-17;

16 (8) Funds of the employees' retirement system created by
17 section 88-109;

18 (9) Unemployment compensation fund established under
19 section 383-121;

20 (10) Hawaii hurricane relief fund established under chapter
21 431P;



- 1 (11) Convention center enterprise special fund established
2 under section 201B-8;
- 3 (12) ~~[Hawaii health systems corporation special funds and~~
4 ~~the subaccounts of its regional system boards,]~~
5 Community hospital system special fund under section
6 323F-21;
- 7 (13) Tourism special fund established under section 201B-
8 11;
- 9 (14) Universal service fund established under chapter 269;
- 10 (15) Emergency and budget reserve fund under section 328L-
11 3;
- 12 (16) Public schools special fees and charges fund under
13 section 302A-1130(f);
- 14 (17) Sport fish special fund under section 187A-9.5;
- 15 (18) Neurotrauma special fund under section 321H-4;
- 16 (19) Center for nursing special fund under section 304A-
17 2163;
- 18 (20) Passenger facility charge special fund established by
19 section 261-5.5;
- 20 (21) Court interpreting services revolving fund under
21 section 607-1.5;
- 22 (22) Trauma system special fund under section 321-22.5;



- 1 (23) Hawaii cancer research special fund;
2 (24) Community health centers special fund;
3 (25) Emergency medical services special fund; and
4 (26) Rental motor vehicle customer facility charge special
5 fund established under section 261-5.6,
6 shall be responsible for its pro rata share of the
7 administrative expenses incurred by the department responsible
8 for the operations supported by the special fund concerned."

9 SECTION 33. Section 37-34, Hawaii Revised Statutes, is
10 amended by amending subsection (c) to read as follows:

11 "(c) Any other law to the contrary notwithstanding,
12 general fund appropriations for the operating expenses of
13 community hospitals and other public health facilities of the
14 department of health shall be made available to the [public
15 ~~health facilities~~] department for expenditure during any
16 allotment period."

17 SECTION 34. Section 37-53, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "**§37-53 Transfer of special funds.** At any time during a
20 fiscal year, notwithstanding any other law to the contrary, any
21 department may, with the approval of the governor or the
22 director of finance if so delegated by the governor, transfer



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



1 SECTION 35. Section 37-74, Hawaii Revised Statutes, is
2 amended by amending subsection (d) to read as follows:

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

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

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



~~system hospital facilities as applicable and as mutually agreed to by the corporation and the respective regional system board; provided that the Hawaii health systems corporation and the regional system boards shall maintain the integrity and services of each individual regional system and shall not transfer appropriations out of any regional system that would result in a reduction of services offered by the regional system, with due regard for statutory requirements, changing conditions, the needs of the programs, and the effective utilization of resources,]~~
and

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



1 SECTION 36. Section 37D-1, Hawaii Revised Statutes, is
2 amended by amending the definition of "agency" to read as
3 follows:

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

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

15 "**§37D-2 Financing agreements.** (a) There is hereby
16 established and authorized the financing agreement program of
17 the State. Any agency desiring to acquire or improve projects
18 through the financing agreement program established and
19 authorized by this chapter shall submit a written request to the
20 department providing any information that the department shall
21 require. Notwithstanding any other law to the contrary, [and
22 ~~except for the Hawaii health systems corporation and its~~



1 ~~regional system boards,~~] only with the approval by the attorney
2 general as to form and legality and upon the written request of
3 one or more agencies may the department enter into a financing
4 agreement in accordance with this chapter, and only with the
5 approval by the attorney general as to form and legality, and by
6 the director as to fiscal responsibility, and upon the written
7 request of an agency, the agency may enter into a financing
8 agreement in accordance with this chapter, except that the
9 department of education may enter into a financing agreement in
10 accordance with section 36-32 with the concurrence of the
11 director and with the approval of the attorney general as to
12 form and legality; and that the board of regents of the
13 University of Hawaii may enter into a financing agreement in
14 accordance with this chapter without the approval of the
15 director and of the attorney general as to form and legality if
16 the principal amount of the financing agreement does not exceed
17 \$3,000,000. A financing agreement may be entered into by the
18 department on behalf of one or more agencies, or by an agency,
19 at any time (before or after commencement or completion of any
20 improvements or acquisitions to be financed) and shall be upon
21 terms and conditions the department finds to be advantageous.
22 In each case of a written request by the judiciary to



1 participate in the financing agreement program, the department
2 shall implement the request; provided that the related financing
3 agreement shall be upon terms and conditions the department
4 finds to be advantageous. Any financing agreement entered into
5 by the department without the approval, or by an agency without
6 the approvals required by this section shall be void and of no
7 effect. A single financing agreement entered into by the
8 department may finance a single item or multiple items of
9 property to be used by multiple agencies or may finance a single
10 item or multiple items of property to be used by a single
11 agency. If the financing agreement is by the department, the
12 department shall bill any agency that benefits from property
13 acquired with the proceeds of a financing agreement for the
14 agency's pro rata share of:

- 15 (1) The department's costs of administration of the
16 financing agreement program; and
- 17 (2) The financing costs, including the principal and
18 interest components of the financing agreement and
19 insurance premiums,
20 on a monthly or other periodic basis, and may deposit payments
21 received in connection with the billings with a trustee as
22 security for the financing agreement. Any agency receiving such



1 a bill shall be authorized and shall pay the amounts billed from
2 available moneys.

3 If a financing agreement is by an agency, the agency shall
4 deposit on a monthly or other periodic basis with the
5 department, payments from available moneys with respect to the
6 agency's financing costs, including the principal and interest
7 components of the financing agreement and insurance premiums,
8 which payments the department may deposit with a trustee as
9 security for the financing agreement. The department may bill
10 an agency for the department's costs of administering the
11 agency's payments and the agency receiving such a bill shall be
12 authorized to and shall pay the amounts billed from available
13 moneys.

14 (b) Financing agreements shall be subject to the following
15 limitations:

16 (1) Amounts payable by an agency to or upon the direction
17 of the department in respect to a project and by the
18 department or an agency under a financing agreement
19 shall be limited to available moneys. In no
20 circumstance shall the department or an agency be
21 obligated to pay amounts due under a financing
22 agreement from any source other than available moneys.



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

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

15 (3) Notwithstanding any other law to the contrary, and
16 except ~~[for the Hawaii health systems corporation and~~
17 ~~its regional system boards, and]~~ as otherwise provided
18 in this section with respect to the department of
19 education and the University of Hawaii, ~~[and except as~~
20 ~~provided in chapter 323F as to the Hawaii health~~
21 ~~systems corporation and its regional system boards,]~~
22 an agency shall not have the power to enter into a



1 financing agreement, except as authorized by this
2 chapter, and nothing in this chapter shall be
3 construed to authorize the sale, lease, or other
4 disposition of property owned by an agency;

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

11 (5) The department or the agency proposing to enter into a
12 financing agreement shall not be subject to
13 chapter 103D and any and all other requirements of law
14 for competitive bidding for financing agreements."

15 SECTION 38. Section 41D-2, Hawaii Revised Statutes, is
16 amended by amending subsection (b) to read as follows:

17 "(b) Any provision in this section to the contrary
18 notwithstanding, the University of Hawaii (as to casualty
19 insurance risks only), the Research Corporation of the
20 University of Hawaii (as to casualty insurance risks only), and
21 the community hospitals and other public health facilities of
22 the department of health (with respect to medical malpractice



1 risks only) [~~and the Hawaii health systems corporation and its~~
2 ~~regional system boards~~] shall be exempt from the requirements of
3 this chapter."

4 SECTION 39. Section 76-11, Hawaii Revised Statutes, is
5 amended as follows:

6 1. By amending the definition of "chief executive" to
7 read:

8 ""Chief executive" means the governor, the respective
9 mayors, and the chief justice of the supreme court [~~and the~~
10 ~~chief executive officer of the Hawaii health systems~~
11 ~~corporation~~]. It may include the superintendent of education
12 and the president of the University of Hawaii with respect to
13 their employees on any matter that applies to employees in
14 general, including employees who are not covered by this
15 chapter."

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

18 ""Employer" or "public employer" means the governor in the
19 case of the State, the respective mayors in the case of the
20 counties, the chief justice of the supreme court in the case of
21 the judiciary, the board of education in the case of the
22 department of education, the board of regents in the case of the



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

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

10 "Jurisdiction" means the State, the city and county of
11 Honolulu, the county of Hawaii, the county of Maui, the county
12 of Kauai, the judiciary, the department of education, and the
13 University of Hawaii[, ~~and the Hawaii health systems~~
14 ~~corporation~~]."

15 4. By amending the definition of "legislative body" to
16 read:

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



1 SECTION 40. Section 76-47, Hawaii Revised Statutes, is
2 amended by amending subsection (c) to read as follows:

3 "(c) The merit appeals board shall adopt rules of practice
4 and procedure consistent with section 76-14 and in accordance
5 with chapter 91, except that, in the case of the judiciary [~~and~~
6 ~~the Hawaii health systems corporation~~], the adoption, amendment,
7 or repeal of rules shall be subject to the approval of [~~their~~
8 ~~respective chief executives~~] the chief justice. The rules
9 shall recognize that the merit appeals board shall sit as an
10 appellate body and that matters of policy, methodology, and
11 administration are left for determination by the director. The
12 rules may provide for the sharing of specific expenses among the
13 parties that are directly incurred as a result of an appeal as
14 the merit appeals board deems would be equitable and
15 appropriate, including but not limited to expenses for
16 transcription costs or for services, including traveling and per
17 diem costs, provided by persons other than the board members or
18 permanent staff of the board. Official business of the merit
19 appeals board shall be conducted in meetings open to the public,
20 except as provided in chapter 92."

21 SECTION 41. Section 89-2, Hawaii Revised Statutes, is
22 amended as follows:



1 1. 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,~~] and
10 any individual who represents one of these employers or acts in
11 their interest in dealing with public employees. In the case of
12 the judiciary, the administrative director of the courts shall
13 be the employer in lieu of the chief justice for purposes which
14 the chief justice determines would be prudent or necessary to
15 avoid conflict."

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

17 ""Jurisdiction" means the State, the city and county of
18 Honolulu, the county of Hawaii, the county of Maui, the county
19 of Kauai, and the judiciary[, ~~and the Hawaii health systems~~
20 ~~corporation~~]."

21 3. By amending the definition of "legislative body" to
22 read:



1 ""Legislative body" means the legislature in the case of
2 the State, including the judiciary, the department of education,
3 and the University of Hawaii[, ~~and the Hawaii health systems~~
4 ~~corporation~~]; the city council, in the case of the city and
5 county of Honolulu; and the respective county councils, in the
6 case of the counties of Hawaii, Maui, and Kauai."

7 SECTION 42. Section 89-6, Hawaii Revised Statutes, is
8 amended by amending subsection (d) to read as follows:

9 "(d) For the purpose of negotiating a collective
10 bargaining agreement, the public employer of an appropriate
11 bargaining unit shall mean the governor together with the
12 following employers:

13 (1) For bargaining units (1), (2), (3), (4), (9), (10),
14 and (13), the governor shall have six votes and the
15 mayors, and the chief justice[, ~~and the Hawaii health~~
16 ~~systems corporation board~~] shall each have one vote if
17 they have employees in the particular bargaining unit;

18 (2) For bargaining units (11) and (12), the governor shall
19 have four votes and the mayors shall each have one
20 vote;

21 (3) For bargaining units (5) and (6), the governor shall
22 have three votes, the board of education shall have



1 two votes, and the superintendent of education shall
2 have one vote;

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

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

13 SECTION 43. Section 89C-1.5, Hawaii Revised Statutes, is
14 amended by amending the definition of "appropriate authority" to
15 read as follows:

16 "Appropriate authority" means the governor, the respective
17 mayors, the chief justice of the supreme court, the board of
18 education, the board of regents, [~~the Hawaii health [systems]
19 corporation board,~~] the auditor, the ombudsman, and the director
20 of the legislative reference bureau. These individuals or
21 boards may make adjustments for their respective excluded
22 employees."



1 SECTION 44. Section 102-2, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:

3 "(b) The bidding requirements of subsection (a) shall not
4 apply to concessions or space on public property set aside for
5 the following purposes:

6 (1) For operation of ground transportation services and
7 parking lot operations at airports, except for motor
8 vehicle rental operations under chapter 437D;

9 (2) For lei vendors;

10 (3) For airline and aircraft operations;

11 (4) For automatic teller machines and vending machines,
12 except vending machines located at public schools
13 operated by blind or visually handicapped persons in
14 accordance with section 302A-412;

15 (5) For operation of concessions set aside without any
16 charge;

17 (6) For operation of concessions by handicapped or blind
18 persons; except concessions operated in the public
19 schools by blind or visually handicapped persons in
20 accordance with section 302A-412;

21 (7) For operation of concessions on permits revocable on
22 notice of thirty days or less; provided that no such



1 permits shall be issued for more than a one year
2 period;

3 (8) For operation of concessions or concession spaces for
4 a beach service association dedicated to the
5 preservation of the Hawaii beach boy tradition,
6 incorporated as a nonprofit corporation in accordance
7 with state law, and whose members are appropriately
8 licensed or certified as required by law;

9 (9) For operation of concessions at county zoos, botanic
10 gardens, or other county parks which are
11 environmentally, culturally, historically, or
12 operationally unique and are supported, by nonprofit
13 corporations incorporated in accordance with state law
14 solely for purposes of supporting county aims and
15 goals of the zoo, botanic garden, or other county
16 park, and operating under agreement with the
17 appropriate agency solely for such purposes, aims, and
18 goals;

19 (10) For operation of concessions that furnish goods or
20 services for which there is only one source, as
21 determined by the head of the awarding government



1 agency in writing that shall be included in the
2 contract file; and

3 (11) For operation of concession or concession spaces at
4 the convention center under chapter 201B[, ~~and~~

5 ~~(12) For any of the operations of the Hawaii health systems~~
6 ~~corporation and its regional system boards]."~~

7 SECTION 45. Section 103-53, Hawaii Revised Statutes, is
8 amended by amending subsection (e) to read as follows:

9 "(e) This section shall not apply to:

10 (1) Any procurement of less than \$25,000 or that is
11 considered a small purchase under section 103D-305 and
12 any state or county department contract of less than
13 \$25,000;

14 (2) Emergency purchases for the procurement of goods,
15 services, or construction under section 103D-307,
16 disaster relief under chapter 127, or a civil defense
17 emergency under chapter 128;

18 (3) Grants and subsidies disbursed by a state agency
19 pursuant to chapter 42F or in accordance with
20 standards provided by law as required by article VII,
21 section 4, of the State Constitution, or made by the



1 counties pursuant to their respective charters or
2 ordinances;

3 (4) Contracts or agreements between government agencies;

4 (5) Contracts or agreements to disburse funds:

5 (A) To make payments to or on behalf of public
6 officers and employees for salaries, fringe
7 benefits, professional fees, and reimbursements;

8 (B) To satisfy obligations required to be paid by
9 law, including fees, judgments, settlements, and
10 other payments for resolving claims;

11 (C) To make refunds or return funds held by the State
12 or county as trustee, custodian, or bailee;

13 (D) For entitlement programs, including public
14 assistance, unemployment, and workers'
15 compensation programs, established by state or
16 federal law;

17 (E) For deposit, investment, or safekeeping,
18 including sums to pay expenses related to their
19 deposit investment, or safekeeping;

20 (F) For loans under government-administered loan
21 programs; or



(G) To make periodic, recurring payments for utility services; and

(6) Rent for the use or occupation of the premises and facilities at Aloha Stadium, the convention center, or any other state or county large spectator events facility[~~and~~

~~(7) Contracts or agreements of the Hawaii health systems corporation and its regional system boards]."~~

SECTION 46. Section 103D-102, Hawaii Revised Statutes, is amended to read as follows:

"§103D-102 Application of this chapter. (a) This chapter shall apply to all procurement contracts made by governmental bodies whether the consideration for the contract is cash, revenues, realizations, receipts, or earnings, any of which the State receives or is owed; in-kind benefits; or forbearance; provided that nothing in this chapter or rules adopted hereunder shall prevent any governmental body from complying with the terms and conditions of any other grant, gift, bequest, or cooperative agreement.

(b) Notwithstanding subsection (a), this chapter shall not apply to contracts by governmental bodies:



- 1 (1) Solicited or entered into before July 1, 1994, unless
2 the parties agree to its application to a contract
3 solicited or entered into prior to July 1, 1994;
- 4 (2) To disburse funds, irrespective of their source:
- 5 (A) For grants or subsidies as those terms are
6 defined in section 42F-101, made by the State in
7 accordance with standards provided by law as
8 required by article VII, section 4, of the State
9 Constitution; or by the counties pursuant to
10 their respective charters or ordinances;
- 11 (B) To make payments to or on behalf of public
12 officers and employees for salaries, fringe
13 benefits, professional fees, or reimbursements;
- 14 (C) To satisfy obligations that the State is required
15 to pay by law, including paying fees, permanent
16 settlements, subsidies, or other claims, making
17 refunds, and returning funds held by the State as
18 trustee, custodian, or bailee;
- 19 (D) For entitlement programs, including public
20 assistance, unemployment, and workers'
21 compensation programs, established by state or
22 federal law;



1 (E) For dues and fees of organizations of which the
2 State or its officers and employees are members,
3 including the National Association of Governors,
4 the National Association of State and County
5 Governments, and the Multi-State Tax Commission;

6 (F) For deposit, investment, or safekeeping,
7 including expenses related to their deposit,
8 investment, or safekeeping;

9 (G) To governmental bodies of the State;

10 (H) As loans, under loan programs administered by a
11 governmental body; and

12 (I) For contracts awarded in accordance with chapter
13 103F[-];

14 (3) To procure goods, services, or construction from a
15 governmental body other than the University of Hawaii
16 bookstores, from the federal government, or from
17 another state or its political subdivision;

18 (4) To procure the following goods or services which are
19 available from multiple sources but for which
20 procurement by competitive means is either not
21 practicable or not advantageous to the State:



- 1 (A) Services of expert witnesses for potential and
2 actual litigation of legal matters involving the
3 State, its agencies, and its officers and
4 employees, including administrative quasi-
5 judicial proceedings;
- 6 (B) Works of art for museum or public display;
- 7 (C) Research and reference materials including books,
8 maps, periodicals, and pamphlets, which are
9 published in print, video, audio, magnetic, or
10 electronic form;
- 11 (D) Meats and foodstuffs for the Kalaupapa
12 settlement;
- 13 (E) Opponents for athletic contests;
- 14 (F) Utility services whose rates or prices are fixed
15 by regulatory processes or agencies;
- 16 (G) Performances, including entertainment, speeches,
17 and cultural and artistic presentations;
- 18 (H) Goods and services for commercial resale by the
19 State;
- 20 (I) Services of printers, rating agencies, support
21 facilities, fiscal and paying agents, and



1 registrars for the issuance and sale of the
2 State's or counties' bonds;

3 (J) Services of attorneys employed or retained to
4 advise, represent, or provide any other legal
5 service to the State or any of its agencies, on
6 matters arising under laws of another state or
7 foreign country, or in an action brought in
8 another state, federal, or foreign jurisdiction,
9 when substantially all legal services are
10 expected to be performed outside this State;

11 (K) Financing agreements under chapter 37D; and

12 (L) Any other goods or services which the policy
13 board determines by rules or the chief
14 procurement officer determines in writing is
15 available from multiple sources but for which
16 procurement by competitive means is either not
17 practicable or not advantageous to the State; and

18 (5) Which are specific procurements expressly exempt from
19 any or all of the requirements of this chapter by:

20 (A) References in state or federal law to provisions
21 of this chapter or a section of this chapter, or



1 references to a particular requirement of this
2 chapter; and

3 (B) Trade agreements, including the Uruguay Round
4 General Agreement on Tariffs and Trade (GATT)
5 which require certain non-construction and non-
6 software development procurements by the
7 comptroller to be conducted in accordance with
8 its terms.

9 ~~[(c) Notwithstanding subsection (a), this chapter shall~~
10 ~~not apply to contracts made by any regional system board of the~~
11 ~~Hawaii health systems corporation.~~

12 ~~-(d)]~~ (c) Governmental bodies making procurements which are
13 exempt from this chapter are nevertheless encouraged to adopt
14 and use provisions of this chapter and its implementing rules as
15 appropriate; provided that the use of one or more provisions
16 shall not constitute a waiver of the exemption conferred and
17 subject the procurement or the governmental body to any other
18 provision of this chapter."

19 SECTION 47. Section 103D-203, Hawaii Revised Statutes, is
20 amended by amending subsection (a) to read as follows:

21 "(a) The chief procurement officer for each of the
22 following state entities shall be:



- 1 (1) The judiciary--the administrative director of the
2 courts;
- 3 (2) The senate--the president of the senate;
- 4 (3) The house of representatives--the speaker of the house
5 of representatives;
- 6 (4) The office of Hawaiian affairs--the chairperson of the
7 board;
- 8 (5) The University of Hawaii--the president of the
9 University of Hawaii;
- 10 (6) The department of education, excluding the Hawaii
11 public library system--the superintendent of
12 education; and
- 13 ~~[-(7) The Hawaii health systems corporation the chief~~
14 ~~executive officer of the Hawaii health systems~~
15 ~~corporation; and~~
- 16 ~~-(8)]~~ (7) The remaining departments of the executive branch
17 of the State and all governmental bodies
18 administratively attached to them--the administrator
19 of the state procurement office of the department of
20 accounting and general services."



1 PART III.

2 TRANSITION PROVISIONS FOR TRANSFER OF COMMUNITY HOSPITALS

3 TO DEPARTMENT OF HEALTH

4 SECTION 48. Except as otherwise provided, on June 30,
5 2010, the Hawaii health systems corporation and its regional
6 systems shall be abolished and cease to exist.

7 SECTION 49. On July 1, 2010, jurisdiction over the
8 community hospitals shall be transferred to the department of
9 health from the Hawaii health systems corporation and its
10 regional boards.

11 On July 1, 2010, the real property and interest therein
12 held by the Hawaii health systems corporation and its regional
13 boards shall be transferred to the department of health.

14 On July 1, 2010, all certificates, licenses, permits, and
15 other approvals required by state law for the operation of the
16 community hospitals that are held on June 30, 2010, by the
17 Hawaii health systems corporation or any of its regional systems
18 or facilities shall be transferred to the department of health,
19 division of community hospitals, without necessity of re-
20 application or re-approval; except that the transfer shall not
21 apply if prohibited by federal law. If the transfer of a
22 certificate, license, permit, or other approval is prohibited by



1 federal law, the director of health shall apply for the
2 transfer, issuance, or renewal of the certificate, license,
3 permit, or other approval in accordance with section 61 of this
4 Act.

5 SECTION 50. (a) Except as otherwise provided under parts
6 I and II, on July 1, 2010, the rights, powers, functions, and
7 duties of the Hawaii health systems corporation and its regional
8 boards are transferred to the department of health.

9 (b) On July 1, 2010, all officers and employees whose
10 functions are transferred by this Act shall be transferred with
11 their functions and shall continue to perform their regular
12 duties upon their transfer, subject to the state personnel laws
13 and this Act; except that an officer or employee whose position
14 is no longer authorized under the General Appropriations Act of
15 2009 or any subsequent appropriations act shall not be
16 transferred.

17 (c) No officer or employee who has been transferred
18 pursuant to subsection (b) and who has tenure shall suffer any
19 loss of salary, seniority, prior service credit, vacation, sick
20 leave, or other employee benefit or privilege as a consequence
21 of this Act.



1 (d) If a position held by an officer or employee having
2 tenure is no longer authorized under the General Appropriations
3 Act of 2009 or any subsequent appropriations act, the
4 termination or movement to another position of the officer or
5 employee shall be subject to the appropriate collective
6 bargaining agreement.

7 SECTION 51. Except when inconsistent with part I or II,
8 all rules, policies, procedures, guidelines, and other material
9 adopted or developed by the Hawaii health systems corporation or
10 its regional boards shall be transferred to the department of
11 health on July 1, 2010, and shall remain in full force and
12 effect until amended or repealed by the department.

13 SECTION 52. On July 1, 2010, all furniture, fixtures,
14 equipment, machines, records, files, supplies, books, papers,
15 documents, maps, and other personal property heretofore made,
16 used, or acquired or held by the Hawaii health systems
17 corporation or its regional boards shall be transferred to the
18 department of health.

19 SECTION 53. (a) Except as otherwise provided under
20 subsection (b), contracts of the Hawaii health systems
21 corporation or its regional boards in effect on June 30, 2010,
22 shall be transferred to the department of health on July 1,



1 2010, and the department shall assume all obligations and be
2 entitled to all goods or services under the transferred
3 contracts.

4 (b) If any contract transferred under subsection (a)
5 includes a termination for convenience clause, and if the
6 department of health finds that the continuation of the contract
7 is no longer in the public interest, the department of health
8 shall terminate the contract.

9 (c) Subsection (b) shall not authorize the department of
10 health to terminate or modify any collective bargaining
11 agreement, including memoranda of agreement, with any exclusive
12 representative of public employees employed at a community
13 hospital unless the exclusive representative agrees to the
14 termination or modification.

15 SECTION 54. (a) On July 1, 2010, the department of health
16 shall assume all liabilities and debts of the Hawaii health
17 systems corporation, including those assumed by the corporation
18 from the former division of community hospitals. The department
19 of health shall report to the legislature the total amount of
20 the liabilities and debts assumed from the Hawaii health systems
21 corporation and an itemization by person owed.



(b) Nothing in this section shall prohibit the department of health, through the attorney general, from recovering from any person any portion of a liability or debt assumed by the department that was incurred by fraudulent action of the person.

SECTION 55. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

PART IV

STUDY OF PERMANENT STRUCTURE FOR THE COMMUNITY HOSPITALS

SECTION 56. **Purpose.** The purpose of this part is to establish a community hospitals transition committee to conduct a study of a permanent structure for the organization and funding of the community hospitals.

SECTION 57. **Community hospitals transition committee; established, membership, filling of vacancy, staff support.** (a) There is established a community hospitals transition committee within the department of health for administrative purposes. The transition committee shall comprise the same persons who served as members of the Hawaii health systems corporation's finance, information systems, and audit committee on June 30, 2009, and:



1 (1) Two persons who reside on the island of Maui, one
2 person to be appointed by the president of the senate
3 and one person to be appointed by the speaker of the
4 house of representatives; and

5 (2) Two persons who reside on the island of Kauai, one
6 person to be appointed by the president of the senate
7 and one person to be appointed by the speaker of the
8 house of representatives.

9 (b) Any vacancy on the transition committee that occurs
10 after June 30, 2009, shall be filled by the appointing authority
11 who appointed the member whose position needs to be filled.

12 (c) The transition committee shall select its chairperson
13 and other officers and establish procedures and policies for the
14 conduct of meetings.

15 (d) Members of the transition committee shall serve
16 without compensation, but shall be reimbursed for traveling
17 expenses incurred in the performance of their duties. The
18 department shall provide for the necessary expenses of the
19 committee from the funds appropriated for its general
20 administration; provided that no expenses may be incurred
21 without prior authorization of the director of health.



1 (e) The department of health shall provide staff support
2 to the transition committee.

3 SECTION 58. **Duties of transition committee.** (a) The
4 transition committee shall conduct an:

5 (1) Assessment of the existing and projected health care
6 needs of the communities presently served by the
7 community hospitals and make recommendations on the
8 types and levels of health care service that should be
9 provided by the community hospitals in those
10 communities;

11 (2) Analysis of alternative operational structures for the
12 community hospital system, citations of the state
13 statutes that require amendment to implement the
14 different structures analyzed, and make
15 recommendations on the optimal structure to deliver
16 community hospital services in the communities
17 presently served;

18 (3) Examination of various revenue sources that may be
19 dedicated to subsidizing the operating deficits of the
20 community hospitals and make recommendations on the
21 best revenue source for dedication; and



1 (4) Evaluation of whether the Maui region of the Hawaii
2 health systems corporation should be permitted to
3 separate from the corporation and state government and
4 operate as an independent entity. If the committee
5 finds that the Maui region should be permitted to
6 separate, the committee shall also recommend:

7 (A) The best organizational structure or legal entity
8 form for the Maui region;

9 (B) The real property, furniture, fixtures,
10 equipment, and other assets that should be
11 transferred to the Maui region;

12 (C) The liabilities, debts, and obligations that
13 should be transferred to the Maui region; and

14 (D) If deemed appropriate and necessary, any revenue
15 source or level of general fund subsidy that
16 should be provided to the Maui region.

17 (b) The transition committee shall submit its findings and
18 recommendations to the legislature and governor by January 1,
19 2011.

20 (c) Following the submittal of the findings and
21 recommendations, the transition committee shall be available for



1 consultation with the legislature upon reasonable notice until
2 such time as the transition committee is terminated.

3 SECTION 59. **Termination of transition committee.** The
4 transition committee shall terminate on June 30, 2011.

5 SECTION 60. **Legislative intent.** The legislature intends
6 to review the findings and recommendations of the transition
7 committee and enact legislation during the regular session of
8 2011 to establish a permanent structure for the community
9 hospital system to become effective on July 1, 2012. The
10 legislature intends that the period from the enactment of the
11 legislation passed during the regular session of 2011 to July 1,
12 2012 will provide time for an orderly transition to the
13 permanent structure.

14 PART V

15 SECTION 61. After June 30, 2009, the director of health
16 shall apply for the transfer, issuance, or renewal of all
17 certificates, licenses, permits, and other approvals required by
18 federal law for the operation of the community hospitals by the
19 department of health, division of community hospitals, and
20 eligibility of the community hospitals for federal medicare and
21 medicaid funds. If any such certificate, license, permit, or
22 other approval is not transferred, issued, or renewed by July 1,



1 2010, the director of health shall submit a report to the
2 legislature identifying the certificate, license, permit, or
3 other approval and the reason for the lack of transfer,
4 issuance, or renewal.

5 PART VI

6 SECTION 62. Statutory material to be repealed is bracketed
7 and stricken. New statutory material is underscored.

8 SECTION 63. This Act shall take effect on July 1, 2009;
9 provided that:

10 (1) Parts I, II, and III of this Act shall take effect on
11 July 1, 2010;

12 (2) Part I of this Act and chapter 323F, Hawaii Revised,
13 Statutes, shall be repealed on June 30, 2012;

14 (3) The amendment made to section 28-8.3(a)(12), Hawaii
15 Revised Statutes, in section 29 of this Act, shall not
16 be repealed when that section is repealed and
17 reenacted on June 30, 2010, pursuant to Act 306,
18 Session Laws of Hawaii 2006;

19 (4) The amendment made to section 89-6(d), Hawaii Revised
20 Statutes, in section 42 of this Act, shall not be
21 repealed when that section is repealed and reenacted



1 on July 1, 2010, pursuant to Act 5, Special Session
2 Laws of Hawaii 2008.



Report Title:

Community Hospitals; Transfer to Department of Health

Description:

Transfers the community hospitals of the state government to the department of health from the Hawaii health systems corporation and abolishes the corporation and its regional boards. Provides for the repeal of the transfer provisions and enabling law for the community hospitals on June 30, 2012. Establishes a transition committee to conduct a study to determine a permanent structure for the community hospitals and requires a report before 1/1/2011. (SB1673 HD2)

