

## ACT 211

S.B. NO. 1674

A Bill for an Act Relating to Community Hospitals.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that the pilot project to foster autonomous operation of the community hospitals has contributed to improving the delivery of health care services by Hawaii's public hospital system.

The State's community hospitals system is the fifth largest in the nation. The division of community hospitals is comprised of twelve medical facilities and one medical clinic located on the islands of Oahu, Hawaii, Maui, Kauai, and Lanai.

This Act provides for additional exemptions and powers that cover a wide array of hospital operating functions and services. It is an omnibus package of measures that is intended to provide the necessary foundation for the community hospitals to transition into an "agency" as mandated by the seventeenth legislature.

Further, this Act provides the needed legislative form and clarification of statutes that will further improve the ability of the community hospitals system to remain competitively viable and fiscally sound.

The legislature finds that it continues to be advantageous to the State to support measures that grant the community hospital system the means to progress in generating over ninety per cent of their own operating revenues. Additionally, the legislature recognizes that enabling the community hospitals system to generate its own revenues reduces the need for state general fund subsidy to the system. As it currently stands, less than ten per cent of the entire community hospital system budget is composed of general fund dollars.

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

**“§323- Hospital operations funds.** (a) There are established at commercial banks selected by each public health facility thirteen hospital operations funds, one each for each of the public health facilities, to expedite the payment of any vendor's bill for goods and services received of less than \$10,000.

(b) The director is authorized to transfer funds from each public health facility's special fund established by section 323-73 to the respective hospital operations funds established in subsection (a).

(c) At the end of each fiscal quarter, each public health facility shall report its expenditure activities to the department of budget and finance and the department of accounting and general services.

(d) The director of health shall establish policies and procedures necessary to ensure each public health facility operates its hospital operations fund in compliance with existing statutes.

(e) The department of health shall provide an annual report to the governor and legislature describing the activities involved in each of the thirteen hospital operations funds, including a detailed listing of encumbrances and expenditures using general acceptable accounting principles, by December 15 of each year for the preceding fiscal year.

(f) Notwithstanding any law to the contrary, expenditures from these funds shall be subject to section 103D-305.”

SECTION 3. Section 36-27, Hawaii Revised Statutes, is amended to read as follows:

**“§36-27 Transfers from special funds for central service expenses.**

Except as provided in this section, and notwithstanding any other law to the contrary, from time to time the director of finance, for the purpose of defraying the prorated estimate of central service expenses of government in relation to all special funds, except the:

- (1) Special summer school fund under section 298-3.5;
- (2) School cafeteria special funds of the community colleges and the department of education;
- (3) Special funds of the student housing, summer session, division of continuing education and community service, campus center, and bookstores of the University of Hawaii;
- (4) State educational facilities improvement special fund;
- (5) Convention center capital and operations special fund;
- (6) Special fund established by section 206E-6;
- [[ (7) ] ] Housing loan program revenue bond special fund, housing project bond special fund;
- [[ (8) ] ] Aloha Tower fund created by section 206J-17; [and
- [(9) ] ] The spouse and child abuse special account under section 346-7.5; the spouse and child abuse special account under section 601-3.6[,] and
- (10) Division of community hospitals’ special funds;

shall deduct five per cent of all receipts of all other special funds, which deduction shall be transferred to the general fund of the State and become general realizations of the State. All officers of the State and other persons having power to allocate or disburse any special funds shall cooperate with the director in effecting these transfers.”

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

- “(a) Each special fund, except the:
  - (1) Transportation use special fund established by section 261D-1;
  - (2) Special summer school fund under section 298-3.5;
  - (3) School cafeteria special funds of the community colleges, and the department of education;
  - (4) Special funds of the student housing, summer session, division of continuing education and community service, campus center, and bookstores of the University of Hawaii;
  - (5) State educational facilities improvement special fund;
  - (6) Special fund established by section 206E-6;
  - [[ (7) ] ] Aloha Tower fund created by section 206J-17; [and
  - [(8) ] ] Spouse and child abuse special account under section 346-7.5; the spouse and child abuse special account under section 601-3.6[,] and
  - (9) Division of community hospitals’ special funds;

shall be responsible for its pro rata share of the administrative expenses incurred by the department responsible for the operations supported by the special fund concerned.”

SECTION 5. Section 37-53, Hawaii Revised Statutes, is amended to read as follows:

**“§37-53 Transfer of special funds.** At any time during a fiscal year, notwithstanding any other law to the contrary, any department may, with the approval of the governor or the director of finance if so delegated by the governor, transfer from any special fund relating to such department to the general revenues of

the State all or any portion of moneys determined to be in excess of fiscal year requirements for such special fund, except for special funds under the control of the department of transportation relating to highways, airports, transportation use, and harbors activities[.], and special funds under the control of the division of community hospitals of the department of health. At any time the department of transportation, with the approval of the governor or the director of finance if so delegated by the governor, may transfer from any special fund under the control of the department of transportation, or from any account within any such special fund, to the general revenues of the State or to any other special fund under the control of the department of transportation all or any portion of moneys determined to be in excess of requirements for the ensuing twelve months determined as prescribed by rules adopted pursuant to chapter 91; provided that no such transfer shall be made which would cause a violation of federal law or federal grant agreements.’’

SECTION 6. Section 37-74, Hawaii Revised Statutes, is amended by amending subsections (d) and (e) to read as follows:

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

- (1) Authorized transfers or changes, when made, shall be reported to the legislature;
- (2) The University of Hawaii shall have the flexibility to transfer general fund appropriations for the operating cost category among programs with the same or similar objectives, among cost elements in a program, and between quarters, as applicable[.]; and the division of community hospitals shall have the flexibility to transfer special fund appropriations among community hospitals division facilities as applicable; provided that the division of community hospitals shall maintain the integrity and services of each individual facility and shall not transfer appropriations out of any facility which would result in a reduction of services offered by the facility, 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 division of community hospitals 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.

(e) The University of Hawaii and the division of community hospitals shall not use current appropriations in any manner that would result in the expansion of programs or the initiation of new programs that may require any future increase in the commitment of state resources, without the specific prior concurrence of the legislature and advice of the governor.’’

SECTION 7. Section 103D-204, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) There shall be a procurement office within the department of accounting and general services, which shall be headed by the administrator of the procurement office. The administrator shall be the chief procurement officer for the governmental bodies of the executive branch other than the University of Hawaii [and], the department of education, and the division of community hospitals within the department of health, and those governmental bodies administratively attached

thereto. The administrator shall be a full-time public official. The administrator shall serve a term of four years, and shall be paid the salary established for deputies or assistants to department heads under section 26-53 without diminution during the administrator's term of office unless by general law applying to all deputies or assistants to department heads."

SECTION 8. Section 323-63, Hawaii Revised Statutes, is amended to read as follows:

**"§323-63 Powers.** The department may:

- (1) Operate, manage, and control all public health facilities and establish one or more public health facilities as a system of public health facilities for the purpose of issuing revenue bonds pursuant to part III of chapter 39;
- (2) Establish new public health facilities;
- (3) Adopt, amend, and repeal bylaws and rules governing the conduct of its affairs and the performance of the powers and duties granted to or imposed upon it by law;
- (4) With the governor's approval, enter into and perform contracts, leases, cooperative agreements, or other transactions that may be necessary in the performance of its duties and responsibilities, including, but not limited to, entering into contracts for the management or lease, or both, of any component of a public health facility, and on terms that it may deem appropriate, with any agency or instrumentality of the United States, or with any state, territory, or possession, or with any subdivision thereof, or with any person, firm, association, or corporation; provided that the transaction shall further the public interest;
- (5) With the governor's approval, enter into business relationships, including, but not limited to:
  - (A) Creating nonprofit corporations;
  - (B) Establishing, subscribing to, and owning stock in for-profit corporations individually or jointly with others; and
  - (C) Entering into partnerships and other joint venture arrangements; provided that the relationship shall further the public interest;
- (6) Participate in prepaid health care service and insurance programs, and other alternative health care delivery programs[;] that may involve discounts and contractual adjustments from its rates, rents, fees, and charges;
- (7) Execute, in accordance with all applicable bylaws, rules, and laws, all instruments necessary or appropriate in the exercise of any of its powers;
- (8) Hire and dismiss, in accordance with section 323-65, the administrator or assistant administrator, or both, for each public health facility;
- (9) Prepare and recommend all division-wide and facility-specific budgets, policies, and procedures;
- (10) Set rates and charges for all services provided in each public health facility;
- (11) Recommend capital improvement projects, and repair and maintenance projects for each public health facility;
- (12) Conduct annual audits through an independent certified public accountant covering all financial operations of the public health facilities and the division;
- (13) Approve medical staff bylaws, rules, and medical staff appointments and reappointments for all public health facilities;

- (14) Develop division-wide capital and strategic plans;
- (15) Issue revenue bonds pursuant to part III of chapter 39; and
- (16) Perform all other acts necessary or appropriate to carry out the purposes of this part.”

SECTION 9. Section 323-70, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Notwithstanding subsection (a) and without regard to chapter 91, the division may:

- (1) Increase rates, rents, fees, and charges by up to five per cent per fiscal year;
- [(1)] (2) Reduce rates, rents, fees, and charges[;] without notice; and
- [(2)] (3) Establish rates for new medical services that are comparable to rates charged by private hospitals in Hawaii;

provided that the division shall give public notice of the revisions by publishing a summary statement of the substance of the proposed revisions in a newspaper of general circulation in the State not less than thirty days before the revisions take effect. Following this notice, the division shall review the proposed rates with an appropriate body that includes representation from health benefit plans.”

SECTION 10. Section 323-73, Hawaii Revised Statutes, is amended to read as follows:

“**§323-73 Establishment of special funds.** (a) Each public health facility shall place its revenues and all other moneys collected, acquired, or made available for the use of that facility, into a special fund to be used for the payment of its lawful operating expenditures, except that:

- (1) Any moneys received from the federal government or private contributions shall be deposited and accounted for in accordance with conditions established by the agencies or persons from whom the moneys are received;
- (2) With the concurrence of the director of finance, moneys in trust or revolving funds administered by the community hospitals may be deposited in depositories other than the state treasury; and
- (3) Amounts of less than \$1,000 collected from patients and health insurance providers shall be deposited into the appropriate collections revolving fund established under section 323-74.

At the beginning of each quarterly allotment period, the director shall assess from each hospital special fund an amount equal to two per cent of the moneys in the hospital special fund and deposit those amounts into the facility administration fund established in subsection (b). At the end of each quarterly allotment period, the director shall transfer all moneys remaining in a hospital special fund not required for the lawful operating expenditures of the hospital for that quarterly allotment period into the facility administration fund [; provided that public]. Public health facilities that do not receive general fund augmentation may retain [not more than twenty-five] one hundred per cent of their unrequired special fund revenues in their respective hospital special funds for payment of their lawful operating expenditures. [The director shall determine the percentage that a public health facility not supported by general funds may retain in its hospital special fund. The amounts the director may transfer shall include all unrequired special fund balances from prior years.]

(b) There is established within the department of health a special fund to be known as the facility administration fund. The facility administration fund shall be

used to defray the general administrative costs of the division and provide supplemental funds to public health facilities that do not have sufficient moneys in their special funds to cover their required lawful operating expenditures, including contingencies for correcting hospital deficiencies cited by agencies that monitor and evaluate the division. [If the balance in the facility administration fund at the end of any fiscal year exceeds ten per cent of the expenditures of all the public health facilities for that fiscal year, the funds in excess of ten per cent of the expenditures shall be transferred by the director to the general fund. The director may also transfer funds from the facility administration fund to the general fund at any time pursuant to section 37-53.]

(c) Any other law to the contrary notwithstanding, a separate special fund shall be established for each system of public health facilities for which revenue bonds have been issued. All income, revenues, and receipts derived from the ownership or operation of the particular system shall be deposited in the special fund and applied in accordance with section 39-62 and the resolution or certificate authorizing and securing the revenue bonds. For the purposes of determining the amount to be assessed against a special fund established pursuant to this subsection, the director may separately allocate a portion of the special fund to each separate public health facility that constitutes a component of the system, or assess from the special fund as a whole.

(d) The director shall submit an annual report to the legislature, twenty days prior to the convening of each regular session, that identifies all fund balances and ceiling increases in the various hospital and facility funds, the transfers and expenditures made from the funds, and the purposes of the expenditures.

(e) The division shall maintain the budgetary organization codes utilized in fiscal year 1994-1995 for each public health facility as an internal reporting and accounting mechanism."

SECTION 11. Section 2, Act 211, Session Laws of Hawaii 1993, as amended by section 5, Act 188, Session Laws Hawaii 1994, is amended to read as follows:

"SECTION 2. The department of health, through its director, shall formulate policies for the autonomous operation of the community hospitals until June 30, 1996. The provisions of this Act shall apply to Hilo Hospital, Maui Memorial Hospital, Kona Hospital, Kauai Veterans Memorial Hospital, Leahi Hospital, Maluhia Hospital, Kula Hospital, Samuel Mahelona Memorial Hospital, Ka'u Hospital, Honokaa Hospital, Kohala Hospital, Lanai Community Hospital, Hana Medical Center, and the division of community hospitals administrative staff office to the extent that it is acting on behalf of any or all of the community hospitals.

The division of community hospitals, department of health, is authorized to trade off and transfer, or establish positions within the existing authorized position count ceilings."

SECTION 12. Section 6 of Act 211, Session Laws of Hawaii 1993, as amended by section 3 of Act 193, Session Laws of Hawaii 1994, is further amended to read as follows:

"SECTION 6. (a) In order to achieve the benefits of a decentralized and relatively unencumbered autonomous operation, the hospitals specified in section 2 shall be granted flexibility in the hiring of personnel and the collection and disbursement of funds by being exempt from [sections 103-42 to 103-48,] part X, chapter 103D, Hawaii Revised Statutes, relating to [advertising for bids and] purchases to be made in Hawaii whenever public moneys are expended for the duration of the pilot project.

(b) The hospitals covered under the pilot autonomy project shall not be subject to any requirement of law for competitive bidding and preferences, including the requirements of sections 103D-301 to 103D-304, 103D-306 to 103D-315, and 103D-1001 to 103D-1006, Hawaii Revised Statutes.”

SECTION 13. Act 192, Session Laws of Hawaii 1994, is amended by amending section 7 to read as follows:

“SECTION 7. This Act shall take effect upon its approval and sections 1, 2, 4, 5, and 6 shall be repealed on June 30, 1996; provided that [sections 323-70 and] section 323-73, Hawaii Revised Statutes, [are] is reenacted in the form in which [they] it read on the day before the approval of this Act.”

SECTION 14. Act 212, Session Laws of Hawaii 1994, is amended by amending section 3 to read as follows:

“SECTION 3. (a) Except for positions in the department of education [and], the University of Hawaii, and the division of community hospitals of the department of health, with respect to positions in the executive branch vacated pursuant to section 2:

- (1) Thirty per cent of the positions vacated in each department may be refilled by the head of the department to ensure the continued ability of the department to carry out its public purpose;
- (2) Thirty per cent of the positions vacated in each department shall be held vacant for fiscal year 1995-1996 and shall be assigned to a statewide personnel pool; provided that after June 30, 1996, the governor may propose the transfer of vacant positions between executive departments as necessary to fill essential positions, subject to approval by the legislature through the executive budget; and
- (3) Forty per cent of the positions vacated in each department shall be eliminated.
- (b) With respect to positions in the judiciary vacated pursuant to section 2:
  - (1) Thirty per cent of the positions vacated may be refilled by the chief justice to ensure the continued ability of the judiciary to carry out its public purpose;
  - (2) Thirty per cent of the positions vacated shall be held vacant for fiscal year 1995-1996; and
  - (3) Forty per cent of the positions vacated shall be eliminated.

(c) With respect to positions in the University of Hawaii vacated pursuant to section 2:

- (1) Seventy per cent of the positions vacated may be refilled by the president of the University of Hawaii, with the approval of the board of regents; provided that these positions shall be reallocated as necessary to restructure and organize the university to ensure the continued provision of appropriate, direct, student-related services; and
- (2) Thirty per cent of the positions vacated shall be held vacant for fiscal year 1995-1996; provided that after June 30, 1996, the president of the University of Hawaii may propose the transfer of vacant positions between divisions, programs, and departments as necessary to fill essential positions, subject to approval by the legislature through the executive budget.

(d) With respect to positions in the department of education vacated pursuant to section 2, twenty per cent of the vacated statewide administrative positions shall be eliminated.

**ACT 211**

(e) With respect to positions vacated in the division of community hospitals pursuant to section 2:

- (1) One hundred per cent of the positions vacated may be filled by the director of health;
- (2) None of the positions vacated shall be held vacant for fiscal year 1995-1996; and
- (3) None of the positions vacated shall be eliminated.

[(e)] (f) Funding allocations for positions vacated pursuant to this Act and refilled pursuant to this section shall be computed on the basis of the average monthly salary of the department from which the person retired, and shall be distributed accordingly. All amounts already allocated for positions vacated pursuant to this Act shall be returned to the general fund. Each department shall report its position reallocations to the director of finance, who shall report this information to the legislature no later than twenty days prior to the convening of the regular session of 1996.

SECTION 15. The division of community hospitals shall submit a report to the legislature no later than twenty days prior to the convening of the 1996 regular session regarding the status of all trade off and transfer requests made during the 1995-1996 fiscal year.

SECTION 16. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>1</sup>

SECTION 17. This Act shall take effect upon its approval; provided that sections 3 and 4 shall apply retroactive to July 1, 1993 and any funds withdrawn under these sections shall be returned within ninety days of the approval of this Act.

(Approved June 20, 1995.)

**Note**

1. Edited pursuant to HRS §23G-16.5.