

JAN 26 2022

A BILL FOR AN ACT

RELATING TO ACT 212, SESSION LAWS OF HAWAII 2021.

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

1 SECTION 1. The legislature finds that Act 212, Session
2 Laws of Hawaii 2021, requires the transfer of the Oahu regional
3 health care system facilities of the Hawaii Health Systems
4 Corporation, consisting of Leahi Hospital and Maluhia Hospital,
5 to the department of health.

6 The legislature further finds that the complexity of this
7 task is high due to logistical, clinical, labor relations, and
8 financial issues. Due to the focus of the department of health
9 on responding to the COVID-19 pandemic in 2021 and likely into
10 2022, an extension for the date by which the transfer is to be
11 complete is necessary to assure the intent of Act 212, SLH 2021,
12 is achieved.

13 The purpose of this Act is to:

- 14 (1) Extend the date by which the transfer of the Oahu
15 regional health care system facilities of the Hawaii
16 Health Systems Corporation, consisting of Leahi

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1 Hospital and Maluhia Hospital, to the department of
2 health is to be complete from December 31, 2022 to
3 December 31, 2025; and

4 (2) Appropriate moneys from the general fund to formulate
5 and execute a comprehensive business and transition
6 plan.

7 SECTION 2. Act 212, Session Laws of Hawaii 2021, section
8 6, is amended by amending subsection (b) to read as follows:

9 "(b) The transfer of positions and respective class
10 specifications of the Oahu region from the Hawaii health systems
11 corporation's personnel system to the department of health, as
12 set forth in a transition document submitted by the working
13 group established pursuant to section 9 of this Act no later
14 than twenty days prior to the convening of the regular session
15 of 2022, shall be completed no later than December 31, [~~2022~~]
16 2025, provided that:

17 (1) All employees of the Oahu region who are employed as
18 of December 31, [~~2022~~] 2025, shall be transferred to
19 the department of health before the transition of the
20 Oahu regional health care system into the department
21 of health is complete;

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1 (2) All employees of the Oahu region who occupy civil
2 service positions shall be transferred to the
3 department of health by this Act and retain their
4 civil service status, whether permanent or temporary,
5 and shall maintain their respective functions as
6 reflected in their current position descriptions
7 during the transition period; provided that any
8 changes determined necessary by the working group
9 established pursuant to section 9 of this Act shall
10 follow standard union consultation process prior to
11 implementation;

12 (3) Employees shall be transferred without loss of salary;
13 seniority, except as prescribed by applicable
14 collective bargaining agreements; retention points;
15 prior service credit; any vacation and sick leave
16 credits previously earned; and other rights, benefits,
17 and privileges, in accordance with state employment
18 laws;

19 (4) The personnel structure of the Oahu regional health
20 care system shall remain unchanged, unless modified
21 and approved by the working group and as approved by
22 the conditions established pursuant to this Act;

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- 1 (5) Any employee who, prior to this Act, is exempt from
2 civil service or collective bargaining and is
3 transferred as a consequence of this Act shall be
4 transferred without loss of salary and shall not
5 suffer any loss of prior service credit, contractual
6 rights, vacation or sick leave credits previously
7 earned, or other employee benefits or privileges, and,
8 except in the instance of discipline, shall be
9 entitled to remain employed in the employee's current
10 position for a period of no less than one year after
11 the transition of the Oahu regional health care system
12 into the department of health is complete;
- 13 (6) The wages, hours, and other conditions of employment
14 shall be negotiated or consulted, as applicable, with
15 the respective exclusive representative of the
16 affected employees, in accordance with chapter 89,
17 Hawaii Revised Statutes; and
- 18 (7) The rights, benefits, and privileges currently enjoyed
19 by employees, including those rights, benefits, and
20 privileges under chapters 76, 78, 87A, 88, and 89,
21 Hawaii Revised Statutes, shall not be impaired or
22 diminished as a result of these employees being

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1 transitioned to the department of health pursuant to
2 this Act. The transition to the department of health
3 shall not result in any break in service for the
4 affected employees. The rights, benefits, and
5 privileges currently enjoyed by employees shall be
6 maintained under their existing collective bargaining
7 or other agreements and any successor agreement."

8 SECTION 3. Act 212, Session Laws of Hawaii 2021, is
9 amended by amending section 7 to read as follows:

10 "SECTION 7. (a) The Oahu regional board shall, through
11 the Oahu regional board chair, facilitate the transition of the
12 Oahu region into the department of health as part of the working
13 group established pursuant to section 9 of this Act and
14 effectuate the assignment of all contracts and agreements in
15 which the Oahu region is a party to the department of health.

16 (b) Notwithstanding any law to the contrary, the terms of
17 the following members of the board of directors of the Hawaii
18 health systems corporation shall expire on December 31, ~~{2022+}~~
19 2025:

20 (1) The regional chief executive officer of the Oahu
21 regional health care system; and

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(2) The two board members residing on the island of Oahu appointed pursuant to section 323F-3(b)(7), Hawaii Revised Statutes."

SECTION 4. Act 212, Session Laws of Hawaii 2021, is amended by amending section 8 to read as follows:

"SECTION 8. (a) During the transition planning period commencing on July 1, 2021, to and including the completion of the transition of the Oahu regional health care system into the department of health no later than December 31, [~~2022~~, 2025, the Oahu regional system board may:

(1) Develop and implement its own policies, procedures, and rules necessary or appropriate to plan, operate, manage, and control its facilities without regard to chapter 91, Hawaii Revised Statutes;

(2) Enter into and perform any contract, lease, cooperative agreement, partnership, or other transaction whatsoever that may be necessary or appropriate in the performance of its purposes and responsibilities, and on any terms the regional system board may deem appropriate with either:

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

(B) Any person, firm, association, partnership, or corporation, whether operated on a for-profit or not-for-profit basis; provided that the transaction furthers the public interest;

(3) Conduct activities and enter into business relationships the regional system board deems necessary or appropriate, including but not limited to:

(A) Creating nonprofit corporations, including but not limited to charitable fundraising foundations, to be controlled wholly by the regional system board or jointly with others;

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

(C) Entering into partnerships and other joint venture arrangements, or participating in alliances, purchasing consortia, health insurance pools, or other cooperative agreements, with any

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1 public or private entity; provided that any
2 corporation, venture, or relationship entered
3 into under this subsection shall further the
4 public interest;

5 (4) Execute, in accordance with all applicable bylaws,
6 rules, and laws, all instruments necessary or
7 appropriate in the exercise of any powers of the
8 regional system board;

9 (5) Make and alter regional system board bylaws and rules
10 for its organization and management without regard to
11 chapter 91, Hawaii Revised Statutes;

12 (6) Enter into any contract or agreement whatsoever, not
13 inconsistent with the laws of the State, execute all
14 instruments, and do all things necessary or
15 appropriate in the exercise of the powers granted
16 under chapter 323F, Hawaii Revised Statutes, including
17 securing the payment of bonds; provided that contracts
18 or agreements executed by the regional system board
19 shall only encumber the regional subaccounts of the
20 regional system board;

21 (7) Own, purchase, lease, exchange, or otherwise acquire
22 property, whether real, personal, or mixed, tangible

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1 or intangible, and any interest therein, in the name
2 of the regional system board; provided that the
3 regional system board shall be subject to the
4 requirements of section 323F-3.5, Hawaii Revised
5 Statutes;

6 (8) Contract for and accept any gifts, grants, and loans
7 of funds or property, or any other aid in any form
8 from the federal government, the State, any state
9 agency, or any other source, or any combination
10 thereof, in compliance, subject to chapter 323F,
11 Hawaii Revised Statutes, with the terms and conditions
12 thereof; provided that the regional system board shall
13 be responsible for contracting for and accepting any
14 gifts, grants, loans, property, or other aid if
15 intended to exclusively benefit the Oahu region public
16 health facilities and operations;

17 (9) Provide health and medical services to the public
18 directly or by agreement or lease with any person,
19 firm, or private or public corporation, partnership,
20 or association through or in the health facilities of
21 the regional system board or otherwise; provided that
22 the regional system board shall be responsible for

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1 conducting the activities under this paragraph solely
2 within the Oahu regional system;

3 (10) Approve medical staff bylaws, rules, and medical
4 staff appointments and reappointments for all public
5 health facilities of the regional system board,
6 including but not limited to determining the
7 conditions under which a health professional may be
8 extended the privilege of practicing within a health
9 facility, as determined by the regional system board,
10 and adopting and implementing reasonable rules,
11 without regard to chapter 91, Hawaii Revised Statutes,
12 for the credentialing and peer review of all persons
13 and health professionals within the facility; provided
14 that the regional system board shall be the governing
15 body responsible for all medical staff organization,
16 peer review, and credentialing activities to the
17 extent allowed by law;

18 (11) Enter into any agreement with the State, including
19 but not limited to contracts for the provision of
20 goods, services, and facilities for the support of the
21 regional system board's programs, and contracting for

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1 the provision of services to or on behalf of the
2 State;

3 (12) Develop internal policies and procedures for the
4 procurement of goods and services, consistent with the
5 goals of public accountability and public procurement
6 practices, and subject to management and financial
7 legislative audits; provided that the regional system
8 board shall enjoy the exemptions under
9 section 103-53(e) and chapter 103D, Hawaii Revised
10 Statutes;

11 (13) Authorize, establish, and abolish positions; and

12 (14) Employ or retain any attorney, by contract or
13 otherwise, for the purpose of representing the
14 regional system board in any litigation, rendering
15 legal counsel, or drafting legal documents for the
16 regional system board.

17 (b) During the transition period commencing on July 1,
18 2021, to and including the completion of the transition of the
19 Oahu regional health care system into the department of health
20 no later than December 31, ~~[2022,]~~ 2025, the Oahu regional
21 system board shall continue to enjoy the same sovereign immunity
22 available to the State.

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1 (c) During the transition period commencing on July 1,
2 2021, to and including the completion of the transition of the
3 Oahu regional health care system into the department of health
4 no later than December 31, [~~2022,~~] 2025, the Oahu regional
5 system board shall be exempt from chapters 36, 37, 38, 40, 41D,
6 103D, 103F, part I of chapter 92, and section 102-2, Hawaii
7 Revised Statutes."

8 SECTION 5. Act 212, Session Laws of Hawaii 2021, section
9 9, is amended by amending subsection (g) to read as follows:

10 "(g) The working group shall be dissolved on December 31,
11 [~~2022,~~] 2025, or upon completion of the transition of the Oahu
12 regional health care system into the department of health,
13 whichever is first."

14 SECTION 6. There is appropriated out of the general
15 revenues of the State of Hawaii the sum of \$_____ or so
16 much thereof as may be necessary for fiscal year 2022-2023 for
17 the formulation of a comprehensive business plan and transfer
18 framework for the transfer of Leahi Hospital and Maluhia
19 Hospital to the department of health.

20 The sum appropriated shall be expended by the department of
21 health for the purposes of this Act.

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1 SECTION 7. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 8. This Act shall take effect upon its approval.

4

5

INTRODUCED BY: 

6

BY REQUEST

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Report Title:

Hawaii Health Systems Corporation; Oahu Region; Department of Health; Transition; Working Group; Appropriation.

Description:

Extends the deadline to complete the transfer of the Oahu regional health care system from the Hawaii Health Systems Corporation to the Department of Health. Appropriates moneys.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

JUSTIFICATION SHEET

SB. NO. 3122

DEPARTMENT: Health

TITLE: A BILL FOR AN ACT RELATING TO ACT 212,
SESSION LAWS OF HAWAII 2021.

PURPOSE: To extend from December 31, 2022 to December
31, 2025 the deadline by which Leahi
Hospital and Maluhia Hospital must be
transferred to the jurisdiction of the
Department of Health; includes an
appropriation to conduct studies and hire
consultants.

MEANS: Amend Act 212, Session Laws of Hawaii (SLH)
2021.

JUSTIFICATION: The Department of Health continues to
provide COVID-19 pandemic response in 2021,
and likely throughout 2022. The department
also has not managed a general hospital for
over 20 years and does not have the internal
expertise. More time and resources are
required to execute the transfer to assure
the intent of Act 212, SLH 2021 is met.

Impact on the public: No change to existing
services provided at Leahi or Maluhia
hospitals.

Impact on the department and other agencies:
HHSC.

GENERAL FUND: _____.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: HTH 420.

OTHER AFFECTED

AGENCIES: HHSC.

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EFFECTIVE DATE: Upon approval.