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# A BILL FOR AN ACT

RELATING TO THE HAWAII HEALTH SYSTEMS CORPORATION.

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

1           SECTION 1. The legislature finds that the State's  
2 community hospital system, Hawaii health systems corporation, is  
3 the fourth largest public hospital system in the nation. The  
4 Hawaii health system corporation's public health facilities  
5 provide essential safety-net hospital and long-term care  
6 services through out the State and are often the only hospitals  
7 in many rural communities. Due to rapid changes taking place in  
8 the health care industry, the legislature acknowledges that the  
9 governing structure of our public hospital system must provide  
10 the appropriate flexibility and autonomy needed to compete and  
11 remain viable and respond to the needs of the specific  
12 communities served.

13           The current administrative arrangement places the public  
14 hospital system in a single state agency, the Hawaii health  
15 systems corporation. This arrangement is the result of landmark  
16 legislation, Act 262, Session Laws of Hawaii 1996, after years  
17 of study. Act 262 was largely the result of the work of a task



1 force established pursuant to Act 266, Session Laws of Hawaii  
2 1994, charged with studying the establishment of an agency for  
3 community hospitals. On December 20, 1994, the task force  
4 issued "The Preliminary Report of the Governor's Task force on  
5 the Establishment of An Agency for Community Hospitals", its  
6 report to the governor and the legislature. Many of the  
7 recommendations of the task force were adopted by the  
8 legislature, resulting in passage of Act 262, and the creation  
9 of Hawaii health systems corporation in 1996.

10 One significant recommendation of the task force included  
11 the establishment of regional boards of directors, along with  
12 the system-wide board. The task force reported that the Hawaii  
13 health systems corporation should administer the state  
14 facilities in a decentralized fashion, with the facilities to be  
15 grouped into five regions. Three regions should be formed for  
16 the facilities of Kauai, Oahu, and Maui counties respectively,  
17 and the Big Island should be divided into Eastern and Western  
18 regions.

19 The task force further reported that each region should  
20 have an operating board of directors consisting of nine members.  
21 Regional boards should be initially appointed by the governor  
22 with the advice and consent of the senate, and should



1 subsequently be self perpetuating, with future board  
2 appointments made by the current board.

3       During the 1996 conference committee hearings on S.B.  
4 No. 2522, which ultimately became Act 262, the regional board  
5 concept was replaced with regional management advisory  
6 committees. The management advisory committees represent the  
7 communities where the hospitals are located and meet with the  
8 management of the facilities and the Hawaii health systems  
9 corporation executives in order to give the communities a voice  
10 in the provision of these vital safety-net hospital services.

11       The legislature finds that Hawaii health systems  
12 corporation has developed strong administrative and clinical  
13 leadership in some regions and is now ready for the  
14 implementation of more regional control. The legislature  
15 further finds that regional control would enhance the ability of  
16 local communities to participate in the decision-making and  
17 control of their community hospitals. While the management  
18 advisory committees have been effective in representing the  
19 communities, their role has been solely advisory. The local  
20 communities are in the best position to make the critical  
21 decisions relating to the local operation of their community  
22 hospitals.



1           The hospitals should still engage in statewide activities  
2 through the Hawaii health systems corporation where a system-  
3 wide approach may provide economies of scale and efficiencies.

4           The purpose of this Act is to affirm the State's commitment  
5 to provide quality health care for the people of the State, by  
6 establishing a regional subsidiary corporation for the Maui  
7 region as a first step to more regional control for all regions,  
8 to be governed by a community-based regional board, and to  
9 provide the necessary authority to the regional subsidiary  
10 corporations to accomplish the goal of community-based  
11 governance.

12           SECTION 2. Section 323F-1, Hawaii Revised Statutes, is  
13 amended by adding two new definitions to be appropriately  
14 inserted and to read as follows:

15           "Regional board" means a regional board of a regional  
16 subsidiary corporation of the corporation.

17           "Regional subsidiary corporation" means a subsidiary  
18 corporation for a region that is wholly owned by the  
19 corporation."

20           SECTION 3. Chapter 323F, Hawaii Revised Statutes, is  
21 amended by adding four new sections to be appropriately  
22 designated and to read as follows:



1        "§323F-    Regional subsidiary corporations and transfer of  
2 assets.    There shall be one regional subsidiary corporation for  
3 each of the five regions specified in section 323F-    as  
4 established by law.    Each regional subsidiary corporation shall  
5 be a public body corporate and politic and an instrumentality  
6 and agency of the State.    All health systems assets and health  
7 systems liabilities of a region shall be transferred to the  
8 regional subsidiary corporation upon establishment.

9        §323F-    Establishment of a regional subsidiary  
10 corporation for Maui county.    There is established the first  
11 regional subsidiary corporation for the county of Maui region,  
12 except for the county of Kalawao that shall consist of Kula  
13 hospital, Lanai community hospital, and Maui memorial medical  
14 center and all other public health facilities created or  
15 acquired hereafter by the regional subsidiary corporation within  
16 the region.

17        §323F-    Regional boards.    (a)    Each regional subsidiary  
18 corporation upon establishment shall be governed by a regional  
19 board of directors to consist of not less than seven members and  
20 not more than fifteen members, as determined by the regional  
21 board after the initial regional board is established, which



1 shall carry out the duties and responsibilities of the  
2 corporation.

3 (1) Each regional board shall initially consist of eleven  
4 members to be appointed by the governor under section  
5 26-34 as follows:

6 (A) Four members shall be appointed by the governor  
7 within thirty days of receipt of a qualified list  
8 of candidates as follows:

9 (i) Two members shall be chosen from a list of  
10 four individuals submitted by the speaker of  
11 the house of representatives. This list  
12 shall not include physicians; and

13 (ii) Two members shall be chosen from a list of  
14 four individuals submitted by the president  
15 of the senate. This list shall not include  
16 physicians;

17 (B) Four members shall be nominated by the regional  
18 public health facility management advisory  
19 committee for appointment by the governor, for  
20 the region as follows:



- 1            (i) One member shall be chosen from the members  
2            of the corporation board. This individual  
3            shall not be a physician; and
- 4            (ii) Three members shall be chosen from a list of  
5            six individuals as medical and health care  
6            providers and professionals, consumers, and  
7            knowledgeable individuals in other  
8            appropriate areas such as business and law.  
9            These individuals shall not be physicians;
- 10          (C) Three physicians shall be appointed from a list  
11          of six physicians nominated by a majority vote of  
12          the medical staff of the public health facilities  
13          in the region present at a duly noticed meeting  
14          from a list of qualified candidates submitted by  
15          the medical executive committees in the region;
- 16          (2) One member of each initial regional board nominated by  
17          the house, senate, and medical executive committees in  
18          a region shall be appointed for a term of two years;
- 19          (3) One member of each initial regional board nominated by  
20          the regional public health facility management  
21          advisory committee for the region shall be appointed  
22          for a term of two years;



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

4       (5) New regional board members appointed to any regional  
5       board after the initial board shall be selected in the  
6       same manner as the original members.

7       Each regional board shall be responsible for local governance,  
8       control, and administration of services in its respective  
9       region. Each regional board may include non-physician medical  
10      and health care providers and professionals, consumers, and  
11      knowledgeable individuals in other appropriate areas such as  
12      business and law; provided that only three members of the  
13      regional board shall be physicians. Each regional board shall  
14      be as proportionately represented as practical.

15      Each regional board shall elect its own chair.

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

21      (1) Malfeasance in office;

22      (2) Failure to attend regularly called meetings;





1       (3) Sentencing for conviction of a felony, to the extent  
2           allowed by law; or

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

6       Conviction of a felony consistent with section 831-3.1, shall  
7       automatically and immediately disqualify a board member.

8       §323F-       Regional chief executive officers; exempt

9       positions. (a) Upon the formation of a regional subsidiary  
10       corporation and corresponding regional board, the regional board  
11       may appoint a regional chief executive officer of the regional  
12       subsidiary corporation whose salary shall be set by the  
13       corresponding regional board; provided that the position shall  
14       be exempt from chapter 76 and section 26-35(a)(4). Any regional  
15       chief executive officer may also appoint as necessary other  
16       personnel, exempt from chapters 76 and 89, to work directly for  
17       the regional chief executive officer for the region and for the  
18       corresponding regional board.

19       (b) Any regional board or its designee may discharge its  
20       exempt personnel with or without cause; provided that removal  
21       without cause shall not prejudice any contract rights of  
22       personnel.



1        (c) The regional chief executive officer or the regional  
2 chief executive officer's designee may appoint, exempt from  
3 chapters 76 and 89, hospital administrators, assistant  
4 administrators, directors of nursing, medical directors, and  
5 staff physicians, to facilitate the management of facilities  
6 within the regional subsidiary corporation."

7        SECTION 4. Section 323F-3, Hawaii Revised Statutes, is  
8 amended by amending subsection (b) to read as follows:

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

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

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

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

17        (4) One member from region IV who resides in the eastern  
18 section of the county of Hawaii;

19        (5) One member from region V who resides in the western  
20 section of the county of Hawaii;

21        (6) One member from region II who resides in the county of  
22 Kauai or from region III who resides in the district



1 of Hana or on the island of Lanai; provided that in no  
2 event shall the member be appointed from the same  
3 region for two consecutive terms; and

4 (7) Four at-large members who reside in the State.

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

8 The eleventh and twelfth ~~[member,]~~ members, who shall serve  
9 as [a] voting ~~[member,]~~ members, shall be ~~[a physician]~~  
10 physicians with active medical staff privileges at one of the  
11 corporation's public health facilities. The physician ~~[member]~~  
12 members shall each serve a term of two years. ~~[The initial~~  
13 ~~physician member shall be from region II, and subsequent~~  
14 ~~physician members shall come from regions IV, III, and V~~  
15 ~~respectively. The physician member position shall continue to~~  
16 ~~rotate in this order.]~~ The physician ~~[member]~~ members shall be  
17 appointed to the corporation board by a simple majority vote of  
18 the ~~[members of the executive public health facility management~~  
19 ~~advisory committee]~~ corporation board from a list of qualified  
20 nominees submitted by the public health facility management  
21 advisory committee ~~[for the region from which the physician~~  
22 ~~member is to be chosen.]~~ or by any regional board. The



1 corporation board shall attempt to choose physicians from  
2 different regions and to rotate the appointments from the five  
3 regions. If for any reason a physician member is unable to  
4 serve a full term, the remainder of that term shall be filled by  
5 a physician from the same region.

6 The thirteenth member shall be the director of health or  
7 the director's designee, who shall serve as an ex officio,  
8 voting member.

9 Appointments to the corporation board shall be made by the  
10 governor, subject to confirmation by the senate pursuant to  
11 section 26-34. The public health facility management advisory  
12 committees appointed pursuant to section 323-66 for each county  
13 may recommend names to the governor for each position on the  
14 corporation board designated for a region which corresponds to  
15 its county. The appointed board members shall serve for a term  
16 of four years; provided that upon the initial appointment of the  
17 first ten members:

- 18 (1) Two at-large members shall be appointed for a term of  
19 two years;
- 20 (2) Three at-large members shall be appointed for a term  
21 of three years; and



1 (3) Five regional members shall be appointed for a term of  
2 four years.

3 Any vacancy shall be filled in the same manner provided for the  
4 original appointments. The corporation board shall elect its  
5 own chair from among its members."

6 SECTION 5. Section 323F-4, Hawaii Revised Statutes, is  
7 amended to read as follows:

8 "**§323F-4 Board meetings.** (a) The corporation board and  
9 each regional board shall meet no fewer than four times a  
10 year[-] without regard to chapter 92. [~~All meetings of the~~  
11 ~~corporation board shall be subject to chapter 92, except that in~~  
12 ~~addition to matters exempted pursuant to law, the corporation~~  
13 ~~board may elect to hold an executive meeting for the~~  
14 ~~consideration of any matters set forth in section 323F-6.]~~

15 (b) All business of the corporation board and each  
16 regional board shall be conducted at a regular or special  
17 meeting at which a quorum is present, consisting of at least a  
18 majority of the directors then in office. Any action of the  
19 corporation board or each regional board shall require the  
20 affirmative vote of a majority of those present and voting at  
21 the meeting; except that a vote of two-thirds of the [~~members~~]



1 entire membership of the [~~corporation~~] respective board then in  
2 office shall be required for any of the following actions:

- 3 (1) Removal by the corporation board or respective  
4 regional board of one of its members [~~, with the~~  
5 ~~exception of the eleventh and twelfth members set~~  
6 ~~forth in section 323F-3, who may only be removed~~  
7 ~~pursuant to sections 323F-10 and 323F-10.5~~];
- 8 (2) Amendment by the [~~corporation~~] respective board of its  
9 bylaws;
- 10 (3) Hiring or removing the chief executive officer of the  
11 corporation[+] or any regional chief executive  
12 officer; and
- 13 (4) Any other actions as provided by the corporation or  
14 regional board bylaws."

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

17 "[+]§323F-5[+] **Disclosure of interests.** All corporation  
18 and regional board members and employees of the corporation and  
19 any regional subsidiary corporation shall be subject to chapter  
20 84."

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



1           " ~~§~~323F-6 ~~§~~ **Records.** The corporation and any regional  
2 subsidiary corporation shall be subject to the requirements of  
3 chapter 92F, except that the following categories of government  
4 records shall not be required to be disclosed:

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

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



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

3 "**§323F-7 Duties and powers of the corporation[+] and**  
4 **regional subsidiary corporations.** (a) Notwithstanding any  
5 other law to the contrary, the corporation and any regional  
6 subsidiary corporation shall have and exercise the following  
7 duties and powers[+]; provided that any regional subsidiary  
8 corporation may agree to allow the corporation to maintain any  
9 of the following duties and powers:

- 10 (1) Developing its own policies, procedures, and rules  
11 necessary or appropriate to plan, operate, manage, and  
12 control the system of public health facilities and  
13 services without regard to chapter 91;
- 14 (2) Evaluating the need for health facilities and  
15 services;
- 16 (3) Entering into and performing any contracts, leases,  
17 cooperative agreements, or other transactions  
18 whatsoever that may be necessary or appropriate in the  
19 performance of its purposes and responsibilities, and  
20 on terms it may deem appropriate, with either:





- 1 (A) Any agency or instrumentality of the United
- 2 States, or with any state, territory, or
- 3 possession, or with any subdivision thereof; or
- 4 (B) Any person, firm, association, or corporation,
- 5 whether operated on a for-profit or not-for-
- 6 profit basis; provided that the transaction
- 7 furthers the public interest;
- 8 (4) Conducting activities and entering into business
- 9 relationships as the corporation board or any regional
- 10 board deems necessary or appropriate, including but
- 11 not limited to:
- 12 (A) Creating nonprofit corporations, including but
- 13 not limited to charitable fund-raising
- 14 foundations, to be controlled wholly by the
- 15 corporation, any regional subsidiary corporation,
- 16 or jointly with others;
- 17 (B) Establishing, subscribing to, and owning stock in
- 18 business corporations individually or jointly
- 19 with others; and
- 20 (C) Entering into partnerships and other joint
- 21 venture arrangements, or participating in
- 22 alliances, purchasing consortia, health insurance



1 pools, or other cooperative arrangements, with  
2 any public or private entity; provided that any  
3 corporation, venture, or relationship entered  
4 into under this section furthers the public  
5 interest; provided further that this paragraph  
6 shall not be construed to authorize the  
7 corporation or regional subsidiary corporation to  
8 abrogate any responsibility or obligation under  
9 paragraph (15);

10 (5) Participating in and developing prepaid health care  
11 service and insurance programs and other alternative  
12 health care delivery programs, including programs  
13 involving the acceptance of capitated payments or  
14 premiums that include the assumption of financial and  
15 actuarial risk;

16 (6) Executing, in accordance with all applicable bylaws,  
17 rules, and laws, all instruments necessary or  
18 appropriate in the exercise of any of the  
19 corporation's and any regional board's powers;

20 (7) Preparing and executing all corporation and any  
21 regional board's budgets, policies, and procedures;



- 1           (8)   Setting rates and charges for all services provided by  
2           the corporation or any regional subsidiary corporation  
3           without regard to chapter 91;
- 4           (9)   Developing [a] corporation-wide or regional subsidiary  
5           corporation-wide hospital personnel [~~system~~] systems  
6           that [~~is~~] are subject to chapters 76 and 89;
- 7           (10)  Developing the corporation's and any regional  
8           subsidiary corporation's capital and strategic plans;
- 9           (11)  Suing and being sued; provided that the corporation  
10          and any regional subsidiary corporation shall enjoy  
11          the same sovereign immunity available to the State;
- 12          (12)  Making and altering corporation board and any regional  
13          board bylaws for its organization and management  
14          without regard to chapter 91;
- 15          (13)  Adopting rules, without regard to chapter 91,  
16          governing the exercise of its powers and the  
17          fulfillment of its purpose under this chapter;
- 18          (14)  Entering into any contract or agreement whatsoever,  
19          not inconsistent with this chapter or the laws of this  
20          State, and authorizing the corporation, regional  
21          subsidiary corporations, and chief executive [~~officer~~]  
22          officers to enter into all contracts, execute all



1 instruments, and do all things necessary or  
2 appropriate in the exercise of the powers granted in  
3 this chapter, including securing the payment of bonds;

4 (15) Issuing revenue bonds subject to the approval of the  
5 legislature; provided that all revenue bonds shall be  
6 issued pursuant to part III, chapter 39;

7 (16) Reimbursing the state general fund for debt service on  
8 general obligation bonds or reimbursable general  
9 obligation bonds issued by the State for the purposes  
10 of the corporation[+] or any regional subsidiary  
11 corporation;

12 (17) Pledging or assigning all or any part of the receipts  
13 and revenues of the corporation or any regional  
14 subsidiary corporation for purposes of meeting bond or  
15 health systems liabilities;

16 (18) Owning, purchasing, leasing, exchanging, or otherwise  
17 acquiring property, whether real, personal or mixed,  
18 tangible or intangible, and of any interest therein,  
19 in the name of the corporation or any regional  
20 subsidiary corporation, which property is not owned or  
21 controlled by the State but is owned or controlled by



- 1           the corporation[+] or any regional subsidiary  
2           corporation;
- 3       (19) Maintaining, improving, pledging, mortgaging, selling,  
4           or otherwise holding or disposing of property, whether  
5           real, personal or mixed, tangible or intangible, and  
6           of any interest therein, at any time and manner, in  
7           furtherance of the purposes and mission of the  
8           corporation[+] or any regional subsidiary corporation;  
9           provided that the corporation or any regional  
10          subsidiary corporation legally holds or controls the  
11          property in its own name; provided further that the  
12          corporation or any regional subsidiary corporation  
13          shall not sell, assign, lease, hypothecate, mortgage,  
14          pledge, give, or dispose of all or substantially all  
15          of its property;
- 16       (20) Purchasing insurance and creating captive insurers in  
17           any arrangement deemed in the best interest of the  
18           corporation, or any regional subsidiary corporation,  
19           including but not limited to funding and payment of  
20           deductibles and purchase of reinsurance;
- 21       (21) Acquiring by condemnation, pursuant to chapter 101,  
22          any real property required by the corporation or any



- 1           regional subsidiary corporation to carry out the  
2           powers granted by this chapter;
- 3       (22) Depositing any moneys of the corporation or any  
4           regional subsidiary corporation in any banking  
5           institution within or without the State, and  
6           appointing, for the purpose of making deposits, one or  
7           more persons to act as custodians of the moneys of the  
8           corporation[+] or any regional subsidiary corporation;
- 9       (23) Contracting for and accepting any gifts, grants, and  
10          loans of funds, property, or any other aid in any form  
11          from the federal government, the State, any state  
12          agency, or any other source, or any combination  
13          thereof, and complying, subject to this chapter, with  
14          the terms and conditions thereof;
- 15       (24) Providing health and medical services for the public  
16          directly or by agreement or lease with any person,  
17          firm, or private or public corporation or association  
18          through or in the health facilities of the corporation  
19          or any regional subsidiary corporation or otherwise;
- 20       (25) Approving medical staff bylaws, rules, and medical  
21          staff appointments and reappointments for all public  
22          health facilities[+] of the corporation or any



1           regional subsidiary corporation, including without  
2           limitation, determining the conditions under which a  
3           health professional may be extended the privilege of  
4           practicing within a health facility, and adopting and  
5           implementing reasonable rules, without regard to  
6           chapter 91, for the credentialing and peer review of  
7           all persons and health professionals within the  
8           facility;

- 9           (26) (A) Investing any funds not required for immediate  
10           disbursement in property or in securities that  
11           meet the standard for investments established in  
12           chapter 88 as provided by the corporation  
13           board[+] or any regional board; provided the  
14           investment assists the corporation or any  
15           regional subsidiary corporation in carrying out  
16           its public purposes; selling from time to time  
17           securities thus purchased and held, and  
18           depositing any securities in any bank or  
19           financial institution within or without the  
20           State. Any funds deposited in a banking  
21           institution or in any depository authorized in  
22           this section shall be secured in a manner and



1 subject to terms and conditions as the  
2 corporation board or any regional board may  
3 determine, with or without payment of any  
4 interest on the deposit, including, without  
5 limitation, time deposits evidenced by  
6 certificates of deposit. Any bank or financial  
7 institution incorporated under the laws of this  
8 State may act as depository of any funds of the  
9 corporation or any regional subsidiary  
10 corporation and may issue indemnity bonds or may  
11 pledge securities as may be required by the  
12 corporation board[+] or any regional board; and

13 (B) Notwithstanding subparagraph (A), contracting  
14 with the holders of any of its notes or bonds as  
15 to the custody, collection, securing, investment,  
16 and payment of any moneys of the corporation or  
17 any regional subsidiary corporation and of any  
18 moneys held in trust or otherwise for the payment  
19 of notes or bonds and carrying out the contract.  
20 Moneys held in trust or otherwise for the payment  
21 of notes or bonds or in any way to secure notes  
22 or bonds, and deposits of such moneys, may be





- 1           secured in the same manner as moneys of the  
2           corporation[7] or any regional subsidiary  
3           corporation, and all banks and trust companies  
4           are authorized to give security for the deposits;
- 5       (27) Entering into any agreement with the State including  
6           but not limited to contracts for the provision of  
7           goods, services, and facilities in support of the  
8           corporation's programs[7] or any regional subsidiary  
9           corporation's programs, and contracting for the  
10          provision of services to or on behalf of the State;
- 11       (28) Having a seal and altering the same at pleasure;
- 12       (29) Waiving, by means that the corporation or any regional  
13          subsidiary corporation deems appropriate, the  
14          exemption from federal income taxation of interest on  
15          the corporation's or any regional subsidiary  
16          corporation's bonds, notes, or other obligations  
17          provided by the Internal Revenue Code of 1986, as  
18          amended, or any other federal statute providing a  
19          similar exemption;
- 20       (30) Developing internal policies and procedures for the  
21          procurement of goods and services, consistent with the



1 goals of public accountability and public procurement  
2 practices[+], but not subject to chapter 103D;

3 (31) Authorizing and establishing positions;

4 (32) Calling upon the attorney general for such legal  
5 services as the corporation or any regional subsidiary  
6 corporation may require; and

7 (33) Having and exercising all rights and powers necessary  
8 or incidental to or implied from the specific powers  
9 granted in this chapter, which specific powers shall  
10 not be considered as a limitation upon any power  
11 necessary or appropriate to carry out the purposes and  
12 intent of this chapter.

13 (b) The corporation or any regional subsidiary corporation  
14 shall not be subject to chapters 36 to 38, 40, and 41D, except  
15 as otherwise provided in this chapter.

16 (c) The duties and powers granted to the corporation or  
17 any regional subsidiary corporation may not be used to enter  
18 into contractual or business relationships which have the  
19 practical effect of allowing or are intended to allow the  
20 private sector counterparts to replace existing employee  
21 positions or responsibilities within the corporation or any  
22 regional subsidiary corporation or its facilities; provided the



1 corporation or any regional subsidiary corporation shall be  
2 allowed to enter into such relationships to the extent and for  
3 the purposes that the division of community hospitals could have  
4 done under collective bargaining contracts which were in effect  
5 for the 1995-1996 fiscal year."

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

8 "**§323F-8 Chief executive officer; exempt positions.** (a)

9 The corporation board may appoint, exempt from chapter 76 and  
10 section 26-35(a)(4), a chief executive officer of the  
11 corporation whose salary shall be set by the corporation board.  
12 The chief executive officer may also appoint up to eighteen  
13 other personnel, exempt from chapters 76 and 89, to work  
14 directly for the chief executive officer and the corporate  
15 board.

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

20 (c) The corporation's chief executive officer or the chief  
21 executive officer's designee may appoint, exempt from chapters  
22 76 and 89, hospital administrators, assistant administrators,



1 directors of nursing, medical directors, and staff physicians,  
2 to facilitate the management of facilities within the  
3 corporation; provided that directors of nursing appointed before  
4 July 1, 1998, may maintain their civil service status as  
5 provided in chapter 76 by so communicating in writing to the  
6 chief executive officer by October 31, 1998. Hospital  
7 administrators and assistant administrators appointed before  
8 July 1, 1983, may maintain their permanent civil service status  
9 as provided in chapter 76.

10 (d) The authority to appoint hospital administrators,  
11 assistant administrators, directors of nursing, medical  
12 directors, and staff physicians provided for under subsection  
13 (c) shall be superseded by section 323F-8.5 for the region  
14 affected upon the establishment of a regional subsidiary  
15 corporation and corresponding regional board."

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

18 "[+]§323F-9[+] **Hiring of attorneys.** The corporation may  
19 employ or retain any attorney, by contract or otherwise, for the  
20 purpose of representing the corporation or any regional  
21 subsidiary corporation in any litigation, rendering legal



1 counsel to the corporation[7] or any regional subsidiary  
2 corporation, or drafting legal documents for the corporation."

3 SECTION 11. Section 323F-10, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 **"§323F-10 Regional public health facility management**  
6 **advisory committees.** (a) On the transfer date, there shall be  
7 established within the corporation for each region, a public  
8 health facility management advisory committee to consist of nine  
9 members initially to be appointed by the chief executive officer  
10 of the corporation with the advice of the hospital  
11 administrators of the facilities in the affected regions. The  
12 members shall serve for a term of four years; provided that upon  
13 the initial appointment of the members, two shall be appointed  
14 for a term of one year, two for a term of two years, two for a  
15 term of three years, and three for a term of four years.

16 Following the initial appointments by the chief executive  
17 officer of the corporation board, any vacancies on a regional  
18 committee shall be filled by a simple majority vote of the  
19 members of the executive committee from a list of qualified  
20 nominees submitted by the regional committee in which the  
21 vacancy occurred. If a regional committee vacancy remains



1 unfilled for more than thirty days, that vacancy may be filled  
2 by the chief executive officer of the corporation.

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

10 The management advisory committee for the East Hawaii  
11 region shall have three members who reside in the Ka'u district,  
12 three members who reside in the Hamakua/North Hilo districts,  
13 and three members who reside in the South Hilo/Puna districts.  
14 The management advisory committee for the West Hawaii region  
15 shall have not less than three members who reside in the North  
16 Kohala/South Kohala districts.

17 Each regional committee shall select its own chairperson  
18 and vice chairperson and shall adopt rules governing the terms  
19 for removal of its chairperson from the executive management  
20 advisory committee. In the event of a regional committee voting  
21 to remove its chairperson who concurrently sits on the  
22 corporation board, that vote shall be unanimous. In the event



1 of a regional committee voting to remove its physician member  
2 from the corporation board, that vote shall also be unanimous.  
3 Each regional committee may also adopt other rules as it may  
4 consider necessary for the conduct of its business.

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

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



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

6 (d) Upon the formation of a regional subsidiary  
7 corporation's initial board, this section shall no longer apply  
8 to the region in which the regional subsidiary corporation has  
9 been formed."

10 SECTION 12. Section 323F-10.5, Hawaii Revised Statutes, is  
11 amended to read as follows:

12 "[+]§323F-10.5[+] **Executive public health facility**  
13 **management advisory committee; establishment.** (a) There is  
14 established within the corporation an executive public health  
15 facility management advisory committee to consist of the  
16 chairpersons of each of the five regional public health facility  
17 management advisory committees. The executive committee shall,  
18 through its chairperson, represent the interests of all regional  
19 committees on the corporation board.

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





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

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

9 (d) Upon the formation of a regional subsidiary  
10 corporation's initial board, this section shall no longer apply  
11 to the region in which the regional subsidiary corporation has  
12 been formed."

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

15 " ~~[+]§323F-10.6[+]~~ **Peer review and credentialing.**  
16 ~~[Corporation board or other committee meetings pertaining to~~  
17 ~~peer review and credentialing matters shall not be subject to~~  
18 ~~part I of chapter 92.]~~ Peer review activities shall be subject  
19 to ~~[the provisions of]~~ chapters 663 and 671D and all other  
20 provisions and restrictions of medical peer review committees  
21 established by state law."



1 SECTION 14. Section 323F-11, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "[+]§323F-11[+] **Executive branch; noninterference.**

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

18 SECTION 15. Section 323F-21, Hawaii Revised Statutes, is  
19 amended to read as follows:

20 "[+]§323F-21[+] **Fiscal provisions.** (a) There is created  
21 in the state treasury a special fund to be known as the health  
22 systems special fund into which shall be deposited all fees,



1 proceeds, reimbursements, and the like owed to or received by  
2 the corporation, any regional subsidiary corporation, and its  
3 facilities, except as herein provided. The special fund shall  
4 be used solely to fulfill the purposes outlined in this chapter.

5 The corporation or any regional subsidiary corporation may  
6 establish and maintain within its special fund, accounts that  
7 may be necessary and appropriate to carry out its purposes and  
8 responsibilities.

9 The corporation or any regional subsidiary corporation may  
10 provide reasonable reserves for any of the following purposes:

- 11 (1) Insurance deductibles;
- 12 (2) The improvement, replacement, or expansion of its  
13 facilities or services;
- 14 (3) The securing of the corporation's or any regional  
15 subsidiary corporation's bonds, notes, or other  
16 instruments of indebtedness; or
- 17 (4) Any other purpose it deems necessary or appropriate in  
18 the performance of its purposes and responsibilities.

19 (b) The corporation board and any regional board shall  
20 develop annual operating and capital budgets for each facility.

21 The corporation and any regional subsidiary corporation shall  
22 develop budgetary guidelines, and may allocate to each facility



1 reasonable [~~corporation~~] corporate administrative costs,  
2 including funds determined by the corporation or any regional  
3 subsidiary corporation to be needed from or provided to each  
4 facility to:

5 (1) Repay corporation or any regional subsidiary  
6 corporation debts;

7 (2) Provide subsidies to any facility determined to be  
8 unable to fund from within that facility's programs  
9 and services deemed essential to community needs; and

10 (3) Maintain appropriate reserves.

11 (c) The corporation and any regional subsidiary  
12 corporation shall develop annual corporation or any regional  
13 subsidiary corporation operating and capital budgets, taking  
14 into account anticipated surpluses from or subsidies to the  
15 facilities pursuant to the annual guidelines described in this  
16 section, accumulated corporation or any regional subsidiary  
17 corporation reserves and accounts, subsidies, if any, that are  
18 determined to be needed from the general fund, and other sources  
19 of corporation-wide or any regional subsidiary corporation-wide  
20 income as may be identified.

21 (d) The corporation, with the exception of facilities  
22 within regions where a regional subsidiary corporation has been



1 formed, may share in any facility's surplus and may offset any  
2 facility's deficits. Any regional subsidiary corporation may  
3 share in the surplus of any facility within its region and may  
4 offset any facility deficits within its region. Obligations  
5 undertaken by a facility shall be paid only from funds of that  
6 facility, unless the corporation board, regional board, or its  
7 authorized agent explicitly agrees to guarantee the obligation.

8 (e) In accordance with each annual facility budget, each  
9 facility of the corporation or any regional subsidiary  
10 corporation shall:

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

15 (f) The corporation or any regional subsidiary corporation  
16 may elect to manage its own capital improvement project and  
17 funds, either directly or indirectly by contract; provided that  
18 annual reports of the project moneys are provided to the  
19 governor and legislature.

20 (g) The corporation board or any regional board may hold  
21 public informational meetings on its budget. Representatives of  
22 any county government, state government, or any other person



1 having an interest in the budget, shall have the right to be  
2 heard at the meetings."

3 SECTION 16. Section 323F-22, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 "[+]§323F-22[+] **Annual audit and report; disclosure of**  
6 **revenue projections.** (a) The corporation and any regional  
7 subsidiary corporation shall engage a certified public  
8 accountant to conduct an annual audit of its financial affairs,  
9 books, and records in accordance with generally accepted  
10 accounting principles. The corporation shall submit to the  
11 governor and the legislature within one hundred fifty days after  
12 the close of the corporation's fiscal year, a report that shall  
13 include the audited financial report for that fiscal year[+] for  
14 the corporation and any regional subsidiary corporation.

15 (b) In addition to the submittal of the audit required  
16 under subsection (a), the corporation shall submit a report to  
17 the legislature at least twenty days prior to the convening of  
18 each regular session that shall include but not be limited to:

- 19 (1) The projected revenues for each health care facility;  
20 (2) A list of all proposed capital improvement projects  
21 planned for implementation during the following fiscal  
22 year; and



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

4 (c) Each regional board may prepare a report for inclusion  
 5 with the corporation's annual report and audit which shall  
 6 include but not be limited to comments and analyses on the  
 7 services provided by the corporation to services to its  
 8 respective region."

9 SECTION 17. Section 323F-23, Hawaii Revised Statutes, is  
 10 amended to read as follows:

11 "[+]§323F-23[+] **Exemption from taxation.** The corporation  
 12 or any regional subsidiary corporation shall not be required to  
 13 pay assessments levied by any county, nor shall the corporation  
 14 be required to pay state taxes of any kind."

15 SECTION 18. Section 323F-24, Hawaii Revised Statutes, is  
 16 amended to read as follows:

17 "[+]§323F-24[+] **Budget oversight.** The corporation's and  
 18 any regional subsidiary corporation's operating and capital  
 19 improvement budgets shall not be subject to review or approval  
 20 by the governor or any state agency, except where state general  
 21 funds or capital improvement moneys are requested. If general  
 22 funds or capital improvement moneys are requested, then the



1 corporation or any regional subsidiary corporation shall include  
2 with its request, the proposed budget for which the funds or  
3 moneys are to be included. The corporation or any regional  
4 subsidiary corporation shall submit its budgets annually to the  
5 legislature for review and approval at least twenty days prior  
6 to the convening of the regular legislative session, beginning  
7 with the budgets for the 1997-1998 fiscal years."

8 SECTION 19. Section 323F-31, Hawaii Revised Statutes, is  
9 amended by amending subsection (a) to read as follows:

10 "(a) The corporation or any regional subsidiary  
11 corporation shall notify the legislature of any planned  
12 substantial reduction or elimination of direct patient care  
13 services."

14 SECTION 20. Section 26-5, Hawaii Revised Statutes, is  
15 amended by amending subsection (e) to read as follows:

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





1 SECTION 21. Section 28-8.3, Hawaii Revised Statutes, is  
2 amended as follows:

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

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

11 (1) By the public utilities commission, the labor and  
12 industrial relations appeals board, and the Hawaii  
13 labor relations board;

14 (2) By any court or judicial or legislative office of the  
15 State;

16 (3) By the legislative reference bureau;

17 (4) By any compilation commission that may be constituted  
18 from time to time;

19 (5) By the real estate commission for any action involving  
20 the real estate recovery fund;

21 (6) By the contractors license board for any action  
22 involving the contractors recovery fund;



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



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

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

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

19          SECTION 22. Section 29-24, Hawaii Revised Statutes, is  
20          amended by amending subsection (a) to read as follows:

21          "(a) There is established in the state treasury an  
22          interagency federal revenue maximization revolving fund into



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

19 SECTION 23. Section 36-27, Hawaii Revised Statutes, is  
20 amended to read as follows:

21 "**§36-27 Transfers from special funds for central service**  
22 **expenses.** Except as provided in this section, and



1 notwithstanding any other law to the contrary, from time to  
2 time, the director of finance, for the purpose of defraying the  
3 prorated estimate of central service expenses of government in  
4 relation to all special funds, except the:

- 5 (1) Special out-of-school time instructional program fund  
6 under section 302A-1310;
- 7 (2) School cafeteria special funds of the department of  
8 education;
- 9 (3) Special funds of the University of Hawaii;
- 10 (4) State educational facilities improvement special fund;
- 11 (5) Convention center enterprise special fund under  
12 section 201B-8;
- 13 (6) Special funds established by section 206E-6;
- 14 (7) Housing loan program revenue bond special fund;
- 15 (8) Housing project bond special fund;
- 16 (9) Aloha Tower fund created by section 206J-17;
- 17 (10) Funds of the employees' retirement system created by  
18 section 88-109;
- 19 (11) Unemployment compensation fund established under  
20 section 383-121;
- 21 (12) Hawaii hurricane relief fund established under chapter  
22 431P;



- 1       (13) Hawaii health systems corporation special funds[+] and  
2             the special funds of any of the regional subsidiary  
3             corporations of the Hawaii health systems corporation;
- 4       (14) Tourism special fund established under section  
5             201B-11;
- 6       (15) Universal service fund established under chapter 269;
- 7       (16) Integrated tax information management systems special  
8             fund under section 231-3.2;
- 9       (17) Emergency and budget reserve fund under section  
10            328L-3;
- 11       (18) Public schools special fees and charges fund under  
12            section 302A-1130(f);
- 13       (19) Sport fish special fund under section 187A-9.5;
- 14       (20) Neurotrauma special fund under section 321H-4;
- 15       (21) Deposit beverage container deposit special fund under  
16            section 342G-104;
- 17       (22) Glass advance disposal fee special fund established by  
18            section 342G-82;
- 19       (23) Center for nursing special fund under section  
20            [+]304A-2163[+];
- 21       (24) Passenger facility charge special fund established by  
22            section 261-5.5;



1       (25) Solicitation of funds for charitable purposes special  
2               fund established by section 467B-15;

3       (26) Land conservation fund established by section 173A-5;

4       (27) Court interpreting services revolving fund under  
5               section 607-1.5;

6       (28) Trauma system special fund under section 321-22.5;

7       (29) Hawaii cancer research special fund;

8       (30) Community health centers special fund; and

9       (31) Emergency medical services special fund[+];

10 shall deduct five per cent of all receipts of all other special  
11 funds, which deduction shall be transferred to the general fund  
12 of the State and become general realizations of the State. All  
13 officers of the State and other persons having power to allocate  
14 or disburse any special funds shall cooperate with the director  
15 in effecting these transfers. To determine the proper revenue  
16 base upon which the central service assessment is to be  
17 calculated, the director shall adopt rules pursuant to chapter  
18 91 for the purpose of suspending or limiting the application of  
19 the central service assessment of any fund. No later than  
20 twenty days prior to the convening of each regular session of  
21 the legislature, the director shall report all central service  
22 assessments made during the preceding fiscal year.[+]"



1 SECTION 24. Section 36-30, Hawaii Revised Statutes, is  
2 amended by amending subsection (a) to read as follows:

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

4 (1) Transportation use special fund established by section  
5 261D-1;

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

8 (3) School cafeteria special funds of the department of  
9 education;

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

11 (5) State educational facilities improvement special fund;

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

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

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

16 (9) Unemployment compensation fund established under  
17 section 383-121;

18 (10) Hawaii hurricane relief fund established under chapter  
19 431P;

20 (11) Convention center enterprise special fund established  
21 under section 201B-8;





- 1 (12) Hawaii health systems corporation special funds[+] and  
2 the special funds of any of the regional subsidiary  
3 corporations of the Hawaii health systems corporation;
- 4 (13) Tourism special fund established under section  
5 201B-11;
- 6 (14) Universal service fund established under chapter 269;
- 7 (15) Integrated tax information management systems special  
8 fund under section 231-3.2;
- 9 (16) Emergency and budget reserve fund under section  
10 328L-3;
- 11 (17) Public schools special fees and charges fund under  
12 section 302A-1130(f);
- 13 (18) Sport fish special fund under section 187A-9.5;
- 14 (19) Neurotrauma special fund under section 321H-4;
- 15 (20) Center for nursing special fund under section  
16 [+]304A-2163[+];
- 17 (21) Passenger facility charge special fund established by  
18 section 261-5.5;
- 19 (22) Court interpreting services revolving fund under  
20 section 607-1.5;
- 21 (23) Trauma system special fund under section 321-22.5;
- 22 (24) Hawaii cancer research special fund;



1 (25) Community health centers special fund; and  
2 (26) Emergency medical services special fund[+];  
3 shall be responsible for its pro rata share of the  
4 administrative expenses incurred by the department responsible  
5 for the operations supported by the special fund concerned.[+]"

6 SECTION 25. Section 37-53, Hawaii Revised Statutes, is  
7 amended to read as follows:

8 "§37-53 **Transfer of special funds.** At any time during a  
9 fiscal year, notwithstanding any other law to the contrary, any  
10 department may, with the approval of the governor or the  
11 director of finance if so delegated by the governor, transfer  
12 from any special fund relating to such department to the general  
13 revenues of the State all or any portion of moneys determined to  
14 be in excess of fiscal year requirements for such special fund,  
15 except for special funds under the control of the department of  
16 transportation relating to highways, airports, transportation  
17 use, and harbors activities, special funds under the control of  
18 the Hawaii health systems corporation[7] or any of its regional  
19 subsidiary corporations, and special funds of the University of  
20 Hawaii. At any time the department of transportation, with the  
21 approval of the governor or the director of finance if so  
22 delegated by the governor, may transfer from any special fund



1 under the control of the department of transportation, or from  
2 any account within any such special fund, to the general  
3 revenues of the State or to any other special fund under the  
4 control of the department of transportation all or any portion  
5 of moneys determined to be in excess of requirements for the  
6 ensuing twelve months determined as prescribed by rules adopted  
7 pursuant to chapter 91; provided that no such transfer shall be  
8 made which would cause a violation of federal law or federal  
9 grant agreements."

10 SECTION 26. Section 37-74, Hawaii Revised Statutes, is  
11 amended by amending subsection (d) to read as follows:

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

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

17 (2) Except with respect to appropriations to fund  
18 financing agreements under chapter 37D, the University  
19 of Hawaii shall have the flexibility to transfer  
20 appropriated funds and positions for the operating  
21 cost category among programs, among cost elements in a  
22 program, and between quarters, as applicable; except



1 with respect to appropriations to fund financing  
2 agreements under chapter 37D, the department of  
3 education shall have the flexibility to transfer  
4 appropriated funds and positions for the operating  
5 cost category among programs and among cost elements  
6 in a program, and between quarters, as applicable; and  
7 the Hawaii health systems corporation or any of its  
8 regional subsidiary corporations shall have the  
9 flexibility to transfer special fund appropriations  
10 among community hospitals facilities as applicable;  
11 provided that the Hawaii health systems corporation or  
12 any of its regional subsidiary corporations shall  
13 maintain the integrity and services of each individual  
14 facility and shall not transfer appropriations out of  
15 any facility that would result in a reduction of  
16 services offered by the facility, with due regard for  
17 statutory requirements, changing conditions, the needs  
18 of the programs, and the effective utilization of  
19 resources; and

- 20 (3) The university and the department of education shall  
21 account for each transfer implemented under this  
22 subsection in quarterly reports to the governor and



1           annual reports at the end of each fiscal year to the  
2           legislature and the governor, which shall be prepared  
3           in the form and manner prescribed by the governor and  
4           shall include information on the sources and uses of  
5           the transfer."

6           SECTION 27. Section 37D-1, Hawaii Revised Statutes, is  
7           amended by amending the definition of "agency" to read as  
8           follows:

9            "Agency" or "participating agency" means the judiciary,  
10          any executive department, any independent commission, any board,  
11          any authority, any bureau, any office, any other establishment  
12          of the State (except the legislature and its agencies), or any  
13          public corporation that is supported in whole or in part by  
14          state funds, or any agent thereof, authorized by law to expend  
15          available moneys; provided that the Hawaii health systems  
16          corporation or any of its regional subsidiary corporations shall  
17          not be governed by this chapter for any financing agreement  
18          unless it elects to do so."

19          SECTION 28. Section 37D-2, Hawaii Revised Statutes, is  
20          amended to read as follows:

21          "**§37D-2 Financing agreements.** (a) There is hereby  
22          established and authorized the financing agreement program of



1 the State. Any agency desiring to acquire or improve projects  
2 through the financing agreement program established and  
3 authorized by this chapter shall submit a written request to the  
4 department providing such information as the department shall  
5 require. Notwithstanding any other law to the contrary, and  
6 except for the Hawaii health systems corporation[7] or any of  
7 its regional subsidiary corporations, only with the approval by  
8 the attorney general as to form and legality and upon the  
9 written request of one or more participating agencies may the  
10 department enter into a financing agreement in accordance with  
11 this chapter, except that the board of regents of the University  
12 of Hawaii may enter into a financing agreement in accordance  
13 with this chapter without the approval of the director and of  
14 the attorney general as to form and legality if the principal  
15 amount of the financing agreement does not exceed \$3,000,000. A  
16 financing agreement may be entered into by the department on  
17 behalf of one or more participating agencies at any time (before  
18 or after commencement or completion of any improvements or  
19 acquisitions to be financed) and shall be upon terms and  
20 conditions the department finds to be advantageous. In each  
21 case of a written request by the judiciary to participate in the  
22 financing agreement program, the department shall implement the



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

- 12 (1) The department's costs of administration of the  
13 financing agreement program; and
- 14 (2) The financing costs, including the principal and  
15 interest components of the financing agreement and  
16 insurance premiums;  
17 on a monthly or other periodic basis, and may deposit payments  
18 received in connection with the billings with a trustee as  
19 security for a financing agreement. Any participating agency  
20 receiving such a bill shall be authorized and shall pay the  
21 amounts billed from the available moneys.



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

3 (1) Amounts payable by a participating agency to or upon  
4 the direction of the department in respect to a  
5 project and by the department under a financing  
6 agreement shall be limited to available moneys. In no  
7 circumstance shall the department be obligated to pay  
8 amounts due under a financing agreement from any  
9 source other than available moneys. If, by reason of  
10 insufficient available moneys or other reason, amounts  
11 due under a financing agreement are not paid when due,  
12 the lender may exercise any property right that the  
13 department has granted to it in the financing  
14 agreement, against the property that was purchased  
15 with the proceeds of the financing agreement, and  
16 apply the amounts so received toward payments  
17 scheduled to be made by the department under the  
18 financing agreement;

19 (2) No property rights may be granted in property unless  
20 the property is being acquired, is to be substantially  
21 improved, is to be refinanced with the proceeds of a





1 financing agreement, or is land on which the property  
2 is located;

3 (3) Notwithstanding any other law to the contrary, and  
4 except for the Hawaii health systems corporation, any  
5 of its regional subsidiary corporations, and as  
6 otherwise provided in this section with respect to the  
7 University of Hawaii, and except as provided in  
8 chapter 323F as to the Hawaii health systems  
9 corporation~~[7]~~ or any of its regional subsidiary  
10 corporations, an agency shall not have the power to  
11 enter into a financing agreement, except through the  
12 department as authorized by this chapter, and nothing  
13 in this chapter shall be construed to authorize the  
14 sale, lease, or other disposition of property owned by  
15 an agency;

16 (4) Except as otherwise provided in this section with  
17 respect to the University of Hawaii, the sale,  
18 assignment, or other disposition of any financing  
19 agreements, including certificates of participation  
20 relating thereto, shall require the approval of the  
21 director; and



1 (5) The department shall not be subject to chapter 103D  
2 and any and all other requirements of law for  
3 competitive bidding for financing agreement."

4 SECTION 29. Section 76-11, Hawaii Revised Statutes, is  
5 amended by amending the definitions of "chief executive",  
6 "employer" or "public employer", and "jurisdiction", to read as  
7 follows:

8 "Chief executive" means the governor, the respective  
9 mayors, the chief justice of the supreme court, [~~and~~] the chief  
10 executive officer of the Hawaii health systems corporation[~~-~~],  
11 and the regional chief executive officer of any regional  
12 subsidiary corporation of the Hawaii health systems corporation.

13 It may include the superintendent of education and the president  
14 of the University of Hawaii with respect to their employees on  
15 any matter that applies to employees in general, including  
16 employees who are not covered by this chapter.

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



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

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

16 SECTION 30. Section 76-47, Hawaii Revised Statutes, is  
17 amended by amending subsection (c) to read as follows:

18 "(c) The merit appeals board shall adopt rules of practice  
19 and procedure consistent with section 76-14 and in accordance  
20 with chapter 91, except that, in the case of the judiciary  
21 [~~and~~], the Hawaii health systems corporation, and the regional  
22 subsidiary corporations of the Hawaii health systems



1 corporation, the adoption, amendment, or repeal of rules shall  
2 be subject to the approval of their respective chief executives.  
3 The rules shall recognize that the merit appeals board shall sit  
4 as an appellate body and that matters of policy, methodology,  
5 and administration are left for determination by the director.  
6 The rules may provide for the sharing of specific expenses among  
7 the parties that are directly incurred as a result of an appeal  
8 as the merit appeals board deems would be equitable and  
9 appropriate, including but not limited to expenses for  
10 transcription costs or for services, including traveling and per  
11 diem costs, provided by persons other than the board members or  
12 permanent staff of the board. Official business of the merit  
13 appeals board shall be conducted in meetings open to the public,  
14 except as provided in chapter 92."

15 SECTION 31. Section 89-2, Hawaii Revised Statutes, is  
16 amended by amending the definitions of "employer" or "public  
17 employer", "jurisdiction", and "legislative body" to read as  
18 follows:

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



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

12 "Jurisdiction" means the State, the city and county of  
13 Honolulu, the county of Hawaii, the county of Maui, the county  
14 of Kauai, the judiciary, and the Hawaii health systems  
15 corporation[-] or any of its regional subsidiary corporations.

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



1 SECTION 32. Section 89-6, Hawaii Revised Statutes, is  
2 amended by amending subsection (d) to read as follows:

3 "(d) For the purpose of negotiating a collective  
4 bargaining agreement, the public employer of an appropriate  
5 bargaining unit shall mean the governor together with the  
6 following employers:

- 7 (1) For bargaining units (1), (2), (3), (4), (9), (10),  
8 and (13), the governor shall have six votes and the  
9 mayors, the chief justice, and the Hawaii health  
10 systems corporation board and each of the regional  
11 boards of a regional subsidiary corporation of the  
12 Hawaii health systems corporation shall each have one  
13 vote if they have employees in the particular  
14 bargaining unit;
- 15 (2) For bargaining units (11) and (12), the governor shall  
16 have four votes and the mayors shall each have one  
17 vote;
- 18 (3) For bargaining units (5) and (6), the governor shall  
19 have three votes, the board of education shall have  
20 two votes, and the superintendent of education shall  
21 have one vote;



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

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

11           SECTION 33. It is the intent of this Act that all rights  
12 powers, functions, assets, and operations of the Hawaii health  
13 systems corporation, with respect to the health facilities in  
14 each region, including the facilities themselves, be conveyed to  
15 the corresponding regional subsidiary corporations at such time  
16 as the corporations are established, such that all of the  
17 activities and services of the health facilities be continued  
18 without interruption by the corresponding regional subsidiary  
19 corporations. This Act shall be construed with this intent.

20           All rights, powers, functions, and duties of the Hawaii  
21 health systems corporation shall be transferred to a



1 corresponding regional subsidiary corporation upon establishment  
2 of the regional subsidiary corporation.

3 The assets, including but not limited to hospital funds  
4 relating to health facilities in each region shall be conveyed  
5 to a corresponding regional subsidiary corporation at such time  
6 as the regional subsidiary corporation is established.

7 Upon establishment, a regional subsidiary corporation shall  
8 assume the responsibility of the Hawaii health systems  
9 corporation with respect to the corresponding region, for all  
10 contracts, agreements, and leases for commodities, services,  
11 property, and supplies utilized by the Hawaii health systems  
12 corporation, all of which shall be transferred to the  
13 corresponding regional subsidiary corporation including real  
14 property leases.

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

19 No officer or employee of the State having tenure shall  
20 suffer any loss of salary, seniority, prior service credit,  
21 vacation, sick leave, or other employee benefit or privilege as  
22 a consequence of this Act, and such officer or employee may be





1 transferred or appointed to a civil service position without the  
2 necessity of examination; provided that the officer or employee  
3 possesses the minimum qualifications for the position to which  
4 transferred or appointed; and provided that subsequent changes  
5 in status may be made pursuant to applicable civil service laws.

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

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



1 Any officer or employee transferred to any regional  
2 subsidiary corporation pursuant to this section who is a member  
3 of or benefits under any existing pension or retirement fund  
4 system shall continue to have all rights privileges,  
5 obligations, and status with respect to such fund or system as  
6 are now prescribed by law, but during the period of employment  
7 by any regional subsidiary corporation, all contributions to  
8 such funds or system to be paid by the employer on account of  
9 such officer or employee shall be paid by the corresponding  
10 regional subsidiary corporation.

11 SECTION 34. All appropriations, records, equipment,  
12 machines, files, supplies, contracts, books, papers,  
13 documentation, maps, and other personal property heretofore  
14 made, used, acquired, or held by the Hawaii health systems  
15 corporation relating to the functions transferred to a regional  
16 subsidiary corporation shall be transferred upon establishment  
17 of a regional subsidiary corporation with the functions to which  
18 they relate.

19 SECTION 35. (a) Any regional subsidiary corporation, in  
20 carrying out its duties and responsibilities, may enter into  
21 appropriate agreements with the Hawaii health systems  
22 corporation, if necessary, to utilize the corresponding regional



1 health facilities and real property under the control of the  
2 Hawaii health systems corporation prior to the establishment of  
3 the regional subsidiary corporation. Each agreement shall  
4 require compensation of a nominal amount for the use of any  
5 facilities or real property. Until the agreements are  
6 finalized, any regional subsidiary corporation shall be entitled  
7 to use the facilities and real property of the Hawaii health  
8 systems corporation located within the corresponding region.

9 (b) State agencies shall continue to provide to any  
10 regional subsidiary corporation, without charge, for six months  
11 after the establishment of regional subsidiary corporation,  
12 services that the state agencies provided to the Hawaii health  
13 systems corporation until the corresponding regional subsidiary  
14 corporation enters into a written contract with the state  
15 agencies or chooses to terminate the services.

16 (c) Any regional subsidiary corporation shall assume and  
17 honor all collective bargaining agreements applicable to  
18 employees of the Hawaii health systems corporation, with respect  
19 to the employees of the health facilities within that region.  
20 Upon expiration of those agreements, the regional subsidiary  
21 corporation, as appropriate and allowable, may negotiate  
22 collective bargaining agreements or subagreements under chapter



1 89, Hawaii Revised Statutes, to address its needs for efficiency  
2 and effectiveness.

3 (d) Upon establishment a regional subsidiary corporation  
4 shall assume and honor all responsibilities and obligations  
5 transferred to it from the Hawaii health systems corporation,  
6 regarding the imposition of rates, rents, fees, and charges for  
7 the use of health facilities pursuant to section 323-70, Hawaii  
8 Revised Statutes. In no way shall this Act be construed as  
9 allowing any regional subsidiary corporation or the Hawaii  
10 health systems corporation to abrogate these responsibilities  
11 and obligations.

12 SECTION 36. There is appropriated out of the general  
13 revenues of the State of Hawaii the sum of \$ , or so  
14 much thereof as may be necessary for fiscal year 2007-2008, and  
15 the same sum, or so much thereof as may be necessary for fiscal  
16 year 2008-2009, to support the transition from the Hawaii health  
17 systems corporation to a regional subsidiary corporation for the  
18 Maui region.

19 The sums appropriated shall be expended by the Hawaii  
20 health systems corporation for the purposes of this Act.

21 SECTION 37. All acts passed prior to or during this  
22 regular session of 2007, whether enacted before or after passage



1 of this Act shall be interpreted to conform to this Act, unless  
2 the acts specifically provide that this Act is being amended.  
3 In so far as this chapter is inconsistent with any other law,  
4 this chapter shall control.

5 SECTION 38. Statutory material to be repealed is  
6 bracketed. New statutory material is underscored.

7 SECTION 39. This Act shall take effect on July 1, 2007.  
8

INTRODUCED BY:

A.S.T.M.

Reedy & Baker

J. Kalani English



**Report Title:**

Hawaii Health Systems Corporation; Maui Regional Subsidiary

**Description:**

Establishes a regional subsidiary corporation under Hawaii health systems corporation for the Maui region. Makes appropriations.

