

ACT 290

S.B. NO. 1792

A Bill for an Act Relating to the Hawaii Health Systems Corporation.

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

SECTION 1. The legislature finds that the State's community hospital system, Hawaii health systems corporation, is the fourth largest public hospital system in the nation. The Hawaii health system corporation's public health facilities provide essential safety-net hospital and long-term care services throughout the state and are often the only hospitals in many rural communities. Due to rapid changes taking place in the health care industry, the legislature acknowledges that the governing structure of our public hospital system must provide the appropriate flexibility and autonomy needed to compete and remain viable and respond to the needs of the specific communities served by furthering the development of centers of excellence in health care.

The current administrative arrangement places the public hospital system in a single statewide public agency, the Hawaii health systems corporation, which operates with some autonomy from the executive branch. This arrangement is the result of landmark legislation, Act 262, Session Laws of Hawaii 1996 (Act 262), after years of study. Act 262 was largely the result of the work of a task force established pursuant to Act 266, Session Laws of Hawaii 1994, charged with studying the establishment of an agency for community hospitals, then a division of the department of health. On December 20, 1994, the task force issued its report to the governor and the legislature entitled "The Preliminary Report of the Governor's Task Force on the Establishment of an Agency for Community Hospitals." Many of the recommendations of the task force were adopted by the legislature, resulting in

passage of Act 262, and the creation of the Hawaii health systems corporation in 1996.

One significant recommendation of the task force included the establishment of regional system boards of directors, along with the system-wide board. The task force stated that:

“The Hawaii Health Systems Corporation should administer the state facilities in a decentralized fashion, with the facilities to be grouped into five regions. Three regions should be formed for the facilities of Kauai, Oahu and Maui Counties respectively, and the Big Island should be divided into Eastern and Western regions. Each region should have an operating Board of Directors consisting of nine members. Regional Boards should be initially appointed by the Governor with the advice and consent of the Senate, and should subsequently be self perpetuating (i.e., with future Board appointments made by the current Board).”

During the 1996 conference committee hearings on S.B. No. 2522, which ultimately became Act 262, the regional board concept was replaced with regional management advisory committees. The management advisory committees represent the communities in which the hospitals are located and meet with the management of the facilities and the executives of the Hawaii health systems corporation to give the communities a voice in the provision of these vital safety-net hospital services. However, the legislature finds that the Hawaii health systems corporation has developed strong administrative and clinical leadership in all five regions and is now ready for the implementation of the regional system boards recommendation. Further, the regional system board concept would enhance the ability of local communities and stakeholders to participate in the decision-making and operation of their own community hospitals. It is consistent with the original intent of the legislature in creating Hawaii health systems corporation that more than one system would be established, one for each region, as well as an umbrella system. While the management advisory committees have been diligent in representing the communities, their role has been solely advisory. Local community stakeholders, through independent regional system boards, are in the best position to make the critical decisions relating to the local operation of their community hospitals. Additionally, regional system boards would have the ability to address local needs and concerns in a more timely fashion.

The hospitals, through the Hawaii health systems corporation, should still engage in state-wide activities where a system-wide approach may provide economies of scale, efficiencies, and inter-regional collaboration and cooperation.

The purpose of this Act is to advance the State’s commitment to provide quality health care for the people of Hawaii, by moving forward on the original task force recommendation of community-based governance and establishing regional system boards for all regions, to be governed by a community-based regional system board of directors, and to provide the necessary authority for each region to accomplish the goal of community-based governance. The Hawaii health system corporation will continue to provide system-wide functions and governance with enhanced representation of regional system board members.

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

“**§323F-A 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 such other financial assets, physical assets of the corporation shall be permitted without the mutual consent of the Hawaii health systems corporation board and the appropriate regional system board. No additional debts or liabilities or superior debts shall be added by the corporation to any regional system board that would negatively impact the holders of bond notes. Each regional system board shall be liable for any liabilities arising from financial assets, real or personal property in its custodial care.

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

- (1) Each regional system board shall initially consist of twelve members to be appointed by the governor under section 26-34 or as provided in this section, as follows:
 - (A) Four members shall be appointed by the governor within thirty days of receipt of a qualified list of candidates as follows:
 - (i) Two members shall be chosen from a list of four individuals submitted by the speaker of the house of representatives within fifteen days of the effective date of this Act; provided that this list shall not include physicians; and
 - (ii) Two members shall be chosen from a list of four individuals submitted by the president of the senate within fifteen days of the effective date of this Act; provided that this list shall not include physicians;
 - (B) Four members shall be appointed by the governor within thirty days from a list of eight individuals nominated by the regional public health facility management advisory committee within fifteen days of the effective date of this Act. These individuals may be medical and health care providers and professionals, consumers, and knowledgeable individuals in other appropriate areas such as business, finance, and law; provided that these individuals shall not be physicians currently in active practice;
 - (C) Three physicians shall be appointed by the governor within thirty days from a list submitted within fifteen days of the effective date of this Act, of six physicians nominated by a majority vote of the medical staff of the public health facilities in the regional system present at a duly noticed meeting from a list of qualified candidates submitted by the medical executive committees in the regional system; and
 - (D) The corporation board chairperson or chairperson's designee shall serve as an ex officio, non-voting member of each regional system board;
- (2) One member of each regional system board nominated by the speaker of the house of representatives, the president of the senate, and medical executive committees in a regional system shall be appointed for a term of two years;

- (3) One member of each initial regional system board nominated by the regional public health facility management advisory committee for the regional system shall be appointed for a term of two years;
- (4) The remaining members of each initial regional system board and all members appointed thereafter shall be appointed for terms of three years; and
- (5) New regional system board members appointed to any regional system board after the initial regional system board shall be selected by a two-thirds affirmative vote of the existing regional system board members.

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

(d) Each regional system board shall be responsible for local governance, operations, and administration of the delivery of services in its respective regional system as set forth in this chapter and as further delegated by the corporation. Each regional system board shall include medical and health care providers and professionals, consumers, and knowledgeable individuals in other appropriate areas, such as business, finance, and law; provided that no more than three members of the regional system board shall be physicians. Each regional system board shall be as balanced and representative of the community stakeholders as possible.

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

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

§323F-B Regional chief executive officer; exempt position. (a) Upon establishment, and until December 31, 2008, a regional system board may appoint a regional chief executive officer and regional chief financial officer whose salary shall be set by the corresponding regional system board and may discharge a regional chief executive officer or regional chief financial officer for cause, consistent with subsection (b); provided that the position shall be exempt from chapter 76 and section 26-35(a)(4). Effective January 1, 2009, the hiring and firing of the regional chief executive officers shall be subject to approval of both the regional system board and the corporation board. Each regional chief executive officer may also appoint, as necessary, other personnel, exempt from chapters 76 and 89, to work directly for the regional chief executive officer for the regional system and for the corresponding regional system board.

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

(c) Each regional chief executive officer or their designees may appoint, exempt from chapters 76 and 89, hospital administrators, assistant administrators,

directors of nursing, medical directors, and staff physicians, to facilitate the management of facilities within the regional system.

(d) Hiring, firing, compensation packages, and other personnel actions with respect to employees not covered by chapters 76 and 89 shall be governed by policies adopted by each regional system board. These policies and guidelines shall be consistent with policies and guidelines adopted by the corporation board after consultation with the regional system boards.

§323F-C Regional system boards; delegated authority. If the Hawaii health systems corporation board is unable to act on important transactions in as timely a manner as the chairperson of the corporation board deems reasonable, the chairperson of the corporation board may further delegate authority to the regional system boards to take action on specific matters.”

SECTION 3. Section 26-5, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

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

SECTION 4. Section 26-35.5, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

“(a) For purposes of this section, “member” means any person who is appointed, in accordance with the law, to serve on a temporary or permanent state board, including members of the local school board of any charter school established under chapter 302B, council, authority, committee, or commission, established by law or elected to the board of education, or the board of trustees of the employees’ retirement system under section 88-24[;], or the corporation board of the Hawaii health systems corporation under section 323F-3 and its regional system boards under section 323F-A; provided that “member” shall not include any person elected to serve on a board or commission in accordance with chapter 11 other than a person elected to serve on the board of education.”

2. By amending subsection (e) to read:

“(e) The attorney general, or in the case of the board of regents of the University of Hawaii, its university general counsel, or in the case of the board of directors of the Hawaii health systems corporation under section 323F-3 or its regional system boards under chapter¹ 323F-A, the attorneys retained by the board of directors of the Hawaii health systems corporation or its regional system boards under section 323F-9, shall represent and defend a member in any civil action for which immunity is conferred under subsection (b), or when the attorney general, or, if the action involves a member of the board of regents, the university general counsel, or, if the action involves a member of the board of directors of the Hawaii health systems corporation or its regional system boards, the attorneys retained by the board of directors of the Hawaii health systems corporation or its regional system boards, determines that indemnification is available to the member under subsection (c), and the member against whom the action is brought has submitted a written request for representation and has provided the attorney general, [or] the university general counsel in the case of an action involving a member of the board of regents, or the attorneys retained by the board of directors of the Hawaii health systems corporation or its regional system boards in the case of an action involving a member

of the board of directors of the Hawaii health systems corporation or its regional system boards with all process or complaint served upon the member within a reasonable period of time, but not more than five days after being served with the process or complaint. The attorney general, [or] the university general counsel, or an attorney retained by the board of directors of the Hawaii health systems corporation or its regional system boards may terminate the representation and defense of the member at any time if, after representation and defense is accepted, the attorney general, [or] the university general counsel, or an attorney retained by the board of directors of the Hawaii health systems corporation or one of its regional system boards determines that indemnification would not be available to the member under subsection (c)."

SECTION 5. Section 28-8.3, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

“(a) No department of the State other than the attorney general may employ or retain any attorney, by contract or otherwise, for the purpose of representing the State or the department in any litigation, rendering legal counsel to the department, or drafting legal documents for the department; provided that the foregoing provision shall not apply to the employment or retention of attorneys:

- (1) By the public utilities commission, the labor and industrial relations appeals board, and the Hawaii labor relations board;
- (2) By any court or judicial or legislative office of the State;
- (3) By the legislative reference bureau;
- (4) By any compilation commission that may be constituted from time to time;
- (5) By the real estate commission for any action involving the real estate recovery fund;
- (6) By the contractors license board for any action involving the contractors recovery fund;
- (7) By the trustees for any action involving the travel agency recovery fund;
- (8) By the office of Hawaiian affairs;
- (9) By the department of commerce and consumer affairs for the enforcement of violations of chapters 480 and 485;
- (10) As grand jury counsel;
- (11) By the Hawaiian home lands trust individual claims review panel;
- (12) By the Hawaii health systems corporation, or its regional system boards, or any of [its] their facilities;
- (13) By the auditor;
- (14) By the office of ombudsman;
- (15) By the insurance division;
- (16) By the University of Hawaii;
- (17) By the Kahoolawe island reserve commission;
- (18) By the division of consumer advocacy;
- (19) By the office of elections;
- (20) By the campaign spending commission;
- (21) By the Hawaii tourism authority, as provided in section 201B-2.5; or
- (22) By a department, in the event the attorney general, for reasons deemed by the attorney general good and sufficient, declines, to employ or retain an attorney for a department; provided that the governor thereupon waives the provision of this section.”

2. By amending subsection (c) to read:

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

SECTION 6. Section 29-24, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) There is established in the state treasury an interagency federal revenue maximization revolving fund, into which shall be deposited all funds and proceeds collected from the federal government and third-party [payers] payers for costs not previously claimed by the State, with the exception of proceeds collected for services provided by the Hawaii health systems corporation[;] or its regional system boards, for reimbursement of federally-funded state programs. For purposes of this chapter, federally-funded state programs include but shall not be limited to those federally-funded programs within the departments of human services and health, and shall not include the federally-funded program within the department of education as provided in []section[] 302A-1406. Expenditures and transfers from the fund shall be made by the comptroller in proportional allocations established by the comptroller and the director of finance. Transfers shall be made to the department claiming the reimbursement for expenses incurred related to federal fund reimbursement claims and to the general fund of the State. Moneys in the fund may be expended for consultant services rendered under subsection (b).”

SECTION 7. 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 out-of-school time instructional program fund under section 302A-1310;
- (2) School cafeteria special funds of the department of education;
- (3) Special funds of the University of Hawaii;
- (4) State educational facilities improvement special fund;
- (5) Convention center enterprise special fund under section 201B-8;
- (6) Special funds established by section 206E-6;
- (7) Housing loan program revenue bond special fund;
- (8) Housing project bond special fund;
- (9) Aloha Tower fund created by section 206J-17;
- (10) Funds of the employees' retirement system created by section 88-109;
- (11) Unemployment compensation fund established under section 383-121;
- (12) Hawaii hurricane relief fund established under chapter 431P;
- (13) Hawaii health systems corporation special funds[;] and the subaccounts of its regional system boards;
- (14) Tourism special fund established under section 201B-11;
- (15) Universal service fund established under chapter 269;

- (16) Integrated tax information management systems special fund under section 231-3.2;
- (17) Emergency and budget reserve fund under section 328L-3;
- (18) Public schools special fees and charges fund under section 302A-1130(f);
- (19) Sport fish special fund under section 187A-9.5;
- (20) Neurotrauma special fund under section 321H-4;
- (21) Deposit beverage container deposit special fund under section 342G-104;
- (22) Glass advance disposal fee special fund established by section 342G-82;
- (23) Center for nursing special fund under section [§]304A-2163[§];
- (24) Passenger facility charge special fund established by section 261-5.5;
- (25) Solicitation of funds for charitable purposes special fund established by section 467B-15;
- (26) Land conservation fund established by section 173A-5;
- (27) Court interpreting services revolving fund under section 607-1.5;
- (28) Trauma system special fund under section 321-22.5;
- (29) Hawaii cancer research special fund;
- (30) Community health centers special fund; and
- (31) Emergency medical services special fund[§];

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. To determine the proper revenue base upon which the central service assessment is to be calculated, the director shall adopt rules pursuant to chapter 91 for the purpose of suspending or limiting the application of the central service assessment of any fund. No later than twenty days prior to the convening of each regular session of the legislature, the director shall report all central service assessments made during the preceding fiscal year.[§]”

SECTION 8. 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 out-of-school time instructional program fund under section 302A-1310;
 - (3) School cafeteria special funds of the department of education;
 - (4) Special funds of the University of Hawaii;
 - (5) State educational facilities improvement special fund;
 - (6) Special funds established by section 206E-6;
 - (7) Aloha Tower fund created by section 206J-17;
 - (8) Funds of the employees’ retirement system created by section 88-109;
 - (9) Unemployment compensation fund established under section 383-121;
 - (10) Hawaii hurricane relief fund established under chapter 431P;
 - (11) Convention center enterprise special fund established under section 201B-8;
 - (12) Hawaii health systems corporation special funds[;] and the subaccounts of its regional system boards;
 - (13) Tourism special fund established under section 201B-11;
 - (14) Universal service fund established under chapter 269;
 - (15) Integrated tax information management systems special fund under section 231-3.2;
 - (16) Emergency and budget reserve fund under section 328L-3;

- (17) Public schools special fees and charges fund under section 302A-1130(f);
- (18) Sport fish special fund under section 187A-9.5;
- (19) Neurotrauma special fund under section 321H-4;
- (20) Center for nursing special fund under section [H]304A-2163[H];
- (21) Passenger facility charge special fund established by section 261-5.5;
- (22) Court interpreting services revolving fund under section 607-1.5;
- (23) Trauma system special fund under section 321-22.5;
- (24) Hawaii cancer research special fund;
- (25) Community health centers special fund; and
- (26) Emergency medical services special fund[H];

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.[H]”

SECTION 9. 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, special funds under the control of the Hawaii health systems corporation[;] or subaccounts under the control of its regional system boards, and special funds of the University of Hawaii. 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 10. Section 37-74, Hawaii Revised Statutes, is amended by amending subsection (d) 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) Except with respect to appropriations to fund financing agreements under chapter 37D, the University of Hawaii shall have the flexibility to transfer appropriated funds and positions for the operating cost category among programs, among cost elements in a program, and between quarters, as applicable; except with respect to appropriations to fund financing agreements under chapter 37D, the department of education shall have the flexibility to transfer appropriated funds and positions for the operating cost category among programs and among cost elements in a program, and between quarters, as applicable; and the Hawaii health systems corporation and its regional system boards shall have

the flexibility to transfer special fund appropriations among [~~community hospitals~~] 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 [facility] regional system and shall not transfer appropriations out of any [facility] regional system that would result in a reduction of services offered by the [facility¹] 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.”

SECTION 11. Section 37D-1, Hawaii Revised Statutes, is amended by amending the definition of “agency” to read as follows:

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

SECTION 12. Section 37D-2, Hawaii Revised Statutes, is amended to read as follows:

“**§37D-2 Financing agreements.** (a) There is hereby established and authorized the financing agreement program of the State. Any agency desiring to acquire or improve projects through the financing agreement program established and authorized by this chapter shall submit a written request to the department providing such information as the department shall require. Notwithstanding any other law to the contrary, and except for the Hawaii health systems corporation[;] and its regional system boards, only with the approval by the attorney general as to form and legality and upon the written request of one or more participating agencies may the department enter into a financing agreement in accordance with this chapter, except that the board of regents of the University of Hawaii may enter into a financing agreement in accordance with this chapter without the approval of the director and of the attorney general as to form and legality if the principal amount of the financing agreement does not exceed \$3,000,000. A financing agreement may be entered into by the department on behalf of one or more participating agencies at any time (before or after commencement or completion of any improvements or acquisitions to be financed) and shall be upon terms and conditions the department finds to be advantageous. In each case of a written request by the judiciary to participate in the financing agreement program, the department shall implement the request; provided that the related financing agreement shall be upon terms and conditions the department finds to be advantageous. Any financing agreement entered into by the department without the approval required by this section shall be void and of no effect. A single financing agreement may finance a single item or multiple items of

property to be used by multiple agencies or may finance a single item or multiple items of property to be used by a single agency. The department shall bill any participating agency that benefits from property acquired with the proceeds of a financing agreement for such participating [agency's] agencies pro rata share of:

- (1) The department's costs of administration of the financing agreement program; and
- (2) The financing costs, including the principal and interest components of the financing agreement and insurance premiums;

on a monthly or other periodic basis, and may deposit payments received in connection with the billings with a trustee as security for a financing agreement. Any participating agency receiving such a bill shall be authorized and shall pay the amounts billed from the available moneys.

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

- (1) Amounts payable by a participating agency to or upon the direction of the department in respect to a project and by the department under a financing agreement shall be limited to available moneys. In no circumstance shall the department be obligated to pay amounts due under a financing agreement from any source other than available moneys. If, by reason of insufficient available moneys or other reason, amounts due under a financing agreement are not paid when due, the lender may exercise any property right that the department has granted to it in the financing agreement, against the property that was purchased with the proceeds of the financing agreement, and apply the amounts so received toward payments scheduled to be made by the department under the financing agreement;
- (2) No property rights may be granted in property unless the property is being acquired, is to be substantially improved, is to be refinanced with the proceeds of a financing agreement, or is land on which the property is located;
- (3) Notwithstanding any other law to the contrary, and except for the Hawaii health systems corporation and its regional system boards, and as otherwise provided in this section with respect to the University of Hawaii, and except as provided in chapter 323F as to the Hawaii health systems corporation^[,] and its regional system boards, an agency shall not have the power to enter into a financing agreement, except through the department as authorized by this chapter, and nothing in this chapter shall be construed to authorize the sale, lease, or other disposition of property owned by an agency;
- (4) Except as otherwise provided in this section with respect to the University of Hawaii, the sale, assignment, or other disposition of any financing agreements, including certificates of participation relating thereto, shall require the approval of the director; and
- (5) The department shall not be subject to chapter 103D and any and all other requirements of law for competitive bidding for financing agreements."

SECTION 13. Section 41D-2, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Any provision in this section to the contrary notwithstanding, the University of Hawaii (as to casualty insurance risks only), the Research Corporation of the University of Hawaii (as to casualty insurance risks only), [and] the public health facilities of the department of health (with respect to medical malpractice

risks only), and the Hawaii health systems corporation and its regional system boards shall be exempt from the requirements of this chapter.”

SECTION 14. Section 102-2, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

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

- (1) For operation of ground transportation services and parking lot operations at airports, except for motor vehicle rental operations under chapter 437D;
- (2) For lei vendors;
- (3) For airline and aircraft operations;
- (4) For automatic teller machines and vending machines, except vending machines located at public schools operated by blind or visually handicapped persons in accordance with section 302A-412;
- (5) For operation of concessions set aside without any charge;
- (6) For operation of concessions by handicapped or blind persons; except concessions operated in the public schools by blind or visually handicapped persons in accordance with section 302A-412;
- (7) For operation of concessions on permits revocable on notice of thirty days or less; provided that no such permits shall be issued for more than a one year period;
- (8) For operation of concessions or concession spaces for a beach service association dedicated to the preservation of the Hawaii beach boy tradition, incorporated as a nonprofit corporation in accordance with state law, and whose members are appropriately licensed or certified as required by law;
- (9) For operation of concessions at county zoos, botanic gardens, or other county parks which are environmentally, culturally, historically, or operationally unique and are supported, by nonprofit corporations incorporated in accordance with state law solely for purposes of supporting county aims and goals of the zoo, botanic garden, or other county park, and operating under agreement with the appropriate agency solely for such purposes, aims, and goals;
- (10) For operation of concessions that furnish goods or services for which there is only one source, as determined by the head of the awarding government agency in writing that shall be included in the contract file; [and]
- (11) For operation of concession or concession spaces at the convention center under chapter 201B[-]; and
- (12) For any of the operations of the Hawaii health systems corporation and its regional system boards.”

SECTION 15. Section 103-53, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

“(e) This section shall not apply to:

- (1) Any procurement of less than \$25,000 or that is considered a small purchase under section 103D-305 and any state or county department contract of less than \$25,000;
- (2) Emergency purchases for the procurement of goods, services, or construction under section 103D-307, disaster relief under chapter 127, or a civil defense emergency under chapter 128;

- (3) Grants and subsidies disbursed by a state agency pursuant to chapter 42F or in accordance with standards provided by law as required by article VII, section 4, of the State Constitution, or made by the counties pursuant to their respective charters or ordinances;
- (4) Contracts or agreements between government agencies;
- (5) Contracts or agreements to disburse funds:
 - (A) To make payments to or on behalf of public officers and employees for salaries, fringe benefits, professional fees, and reimbursements;
 - (B) To satisfy obligations required to be paid by law, including fees, judgments, settlements, and other payments for resolving claims;
 - (C) To make refunds or return funds held by the State or county as trustee, custodian, or bailee;
 - (D) For entitlement programs, including public assistance, unemployment, and workers' compensation programs, established by state or federal law;
 - (E) For deposit, investment, or safekeeping, including sums to pay expenses related to their deposit investment, or safekeeping;
 - (F) For loans under government-administered loan 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 16. 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) Solicited or entered into before July 1, 1994, unless the parties agree to its application to a contract solicited or entered into prior to July 1, 1994;
- (2) To disburse funds, irrespective of their source:
 - (A) For grants or subsidies as those terms are defined in section 42F-101, made by the State in accordance with standards provided by law as required by article VII, section 4, of the State Constitution; or by the counties pursuant to their respective charters or ordinances;
 - (B) To make payments to or on behalf of public officers and employees for salaries, fringe benefits, professional fees, or reimbursements;
 - (C) To satisfy obligations that the State is required to pay by law, including paying fees, permanent settlements, subsidies, or other claims, making refunds, and returning funds held by the State as trustee, custodian, or bailee;

- (D) For entitlement programs, including public assistance, unemployment, and workers' compensation programs, established by state or federal law;
- (E) For dues and fees of organizations of which the State or its officers and employees are members, including the National Association of Governors, the National Association of State and County Governments, and the Multi-State Tax Commission;
- (F) For deposit, investment, or safekeeping, including expenses related to their deposit, investment, or safekeeping;
- (G) To governmental bodies of the State;
- (H) As loans, under loan programs administered by a governmental body; and
- (I) For contracts awarded in accordance with chapter 103F.
- (3) To procure goods, services, or construction from a governmental body other than the University of Hawaii bookstores, from the federal government, or from another state or its political subdivision;
- (4) To procure the following goods or services which are available from multiple sources but for which procurement by competitive means is either not practicable or not advantageous to the State:
 - (A) Services of expert witnesses for potential and actual litigation of legal matters involving the State, its agencies, and its officers and employees, including administrative quasi-judicial proceedings;
 - (B) Works of art for museum or public display;
 - (C) Research and reference materials including books, maps, periodicals, and pamphlets, which are published in print, video, audio, magnetic, or electronic form;
 - (D) Meats and foodstuffs for the Kalaupapa settlement;
 - (E) Opponents for athletic contests;
 - (F) Utility services whose rates or prices are fixed by regulatory processes or agencies;
 - (G) Performances, including entertainment, speeches, and cultural and artistic presentations;
 - (H) Goods and services for commercial resale by the State;
 - (I) Services of printers, rating agencies, support facilities, fiscal and paying agents, and registrars for the issuance and sale of the State's or counties' bonds;
 - (J) Services of attorneys employed or retained to advise, represent, or provide any other legal service to the State or any of its agencies, on matters arising under laws of another state or foreign country, or in an action brought in another state, federal, or foreign jurisdiction, when substantially all legal services are expected to be performed outside this State;
 - (K) Financing agreements under chapter 37D; and
 - (L) Any other goods or services which the policy board determines by rules or the chief procurement officer determines in writing is available from multiple sources but for which procurement by competitive means is either not practicable or not advantageous to the State; and
- (5) Which are specific procurements expressly exempt from any or all of the requirements of this chapter by:
 - (A) References in state or federal law to provisions of this chapter or a section of this chapter, or references to a particular requirement of this chapter; and

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

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

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

SECTION 17. Section 323F-1, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

"“Regional system board” means a community-based governing board of directors of a regional system of the corporation."

SECTION 18. Section 323F-2, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The corporate organization shall be divided into five [regions,] regional systems, as follows:

- (1) The [city and county of Honolulu,] Oahu regional health care system;
- (2) The [county of Kauai,] Kauai regional health care system;
- (3) The [county of Maui, except the county of Kalawae,] Maui regional health care system;
- (4) The [eastern section of the county of Hawaii,] east Hawaii regional health care system, comprising the Puna district, north Hilo district, south Hilo district, Hamakua district, and Kau district; and
- (5) The [western section of the county of Hawaii,] west Hawaii regional health care system, comprising the north Kohala district, south Kohala district, north Kona district, and south Kona district;

and shall be identified as [regions] regional systems I, II, III, IV, and V, respectively."

SECTION 19. Section 323F-3, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

"(a) The corporation shall be governed by a [thirteen-member] fifteen-member board of directors [which] that shall carry out the duties and responsibilities of the corporation.

(b) [Ten members of the corporation board shall be appointed by the governor] Twelve members of the corporation board shall be appointed as follows:

- (1) [One member from region I who resides] Two members from regional system I who reside in the city and county of Honolulu[;] shall be appointed by the governor from a list consisting of four individuals, two individuals submitted by the speaker of the house of representatives and two individuals submitted by the president of the senate within fifteen days of the effective date of this Act; provided that this list shall not include physicians;
- (2) [One member from region II who resides] Two members from regional system II who reside in the county of Kauai[;] shall be appointed by the governor from a list consisting of four individuals, two individuals submitted by the speaker of the house of representatives and two

individuals submitted by the president of the senate within fifteen days of the effective date of this Act; provided that this list shall not include physicians;

- (3) [One member from region III who resides] Two members from regional system III who reside in the county of Maui[;] shall be appointed by the governor from a list consisting of four individuals, two individuals submitted by the speaker of the house of representatives and two individuals submitted by the president of the senate within fifteen days of the effective date of this Act; provided that this list shall not include physicians;
- (4) [One member from region IV who resides] Two members from regional system IV who reside in the eastern section of the county of Hawaii[;] shall be appointed by the governor from a list consisting of four individuals, two individuals submitted by the speaker of the house of representatives and two individuals submitted by the president of the senate within fifteen days of the effective date of this Act; provided that this list shall not include physicians;
- (5) [One member from region V who resides] Two members from regional system V who reside in the western section of the county of Hawaii[;] shall be appointed by the governor from a list consisting of four individuals, two individuals submitted by the speaker of the house of representatives and two individuals submitted by the president of the senate within fifteen days of the effective date of this Act; provided that this list shall not include physicians;
- (6) [One member from region II who resides in the county of Kauai or from region III who resides in the district of Hana or on the island of Lanai; provided that in no event shall the member be appointed from the same region for two consecutive terms; and] Two additional members who reside in the State shall be appointed by the governor.
- (7) Four at-large members who reside in the State.

The eleventh member shall be the chairperson of the executive public health facility management advisory committee, who shall serve as an ex officio, voting member.

The twelfth member,] The thirteenth and fourteenth members, who shall serve as [a] voting [member,] members, shall be [a physician] physicians with active medical staff privileges at one of the corporation's public health facilities. The physician [member] members shall each serve a term of two years. The initial physician [member] members shall be from [region] regional system II, and subsequent physician members shall come from [regions] regional systems IV, III, and V respectively. The physician member [position] positions shall continue to rotate in this order. The physician [member] members shall be appointed to the corporation board by a [simple majority vote of the members of the executive public health facility management advisory committee] two-thirds majority vote of the corporation board from a list of qualified nominees submitted by the public health facility management advisory [committee for the region from which the physician member is to be chosen.] committees or by any regional system board. If for any reason a physician member is unable to serve a full term, the remainder of that term shall be filled by a physician from the same [region.] regional system.

The [thirteenth] fifteenth member shall be the director of health or the director's designee, who shall serve as an ex officio, voting member.

Appointments to the corporation board, with the exception of the chairperson of the executive public health facility management advisory committee and the regional physician member, shall be made by the governor, subject to confirmation by the senate pursuant to section 26-34. [Prior to the transfer date, the public health

~~facility management advisory committees appointed pursuant to section 323-66 for each county may recommend names to the governor for each position on the corporation board designated for¹ region which corresponds to its county. After the transfer date, the public health facility management advisory committees appointed pursuant to section 323F-10 for each region may make such recommendation¹ to the governor. The appointed board members shall serve for a term of four years; provided that upon the initial appointment of the first ten members:~~

- ~~(1) Two at large members shall be appointed for a term of two years;~~
- ~~(2) Three at large shall be appointed for a term of three years; and~~
- ~~(3) Five regional members shall be appointed for a term of four years.]~~

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

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

SECTION 20. Section 323F-4, Hawaii Revised Statutes, is amended to read as follows:

"§323F-4 Board meetings. (a) [The corporation board shall meet no fewer than four times a year. All meetings of the corporation board shall be subject to chapter 92, except that in addition to matters exempted pursuant to law, the corporation board may elect to hold an executive meeting for the consideration of any matters set forth in section 323F-6.] The corporation board and each regional system board shall be exempt from part I of chapter 92 and shall meet no fewer than four times a year; provided that the regional system boards and the corporation board shall meet together at least once a year. Each regional board shall meet at least six times each year; provided that two of these meetings shall be public community meetings for the purpose of informing the community and taking comment on the regional system's performance if these meetings are in addition to the four board meetings. The public community meetings shall be advertised in a newspaper of general circulation in the regional system at least two weeks in advance.

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

- (1) Removal by the corporation board or respective regional system board of one of its members[; with the exception of the eleventh and twelfth members set forth in section 323F-3, who may only be removed pursuant to sections 323F-10 and 323F-10.5];
- (2) Amendment by the corporation or a regional system board of its bylaws;
- (3) Hiring or removing the chief executive officer of the corporation[; and] or regional chief executive officer;
- (4) Filling of vacancies on a board; and

[(4)] (5) Any other actions as provided by the corporation or regional system board bylaws.”

SECTION 21. Section 323F-5, Hawaii Revised Statutes, is amended to read as follows:

“[F]§323F-5[F] **Disclosure of interests.** All corporation and regional system board members and employees of the corporation shall be subject to chapter 84.”

SECTION 22. Section 323F-6, Hawaii Revised Statutes, is amended to read as follows:

“[F]§323F-6[F] **Records.** The corporation and each regional system board shall be subject to the requirements of chapter 92F, except that the following categories of government records shall not be required to be disclosed:

- (1) Applications for credentials or staff privileges at any of the corporation’s medical facilities, records from peer review proceedings, and medical records; and
- (2) Marketing strategies, strategic plans, evaluations, assessments, negotiations, or rates and charges, the disclosure of which would raise the cost of procurement or give a manifestly unfair advantage to any competitor or to any person or entity seeking to do business or proposing to enter into an agreement with a regional system board, the corporation, or any of its facilities.

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

SECTION 23. Section 323F-7, Hawaii Revised Statutes, is amended to read as follows:

“§323F-7 **Duties and powers of the corporation [.] and regional system boards.** (a) Notwithstanding any other law to the contrary[.] and unless otherwise specified, only those duties and powers related to corporation-wide matters, including but not limited to corporation-wide budgeting, personnel policies, procurement policies, fiscal policies, accounting policies, policies related to affiliations, joint ventures and contracts, regulatory compliance, risk management, continuing medical education programs, strategic planning, and capital planning, including the issuance of revenue bonds in any amount, shall be carried out by the corporation [shall have and exercise the following duties] board in collaboration with the regional system boards. Duties and powers[:.] related to the operation of facilities within each regional system, including but not limited to regional system and facility budgeting, employment and removal of regional system and facility personnel, purchasing, regional system strategic and capital planning, organization, quality assurance, improvement and reporting, credentialing of medical staff, and the issuance of revenue bonds in any amount with corporation board approval, shall be carried out by the regional system boards, either directly or by delegation to regional and facility administration. Unless otherwise prohibited, the duties and powers granted to the corporation board may be delegated to the regional system boards.

(b) Duties and powers exercised by the regional system boards under this chapter or delegated to the regional system boards by the corporation board shall be consistent with corporation-wide policies. Wherever appropriate, corporation-wide

policies shall take into account differences among regional systems and among types of facilities, particularly acute care, critical access, and long-term care facilities within the system.

New corporation-wide policies, and major changes to existing policies other than those changes mandated by legal or regulatory requirements, shall be developed by the corporation board after consultation with a policies committee. The policies committee shall be made up of representatives of the corporation board and each regional system board or designees of each board. The corporation board shall have two representatives on this committee. The corporation board shall review and consider approval of the policies within thirty days of transmittal by the policies committee or at the next board meeting; provided that, if the policies committee fails to take action within thirty days of receiving the proposed policy, the corporation board may consider and adopt or reject or revise the policy. The regional system boards and corporation board, as needed, may submit a request to the committee to alter corporation-wide policies along with detailed justification for the request. The regional system boards and the corporation board shall collaboratively establish a procedure to further implement this section.

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

- (1) Developing [its own] corporation-wide policies, procedures, and rules necessary or appropriate to plan, operate, manage, and control the system of public health facilities and services without regard to chapter 91; provided that each regional system board shall be responsible for its own policies, procedures, and rules necessary or appropriate to plan, operate, manage, and control the public health facilities within its own regional system consistent with corporate policies;
- (2) Evaluating the need for additional health facilities and services; provided that each regional system board shall be responsible for the evaluation within its own regional system;
- (3) Entering into and performing any contracts, leases, cooperative agreements, partnerships, or other transactions whatsoever that may be necessary or appropriate in the performance of its purposes and responsibilities, and on terms [it] the corporation, or regional system boards, may deem appropriate, with either:
 - (A) Any agency or instrumentality of the United States, or with any state, territory, or possession, or with any 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; and provided further that if any dispute arises between any contract, lease, cooperative agreement, partnership, or other transaction entered into by the corporation and a regional system board with regard to matters solely within that regional system, after July 1, 2007, the contract, lease, cooperative agreement, partnership, or other transaction entered into by the regional system board shall prevail; and provided further that such agreements are consistent with corporation policies;
- (4) Conducting activities and entering into business relationships as the corporation board, or any regional system boards, deems necessary or appropriate, including but not limited to:
 - (A) Creating nonprofit corporations, including but not limited to charitable fund-raising foundations, to be controlled wholly by the corporation, any 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 arrangements, with any public or private entity; provided that any corporation, venture, or relationship entered into under this section furthers the public interest; provided further that this paragraph shall not be construed to authorize the corporation or a regional system board to abrogate any responsibility or obligation under paragraph (15); provided that each regional system board shall be responsible for conducting the activities under this paragraph in its own regional system consistent with policies established by the corporation board;
- (5) Participating in and developing prepaid health care service and insurance programs and other alternative health care delivery programs, including programs involving the acceptance of capitated payments or premiums that include the assumption of financial and actuarial risk; provided that each regional system board shall be responsible for conducting the activities under this paragraph in its own regional system consistent with policies established by the corporation board;
- (6) Executing, in accordance with all applicable bylaws, rules, and laws, all instruments necessary or appropriate in the exercise of any powers of the [corporation's powers;] corporation or regional system boards;
- (7) Preparing and executing all [corporation] corporation-wide budgets, policies, and procedures[;] or any regional system budgets, policies, and procedures; provided that the regional system boards shall submit their regional and facility budgets to the corporation to be consolidated into a corporation-wide budget for purposes of corporation-wide planning and appropriation requests. Regional system and facility budgets shall be received by the corporation and shall be included in the corporation-wide budget upon submittal to the corporation;
- (8) Setting rates and charges for all services provided by the corporation without regard to chapter 91; provided that the duty and power of the corporation board shall be limited to approving the rates and charges developed by the regional system boards for the regional system's facilities and services. Rates and charges may vary among regional systems and facilities and may be consolidated with the rates of other regional systems into one charge master. Third-party payer contracts may be negotiated at the corporation-wide level with input from the regional systems, taking into consideration the rates set by the regional system boards. For purposes of securing revenue bonds, the corporation or regional system board may covenant to set, and if necessary increase, rates and charges as needed to pay debt service and related obligations plus a coverage factor;
- (9) Developing a corporation-wide hospital system that is subject to chapters 76 and 89; provided that employment of regional system and facility personnel shall be the responsibility of the regional system boards pursuant to corporation-wide policies and procedures, applicable laws, rules, regulations, and collective bargaining agreements;
- (10) Developing the corporation's corporation-wide capital and strategic plans[;] or any regional system board's capital and strategic plans; provided that each regional system board shall be responsible for development of capital and strategic plans in its own regional system that shall be consistent with, and incorporated into, the overall corporation-wide plans; and provided further that the corporation and each regional system board shall be entitled to undertake the acquisi-

- tion, construction, and improvement of property, facilities, and equipment to carry out these capital and strategic plans;
- (11) Suing and being sued; provided that only the corporation may sue or be sued; and provided further that the corporation and regional system boards shall enjoy the same sovereign immunity available to the State;
 - (12) Making and altering corporation board and regional system board bylaws for its organization and management without regard to chapter 91[;] and consistent with this chapter; provided that each regional system board shall be responsible for the final approval of its regional system board bylaws;
 - (13) Adopting rules[;] without regard to chapter 91[;] governing the exercise of [its] the corporation's or regional system boards' powers and the fulfillment of its purpose under this chapter;
 - (14) Entering into any contract or agreement whatsoever, not inconsistent with this chapter or the laws of this State, and authorizing the corporation, regional system boards, and chief executive [officer] officers to enter into all contracts, execute all instruments, and do all things necessary or appropriate in the exercise of the powers granted in this chapter, including securing the payment of bonds; provided that the corporation board shall delegate to a regional system board its authority to enter into and execute contracts or agreements relating to matters exclusively affecting that regional system; provided further that a regional system board shall exercise this power consistent with corporation-wide policies; and provided further that contracts or agreements executed by a regional system board shall encumber only the regional subaccounts of that regional system board;
 - (15) Issuing revenue bonds up to \$100,000,000 subject to the approval of the [legislature;] governor or the director of finance; provided that [all];
 - (A) All revenue bonds shall be issued pursuant to part III, chapter 39;
 - (B) The corporation and any regional system board shall have the power to issue revenue bonds in any amount without regard to any limitation in chapter 39; and
 - (C) The corporation shall have the power to incur debt, including the issuance of revenue bonds in any amount, and the regional system boards shall have the power to issue revenue bonds in any amount upon approval by the corporation board;
 - (16) Reimbursing the state general fund for debt service on general obligation bonds or reimbursable general obligation bonds issued by the State for the purposes of the corporation[;] or any regional system board;
 - (17) Pledging or assigning all or any part of the receipts [and], revenues, and other financial assets of the corporation or the regional system boards for purposes of meeting or securing bond or health systems liabilities; provided that each regional system board shall be responsible for conducting the activities under this paragraph in its own regional system. Any pledge or assignment by the corporation or any regional system board to secure revenue bonds or health system liabilities shall be valid and binding in accordance with its terms against the pledgor, creditors, and all others asserting rights thereto from the time the pledge or assignment is made, without the need of physical delivery, recordation, filing, or further act. The corporation shall not take or omit to take any act that would interfere with, impair, or adversely affect any pledge of assignment by a regional system board pursuant to this chapter. In connection with issuing revenue bonds or related obligations, consistent with corporation policies and procedures, any regional system

- board may make such other covenants, binding on the regional system board and the corporation, that the regional system board determines to be necessary or appropriate to establish and maintain security for the revenue bonds or related obligations;
- (18) Owning, purchasing, leasing, exchanging, or otherwise acquiring property, whether real, personal or mixed, tangible or intangible, and of any interest therein, in the name of the corporation, which property is not owned or controlled by the State but is owned or controlled by the corporation; provided that:
- (A) Regional system boards shall have custodial control over facilities and physical assets in their respective regional systems. A regional system board may own, purchase, lease, exchange, or otherwise acquire property, whether real, personal or mix, tangible or intangible, and of any interest therein, other than property owned or controlled by the corporation, in the name of the regional system board; provided further that a regional system board shall be subject to section 323F-A; 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;
- (20) Purchasing insurance and creating captive insurers in any arrangement deemed in the best interest of the corporation, including but not limited to funding and payment of deductibles and purchase of reinsurance; provided that only the corporation shall have the power to create captive insurers to benefit public health facilities and operations in all regional systems; and provided further that a regional system board may purchase insurance for its regional system in collaboration with the other regional systems and the corporation until captive coverage is provided by the corporation;
- (21) Acquiring by condemnation, pursuant to chapter 101, any real property required by the corporation to carry out the powers granted by this chapter;
- (22) Depositing any moneys of the corporation or any regional system board in any banking institution within or without the State, and appointing, for the purpose of making deposits, one or more persons to act as custodians of the moneys of the corporation[;] or any regional system board; provided that regional system boards may deposit moneys in banking institutions pursuant to corporation-wide guidelines established by the corporation board;
- (23) Contracting for and accepting any gifts, grants, and loans of funds, property, or any other aid in any form from the federal government, the State, any state agency, or any other source, or any combination thereof,

and complying, subject to this chapter, with the terms and conditions thereof; provided that the regional system boards shall be responsible for contracting for and accepting any gifts, grants, loans, property, or other aid if intended to benefit the public health facilities and operations exclusively in their respective regional systems; and provided further that all contracting for or acceptance of gifts, grants, loans, property, or other aid shall be consistent with corporation-wide policies established by the corporation board;

- (24) Providing health and medical services for the public directly or by agreement or lease with any person, firm, or private or public corporation, partnership, or association through or in the health facilities of the corporation or regional system boards or otherwise; provided that the regional system boards shall be responsible for conducting the activities under this paragraph in their respective regional systems;
- (25) Approving medical staff bylaws, rules, and medical staff appointments and reappointments for all public health facilities[;] of the corporation or any regional system board, including [without limitation,] but not limited to determining the conditions under which a health professional may be extended the privilege of practicing within a health facility, as determined by the respective regional system board and consistent with corporate-wide policies, and adopting and implementing reasonable rules, without regard to chapter 91, for the credentialing and peer review of all persons and health professionals within the facility; provided that regional system boards shall be the governing body responsible for all medical staff organization, peer review, and credentialing activities to the extent allowed by law;
- (26) (A) Investing any funds not required for immediate disbursement in property or in securities that meet the standard for investments established in chapter 88 as provided by the corporation board[;] or any regional system board; provided that proceeds of bonds and moneys pledged to secure bonds may be invested in obligations permitted by any document that authorizes the issuance or securing of bonds; and provided further that the investment assists the corporation or any regional system board in carrying out its public purposes; selling from time to time securities thus purchased and held, and depositing any securities in any bank or financial institution within or without the State. Any funds deposited in a banking institution or in any depository authorized in this section shall be secured in a manner and subject to terms and conditions as the corporation board or a regional system board may determine, with or without payment of any interest on the deposit, including[;] without limitation[;] time deposits evidenced by certificates of deposit. Any bank or financial institution incorporated under the laws of this State may act as depository of any funds of the corporation or a regional system board and may issue indemnity bonds or may pledge securities as may be required by the corporation or regional system board; provided that regional system boards may exercise the powers under this subsection with respect to financial assets of the regional system consistent with corporation-wide policies; and
 - (B) Notwithstanding subparagraph (A), contracting with the holders of any of its notes or bonds as to the custody, collection, securing, investment, and payment of any moneys of the corporation or regional system board and of any moneys held in trust or other-

wise for the payment of notes or bonds and carrying out the contract. Moneys held in trust or otherwise for the payment of notes or bonds or in any way to secure notes or bonds, and deposits of such moneys, may be secured in the same manner as moneys of the corporation[;] or regional system board, and all banks and trust companies are authorized to give security for the deposits;

- (27) Entering into any agreement with the State, including but not limited to contracts for the provision of goods, services, and facilities in support of the corporation's programs[;] or the regional system boards' programs, and contracting for the provision of services to or on behalf of the State; provided that the regional system boards shall be responsible for entering into agreements to provide goods, services, and facilities in support of programs in their respective regional systems consistent with corporation-wide policies;
- (28) Having a seal and altering the same at pleasure;
- (29) Waiving, by means that the corporation or regional system board deems appropriate, the exemption from federal income taxation of interest on the corporation's or regional system boards' bonds, notes, or other obligations provided by the Internal Revenue Code of 1986, as amended, or any other federal statute providing a similar exemption;
- (30) Developing internal policies and procedures for the procurement of goods and services, consistent with the goals of public accountability and public procurement practices,¹ and subject to management and financial legislative audits; provided that the regional system boards shall be responsible for developing internal policies and procedures for each of their regional systems consistent with the corporation's policies and procedures; and further provided that:
 - (A) The regional system boards and the corporate board shall enjoy the exemption under section 103-53(e);
 - (B) The regional system boards shall enjoy the exemption under chapter 103D; and
 - (C) The corporation shall be subject to chapter 103D;
- (31) Authorizing and establishing positions; provided that regional system boards shall be responsible for hiring and firing regional and facility personnel consistent with corporation policies, except a regional chief executive officer and regional chief financial officer shall only be hired or dismissed upon the approval of the regional system board and the corporation board as further set forth in section 323F-B;
- [(32)] ~~Calling upon the attorney-general for such legal services as the corporation may require; and~~
- (33)] (32) Having and exercising all rights and powers necessary or incidental to or implied from the specific powers granted in this chapter, which specific powers shall not be considered as a limitation upon any power necessary or appropriate to carry out the purposes and intent of this chapter[-]; provided that the regional system boards shall be responsible for having and exercising all powers and rights with respect to matters in their regional systems consistent with the law; and
- (33) Each regional system, through its regional system board, shall:
 - (A) Develop policies and procedures necessary or appropriate to plan, operate, manage, and control the day-to-day operations of facilities within the regional system that are consistent with 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.

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

[(e)] (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 [which] that have the practical effect of allowing or are intended to allow [the private sector] 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 [which] that were in effect for the 1995-1996 fiscal year."

SECTION 24. Section 323F-8, Hawaii Revised Statutes, is amended to read as follows:

"§323F-8 Chief executive officer; 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 may also appoint up to eighteen other personnel, exempt from chapters 76 and 89, to work directly for the chief executive officer and the corporate board.

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

(c) The corporation's chief executive officer or the chief executive officer's designee may appoint, exempt from chapters 76 and 89, hospital administrators, assistant administrators, directors of nursing, medical directors, and staff physicians, to facilitate the management of facilities within the corporation; provided that directors of nursing appointed before July 1, 1998, may maintain their civil service status as provided in chapter 76 by so communicating in writing to the chief executive officer by October 31, 1998. Hospital administrators and assistant administrators appointed before July 1, 1983, may maintain their permanent civil service status as provided in chapter 76.

(d) Hiring, firing, compensation packages, and other personnel actions with respect to employees not covered by chapter 76 and 89 shall be governed by policies and guidelines established by the corporation, except as otherwise provided in this chapter.

(e) Upon the establishment of a regional system board, the authority to appoint regional hospital administrators, assistant administrators, directors of nursing, medical directors, and staff physicians under subsection (c) shall be superseded by section 323F-B for that regional system. No incumbent personnel shall lose a position without specific action taken by the regional system board."

SECTION 25. Section 323F-9, Hawaii Revised Statutes, is amended to read as follows:

“[§323F-9] Hiring of attorneys. The corporation and regional system boards may employ or retain any attorney, by contract or otherwise, for the purpose of representing the corporation or regional system boards in any litigation, rendering legal counsel [to], or drafting legal documents for the corporation~~[- or drafting legal documents for the corporation.]~~ or regional system boards.”

SECTION 26. Section 323F-10, Hawaii Revised Statutes, is amended to read as follows:

“§323F-10 Regional public health facility management advisory committees. (a) On the transfer date, there shall be established within the corporation for each region, a public health facility management advisory committee to consist of nine members initially to be appointed by the chief executive officer of the corporation with the advice of the hospital administrators of the facilities in the affected regions. The members shall serve for a term of four years; provided that upon the initial appointment of the members, two shall be appointed for a term of one year, two for a term of two years, two for a term of three years, and three for a term of four years.

Following the initial appointments by the chief executive officer of the corporation board, any vacancies on a regional committee shall be filled by a simple majority vote of the members of the executive committee from a list of qualified nominees submitted by the regional committee in which the vacancy occurred. If a regional committee vacancy remains unfilled for more than thirty days, that vacancy may be filled by the chief executive officer of the corporation.

Each regional management advisory committee shall include medical and health care providers, consumers, and knowledgeable individuals in other appropriate areas such as business and law; provided that at least one member shall be a physician with active medical staff privileges at one of the region’s public health facilities. At least three members of the committee shall be consumers.

The management advisory committee for the East Hawaii region shall have three members who reside in the Ka’u district, three members who reside in the Hamakua/North Hilo districts, and three members who reside in the South Hilo/Puna districts. The management advisory committee for the West Hawaii region shall have not less than three members who reside in the North Kohala/South Kohala districts.

Each regional committee shall select its own chairperson and vice chairperson and shall adopt rules governing the terms for removal of its chairperson from the executive management advisory committee. In the event of a regional committee voting to remove its chairperson who concurrently sits on the corporation board, that vote shall be unanimous. In the event of a regional committee voting to remove its physician member from the corporation board, that vote shall also be unanimous. Each regional committee may also adopt other rules as it may consider necessary for the conduct of its business.

The members of the regional committees shall serve without compensation, but shall be reimbursed for traveling expenses incurred in the performance of their duties. The corporation shall provide for the necessary expenses of the committees; provided that no expenses may be incurred without prior authorization by the chief executive officer.

(b) Each regional committee shall sit in an advisory capacity to the chief executive officer on matters concerning the formulation of regional operational and capital improvement budgets, and the planning, construction, improvement, maintenance, and operation of public health facilities within its respective jurisdiction and shall sit in an advisory capacity to the governor on matters concerning the nominees for positions on the corporation board. Nothing in this section shall be construed as precluding or preventing the committees from coordinating their efforts and activities with the facility administrators within their counties.

(c) Each regional committee may prepare a report for inclusion with the corporation's annual report and audit, which shall include but not be limited to comments and analyses on the corporation's regional operational and capital improvement budgets for its respective region.

(d) Upon the establishment of a regional system board for a regional system pursuant to section 323F-A, this section shall no longer apply to that regional system."

SECTION 27. Section 323F-10.5, Hawaii Revised Statutes, is amended to read as follows:

"[H]§323F-10.5[] Executive public health facility management advisory committee; establishment. (a) There is established within the corporation an executive public health facility management advisory committee to consist of the chairpersons of each of the five regional public health facility management advisory committees. The executive committee shall, through its chairperson, represent the interests of all regional committees on the corporation board.

(b) The executive committee shall select its own chairperson to serve on the corporation board and shall adopt rules governing the terms of office and removal from the corporation board. The executive committee shall also adopt rules governing the terms of office for each of the five regional committee chairpersons. The executive committee may also adopt other rules as it may consider necessary for the conduct of its business.

(c) The members of the executive committee shall serve without compensation, but shall be reimbursed for reasonable expenses incurred in the performance of their duties.

(d) Upon the establishment of a regional system board for a regional system pursuant to section 323F-A, this section shall no longer apply to that regional system."

SECTION 28. Section 323F-10.6, Hawaii Revised Statutes, is amended to read as follows:

"[H]§323F-10.6[] Peer review and credentialing. ~~[Corporation board or other committee meetings pertaining to peer review and credentialing matters shall not be subject to part I of chapter 92.]~~ Peer review activities shall be subject to ~~[the provisions of]~~ chapters 663 and 671D and all other provisions and restrictions of medical peer review committees established by state law."

SECTION 29. Section 323F-11, Hawaii Revised Statutes, is amended to read as follows:

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

SECTION 30. Section 323F-21, Hawaii Revised Statutes, is amended to read as follows:

“[§323F-21] Fiscal provisions. (a) There is created in the state treasury a special fund to be known as the health systems special fund, into which shall be deposited all fees, proceeds, reimbursements, and the like owed to or received by the corporation, any regional system board, and its facilities, except as herein provided. There shall be established within the special fund regional subaccounts for each regional system board upon its establishment. The special fund and the regional subaccounts shall be used solely to fulfill the purposes outlined in this chapter.

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

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

The corporation and regional system boards may provide reasonable reserves for any of the following purposes:

- (1) Insurance deductibles;
- (2) The improvement, replacement, or expansion of [its] their facilities or services;
- (3) The securing of the corporation's or regional system boards' bonds, notes, or other instruments of indebtedness; or
- (4) Any other purpose [it deems] the corporation or the regional system boards deem necessary or appropriate in the performance of [its] their purposes and responsibilities.

(b) The corporation board and regional system boards shall collaboratively develop budgetary guidelines and annual operating and capital budgets for each facility[;], taking into account anticipated surpluses from or subsidies to the facilities pursuant to the annual guidelines described in this section, accumulated corporation and regional reserves and accounts, subsidies, if any, that are determined to be needed from the general fund, and other sources of 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 [may allocate to] 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 described in this section, accumulated corporation and regional system board reserves and accounts, subsidies, if any, that are determined to be needed from the general fund, and other sources of corporation-wide and regional system board income as may be identified.

(d) Beginning with the first of the legislative biennium budget years following the establishment of a regional system board, and for each biennium period thereafter, the corporation shall call together all the regional systems through representatives

selected by each regional system board, and the chairs of the facility management advisory committees, if any, to determine which services and functions should be provided by the corporation for the next biennium budget period, consistent with this chapter. As part of the biennium budgeting process, the corporation board and the representatives of each regional system, working through the corporation board regional representatives, shall agree upon an allocation methodology for funding the agreed upon and statutorily created corporate services and functions.

[(d)] (e) The corporation may share in any facility's surplus and may offset any facility's deficits[-] as provided herein. Any regional system board shall share in the surplus of any facility within the regional system and shall offset any facility deficits within its regional system. Operating surpluses of the regional system board shall be reinvested in the operations of that regional system in any prudent manner; provided that upon request, and subject to authorization by the regional system board, the regional system board may share its surplus or resources with a facility outside of the regional system to benefit the corporation-wide system of health care. Obligations undertaken by a facility shall be paid only from funds of that facility, unless the corporation board, the regional system board managing the facility, or [its] an authorized agent explicitly agrees to guarantee the obligation. Loans and other transfers may be made between regional systems upon approval of the affected regional system boards to assist in the cash flow and operations of the public health facilities.

[(e)] (f) In accordance with each annual facility budget, and subject to policies established by the corporation board and by each regional system board, each facility of the corporation and regional system board, respectively, shall:

- (1) Bill and collect for its services;
- (2) Maintain bank accounts; and
- (3) Pay for needed personnel, supplies, equipment, and other operational and capital expenditures.

[(f)] (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.

[(g)] (h) The corporation board and regional system boards may hold public informational meetings on [its budget-] their 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."

SECTION 31. Section 323F-22, Hawaii Revised Statutes, is amended to read as follows:

“[H]§323F-22[.] Annual audit and report; disclosure of revenue projections. (a) The corporation 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 consultation with a regional system board, may permit or require a regional system board to retain an audit firm to conduct an independent audit of the regional system. Each regional system board shall submit the results of the annual audit to the corporation board within one hundred twenty days after the close of the regional system board's fiscal year. The corporation shall submit to the governor and the legislature, within one hundred fifty days after the close of the corporation's fiscal year, a report that shall include the audited financial report for that fiscal year[-] for the corporation and each regional system board.

(b) In addition to the submittal of the audit required under subsection (a), the corporation, in cooperation with the regional system boards, shall submit a report to

the legislature at least twenty days prior to the convening of each regular session that shall include but not be limited to:

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

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

SECTION 32. Section 323F-23, Hawaii Revised Statutes, is amended to read as follows:

"[§323F-23] Exemption from taxation. The corporation and each regional system board shall [not] be [required to pay assessments] exempt from paying any:

- (1) Assessments levied by any county [,- nor shall the corporation be required to pay state]; and
- (2) State² taxes of any kind."

SECTION 33. Section 323F-24, Hawaii Revised Statutes, is amended to read as follows:

"[§323F-24] Budget oversight. The corporation's and each regional system board's operating and capital improvement budgets shall not be subject to review or approval by the governor or any state agency, except where state general funds or capital improvement moneys are requested. If general funds or capital improvement moneys are requested, then the corporation or any regional system board shall include, with its request, the proposed budget for which the funds or moneys are to be included. The corporation and regional system boards, once operational, shall collaboratively submit [its] their budgets annually to the legislature for review and approval at least twenty days prior to the convening of the regular legislative session, beginning with the budgets for the [1997-1998] 2010-2011 biennium fiscal years."

SECTION 34. Section 323F-31, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) The corporation and each regional system board shall notify the legislature of any planned substantial reduction or elimination of direct patient care services."

SECTION 35. (a) It is the intent of this Act that the ability of the Hawaii health systems corporation to carry out its mission and improve the quality and efficiency of care in all of its regional systems will be enhanced by the delegation to community-based, regional system boards the custodial control over the assets, personnel, services, and operations of the corporation located in the public health facilities, consistent with system-wide planning, policies, and guidelines. This custodial control shall be delegated to the regional system boards in any regional system in which those boards are created within a reasonable period of time following the effective date of this Act. This Act shall be construed with this intent.

(b) Following a transition period of no longer than one year after the establishment of each regional system board, and by mutual agreement, the custodial control over the assets, personnel, services, and operations of the Hawaii health

systems corporation with regard to the facilities within the regional system shall be transferred to the regional system board, consistent with system-wide planning, policies, and guidelines, and applicable laws and rules. The corporation and newly established regional system boards shall report to the legislature within thirty days of the establishment of the newly created boards. The corporation shall assist any regional system considering such a request. Each transition shall take no longer than one year, unless a longer period is mutually agreed to by the corporation and the regional system.

(c) All officers and employees whose functions are transferred by this Act shall be transferred with their functions and shall continue to perform their regular duties upon their transfer, subject to the state personnel laws and this Act.

No officer or employee of the State having tenure shall suffer any loss of salary, seniority, prior service credit, vacation, sick leave, or other employee benefit or privilege as a consequence of this Act, and such officer or employee may be transferred or appointed to a civil service position without the necessity of examination; provided that the officer or employee possess the minimum qualifications for the position to which transferred or appointed; and provided that subsequent changes in status may be made pursuant to applicable civil service laws.

An officer or employee of the State who does not have tenure and who may be transferred or appointed to a civil service position as a consequence of this Act shall become a civil service employee without the loss of salary, seniority, prior service credit, vacation, sick leave, or other employee benefits or privileges and without the necessity of examination; provided that such officer or employee possesses the minimum qualifications for the position to which transferred or appointed.

If an office or position held by an officer or employee having tenure is abolished, the officer or employee shall not thereby be separated from public employment, but shall remain in the employment of the executive branch of the State with the same pay and classification and shall be transferred to some other office or position for which the officer or employee is eligible under the personnel laws of the State, provided that minimum qualifications are met.

Any officer or employee transferred to any regional system board pursuant to this Act who is a member of or has benefits under any existing pension or retirement fund system shall continue to have all rights, privileges, obligations, and status with respect to such fund or system as are now prescribed by law, but during the period of employment by any regional system board, all contributions to such funds or system to be paid by the employer on account of such officer or employee shall be paid by the corresponding regional system board.

(e) During any transition period or until a methodology for funding corporate services and functions as provided for in section 323F-21, Hawaii Revised Statutes, is developed, the Hawaii health systems corporation shall continue to provide to any regional system board services that the Hawaii health systems corporation provides to any of its facilities as of April 1, 2007, and may charge an amount consistent with charges levied on other facilities within the system for such services. In the event there is a service provided by the corporation to only one regional system, and the regional system board determines that it does not need the service during this interim period, the regional system board may terminate the service upon one hundred eighty days written notice to the corporation board.

SECTION 36. The terms of the membership of the Hawaii health systems corporation board shall expire as follows:

- (1) The terms of board members whose date of appointment was prior to and including July 1, 2004, shall expire on December 31, 2007;
- (2) The terms of board members whose date of appointment was after July 1, 2004, and before July 1, 2007, shall expire on September 30, 2008.

Appointments to the Hawaii health systems corporation board that occur after December 31, 2007, shall be conducted as set forth in section 19 of this Act.

SECTION 37. There is appropriated out of the general revenues of the State of Hawaii the sum of \$750,000 or so much thereof as may be necessary for fiscal year 2007-2008 to support the establishment of regional system boards of the Hawaii health systems corporation. The sum appropriated shall be expended by the Hawaii health systems corporation for the purposes of this Act.

SECTION 38. All acts passed prior to or during this regular session of 2007, whether enacted before or after passage of this Act shall be interpreted to conform to this Act, unless the acts specifically provide that this Act is being amended. In so far as this Act is inconsistent with any other law, this Act shall control.

SECTION 39. In codifying the new sections added by section 2 of this Act, the reviser of statutes shall substitute appropriate section numbers for the letters used in designating the new sections in this Act.

SECTION 40. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.³

SECTION 41. This Act shall take effect on July 1, 2007; provided that the amendments made to section 323F-7(c)(15), Hawaii Revised Statutes, in section 23 of this Act shall not take effect if H.B. No. 1764⁴ in any form passed by the legislature, regular session of 2007, becomes an Act.

(Became law on July 10, 2007, without the Governor's signature, pursuant to Art. III, §16, State Constitution.)

Notes

1. So in original.
2. "State" should be underscored.
3. Edited pursuant to HRS §23G-16.5.
4. Vetoed by Governor.