
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 throughout 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 by furthering the development of centers of
13 excellence in health care.

14 The current administrative arrangement places the public
15 hospital system in a single statewide public agency, the Hawaii
16 health systems corporation, which operates with some autonomy
17 from the executive branch. This arrangement is the result of



1 landmark legislation, Act 262, Session Laws of Hawaii 1996 (Act
2 262), after years of study. Act 262 was largely the result of
3 the work of a task force established pursuant to Act 266,
4 Session Laws of Hawaii 1994, charged with studying the
5 establishment of an agency for community hospitals, then a
6 division of the department of health. On December 20, 1994, the
7 task force issued its report to the governor and the legislature
8 entitled "The Preliminary Report of the Governor's Task Force on
9 the Establishment of an Agency for Community Hospitals." Many
10 of the recommendations of the task force were adopted by the
11 legislature, resulting in passage of Act 262, and the creation
12 of the Hawaii health systems corporation in 1996.

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

16 "The Hawaii Health Systems Corporation should
17 administer the state facilities in a decentralized
18 fashion, with the facilities to be grouped into five
19 regions. Three regions should be formed for the
20 facilities of Kauai, Oahu and Maui Counties
21 respectively, and the Big Island should be divided
22 into Eastern and Western regions. Each region should



1 have an operating Board of Directors consisting of
2 nine members. Regional Boards should be initially
3 appointed by the Governor with the advice and consent
4 of the Senate, and should subsequently be self
5 perpetuating (i.e., with future Board appointments
6 made by the current Board)."

7 During the 1996 conference committee hearings on S.B. No.
8 2522, which ultimately became Act 262, the regional board
9 concept was replaced with regional management advisory
10 committees. The management advisory committees represent the
11 communities in which the hospitals are located and meet with the
12 management of the facilities and the executives of the Hawaii
13 health systems corporation to give the communities a voice in
14 the provision of these vital safety-net hospital services.
15 However, the legislature finds that the Hawaii health systems
16 corporation has developed strong administrative and clinical
17 leadership in all five regions and is now ready for the
18 implementation of the regional system boards recommendation.
19 Further, the regional system board concept would enhance the
20 ability of local communities and stakeholders to participate in
21 the decision-making and operation of their own community
22 hospitals. It is consistent with the original intent of the



1 legislature in creating Hawaii health systems corporation that
2 more than one system would be established, one for each region,
3 as well as an umbrella system. While the management advisory
4 committees have been diligent in representing the communities,
5 their role has been solely advisory. Local community
6 stakeholders, through independent regional system boards, are in
7 the best position to make the critical decisions relating to the
8 local operation of their community hospitals. Additionally,
9 regional system boards would have the ability to address local
10 needs and concerns in a more timely fashion.

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

15 The purpose of this Act is to advance the State's
16 commitment to provide quality health care for the people of
17 Hawaii, by moving forward on the original task force
18 recommendation of community-based governance and establishing
19 regional system boards for all regions, to be governed by a
20 community-based regional system board of directors, and to
21 provide the necessary authority for each region to accomplish
22 the goal of community-based governance. The Hawaii health



1 system corporation will continue to provide system-wide
2 functions and governance with enhanced representation of
3 regional system board members.

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

7 "§323F-A Regional system boards. (a) There is hereby
8 established a regional system board of directors to govern each
9 of the five regions specified in section 323F-2, no later than
10 January 1, 2008. The regional system boards of directors shall
11 carry out the duties and responsibilities as set forth in this
12 chapter and as further delegated by the corporation.

13 (b) Upon its establishment, a regional system board shall
14 assume custodial care of all financial assets, real property,
15 including land, structures, and fixtures, or other physical
16 assets, such as personal property, including furnishings,
17 equipment, and inventory, of the corporation within its region.
18 No sale or encumbrance of any such real property or such other
19 financial assets, physical assets of the corporation shall be
20 permitted without the mutual consent of the Hawaii health
21 systems corporation board and the appropriate regional system
22 board. No additional debts or liabilities or superior debts



1 shall be added to any regional board that would negatively
2 impact the holders of bond notes. Each regional system board
3 shall be liable for any liabilities arising from financial
4 assets, real or personal property in its custodial care.

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

10 (1) Each regional system board shall initially consist of
11 twelve members to be appointed by the governor under
12 section 26-34 or as provided in this section, as
13 follows:

14 (A) Four members shall be appointed by the governor
15 within thirty days of receipt of a qualified list
16 of candidates as follows:

17 (i) Two members shall be chosen from a list of
18 four individuals submitted by the speaker of
19 the house of representatives within fifteen
20 days of the effective date of this Act;
21 provided that this list shall not include
22 physicians; and



1 (ii) Two members shall be chosen from a list of
2 four individuals submitted by the president
3 of the senate within fifteen days of the
4 effective date of this Act; provided that
5 this list shall not include physicians;
6 (B) Four members shall be nominated by the regional
7 public health facility management advisory
8 committee within fifteen days of the effective
9 date of this Act, for appointment within thirty
10 days by the governor, from a list of eight
11 individuals who may be medical and health care
12 providers and professionals, consumers, and
13 knowledgeable individuals in other appropriate
14 areas such as business, finance, and law;
15 provided that these individuals shall not be
16 physicians currently in active practice;
17 (C) Three physicians shall be appointed by the
18 governor within thirty days from a list submitted
19 within fifteen days of the effective date of this
20 Act, of six physicians nominated by a majority
21 vote of the medical staff of the public health
22 facilities in the region present at a duly



1 noticed meeting from a list of qualified
2 candidates submitted by the medical executive
3 committees in the region; and

4 (D) The corporation board chairperson or
5 chairperson's designee shall serve as an ex
6 officio, non-voting member of each regional
7 system board;

8 (2) One member of each regional system board nominated by
9 the speaker of the house of representatives, the
10 president of the senate, and medical executive
11 committees in a region shall be appointed for a term
12 of two years;

13 (3) One member of each initial regional system board
14 nominated by the regional public health facility
15 management advisory committee for the region shall be
16 appointed for a term of two years;

17 (4) The remaining members of each initial regional system
18 board and all members appointed thereafter shall be
19 appointed for terms of three years; and

20 (5) New regional system board members appointed to any
21 regional system board after the initial regional
22 system board shall be selected by a two-thirds



1 affirmative vote of the existing regional system board
2 members.

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

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

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



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

9 **§323F-B Regional chief executive officer, exempt position.**

10 (a) Upon establishment, and until December 31, 2008, a regional
11 system board may appoint a regional chief executive officer and
12 regional chief financial officer whose salary shall be set by
13 the corresponding regional system board and may discharge a
14 regional chief executive officer or regional chief financial
15 officer for cause, consistent with subsection (b); provided that
16 the position shall be exempt from chapter 76 and section 26-
17 35(a)(4). Effective January 1, 2009, the hiring and firing of
18 the regional chief executive officers shall be subject to
19 approval of both the regional system board and the corporation
20 board. The regional chief executive officer may also appoint, as
21 necessary, other personnel, exempt from chapters 76 and 89, to



1 work directly for the regional chief executive officer for the
2 region and for the corresponding regional system board.

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

14 (c) The regional chief executive officer or the regional
15 chief executive officer's designee may appoint, exempt from
16 chapters 76 and 89, hospital administrators, assistant
17 administrators, directors of nursing, medical directors, and
18 staff physicians, to facilitate the management of facilities
19 within the region.

20 (d) Hiring, firing, compensation packages, and other
21 personnel actions with respect to employees not covered by
22 chapters 76 and 89 shall be governed by policies adopted by each



1 regional system board. These policies and guidelines shall be
2 consistent with policies and guidelines adopted by the
3 corporation board after consultation with the regional system
4 boards.

5 §323F-C Regional system boards; delegated authority. If
6 the Hawaii health systems corporation board is unable to act on
7 important transactions in as timely a manner as the chairperson
8 of the corporation board deems reasonable, the chairperson of
9 the corporation board may further delegate authority to the
10 regional system boards to take action on specific matters."

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

13 "(e) Nothing in this section shall be construed as in any
14 manner affecting the civil service laws applicable to the
15 several counties, the judiciary, or the Hawaii health systems
16 corporation[7] or its regional system boards, which shall remain
17 the same as if this chapter had not been enacted."

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

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

21 "(a) For purposes of this section, "member" means any
22 person who is appointed, in accordance with the law, to serve on



1 a temporary or permanent state board, including members of the
2 local school board of any charter school established under
3 chapter 302B, council, authority, committee, or commission,
4 established by law or elected to the board of education, or the
5 board of trustees of the employees' retirement system under
6 section 88-24 [7], or the corporation board of the Hawaii health
7 systems corporation under section 323F-3 and its regional system
8 boards under section 323F-A; provided that "member" shall not
9 include any person elected to serve on a board or commission in
10 accordance with chapter 11 other than a person elected to serve
11 on the board of education."

12 2. By amending subsection (e) to read:

13 "(e) The attorney general, or in the case of the board of
14 regents of the University of Hawaii, its university general
15 counsel, or in the case of the board of directors of the Hawaii
16 health systems corporation under section 323F-3 or its regional
17 system boards under chapter 323F-A, the attorneys retained by
18 the board of directors of the Hawaii health systems corporation
19 or its regional system boards under section 323F-9, shall
20 represent and defend a member in any civil action for which
21 immunity is conferred under subsection (b), or when the attorney
22 general, or, if the action involves a member of the board of



1 regents, the university general counsel, or, if the action
2 involves a member of the board of directors of the Hawaii health
3 systems corporation or its regional system boards, the attorneys
4 retained by the board of directors of the Hawaii health systems
5 corporation or its regional system boards, determines that
6 indemnification is available to the member under subsection (c),
7 and the member against whom the action is brought has submitted
8 a written request for representation and has provided the
9 attorney general, [~~or~~] the university general counsel in the
10 case of an action involving a member of the board of regents, or
11 the attorneys retained by the board of directors of the Hawaii
12 health systems corporation or its regional system boards in the
13 case of an action involving a member of the board of directors
14 of the Hawaii health systems corporation or its regional system
15 boards with all process or complaint served upon the member
16 within a reasonable period of time, but not more than five days
17 after being served with the process or complaint. The attorney
18 general, [~~or~~] the university general counsel, or an attorney
19 retained by the board of directors of the Hawaii health systems
20 corporation or its regional system boards may terminate the
21 representation and defense of the member at any time if, after
22 representation and defense is accepted, the attorney general,



1 [œ] the university general counsel, or an attorney retained by
2 the board of directors of the Hawaii health systems corporation
3 or one of its regional system boards determines that
4 indemnification would not be available to the member under
5 subsection (c)."

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

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

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

16 (1) By the public utilities commission, the labor and
17 industrial relations appeals board, and the Hawaii
18 labor relations board;

19 (2) By any court or judicial or legislative office of the
20 State;

21 (3) By the legislative reference bureau;



- 1 (4) By any compilation commission that may be constituted
2 from time to time;
- 3 (5) By the real estate commission for any action involving
4 the real estate recovery fund;
- 5 (6) By the contractors license board for any action
6 involving the contractors recovery fund;
- 7 (7) By the trustees for any action involving the travel
8 agency recovery fund;
- 9 (8) By the office of Hawaiian affairs;
- 10 (9) By the department of commerce and consumer affairs for
11 the enforcement of violations of chapters 480 and 485;
- 12 (10) As grand jury counsel;
- 13 (11) By the Hawaiian home lands trust individual claims
14 review panel;
- 15 (12) By the Hawaii health systems corporation, or its
16 regional system boards, or any of [~~its~~] their
17 facilities;
- 18 (13) By the auditor;
- 19 (14) By the office of ombudsman;
- 20 (15) By the insurance division;
- 21 (16) By the University of Hawaii;
- 22 (17) By the Kahoolawe island reserve commission;



- 1 (18) By the division of consumer advocacy;
- 2 (19) By the office of elections;
- 3 (20) By the campaign spending commission;
- 4 (21) By the Hawaii tourism authority, as provided in
- 5 section 201B-2.5; or
- 6 (22) By a department, in the event the attorney general,
- 7 for reasons deemed by the attorney general good and
- 8 sufficient, declines, to employ or retain an attorney
- 9 for a department; provided that the governor thereupon
- 10 waives the provision of this section."

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

12 "(c) Every attorney employed by any department on a full-

13 time basis, except an attorney employed by the public utilities

14 commission, the labor and industrial relations appeals board,

15 the Hawaii labor relations board, the office of Hawaiian

16 affairs, the Hawaii health systems corporation[7] or its

17 regional system boards, the department of commerce and consumer

18 affairs in prosecution of consumer complaints, insurance

19 division, the division of consumer advocacy, the University of

20 Hawaii, the Hawaii tourism authority as provided in section

21 201B-2.5, the Hawaiian home lands trust individual claims review



1 panel, or as grand jury counsel, shall be a deputy attorney
2 general."

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

5 "(a) There is established in the state treasury an
6 interagency federal revenue maximization revolving fund, into
7 which shall be deposited all funds and proceeds collected from
8 the federal government and third-party [~~payers~~] payers for costs
9 not previously claimed by the State, with the exception of
10 proceeds collected for services provided by the Hawaii health
11 systems corporation[-] or its regional system boards, for
12 reimbursement of federally-funded state programs. For purposes
13 of this chapter, federally-funded state programs include but
14 shall not be limited to those federally-funded programs within
15 the departments of human services and health, and shall not
16 include the federally-funded program within the department of
17 education as provided in [+]section[+] 302A-1406. Expenditures
18 and transfers from the fund shall be made by the comptroller in
19 proportional allocations established by the comptroller and the
20 director of finance. Transfers shall be made to the department
21 claiming the reimbursement for expenses incurred related to
22 federal fund reimbursement claims and to the general fund of the



1 State. Moneys in the fund may be expended for consultant
2 services rendered under subsection (b)."

3 SECTION 7. Section 36-27, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "**§36-27 Transfers from special funds for central service**
6 **expenses.** Except as provided in this section, and
7 notwithstanding any other law to the contrary, from time to
8 time, the director of finance, for the purpose of defraying the
9 prorated estimate of central service expenses of government in
10 relation to all special funds, except the:

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



- 1 (10) Funds of the employees' retirement system created by
- 2 section 88-109;
- 3 (11) Unemployment compensation fund established under
- 4 section 383-121;
- 5 (12) Hawaii hurricane relief fund established under chapter
- 6 431P;
- 7 (13) Hawaii health systems corporation special funds[+] and
- 8 the subaccounts of its regional system boards;
- 9 (14) Tourism special fund established under section
- 10 201B-11;
- 11 (15) Universal service fund established under chapter 269;
- 12 (16) Integrated tax information management systems special
- 13 fund under section 231-3.2;
- 14 (17) Emergency and budget reserve fund under section
- 15 328L-3;
- 16 (18) Public schools special fees and charges fund under
- 17 section 302A-1130(f);
- 18 (19) Sport fish special fund under section 187A-9.5;
- 19 (20) Neurotrauma special fund under section 321H-4;
- 20 (21) Deposit beverage container deposit special fund under
- 21 section 342G-104;



- 1 (22) Glass advance disposal fee special fund established by
2 section 342G-82;
- 3 (23) Center for nursing special fund under section
4 [†] 304A-2163 [‡];
- 5 (24) Passenger facility charge special fund established by
6 section 261-5.5;
- 7 (25) Solicitation of funds for charitable purposes special
8 fund established by section 467B-15;
- 9 (26) Land conservation fund established by section 173A-5;
- 10 (27) Court interpreting services revolving fund under
11 section 607-1.5;
- 12 (28) Trauma system special fund under section 321-22.5;
- 13 (29) Hawaii cancer research special fund;
- 14 (30) Community health centers special fund; and
- 15 (31) Emergency medical services special fund[†];
- 16 shall deduct five per cent of all receipts of all other special
17 funds, which deduction shall be transferred to the general fund
18 of the State and become general realizations of the State. All
19 officers of the State and other persons having power to allocate
20 or disburse any special funds shall cooperate with the director
21 in effecting these transfers. To determine the proper revenue
22 base upon which the central service assessment is to be



1 calculated, the director shall adopt rules pursuant to chapter
2 91 for the purpose of suspending or limiting the application of
3 the central service assessment of any fund. No later than
4 twenty days prior to the convening of each regular session of
5 the legislature, the director shall report all central service
6 assessments made during the preceding fiscal year. [†]"

7 SECTION 8. Section 36-30, Hawaii Revised Statutes, is
8 amended by amending subsection (a) to read as follows:

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

- 10 (1) Transportation use special fund established by section
- 11 261D-1;
- 12 (2) Special out-of-school time instructional program fund
- 13 under section 302A-1310;
- 14 (3) School cafeteria special funds of the department of
- 15 education;
- 16 (4) Special funds of the University of Hawaii;
- 17 (5) State educational facilities improvement special fund;
- 18 (6) Special funds established by section 206E-6;
- 19 (7) Aloha Tower fund created by section 206J-17;
- 20 (8) Funds of the employees' retirement system created by
- 21 section 88-109;



- 1 (9) Unemployment compensation fund established under
2 section 383-121;
- 3 (10) Hawaii hurricane relief fund established under chapter
4 431P;
- 5 (11) Convention center enterprise special fund established
6 under section 201B-8;
- 7 (12) Hawaii health systems corporation special funds[+] and
8 the subaccounts of its regional system boards;
- 9 (13) Tourism special fund established under section
10 201B-11;
- 11 (14) Universal service fund established under chapter 269;
- 12 (15) Integrated tax information management systems special
13 fund under section 231-3.2;
- 14 (16) Emergency and budget reserve fund under section
15 328L-3;
- 16 (17) Public schools special fees and charges fund under
17 section 302A-1130(f);
- 18 (18) Sport fish special fund under section 187A-9.5;
- 19 (19) Neurotrauma special fund under section 321H-4;
- 20 (20) Center for nursing special fund under section
21 [+] 304A-2163 [+];



1 (21) Passenger facility charge special fund established by
2 section 261-5.5;

3 (22) Court interpreting services revolving fund under
4 section 607-1.5;

5 (23) Trauma system special fund under section 321-22.5;

6 (24) Hawaii cancer research special fund;

7 (25) Community health centers special fund; and

8 (26) Emergency medical services special fund[+];

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

12 SECTION 9. Section 37-53, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "§37-53 **Transfer of special funds.** At any time during a
15 fiscal year, notwithstanding any other law to the contrary, any
16 department may, with the approval of the governor or the
17 director of finance if so delegated by the governor, transfer
18 from any special fund relating to such department to the general
19 revenues of the State all or any portion of moneys determined to
20 be in excess of fiscal year requirements for such special fund,
21 except for special funds under the control of the department of
22 transportation relating to highways, airports, transportation



1 use, and harbors activities, special funds under the control of
 2 the Hawaii health systems corporation[7] or subaccounts under
 3 the control of its regional system boards, and special funds of
 4 the University of Hawaii. At any time the department of
 5 transportation, with the approval of the governor or the
 6 director of finance if so delegated by the governor, may
 7 transfer from any special fund under the control of the
 8 department of transportation, or from any account within any
 9 such special fund, to the general revenues of the State or to
 10 any other special fund under the control of the department of
 11 transportation all or any portion of moneys determined to be in
 12 excess of requirements for the ensuing twelve months determined
 13 as prescribed by rules adopted pursuant to chapter 91; provided
 14 that no such transfer shall be made which would cause a
 15 violation of federal law or federal grant agreements."

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

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

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



1 (2) Except with respect to appropriations to fund
2 financing agreements under chapter 37D, the University
3 of Hawaii shall have the flexibility to transfer
4 appropriated funds and positions for the operating
5 cost category among programs, among cost elements in a
6 program, and between quarters, as applicable; except
7 with respect to appropriations to fund financing
8 agreements under chapter 37D, the department of
9 education shall have the flexibility to transfer
10 appropriated funds and positions for the operating
11 cost category among programs and among cost elements
12 in a program, and between quarters, as applicable; and
13 the Hawaii health systems corporation and its regional
14 system boards shall have the flexibility to transfer
15 special fund appropriations among [~~community~~
16 ~~hospitals~~] regional system hospital facilities as
17 applicable[+] and as mutually agreed to by the
18 corporation and the respective regional system board;
19 provided that the Hawaii health systems corporation
20 and the regional system boards shall maintain the
21 integrity and services of each individual [~~facility~~]
22 region and shall not transfer appropriations out of



1 any [faeility] region that would result in a reduction
2 of services offered by the [faeility] region, with due
3 regard for statutory requirements, changing
4 conditions, the needs of the programs, and the
5 effective utilization of resources; and

6 (3) The university and the department of education shall
7 account for each transfer implemented under this
8 subsection in quarterly reports to the governor and
9 annual reports at the end of each fiscal year to the
10 legislature and the governor, which shall be prepared
11 in the form and manner prescribed by the governor and
12 shall include information on the sources and uses of
13 the transfer."

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

17 "Agency" or "participating agency" means the judiciary,
18 any executive department, any independent commission, any board,
19 any authority, any bureau, any office, any other establishment
20 of the State (except the legislature and its agencies), or any
21 public corporation that is supported in whole or in part by
22 state funds, or any agent thereof, authorized by law to expend



1 available moneys; provided that the Hawaii health systems
2 corporation and its regional system boards shall not be governed
3 by this chapter for any financing agreement unless it elects to
4 [~~do so.~~] be."

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

7 "**§37D-2 Financing agreements.** (a) There is hereby
8 established and authorized the financing agreement program of
9 the State. Any agency desiring to acquire or improve projects
10 through the financing agreement program established and
11 authorized by this chapter shall submit a written request to the
12 department providing such information as the department shall
13 require. Notwithstanding any other law to the contrary, and
14 except for the Hawaii health systems corporation[~~7~~] and its
15 regional system boards, only with the approval by the attorney
16 general as to form and legality and upon the written request of
17 one or more participating agencies may the department enter into
18 a financing agreement in accordance with this chapter, except
19 that the board of regents of the University of Hawaii may enter
20 into a financing agreement in accordance with this chapter
21 without the approval of the director and of the attorney general
22 as to form and legality if the principal amount of the financing



1 agreement does not exceed \$3,000,000. A financing agreement may
2 be entered into by the department on behalf of one or more
3 participating agencies at any time (before or after commencement
4 or completion of any improvements or acquisitions to be
5 financed) and shall be upon terms and conditions the department
6 finds to be advantageous. In each case of a written request by
7 the judiciary to participate in the financing agreement program,
8 the department shall implement the request; provided that the
9 related financing agreement shall be upon terms and conditions
10 the department finds to be advantageous. Any financing
11 agreement entered into by the department without the approval
12 required by this section shall be void and of no effect. A
13 single financing agreement may finance a single item or multiple
14 items of property to be used by multiple agencies or may finance
15 a single item or multiple items of property to be used by a
16 single agency. The department shall bill any participating
17 agency that benefits from property acquired with the proceeds of
18 a financing agreement for such participating [~~agency's~~] agencies
19 pro rata share of:

- 20 (1) The department's costs of administration of the
21 financing agreement program; and



1 (2) The financing costs, including the principal and
2 interest components of the financing agreement and
3 insurance premiums;
4 on a monthly or other periodic basis, and may deposit payments
5 received in connection with the billings with a trustee as
6 security for a financing agreement. Any participating agency
7 receiving such a bill shall be authorized and shall pay the
8 amounts billed from the available moneys.

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

11 (1) Amounts payable by a participating agency to or upon
12 the direction of the department in respect to a
13 project and by the department under a financing
14 agreement shall be limited to available moneys. In no
15 circumstance shall the department be obligated to pay
16 amounts due under a financing agreement from any
17 source other than available moneys. If, by reason of
18 insufficient available moneys or other reason, amounts
19 due under a financing agreement are not paid when due,
20 the lender may exercise any property right that the
21 department has granted to it in the financing
22 agreement, against the property that was purchased



1 with the proceeds of the financing agreement, and
2 apply the amounts so received toward payments
3 scheduled to be made by the department under the
4 financing agreement;

5 (2) No property rights may be granted in property unless
6 the property is being acquired, is to be substantially
7 improved, is to be refinanced with the proceeds of a
8 financing agreement, or is land on which the property
9 is located;

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



1 (4) Except as otherwise provided in this section with
2 respect to the University of Hawaii, the sale,
3 assignment, or other disposition of any financing
4 agreements, including certificates of participation
5 relating thereto, shall require the approval of the
6 director; and

7 (5) The department shall not be subject to chapter 103D
8 and any and all other requirements of law for
9 competitive bidding for financing agreements."

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

12 "(b) Any provision in this section to the contrary
13 notwithstanding, the University of Hawaii (as to casualty
14 insurance risks only), the Research Corporation of the
15 University of Hawaii (as to casualty insurance risks only),
16 [and] the public health facilities of the department of health
17 (with respect to medical malpractice risks only), and the Hawaii
18 health systems corporation and its regional system boards shall
19 be exempt from the requirements of this chapter."

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



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

4 (1) For operation of ground transportation services and
5 parking lot operations at airports, except for motor
6 vehicle rental operations under chapter 437D;

7 (2) For lei vendors;

8 (3) For airline and aircraft operations;

9 (4) For automatic teller machines and vending machines,
10 except vending machines located at public schools
11 operated by blind or visually handicapped persons in
12 accordance with section 302A-412;

13 (5) For operation of concessions set aside without any
14 charge;

15 (6) For operation of concessions by handicapped or blind
16 persons; except concessions operated in the public
17 schools by blind or visually handicapped persons in
18 accordance with section 302A-412;

19 (7) For operation of concessions on permits revocable on
20 notice of thirty days or less; provided that no such
21 permits shall be issued for more than a one year
22 period;



- 1 (8) For operation of concessions or concession spaces for
2 a beach service association dedicated to the
3 preservation of the Hawaii beach boy tradition,
4 incorporated as a nonprofit corporation in accordance
5 with state law, and whose members are appropriately
6 licensed or certified as required by law;
- 7 (9) For operation of concessions at county zoos, botanic
8 gardens, or other county parks which are
9 environmentally, culturally, historically, or
10 operationally unique and are supported, by nonprofit
11 corporations incorporated in accordance with state law
12 solely for purposes of supporting county aims and
13 goals of the zoo, botanic garden, or other county
14 park, and operating under agreement with the
15 appropriate agency solely for such purposes, aims, and
16 goals;
- 17 (10) For operation of concessions that furnish goods or
18 services for which there is only one source, as
19 determined by the head of the awarding government
20 agency in writing that shall be included in the
21 contract file; [~~and~~]



1 (11) For operation of concession or concession spaces at
2 the convention center under chapter 201B[-]; and

3 (12) For any of the operations of the Hawaii health systems
4 corporation and its regional system boards."

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

7 "(e) This section shall not apply to:

8 (1) Any procurement of less than \$25,000 or that is
9 considered a small purchase under section 103D-305 and
10 any state or county department contract of less than
11 \$25,000;

12 (2) Emergency purchases for the procurement of goods,
13 services, or construction under section 103D-307,
14 disaster relief under chapter 127, or a civil defense
15 emergency under chapter 128;

16 (3) Grants and subsidies disbursed by a state agency
17 pursuant to chapter 42F or in accordance with
18 standards provided by law as required by article VII,
19 section 4, of the State Constitution, or made by the
20 counties pursuant to their respective charters or
21 ordinances;

22 (4) Contracts or agreements between government agencies;



- 1 (5) Contracts or agreements to disburse funds:
- 2 (A) To make payments to or on behalf of public
- 3 officers and employees for salaries, fringe
- 4 benefits, professional fees, and reimbursements;
- 5 (B) To satisfy obligations required to be paid by
- 6 law, including fees, judgments, settlements, and
- 7 other payments for resolving claims;
- 8 (C) To make refunds or return funds held by the State
- 9 or county as trustee, custodian, or bailee;
- 10 (D) For entitlement programs, including public
- 11 assistance, unemployment, and workers'
- 12 compensation programs, established by state or
- 13 federal law;
- 14 (E) For deposit, investment, or safekeeping,
- 15 including sums to pay expenses related to their
- 16 deposit investment, or safekeeping;
- 17 (F) For loans under government-administered loan
- 18 programs; or
- 19 (G) To make periodic, recurring payments for utility
- 20 services; [and]
- 21 (6) Rent for the use or occupation of the premises and
- 22 facilities at Aloha Stadium, the convention center, or



1 any other state or county large spectator events
2 facility[-]; and

3 (7) Contracts or agreements of the Hawaii health systems
4 corporation and its regional system boards."

5 SECTION 16. Section 103D-102, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "**§103D-102 Application of this chapter.** (a) This chapter
8 shall apply to all procurement contracts made by governmental
9 bodies whether the consideration for the contract is cash,
10 revenues, realizations, receipts, or earnings, any of which the
11 State receives or is owed; in-kind benefits; or forbearance;
12 provided that nothing in this chapter or rules adopted hereunder
13 shall prevent any governmental body from complying with the
14 terms and conditions of any other grant, gift, bequest, or
15 cooperative agreement.

16 (b) Notwithstanding subsection (a), this chapter shall not
17 apply to contracts by governmental bodies:

18 (1) Solicited or entered into before July 1, 1994, unless
19 the parties agree to its application to a contract
20 solicited or entered into prior to July 1, 1994;

21 (2) To disburse funds, irrespective of their source:



- 1 (A) For grants or subsidies as those terms are
2 defined in section 42F-101, made by the State in
3 accordance with standards provided by law as
4 required by article VII, section 4, of the State
5 Constitution; or by the counties pursuant to
6 their respective charters or ordinances;
- 7 (B) To make payments to or on behalf of public
8 officers and employees for salaries, fringe
9 benefits, professional fees, or reimbursements;
- 10 (C) To satisfy obligations that the State is required
11 to pay by law, including paying fees, permanent
12 settlements, subsidies, or other claims, making
13 refunds, and returning funds held by the State as
14 trustee, custodian, or bailee;
- 15 (D) For entitlement programs, including public
16 assistance, unemployment, and workers'
17 compensation programs, established by state or
18 federal law;
- 19 (E) For dues and fees of organizations of which the
20 State or its officers and employees are members,
21 including the National Association of Governors,



1 the National Association of State and County
2 Governments, and the Multi-State Tax Commission;

3 (F) For deposit, investment, or safekeeping,
4 including expenses related to their deposit,
5 investment, or safekeeping;

6 (G) To governmental bodies of the State;

7 (H) As loans, under loan programs administered by a
8 governmental body; and

9 (I) For contracts awarded in accordance with chapter
10 103F.

11 (3) To procure goods, services, or construction from a
12 governmental body other than the University of Hawaii
13 bookstores, from the federal government, or from
14 another state or its political subdivision;

15 (4) To procure the following goods or services which are
16 available from multiple sources but for which
17 procurement by competitive means is either not
18 practicable or not advantageous to the State:

19 (A) Services of expert witnesses for potential and
20 actual litigation of legal matters involving the
21 State, its agencies, and its officers and



- 1 employees, including administrative quasi-
- 2 judicial proceedings;
- 3 (B) Works of art for museum or public display;
- 4 (C) Research and reference materials including books,
- 5 maps, periodicals, and pamphlets, which are
- 6 published in print, video, audio, magnetic, or
- 7 electronic form;
- 8 (D) Meats and foodstuffs for the Kalaupapa
- 9 settlement;
- 10 (E) Opponents for athletic contests;
- 11 (F) Utility services whose rates or prices are fixed
- 12 by regulatory processes or agencies;
- 13 (G) Performances, including entertainment, speeches,
- 14 and cultural and artistic presentations;
- 15 (H) Goods and services for commercial resale by the
- 16 State;
- 17 (I) Services of printers, rating agencies, support
- 18 facilities, fiscal and paying agents, and
- 19 registrars for the issuance and sale of the
- 20 State's or counties' bonds;
- 21 (J) Services of attorneys employed or retained to
- 22 advise, represent, or provide any other legal



1 service to the State or any of its agencies, on
2 matters arising under laws of another state or
3 foreign country, or in an action brought in
4 another state, federal, or foreign jurisdiction,
5 when substantially all legal services are
6 expected to be performed outside this State;

7 (K) Financing agreements under chapter 37D; and

8 (L) Any other goods or services which the policy
9 board determines by rules or the chief
10 procurement officer determines in writing is
11 available from multiple sources but for which
12 procurement by competitive means is either not
13 practicable or not advantageous to the State; and

14 (5) Which are specific procurements expressly exempt from
15 any or all of the requirements of this chapter by:

16 (A) References in state or federal law to provisions
17 of this chapter or a section of this chapter, or
18 references to a particular requirement of this
19 chapter; and

20 (B) Trade agreements, including the Uruguay Round
21 General Agreement on Tariffs and Trade (GATT)
22 which require certain non-construction and non-



1 software development procurements by the
2 comptroller to be conducted in accordance with
3 its terms.

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

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

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

17 "Regional system board" means a community-based governing
18 board of directors of a region of the corporation."

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

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



- 1 (1) The [~~city and county of Honolulu,~~] Oahu regional
2 health care system;
- 3 (2) The [~~county of Kauai,~~] Kauai regional health care
4 system;
- 5 (3) The [~~county of Maui, except the county of Kalawao,~~]
6 Maui regional health care system;
- 7 (4) The [~~eastern section of the county of Hawaii,~~] east
8 Hawaii regional health care system, comprising the
9 Puna district, north Hilo district, south Hilo
10 district, Hamakua district, and Kau district; and
- 11 (5) The [~~western section of the county of Hawaii,~~] west
12 Hawaii regional health care system, comprising the
13 north Kohala district, south Kohala district, north
14 Kona district, and south Kona district;
- 15 and shall be identified as regions I, II, III, IV, and V,
16 respectively."

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

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



- 1 (1) ~~[One member from region I who resides]~~ one member from
2 region I who resides in the city and county of
3 Honolulu[+], shall be appointed by the governor from a
4 list consisting of two individuals, one individual
5 submitted by the speaker of the house of
6 representatives and one individual submitted by the
7 president of the senate within fifteen days of the
8 effective date of this Act; provided that this list
9 shall not include physicians;
- 10 (2) One member from region II who resides in the county of
11 Kauai[+], shall be appointed by the governor from a
12 list consisting of two individuals, one individual
13 submitted by the speaker of the house of
14 representatives and one individual submitted by the
15 president of the senate within fifteen days of the
16 effective date of this Act; provided that this list
17 shall not include physicians;
- 18 (3) ~~[One member from region III who resides]~~ Two members
19 from region III who reside in the county of Maui[+],
20 shall be appointed by the governor from a list
21 consisting of four individuals, two individuals
22 submitted by the speaker of the house of



1 representatives and two individuals submitted by the
2 president of the senate within fifteen days of the
3 effective date of this Act; provided that this list
4 shall not include physicians;

5 (4) [~~One member from region IV who resides~~] Two members
6 from region IV who reside in the eastern section of
7 the county of Hawaii[+], shall be appointed by the
8 governor from a list consisting of four individuals,
9 two individuals submitted by the speaker of the house
10 of representatives and two individuals submitted by
11 the president of the senate within fifteen days of the
12 effective date of this Act; provided that this list
13 shall not include physicians;

14 (5) One member from region V who resides in the western
15 section of the county of Hawaii[+], shall be appointed
16 by the governor from a list consisting of four
17 individuals, two individuals submitted by the speaker
18 of the house of representatives and two individuals
19 submitted by the president of the senate within
20 fifteen days of the effective date of this Act;
21 provided that this list shall not include physicians;



1 (6) ~~[One member from region II who resides in the county~~
 2 ~~of Kauai or from region III who resides in the~~
 3 ~~district of Hana or on the island of Lanai; provided~~
 4 ~~that in no event shall the member be appointed from~~
 5 ~~the same region for two consecutive terms; and] Two~~
 6 ~~additional members who reside in the State shall be~~
 7 ~~appointed by the governor.~~

8 ~~[-(7) Four at large members who reside in the State.~~
 9 ~~The eleventh member shall be the chairperson of the~~
 10 ~~executive public health facility management advisory committee,~~
 11 ~~who shall serve as an ex officio, voting member.~~

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



1 ~~management advisory committee]~~ from a list of qualified nominees
2 submitted by each of the ~~[public health facility management~~
3 ~~advisory committee for the region from which the physician~~
4 ~~member is to be chosen.]~~ public health facility management
5 advisory committees or by any regional system board. The
6 governor shall attempt to choose physicians from different
7 regions and to rotate the appointments among the five regions.
8 If for any reason a physician member is unable to serve a full
9 term, the remainder of that term shall be filled by a physician
10 from the same region.

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

14 Appointments to the corporation board, with the exception
15 of the chairperson of the executive public health facility
16 management advisory committee and the regional physician member,
17 shall be made by the governor, subject to confirmation by the
18 senate pursuant to section 26-34. [~~Prior to the transfer date,~~
19 ~~the public health facility management advisory committees~~
20 ~~appointed pursuant to section 323-66 for each county may~~
21 ~~recommend names to the governor for each position on the~~
22 ~~corporation board designated for region which corresponds to its~~



1 ~~county. After the transfer date, the public health facility~~
2 ~~management advisory committees appointed pursuant to section~~
3 ~~323F-10 for each region may make such recommendation to the~~
4 ~~governor. The appointed board members shall serve for a term of~~
5 ~~four years, provided that upon the initial appointment of the~~
6 ~~first ten members.~~

7 ~~(1) Two at large members shall be appointed for a term of~~
8 ~~two years;~~

9 ~~(2) Three at large shall be appointed for a term of three~~
10 ~~years; and~~

11 ~~(3) Five regional members shall be appointed for a term of~~
12 ~~four years.]~~

13 The appointed board members shall serve for a term of four
14 years; provided that the first member appointed from each region
15 shall be appointed for a term of two years.

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

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



1 "§323F-4 Board meetings. (a) [~~The corporation board shall~~
2 ~~meet no fewer than four times a year. All meetings of the~~
3 ~~corporation board shall be subject to chapter 92, except that in~~
4 ~~addition to matters exempted pursuant to law, the corporation~~
5 ~~board may elect to hold an executive meeting for the~~
6 ~~consideration of any matters set forth in section 323F-6.] The
7 corporation board and each regional system board shall be exempt
8 from part I of chapter 92 and shall meet no fewer than four
9 times a year; provided that the regional system boards and the
10 corporation board shall meet together at least once a year.
11 Each regional board shall meet at least six times each year;
12 provided that two of these meetings shall be public community
13 meetings for the purpose of informing the community and taking
14 comment on the region's performance if these meetings are in
15 addition to the four board meetings. The public community
16 meetings shall be advertised in a newspaper of general
17 circulation in the region at least two weeks in advance.~~

18 (b) All business of the corporation board and each
19 regional system board shall be conducted at a regular or special
20 meeting at which a quorum is present, consisting of at least a
21 majority of the directors then in office. The corporation board
22 and each regional system board shall adopt procedural rules for



1 meetings, not subject to chapter 91, that shall include
 2 provisions for meetings via electronic and telephonic
 3 communications and other methods that allow the boards to
 4 conduct business in a timely and efficient manner. Any action
 5 of the corporation board or each regional system board shall
 6 require the affirmative vote of a majority of those present and
 7 voting at the meeting; except that a vote of two-thirds of the
 8 [members] entire membership of the [corporation] respective
 9 board then in office shall be required for any of the following
 10 actions:

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



1 ~~[(4)]~~ (5) Any other actions as provided by the corporation
2 or regional system board bylaws."

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

5 "~~[(1)]~~ §323F-5 ~~[(1)]~~ **Disclosure of interests.** All corporation
6 and regional system board members and employees of the
7 corporation shall be subject to chapter 84."

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

10 "~~[(1)]~~ §323F-6 ~~[(1)]~~ **Records.** The corporation and each regional
11 system board shall be subject to the requirements of chapter
12 92F, except that the following categories of government records
13 shall not be required to be disclosed:

- 14 (1) Applications for credentials or staff privileges at
15 any of the corporation's medical facilities, records
16 from peer review proceedings, and medical records; and
17 (2) Marketing strategies, strategic plans, evaluations,
18 assessments, negotiations, or rates and charges, the
19 disclosure of which would raise the cost of
20 procurement or give a manifestly unfair advantage to
21 any competitor or to any person or entity seeking to
22 do business or proposing to enter into an agreement



1 with a regional system board, the corporation, or any
2 of its facilities.

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

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

12 "**§323F-7 Duties and powers of the corporation[] and**
13 **regional system boards.** (a) Notwithstanding any other law to
14 the contrary[] and unless otherwise specified, only those
15 duties and powers related to corporation-wide matters, including
16 but not limited to corporation-wide budgeting, personnel
17 policies, procurement policies, fiscal policies, accounting
18 policies, policies related to affiliations, joint ventures and
19 contracts, regulatory compliance, risk management, continuing
20 medical education programs, strategic planning, and capital
21 planning, including the issuance of revenue bonds in any amount,
22 shall be carried out by the corporation [~~shall have and exercise~~



1 ~~the following duties]~~ board in collaboration with the regional
2 system boards. Duties and powers[+] related to the operation of
3 facilities within each region, including but not limited to
4 regional and facility budgeting, employment and removal of
5 regional and facility personnel, purchasing, regional strategic
6 and capital planning, organization, quality assurance,
7 improvement and reporting, credentialing of medical staff, and
8 the issuance of revenue bonds in any amount with corporation
9 board approval, shall be carried out by the regional system
10 boards, either directly or by delegation to regional and
11 facility administration. Unless otherwise prohibited, the
12 duties and powers granted to the corporation board may be
13 delegated to the regional system boards.

14 (b) Duties and powers exercised by the regional system
15 boards under this chapter or delegated to the regional system
16 boards by the corporation board shall be consistent with
17 corporation-wide policies. Wherever appropriate, corporation-
18 wide policies shall take into account differences among regions
19 and among types of facilities, particularly acute care, critical
20 access, and long-term care facilities within the system.

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

18 (c) Notwithstanding any other law to the contrary, the
 19 corporation, either directly or through any of the regional
 20 system boards, shall exercise the following duties and powers:

- 21 (1) Developing [~~its own~~] corporation-wide policies,
 22 procedures, and rules necessary or appropriate to



1 plan, operate, manage, and control the system of
2 public health facilities and services without regard
3 to chapter 91; provided that each regional system
4 board shall be responsible for its own policies,
5 procedures, and rules necessary or appropriate to
6 plan, operate, manage, and control the public health
7 facilities within its own region consistent with
8 corporate policies;

9 (2) Evaluating the need for additional health facilities
10 and services; provided that each regional system board
11 shall be responsible for the evaluation within its own
12 region;

13 (3) Entering into and performing any contracts, leases,
14 cooperative agreements, partnerships, or other
15 transactions whatsoever that may be necessary or
16 appropriate in the performance of its purposes and
17 responsibilities, and on terms [~~it~~] the corporation,
18 or regional system boards, may deem appropriate, with
19 either:

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



1 (B) Any person, firm, association, partnership, or
2 corporation, whether operated on a for-profit or
3 not-for-profit basis;

4 provided that the transaction furthers the public
5 interest; provided further that if any dispute arises
6 between any contract, lease, cooperative agreement,
7 partnership, or other transaction entered into by the
8 corporation and a regional system board with regard to
9 matters solely within that region, after July 1, 2007,
10 the contract, lease, cooperative agreement,
11 partnership, or other transaction entered into by the
12 regional system board shall prevail; and provided
13 further that such agreements are consistent with
14 corporation policies;

15 (4) Conducting activities and entering into business
16 relationships as the corporation board, or any
17 regional system boards, deems necessary or
18 appropriate, including but not limited to:

19 (A) Creating nonprofit corporations, including but
20 not limited to charitable fund-raising
21 foundations, to be controlled wholly by the



1 corporation, any regional system board, or
2 jointly with others;

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

6 (C) Entering into partnerships and other joint
7 venture arrangements, or participating in
8 alliances, purchasing consortia, health insurance
9 pools, or other cooperative arrangements, with
10 any public or private entity; provided that any
11 corporation, venture, or relationship entered
12 into under this section furthers the public
13 interest; provided further that this paragraph
14 shall not be construed to authorize the
15 corporation or a regional system board to
16 abrogate any responsibility or obligation under
17 paragraph (15);

18 provided that each regional system board shall be
19 responsible for conducting the activities under this
20 paragraph in its own region consistent with policies
21 established by the corporation board;



- 1 (5) Participating in and developing prepaid health care
2 service and insurance programs and other alternative
3 health care delivery programs, including programs
4 involving the acceptance of capitated payments or
5 premiums that include the assumption of financial and
6 actuarial risk; provided that each regional system
7 board shall be responsible for conducting the
8 activities under this paragraph in its own region
9 consistent with policies established by the
10 corporation board;
- 11 (6) Executing, in accordance with all applicable bylaws,
12 rules, and laws, all instruments necessary or
13 appropriate in the exercise of any powers of the
14 [~~corporation's powers,~~] corporation or regional system
15 boards;
- 16 (7) Preparing and executing all [~~corporation~~] corporation-
17 wide budgets, policies, and procedures [~~+~~] or any
18 regional budgets, policies, and procedures; provided
19 that the regional system boards shall submit their
20 regional and facility budgets to the corporation to be
21 consolidated into a corporation-wide budget for
22 purposes of corporation-wide planning and



1 appropriation requests. Regional and facility budgets
2 shall be received by the corporation and shall be
3 included in the corporation-wide budget upon submittal
4 to the corporation;

5 (8) Setting rates and charges for all services provided by
6 the corporation without regard to chapter 91; provided
7 that the duty and power of the corporation board shall
8 be limited to approving the rates and charges
9 developed by the regional system boards for the
10 region's facilities and services. Rates and charges
11 may vary among regions and facilities and may be
12 consolidated with the rates of other regions into one
13 charge master. Third-party payer contracts may be
14 negotiated at the corporation-wide level with input
15 from the regions, taking into consideration the rates
16 set by the regional system boards. For purposes of
17 securing revenue bonds, the corporation or regional
18 board may covenant to set, and if necessary increase,
19 rates and charges as needed to pay debt service and
20 related obligations plus a coverage factor;

21 (9) Developing a corporation-wide hospital personnel
22 system that is subject to chapters 76 and 89; provided



1 that employment of regional and facility personnel
2 shall be the responsibility of the regional system
3 boards pursuant to corporation-wide policies and
4 procedures, applicable laws, rules, regulations, and
5 collective bargaining agreements;

6 (10) Developing the corporation's corporation-wide capital
7 and strategic plans[+] or any regional system board's
8 capital and strategic plans; provided that each
9 regional system board shall be responsible for
10 development of capital and strategic plans in its own
11 region that shall be consistent with, and incorporated
12 into, the overall corporation-wide plans; and provided
13 further that the corporation and each regional system
14 board shall be entitled to undertake the acquisition,
15 construction, and improvement of property, facilities,
16 and equipment to carry out these capital and strategic
17 plans;

18 (11) Suing and being sued; provided that only the
19 corporation may sue or be sued; and provided further
20 that the corporation and regional system boards shall
21 enjoy the same sovereign immunity available to the
22 State; provided that the corporation or any of its



1 regional system boards may waive sovereign immunity
2 for any bonds to the same extent as the State of
3 Hawaii;

4 (12) Making and altering corporation board and regional
5 system board bylaws for its organization and
6 management without regard to chapter 91[7] and
7 consistent with this chapter; provided that each
8 regional system board shall be responsible for the
9 final approval of its regional system board bylaws;

10 (13) Adopting rules[7] without regard to chapter 91[7]
11 governing the exercise of [~~its~~] the corporation's or
12 regional system boards' powers and the fulfillment of
13 its purpose under this chapter;

14 (14) Entering into any contract or agreement whatsoever,
15 not inconsistent with this chapter or the laws of this
16 State, and authorizing the corporation, regional
17 system boards, and chief executive [officer] officers
18 to enter into all contracts, execute all instruments,
19 and do all things necessary or appropriate in the
20 exercise of the powers granted in this chapter,
21 including securing the payment of bonds; provided that
22 the corporation board shall delegate to a regional



system board its authority to enter into and execute contracts or agreements relating to matters exclusively affecting that region; provided further that a regional system board shall exercise this power consistent with corporation-wide policies; and provided further that contracts or agreements executed by a regional system board shall encumber only the regional subaccounts of that regional system board;

(15) Issuing revenue bonds up to \$100,000,000 subject to the approval of the [~~legislature,~~] governor or the director of finance; provided that [all]:

(A) All revenue bonds shall be issued pursuant to part III, chapter 39;

(B) The corporation and any regional system board shall have the power to issue revenue bonds in any amount without regard to any limitation in chapter 39; and

(C) The corporation shall have the power to incur debt, including the issuance of revenue bonds in any amount, and the regional system boards shall have the power to issue revenue bonds in any amount upon approval by the corporation board;



- 1 (16) Reimbursing the state general fund for debt service on
2 general obligation bonds or reimbursable general
3 obligation bonds issued by the State for the purposes
4 of the corporation[+] or any regional system board;
- 5 (17) Pledging or assigning all or any part of the receipts
6 [and], revenues, and other financial assets of the
7 corporation or the regional system boards for purposes
8 of meeting or securing bond or health systems
9 liabilities; provided that each regional board shall
10 be responsible for conducting the activities under
11 this paragraph in its own region. Any pledge or
12 assignment by the corporation or any regional system
13 board to secure revenue bonds or health system
14 liabilities shall be valid and binding in accordance
15 with its terms against the pledgor, creditors, and all
16 others asserting rights thereto from the time the
17 pledge or assignment is made, without the need of
18 physical delivery, recordation, filing, or further
19 act. The corporation shall not take or omit to take
20 any act that would interfere with, impair, or
21 adversely affect any pledge of assignment by a
22 regional system board pursuant to this chapter. In



1 connection with issuing revenue bonds or related
2 obligations, consistent with corporation policies and
3 procedures, any regional system board may make such
4 other covenants, binding on the regional system board
5 and the corporation, that the regional system board
6 determines to be necessary or appropriate to establish
7 and maintain security for the revenue bonds or related
8 obligations;

9 (18) Owing, purchasing, leasing, exchanging, or otherwise
10 acquiring property, whether real, personal or mixed,
11 tangible or intangible, and of any interest therein,
12 in the name of the corporation, which property is not
13 owned or controlled by the State but is owned or
14 controlled by the corporation; provided that:

15 (A) Regional system boards shall have custodial
16 control over facilities and physical assets in
17 their respective regions. A regional system
18 board may own, purchase, lease, exchange, or
19 otherwise acquire property, whether real,
20 personal or mix, tangible or intangible, and of
21 any interest therein, other than property owned
22 or controlled by the corporation, in the name of



1 the regional system board; provided further that
2 a regional system board shall be subject to
3 section 323F-A; and

4 (B) Each regional system board shall be responsible
5 for conducting the activities under this
6 paragraph in its own region;

7 (19) Maintaining, improving, pledging, mortgaging, selling,
8 or otherwise holding or disposing of property, whether
9 real, personal or mixed, tangible or intangible, and
10 of any interest therein, at any time and manner, in
11 furtherance of the purposes and mission of the
12 corporation[+] or any regional system board; provided
13 that the corporation or any regional system board
14 legally holds or controls the property in its own
15 name; provided further that other than to secure
16 revenue bonds and related obligations and agents, the
17 corporation or any regional system board shall not
18 sell, assign, lease, hypothecate, mortgage, pledge,
19 give, or dispose of all or substantially all of its
20 property; and provided further that each regional
21 system board shall be responsible for conducting the
22 activities under this paragraph in its own region, and



1 control over such property shall be delegated to each
2 regional system board;

3 (20) Purchasing insurance and creating captive insurers in
4 any arrangement deemed in the best interest of the
5 corporation, including but not limited to funding and
6 payment of deductibles and purchase of reinsurance;
7 provided that only the corporation shall have the
8 power to create captive insurers to benefit public
9 health facilities and operations in all regions; and
10 provided further that a regional system board may
11 purchase insurance for its region in collaboration
12 with the other regions and the corporation until
13 captive coverage is provided by the corporation;

14 (21) Acquiring by condemnation, pursuant to chapter 101,
15 any real property required by the corporation to carry
16 out the powers granted by this chapter;

17 (22) Depositing any moneys of the corporation or any
18 regional system board in any banking institution
19 within or without the State, and appointing, for the
20 purpose of making deposits, one or more persons to act
21 as custodians of the moneys of the corporation[+]; or
22 any regional system board; provided that regional



1 system boards may deposit moneys in banking
2 institutions pursuant to corporation-wide guidelines
3 established by the corporation board;

4 (23) Contracting for and accepting any gifts, grants, and
5 loans of funds, property, or any other aid in any form
6 from the federal government, the State, any state
7 agency, or any other source, or any combination
8 thereof, and complying, subject to this chapter, with
9 the terms and conditions thereof; provided that the
10 regional system boards shall be responsible for
11 contracting for and accepting any gifts, grants,
12 loans, property, or other aid if intended to benefit
13 the public health facilities and operations
14 exclusively in their respective regions; and provided
15 further that all contracting for or acceptance of
16 gifts, grants, loans, property, or other aid shall be
17 consistent with corporation-wide policies established
18 by the corporation board;

19 (24) Providing health and medical services for the public
20 directly or by agreement or lease with any person,
21 firm, or private or public corporation, partnership,
22 or association through or in the health facilities of



1 the corporation or regional system boards or
2 otherwise; provided that the regional system boards
3 shall be responsible for conducting the activities
4 under this paragraph in their respective regions;

5 (25) Approving medical staff bylaws, rules, and medical
6 staff appointments and reappointments for all public
7 health facilities~~[7]~~ of the corporation or any
8 regional system board, including [~~without limitation,~~]
9 but not limited to determining the conditions under
10 which a health professional may be extended the
11 privilege of practicing within a health facility, as
12 determined by the respective regional system board and
13 consistent with corporate-wide policies, and adopting
14 and implementing reasonable rules, without regard to
15 chapter 91, for the credentialing and peer review of
16 all persons and health professionals within the
17 facility; provided that regional system boards shall
18 be the governing body responsible for all medical
19 staff organization, peer review, and credentialing
20 activities to the extent allowed by law;

21 (26) (A) Investing any funds not required for immediate
22 disbursement in property or in securities that



1 meet the standard for investments established in
2 chapter 88 as provided by the corporation
3 board[+] or any regional system board; provided
4 that proceeds of bonds and moneys pledged to
5 secure bonds may be invested in obligations
6 permitted by any document that authorizes the
7 issuance or securing of bonds; and provided
8 further that the investment assists the
9 corporation or any regional system board in
10 carrying out its public purposes; selling from
11 time to time securities thus purchased and held,
12 and depositing any securities in any bank or
13 financial institution within or without the
14 State. Any funds deposited in a banking
15 institution or in any depository authorized in
16 this section shall be secured in a manner and
17 subject to terms and conditions as the
18 corporation board or a regional system board may
19 determine, with or without payment of any
20 interest on the deposit, including[+] without
21 limitation[+] time deposits evidenced by
22 certificates of deposit. Any bank or financial



1 institution incorporated under the laws of this
2 State may act as depository of any funds of the
3 corporation or a regional system board and may
4 issue indemnity bonds or may pledge securities as
5 may be required by the corporation or regional
6 system board; provided that regional system
7 boards may exercise the powers under this
8 subsection with respect to financial assets of
9 the region consistent with corporation-wide
10 policies; and

11 (B) Notwithstanding subparagraph (A), contracting
12 with the holders of any of its notes or bonds as
13 to the custody, collection, securing, investment,
14 and payment of any moneys of the corporation or
15 regional system board and of any moneys held in
16 trust or otherwise for the payment of notes or
17 bonds and carrying out the contract. Moneys held
18 in trust or otherwise for the payment of notes or
19 bonds or in any way to secure notes or bonds, and
20 deposits of such moneys, may be secured in the
21 same manner as moneys of the corporation[₇] or
22 regional system board, and all banks and trust



1 companies are authorized to give security for the
2 deposits;

3 (27) Entering into any agreement with the State, including
4 but not limited to contracts for the provision of
5 goods, services, and facilities in support of the
6 corporation's programs [7] or the regional system
7 boards' programs, and contracting for the provision of
8 services to or on behalf of the State; provided that
9 the regional system boards shall be responsible for
10 entering into agreements to provide goods, services,
11 and facilities in support of programs in their
12 respective regions consistent with corporation-wide
13 policies;

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

15 (29) Waiving, by means that the corporation or regional
16 system board deems appropriate, the exemption from
17 federal income taxation of interest on the
18 corporation's or regional system boards' bonds, notes,
19 or other obligations provided by the Internal Revenue
20 Code of 1986, as amended, or any other federal statute
21 providing a similar exemption;



- 1 (30) Developing internal policies and procedures for the
2 procurement of goods and services, consistent with the
3 goals of public accountability and public procurement
4 practices, and subject to management and financial
5 legislative audits; provided that the regional system
6 boards shall be responsible for developing internal
7 policies and procedures for each of their regions
8 consistent with the corporation's policies and
9 procedures; and further provided that:
- 10 (A) The regional system boards and the corporate
11 board shall enjoy the exemption under section
12 103-53(e);
- 13 (B) The regional system boards shall enjoy the
14 exemption under chapter 103D; and
- 15 (C) The corporation shall be subject to chapter 103D;
- 16 (31) Authorizing and establishing positions; provided that
17 regional system boards shall be responsible for hiring
18 and firing regional and facility personnel consistent
19 with corporation policies, except a regional chief
20 executive officer and regional chief financial officer
21 shall only be hired or dismissed upon the approval of



1 the regional system board and the corporation board as
2 further set forth in section 323F-B;
3 ~~[(32) Calling upon the attorney general for such legal~~
4 ~~services as the corporation may require; and~~
5 ~~(33)]~~ (32) Having and exercising all rights and powers
6 necessary or incidental to or implied from the
7 specific powers granted in this chapter, which
8 specific powers shall not be considered as a
9 limitation upon any power necessary or appropriate to
10 carry out the purposes and intent of this chapter[-];
11 provided that the regional system boards shall be
12 responsible for having and exercising all powers and
13 rights with respect to matters in their regions
14 consistent with the law; and
15 (33) Each region, through its regional system board, shall:
16 (A) Develop policies and procedures necessary or
17 appropriate to plan, operate, manage, and control
18 the day-to-day operations of facilities within
19 the region that are consistent with corporation-
20 wide policies;



1 (B) Exercise custodial control over and use of all
2 assets of the corporation that are located in the
3 region pursuant to this chapter; and

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

8 ~~[(b) The corporation]~~ (d) Each regional system board
9 shall not be subject to chapters 36 to 38, 40, and 41D, as well
10 as part I of chapter 92 and shall enjoy the exemptions contained
11 in sections 102-2 and 103-53(e), except as otherwise provided in
12 this chapter. The corporation shall not be subject to chapters
13 36 to 38, 40, and 41D, as well as part I of chapter 92, and
14 shall enjoy the exemptions contained in sections 102-2 and 103-
15 53(e).

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



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

6 SECTION 24. 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) Hiring, firing, compensation packages, and other
11 personnel actions with respect to employees not covered by
12 chapter 76 and 89 shall be governed by policies and guidelines
13 established by the corporation, except as otherwise provided in
14 this chapter.

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



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

3 " ~~[+] §323F-9 [±]~~ **Hiring of attorneys.** The corporation and
4 regional system boards may employ or retain any attorney, by
5 contract or otherwise, for the purpose of representing the
6 corporation or regional system boards in any litigation,
7 rendering legal counsel ~~[to]~~, or drafting legal documents for
8 the corporation ~~[, or drafting legal documents for the~~
9 ~~corporation.]~~ or regional system boards."

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

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



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

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

16 The management advisory committee for the East Hawaii
17 region shall have three members who reside in the Ka'u district,
18 three members who reside in the Hamakua/North Hilo districts,
19 and three members who reside in the South Hilo/Puna districts.
20 The management advisory committee for the West Hawaii region
21 shall have not less than three members who reside in the North
22 Kohala/South Kohala districts.



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

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

17 (b) Each regional committee shall sit in an advisory
18 capacity to the chief executive officer on matters concerning
19 the formulation of regional operational and capital improvement
20 budgets, and the planning, construction, improvement,
21 maintenance, and operation of public health facilities within
22 its respective jurisdiction and shall sit in an advisory



1 capacity to the governor on matters concerning the nominees for
2 positions on the corporation board. Nothing in this section
3 shall be construed as precluding or preventing the committees
4 from coordinating their efforts and activities with the facility
5 administrators within their counties.

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

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

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

16 " ~~[+] §323F-10.5~~ **Executive public health facility**
17 **management advisory committee; establishment.** (a) There is
18 established within the corporation an executive public health
19 facility management advisory committee to consist of the
20 chairpersons of each of the five regional public health facility
21 management advisory committees. The executive committee shall,



1 through its chairperson, represent the interests of all regional
2 committees on the corporation board.

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

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

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

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

19 "[~~§~~323F-10.6 [~~]~~] **Peer review and credentialing.**

20 [~~Corporation board or other committee meetings pertaining to~~
21 ~~peer review and credentialing matters shall not be subject to~~
22 ~~part I of chapter 92.] Peer review activities shall be subject~~



1 to [~~the provisions of~~] chapters 663 and 671D and all other
2 provisions and restrictions of medical peer review committees
3 established by state law."

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

6 " [†] §323F-11 [†] **Executive branch; noninterference.**

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

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



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

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

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

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

21 (1) Insurance deductibles;



1 (2) The improvement, replacement, or expansion of [its]
2 their facilities or services;

3 (3) The securing of the corporation's or regional system
4 boards' bonds, notes, or other instruments of
5 indebtedness; or

6 (4) Any other purpose [it deems] the corporation or the
7 regional system boards deem necessary or appropriate
8 in the performance of [its] their purposes and
9 responsibilities.

10 (b) The corporation board and regional system boards shall
11 collaboratively develop budgetary guidelines and annual
12 operating and capital budgets for each facility[-], taking into
13 account anticipated surpluses from or subsidies to the
14 facilities pursuant to the annual guidelines described in this
15 section, accumulated corporation and regional reserves and
16 accounts, subsidies, if any, that are determined to be needed
17 from the general fund, and other sources of corporation-wide and
18 regional income as may be identified. Two-year budgets will be
19 approved for regional system boards, in alignment with State of
20 Hawaii biennium budgeting. The corporate board shall not alter
21 the two-year budget of a region except:

22 (1) Where state general funding is reduced;



1 (2) An emergency exists; or

2 (3) There is a renegotiated budget approved by a regional
3 system board.

4 The corporation and regional system boards shall collaboratively
5 develop budgetary guidelines [7] and [~~may allocate to~~] negotiate
6 with each facility reasonable corporation administrative costs,
7 including funds determined by the corporation or any regional
8 system board to be needed from or provided to each facility to:

9 (1) Repay corporation or regional system board debts;

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

13 (3) Maintain appropriate reserves.

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



1 (d) Beginning with the first of the legislative biennium
2 budget years following the establishment of a regional system
3 board, and for each biennium period thereafter, the corporation
4 shall call together all the regions through representatives
5 selected by each regional system board, and the chairs of the
6 facility management advisory committees, if any, to determine
7 which services and functions should be provided by the
8 corporation for the next biennium budget period, consistent with
9 this chapter. As part of the biennium budgeting process, the
10 corporation board and the representatives of each region,
11 working through the corporation board regional representatives,
12 shall agree upon an allocation methodology for funding the
13 agreed upon and statutorily created corporate services and
14 functions.

15 [~~d~~] (e) The corporation may share in any facility's
16 surplus and may offset any facility's deficits[-] as provided
17 herein. Any regional system board shall share in the surplus of
18 any facility within the region and shall offset any facility
19 deficits within its region. Operating surpluses of the regional
20 system board shall be reinvested in the operations of that
21 region in any prudent manner; provided that upon request, and
22 subject to authorization by the regional system board, the



1 regional system board may share its surplus or resources with a
2 facility outside of the region to benefit the corporation-wide
3 system of health care. Obligations undertaken by a facility
4 shall be paid only from funds of that facility, unless the
5 corporation board, the regional system board managing the
6 facility, or [~~its~~] an authorized agent explicitly agrees to
7 guarantee the obligation. Loans and other transfers may be made
8 between regions upon approval of the affected regional system
9 boards to assist in the cash flow and operations of the public
10 health facilities.

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

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

19 [~~f~~] (g) The corporation and each regional system board,
20 subject to policies established by the corporation and each
21 regional system board, respectively, may elect to manage its own
22 capital improvement project and funds, either directly or



1 indirectly by contract; provided that annual reports of the
2 project moneys are provided to the governor and legislature.

3 ~~[(g)]~~ (h) The corporation board and regional system boards
4 may hold public informational meetings on ~~[its budget.]~~ their
5 budgets. Representatives of any county government, state
6 government, or any other person having an interest in the
7 budget, shall have the right to be heard at the meetings."

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

10 "~~[(f)]~~ **§323F-22** ~~[(f)]~~ **Annual audit and report, disclosure of**
11 **revenue projections.** (a) The corporation shall engage a
12 certified public accountant to conduct an annual audit of its
13 financial affairs, books, and records in accordance with
14 generally accepted accounting principles. The corporation, in
15 consultation with a regional system board, may permit or require
16 a regional system board to retain an audit firm to conduct an
17 independent audit of the region. Each regional system board
18 shall submit the results of the annual audit to the corporation
19 board within one hundred twenty days after the close of the
20 regional system board's fiscal year. The corporation shall
21 submit to the governor and the legislature, within one hundred
22 fifty days after the close of the corporation's fiscal year, a



1 report that shall include the audited financial report for that
2 fiscal year[-] for the corporation and each regional system
3 board.

4 (b) In addition to the submittal of the audit required
5 under subsection (a), the corporation, in cooperation with the
6 regional system boards, shall submit a report to the legislature
7 at least twenty days prior to the convening of each regular
8 session that shall include but not be limited to:

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

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

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

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



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

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

6 " [~~§~~323F-24 [~~§~~] **Budget oversight.** The corporation's and
7 each regional system board's operating and capital improvement
8 budgets shall not be subject to review or approval by the
9 governor or any state agency, except where state general funds
10 or capital improvement moneys are requested. If general funds
11 or capital improvement moneys are requested, then the
12 corporation or any regional system board shall include, with its
13 request, the proposed budget for which the funds or moneys are
14 to be included. The corporation and regional system boards,
15 once operational, shall collaboratively submit [~~its~~] their
16 budgets annually to the legislature for review and approval at
17 least twenty days prior to the convening of the regular
18 legislative session, beginning with the budgets for the [~~1997-~~
19 ~~1998~~] 2010-2011 biennium fiscal years."

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



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

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

16 (b) Following a transition period of no longer than one
17 year after the establishment of each regional system board, and
18 by mutual agreement, the custodial control over the assets,
19 personnel, services, and operations of the Hawaii health systems
20 corporation with regard to the facilities within the region
21 shall be transferred to the regional system board, consistent
22 with system-wide planning, policies, and guidelines, and



1 applicable laws and rules. The corporation and newly
2 established regional system boards shall report to the
3 legislature within thirty days of the establishment of the newly
4 created boards. The corporation shall assist any region
5 considering such a request. Each transition shall take no
6 longer than one year, unless a longer period is mutually agreed
7 to by the corporation and the region.

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

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



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

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

18 Any officer or employee transferred to any regional system
19 board pursuant to this Act who is a member of or has benefits
20 under any existing pension or retirement fund system shall
21 continue to have all rights, privileges, obligations, and status
22 with respect to such fund or system as are now prescribed by



1 law, but during the period of employment by any regional system
2 board, all contributions to such funds or system to be paid by
3 the employer on account of such officer or employee shall be
4 paid by the corresponding regional system board.

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

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

20 (1) The terms of board members whose date of appointment
21 was prior to and including July 1, 2004, shall expire
22 on December 31, 2007;



1 (2) The terms of board members whose date of appointment
2 was after July 1, 2004, shall expire on September 30,
3 2008.

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

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

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

20 SECTION 39. In codifying the new sections added by section
21 2 of this Act, the reviser of statutes shall substitute



1 appropriate section numbers for the letters used in designating
2 the new sections in this Act.

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

5 SECTION 41. This Act shall take effect on July 1, 2007;
6 provided that:

7 (1) Section 19 shall take effect on January 1, 2009;

8 (2) Section 16 and section 323F-7(c)(30)(B), Hawaii
9 Revised Statutes, shall be repealed on January 1,
10 2009, and the statutes amended in those sections shall
11 be reinstated in the form they were in before the
12 adoption of this Act; and

13 (3) The amendments made to section 323F-7(c)(15), Hawaii
14 Revised Statutes, in section 23 of this Act shall not
15 take effect if H.B. No. 1764 in any form passed by the
16 legislature, regular session of 2007, becomes an Act.



S.B. No. 1792
S.D. 3
H.D. 3
C.D. 1

Report Title:

Hawaii Health Systems Corporation; Regional System Boards

Description:

Authorizes the establishment of regional system boards under the Hawaii Health Systems Corporation. Establishes powers, duties, rights, and obligations of the Hawaii Health Systems Corporation and regional system boards. (CD1)

