

HOUSE OF REPRESENTATIVES

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AMENDMENT TO: S.B. No.1792, S.D. 3, H.D. 2

CHIEF CLERK'S OFFICE
HOUSE OF
REPRESENTATIVES

OFFERED BY: REPRESENTATIVE HERMINA M. MORITA

DATE: April 10th, 2007

SECTION 1. Senate Bill No. 1792, S.D. 3, H. D. 2 (RELATING TO THE HAWAII HEALTH SYSTEMS CORPORATION), is amended by deleting its contents and replacing it with new language, to read as follows:

"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 affiliate 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 affiliate 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 affiliate boards recommendation. Further, the regional affiliate board concept would enhance the ability of local communities and stakeholders to participate in the decision-making and operation of their own community hospitals. While the management advisory committees

have been diligent in representing the communities, their role has been solely advisory. Local community stakeholders, through independent regional affiliate boards, are in the best position to make the critical decisions relating to the local operation of their community hospitals. Additionally, regional affiliate 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 affiliate boards for all regions, to be governed by a community-based regional affiliate 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 affiliate board members.

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

§323F-A Regional affiliate boards. (a) Each of the regions specified in section 323F-2 shall be governed by a regional affiliate board of directors, which shall carry out the duties and responsibilities set forth in this chapter and as further delegated by the corporation.

(b) Each regional affiliate board shall consist of eleven members to be appointed by the governor pursuant to section 26-34; provided eight are appointed as follows:

(1) Two members within thirty days of receipt of a qualified list of candidates as follows:

(A) One member from a list of at least four individuals who are not physicians submitted by the speaker of the house of representatives; and

(B) One member from a list of at least four individuals who are not physicians submitted by the president of the senate;

(2) One member nominated by the regional public health facility management advisory committee, chosen from the members of the corporation board who are not physicians;

(3) Two members from a list of four individuals who are not physicians submitted by the mayor of the county in which the regional affiliate board is located; and

(4) Three physicians from a list of up to six physicians nominated by a majority vote of each medical staff of the public health facilities in the region present at a duly noticed meeting from a list of qualified candidates submitted by the medical executive committees in the region.

(c) Terms for the initial regional affiliate board members shall be as follows:

(1) Two years for members nominated by the house of representatives, senate, or medical executive committees in the region;

(2) Two years for the member nominated by the regional public health facility management advisory committee for the region; and

(3) Three years for the remaining members and all members appointed thereafter.

(d) New members appointed to the regional affiliate board after the original members shall be selected in the same manner as the original members, except the corporation board member, who shall be nominated by the regional affiliate board.

(e) Except for the appointment of a representative from the corporation, all other members of a regional affiliate board shall be residents of the region. Each regional affiliate board shall elect its own chair.

(f) Each regional affiliate board shall be responsible for local governance, operations, and administration of the delivery of services in its respective region as set forth in this chapter and as further delegated by the corporation. Each regional affiliate board shall include non physician medical and health care providers and professionals, consumers, and knowledgeable individuals in other appropriate areas, such as business and law. Each regional affiliate board shall be as balanced and representative of the community stakeholders as possible.

(g) Any member of a regional affiliate board may be removed for cause by the governor or for cause by vote of a two-thirds majority of the regional affiliate 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, a regional affiliate board may appoint a regional chief executive officer in collaboration with and subject to the approval of the corporation board; provided that the position shall be exempt from chapter 76 and section 26-35(a)(4). The 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 region and for the corresponding regional affiliate board.

(b) Any regional affiliate 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 regional chief executive officer or the regional 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 region.

(d) Hiring, firing, compensation packages, and other personnel actions of employees not covered by chapters 76 and 89

shall be governed by policies adopted by each regional affiliate board, subject to policies and guidelines established by the corporation in consultation with the regional affiliate boards.

§323F-C. Regional affiliate boards; delegated authority.

If the Hawaii health systems corporation board is unable to act on important transactions in as timely a manner as reasonably required, the chairperson of the corporation board may further delegate authority to the regional affiliate board to take action on specific matters."

"§323F-D Regional affiliate boards; transfer of custodial care of assets. Upon its establishment, a regional affiliate board shall assume custodial care of all real property, including land, structures, and fixtures, and any other physical assets, such as personal property, including furnishings, equipment, and inventory, of the corporation within its region. No sale or encumbrance of any such real property or such other physical assets of the corporation shall be permitted without the mutual consent of the Hawaii health systems corporation board and the appropriate regional affiliate board.

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[7] or its regional affiliate 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[7], or the corporation board of the Hawaii health systems corporation under section 323F-3 and its regional affiliate 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 affiliate boards under chapter 323F-B, the attorneys retained by

the board of directors of the Hawaii health systems corporation
or its regional affiliate 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 affiliate boards, the
attorneys retained by the board of directors of the Hawaii
health systems corporation or its regional affiliate 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, [ø] 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
affiliate boards in the case of an action involving a member of
the board of directors of the hawaii health systems corporation
or its regional affilate 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, [ø] the university general
counsel, or an attorney retained by the board of directors of

the Hawaii health systems corporation 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 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 affiliate 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[7] or its regional affiliate 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 payors for costs not previously claimed by the State, with the exception of proceeds collected for services provided by the Hawaii health systems corporation~~[7]~~ or its regional affiliate 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 [7] and the subaccounts of its regional affiliate 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 affiliate 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 [‡]304A-2163 [‡];
- (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 [‡];

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

SECTION 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[7] or subaccounts under the control of its regional affiliate 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 affiliate boards shall have the flexibility to transfer special fund appropriations among community hospitals facilities as applicable[+] and as mutually agreed to by the corporation and the respective regional affiliate board; provided that the Hawaii health systems corporation and the regional affiliate boards shall maintain the integrity and services of each individual facility and shall not transfer appropriations out of any facility that would result

in a reduction of services offered by the facility, with due regard for statutory requirements, changing conditions, the needs of the programs, and the effective utilization of resources; and

- (3) The university and the 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 affiliate 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[7] and its regional affiliate 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 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 affiliate 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~~[7]~~ and its regional affiliate 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 affiliate 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 beachboy 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 affiliate 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 affiliate boards."

SECTION 16. Section 323F-1, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

"Regional affiliate board" means a community-based governing board of directors of a region of the corporation."

SECTION 17. Section 323F-3, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

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

~~(1) One member from region I who resides in the city and county of Honolulu;~~

~~(2) One member from region II who resides in the county of Kauai;~~

~~(3) One member from region III who resides in the county of Maui;~~

- ~~(4) One member from region IV who resides in the eastern section of the county of Hawaii;~~
- ~~(5) One member from region V who resides in the western section of the county of Hawaii;~~
- ~~(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~~
- ~~(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.] from the members of the regional affiliate boards of each region created pursuant to sections 323F-A and 323F-D, as follows:~~

- (1) Two members of the regional affiliate board for region I who reside in the city and county of Honolulu;
- (2) Two members of the regional affiliate board for region II who reside in the county of Kauai;
- (3) Two members of the regional affiliate board for region III who reside in the county of Maui;
- (4) Two members of the regional affiliate board for region IV who reside in the eastern section of the county of Hawaii; and

(5) Two members of the regional affiliate boards for region V who reside in the western section of the county of Hawaii.

The eleventh and twelfth ~~[member,]~~ 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 shall be from region II, and subsequent physician members shall come from regions IV, III, and V respectively. The physician member position 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]~~ 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.]~~ or by any regional affiliate board. The corporation board shall choose physicians from different regions and rotate the appointments among the five regions.

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.

The thirteenth 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,]~~ members appointed by the corporation board, shall be made by the governor, subject to confirmation by the senate pursuant to section 26-34. ~~[Prior to the transfer date, the]~~ The [public health facility management advisory committees] regional affiliate boards appointed ~~[pursuant to section 323-66]~~ for each ~~[county]~~ region may recommend names to the governor for each position on the corporation board designated for ~~[a]~~ the respective 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 recommendations 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 members shall be appointed for a term of three years; and~~

~~(3) Five regional members shall be appointed for a term of four years.]~~ the first member appointed from each regional affiliate board shall be appointed for a term of two years.

Any vacancy shall be filled in the same manner provided for the original appointments[-], except where a public management advisory committee has been abolished, in which case, the regional affiliate board shall take the necessary action set forth in this subsection. 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 18. 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. The corporation board and each regional affiliate board shall be exempt from part I of chapter 92 and shall meet no fewer than six times a year; provided that the regional affiliate boards shall hold at least two public community meetings for the purpose of informing the community and taking comment on the region's performance. ~~[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.]~~

(b) All business of the corporation board and each regional affiliate 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. Any action of the corporation board or each regional affiliate 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 affiliate 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 affiliate board of its bylaws;
- (3) Hiring or removing the chief executive officer of the corporation ~~[,]~~ or regional chief executive officer;
and
- (4) Any other actions as provided by the corporation or regional affiliate board bylaws."

SECTION 19. Section 323F-5, Hawaii Revised Statutes, is amended to read as follows:

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

SECTION 20. Section 323F-6, Hawaii Revised Statutes, is amended to read as follows:

" [f] §323F-6 [f] **Records.** The corporation and each regional affiliate 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 affiliate 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 21. Section 323F-7, Hawaii Revised Statutes, is amended to read as follows:

"§323F-7 Duties and powers of the corporation[+] and regional affiliate 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, 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. Duties and powers[+] related to the operation of facilities within each region, including but not limited to regional and facility budgeting, employment and removal of regional and facility personnel, purchasing, regional 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 affiliate

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 affiliate boards.

(b) Notwithstanding any other law to the contrary, the corporation, either directly or through any of the regional affiliate 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 affiliate 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 region consistent with corporate policies;
- (2) Evaluating the need for additional health facilities and services; provided that each regional affiliate board shall be responsible for the evaluation within its own region;
- (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, with agreement of the affected regional affiliate 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;

(4) Conducting activities and entering into business relationships as the corporation board, with the agreement of the affected regional affiliate 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 affiliate 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 affiliate board to abrogate any responsibility or obligation under paragraph (15);

provided that each regional affiliate board shall be responsible for conducting the activities under this paragraph in its own region 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 affiliate board shall be responsible for conducting the activities under this paragraph in its own region

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 affiliate boards;
- (7) Preparing and executing all [~~corporation~~] corporation-wide budgets, policies, and procedures [~~+~~] or any regional budgets, policies, and procedures; provided that the regional affiliate 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;
- (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 affiliate boards for the region's facilities and services. A region's rates and charges shall be consolidated with the rates of other regions into one charge master. Third-party payor contracts may be negotiated at the corporation-

wide level with input from the regions, taking into consideration the rates set by the regional affiliate boards;

- (9) Developing a corporation-wide hospital personnel system that is subject to chapters 76 and 89; provided that employment of regional and facility personnel shall be the responsibility of the regional affiliate boards pursuant to corporation-wide policies and procedures, applicable laws, rules, and regulations, and applicable collective bargaining agreements;
- (10) Developing the corporation's corporation-wide capital and strategic plans[+] or any regional affiliate board's regional capital and strategic plans; provided that each regional affiliate board shall be responsible for development of capital and strategic plans in its own region that shall be consistent with, and incorporated into, the overall corporation-wide plans;
- (11) Suing and being sued; provided that the corporation and the regional affiliate boards shall enjoy the same sovereign immunity available to the State;
- (12) Making and altering corporation board and regional affiliate board bylaws for its organization and management without regard to chapter 91[+] and

consistent with this chapter; provided that each regional affiliate board shall be responsible for the final approval of its regional affiliate board bylaws;

- (13) Adopting rules[7] without regard to chapter 91[7] governing the exercise of [~~its~~] the corporation's or regional affiliate 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 affiliate 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 regional affiliate boards shall be responsible for entering into contracts and executing all instruments relating to matters exclusively affecting its region consistent with corporation-wide policies;
- (15) Issuing revenue bonds subject to the approval of the legislature; provided that all revenue bonds shall be issued pursuant to part III, chapter 39; provided further that the corporation shall have the power to

incur debt, including the issuance of revenue bonds in any amount, and the regional affiliate 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 affiliate board;
- (17) Pledging or assigning all or any part of the receipts and revenues of the corporation or the regional affiliate boards for purposes of meeting bond or health systems liabilities;
- (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 the corporation shall delegate custodial control over such property to a regional affiliate board in any region where policies have been established consistent with corporate policies regarding the management of the property;

(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 affiliate board; provided that the corporation legally holds or controls the property in its own name; provided further that the corporation or any regional affiliate board shall not sell, assign, lease, hypothecate, mortgage, pledge, give, or dispose of all or substantially all of its property; and provided further that the corporation shall delegate control over such property to the regional affiliate board in any region where policies consistent with corporation-wide policies have been established implementing this subsection;

(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; and provided further

that a regional affiliate board may purchase insurance for its region in collaboration with the other regions 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 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[+]; provided that regional affiliate 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 affiliate 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 regions;

- (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 affiliate boards or otherwise; provided that the regional affiliate boards shall be responsible for conducting the activities under this paragraph in their respective regions;
- (25) Approving medical staff bylaws, rules, and medical staff appointments and reappointments for all public health facilities^[7] of the corporation or any regional affiliate board, including [without limitation,⁷] 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 affiliate 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 affiliate 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; provided the investment assists the corporation 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 may determine, with or without payment of any interest on the deposit, including[7] without limitation[7] 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 affiliate board and may issue indemnity bonds or may pledge

securities as may be required by the corporation or regional affiliate board; provided that regional affiliate boards may exercise the powers under this subsection with respect to financial assets of the region 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 affiliate board and of any moneys held in trust or otherwise 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[7] or regional affiliate 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[7] or the regional affiliate

boards' programs, and contracting for the provision of services to or on behalf of the State; provided that the regional affiliate boards shall be responsible for entering into agreements to provide goods, services, and facilities in support of programs in their respective regions consistent with corporation-wide policies;

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

(29) Waiving, by means that the corporation or regional affiliate board deems appropriate, the exemption from federal income taxation of interest on the corporation's or regional affiliate 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[+] and subject to chapter 103D but enjoying the exemption under section 103-53(e); provided that the regional affiliate boards shall be responsible for developing internal policies and procedures for each of their regions consistent with the corporation's policies and procedures;

(31) Authorizing and establishing positions; provided that regional affiliate boards shall be responsible for hiring and firing regional and facility personnel consistent with corporation policies, except a regional chief executive officer shall only be hired or dismissed upon the approval of the regional affiliate board and the corporation board;

~~[(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 affiliate boards shall be responsible for having and exercising all powers and rights with respect to matters in their regions consistent with the law; and

(33) Each region, through its regional affiliate 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 region 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 region pursuant to this chapter; and

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

~~[(b)]~~ (c) The corporation and each regional affiliate board shall not be subject to chapters 36 to 38, 40, and 41D, and shall enjoy the exemptions contained in sections 102-2 and 103-53(e), except as otherwise provided in this chapter.

~~[(e)]~~ (d) The duties and powers granted to the corporation or any regional affiliate 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, regions, or its facilities; provided the corporation or regional affiliate 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 22. 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 of employees not covered by chapter 76 and 89 shall be governed by policies and guidelines established by the corporation.

(e) Upon the establishment of a regional affiliate 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 region. No incumbent personnel shall lose a position without specific action taken by the regional affiliate board."

SECTION 23. Section 323F-9, Hawaii Revised Statutes, is amended to read as follows:

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

SECTION 24. 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 affiliate board for a region pursuant to section 323F-A this section shall no longer apply to that region."

SECTION 25. Section 323F-10.5, Hawaii Revised Statutes, is amended to read as follows:

" [f] §323F-10.5 [f] **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 affiliate board for a region pursuant to section 323F-A this section shall no longer apply to that region."

SECTION 26. Section 323F-10.6, Hawaii Revised Statutes, is amended to read as follows:

" ~~[+] §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 27. Section 323F-11, Hawaii Revised Statutes, is amended to read as follows:

" ~~[+] §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 affiliate 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. The governor and executive branch agencies shall not interfere with the ability of the corporation or regional affiliate board to function as a multiple facility public hospital system delivering health care services to the residents of the State."

SECTION 28. Section 323F-21, Hawaii Revised Statutes, is amended to read as follows:

"~~[f]~~ §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 and its facilities, except as herein provided. There shall be established within the special fund regional subaccounts for each regional affiliate 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 affiliate 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 regional affiliate 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 affiliate boards' bonds, notes, or other instruments of indebtedness; or
- (4) Any other purpose [~~it~~] the corporation or regional affiliate board deems necessary or appropriate in the performance of [~~its~~] their purposes and responsibilities.

(b) The corporation board and regional affiliate 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 affiliate boards, in alignment with State of Hawaii biennium budgeting. The corporate board shall not alter the two-year budget of a region except:

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

The corporation and regional affiliate 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 affiliate board to be needed from or provided to each facility to:

- (1) Repay corporation or regional affiliate 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 affiliate 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 reserves and accounts, subsidies, if any, that are determined to be needed from the general fund, and other sources of corporation-wide income as may be identified.

(d) Beginning with the first of the legislative biennium budget years following the establishment of a regional affiliate board, and for each biennium period thereafter, the corporation shall call together all the regions through representatives selected by each regional affiliate 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 region 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 affiliate board shall share in the surplus of any facility within the its region and shall offset any facility deficits within its region. Operating surpluses of the regional affiliate board shall be reinvested in the operations of that region in any prudent manner; provided that upon request, and subject to authorization by the regional affiliate board, the regional affiliate board may share its surplus or resources with a facility outside of the region 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 affiliate board managing the facility, or [its] an authorized agent explicitly agrees to guarantee the obligation. Loans and other transfers may be made between regions upon approval of the affected

regional affiliate 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, each facility of the corporation and regional affiliate board, 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 affiliate board, subject to policies established by the corporation and each regional affiliate board, 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 regional affiliate 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 29. Section 323F-22, Hawaii Revised Statutes, is amended to read as follows:

" [f] §323F-22 [f] **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 may, in consultation with a regional affiliate board, permit or require a regional affiliate board to retain an audit firm to conduct an independent audit of the region. 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 region.

(b) In addition to the submittal of the audit required under subsection (a), the corporation, in cooperation with the regional affiliate 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 affiliate boards shall prepare a report for inclusion with the corporation's annual report and audit."

SECTION 30. Section 323F-23, Hawaii Revised Statutes, is amended to read as follows:

"~~[+]§323F-23~~ **Exemption from taxation.** The corporation and each regional affiliate 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) State taxes of any kind."

SECTION 31. Section 323F-24, Hawaii Revised Statutes, is amended to read as follows:

"~~[+]§323F-24~~ **Budget oversight.** The corporation's and each regional affiliate 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 affiliate board shall include with its request, the proposed budget for which the funds or moneys are to be included. The corporation and regional affiliate 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 32. Section 323F-31, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

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

SECTION 33. (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 regions will be enhanced by the delegation to community-based, regional affiliate 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. Such custodial control shall be delegated to the regional governing boards in any region in which such boards are created within a reasonable period of time following the effective date of section 2 of this legislation. 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 affiliate board, and by mutual agreement, the governance and custodial control over the assets, personnel, services, and operations of the

Hawaii health systems corporation with regard to the facilities within the region, shall be transferred to the regional affiliate board, consistent with system-wide planning, policies, and guidelines, and applicable laws and regulations. The corporation and newly established regional affiliate boards shall report to the legislature within thirty days of the establishment of the newly created boards. The corporation shall assist any region 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 region.

(c) Custodial control of the assets, including but not limited to hospital funds relating to health facilities in each region, shall be given to the regional affiliate board at such time as the regional affiliate board is established and notifies the corporate board that it has established necessary policies and structure to accept the responsibility of controlling the assets. Upon establishment, the regional affiliate board shall assume the responsibility of the Hawaii health systems corporation board with respect to the corresponding region for the administration of all contracts, agreements, and leases for commodities, services, property, and supplies used by the Hawaii health systems corporation and its facilities in that region, subject to oversight by the corporation board.

SECTION 34. There is appropriated out of the general revenues of the state of Hawaii the sum of \$500,000, or so much thereof as may be necessary for fiscal year 2007-2008, and the same sum, or so much thereof as may be necessary for fiscal year 2008-2009 to support the establishment of regional affiliate boards of the Hawaii health systems corporation. The sums appropriated shall be expended by the Hawaii health systems corporation for the purposes of this Act.

SECTION 35. 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 36. 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 37. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 38. This Act shall take effect upon its approval; provided that sections 2, 17, and 18 shall take effect on July 1, 2008."

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CARRIED	FAILED TO CARRY	WITHDRAWN
<i>Janet Skidmore</i>		7:05 p.m. 4/10-07
CHIEF CLERK, HOUSE OF REPRESENTATIVES		