
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 regional systems specified in section 323F-2, no
10 later than January 1, 2008. The regional system boards of
11 directors shall carry out the duties and responsibilities as set
12 forth in this chapter and as further delegated by the
13 corporation.

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



1 system board. No additional debts or liabilities or superior
2 debts shall be added by the corporation to any regional system
3 board that would negatively impact the holders of bond notes.
4 Each regional system board shall be liable for any liabilities
5 arising from financial assets, real or personal property in its
6 custodial care.

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

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

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

19 (i) Two members shall be chosen from a list of
20 four individuals submitted by the speaker of
21 the house of representatives within fifteen
22 days of the effective date of this Act;



1 provided that this list shall not include
2 physicians; and

3 (ii) Two members shall be chosen from a list of
4 four individuals submitted by the president
5 of the senate within fifteen days of the
6 effective date of this Act; provided that
7 this list shall not include physicians;

8 (B) Four members shall be appointed by the governor
9 within thirty days from a list of eight
10 individuals nominated by the regional public
11 health facility management advisory committee
12 within fifteen days of the effective date of this
13 Act. These individuals may be medical and health
14 care providers and professionals, consumers, and
15 knowledgeable individuals in other appropriate
16 areas such as business, finance, and law;
17 provided that these individuals shall not be
18 physicians currently in active practice;

19 (C) Three physicians shall be appointed by the
20 governor within thirty days from a list submitted
21 within fifteen days of the effective date of this
22 Act, of six physicians nominated by a majority



1 vote of the medical staff of the public health
2 facilities in the regional system present at a
3 duly noticed meeting from a list of qualified
4 candidates submitted by the medical executive
5 committees in the regional system; and
6 (D) The corporation board chairperson or
7 chairperson's designee shall serve as an ex
8 officio, non-voting member of each regional
9 system board;
10 (2) One member of each regional system board nominated by
11 the speaker of the house of representatives, the
12 president of the senate, and medical executive
13 committees in a regional system shall be appointed for
14 a term of two years;
15 (3) One member of each initial regional system board
16 nominated by the regional public health facility
17 management advisory committee for the regional system
18 shall be appointed for a term of two years;
19 (4) The remaining members of each initial regional system
20 board and all members appointed thereafter shall be
21 appointed for terms of three years; and



1 (5) New regional system board members appointed to any
2 regional system board after the initial regional
3 system board shall be selected by a two-thirds
4 affirmative vote of the existing regional system board
5 members.

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

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

21 (e) Any member of a regional system board may be removed
22 for cause by the governor or for cause by vote of a two-thirds



1 majority of the regional system board's voting members then in
2 office. For purposes of this section, "cause" shall include
3 without limitation:

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

12 §323F-B Regional chief executive officer, exempt position.

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



1 board. Each regional chief executive officer may also appoint,
2 as necessary, other personnel, exempt from chapters 76 and 89,
3 to work directly for the regional chief executive officer for
4 the regional system and for the corresponding regional system
5 board.

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

17 (c) Each regional chief executive officer or their
18 designees may appoint, exempt from chapters 76 and 89, hospital
19 administrators, assistant administrators, directors of nursing,
20 medical directors, and staff physicians, to facilitate the
21 management of facilities within the regional system.



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

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

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

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

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



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

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

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

16 "(e) The attorney general, or in the case of the board of
17 regents of the University of Hawaii, its university general
18 counsel, or in the case of the board of directors of the Hawaii
19 health systems corporation under section 323F-3 or its regional
20 system boards under chapter 323F-A, the attorneys retained by
21 the board of directors of the Hawaii health systems corporation
22 or its regional system boards under section 323F-9, shall



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



1 corporation or its regional system boards may terminate the
 2 representation and defense of the member at any time if, after
 3 representation and defense is accepted, the attorney general,
 4 [~~or~~] the university general counsel, or an attorney retained by
 5 the board of directors of the Hawaii health systems corporation
 6 or one of its regional system boards determines that
 7 indemnification would not be available to the member under
 8 subsection (c)."

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

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

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

19 (1) By the public utilities commission, the labor and
 20 industrial relations appeals board, and the Hawaii
 21 labor relations board;



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



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

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

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

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

17 commission, the labor and industrial relations appeals board,

18 the Hawaii labor relations board, the office of Hawaiian

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

20 regional system boards, the department of commerce and consumer

21 affairs in prosecution of consumer complaints, insurance

22 division, the division of consumer advocacy, the University of



1 Hawaii, the Hawaii tourism authority as provided in section
2 201B-2.5, the Hawaiian home lands trust individual claims review
3 panel, or as grand jury counsel, shall be a deputy attorney
4 general."

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

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



1 claiming the reimbursement for expenses incurred related to
2 federal fund reimbursement claims and to the general fund of the
3 State. Moneys in the fund may be expended for consultant
4 services rendered under subsection (b)."

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

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

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



- 1 (8) Housing project bond special fund;
- 2 (9) Aloha Tower fund created by section 206J-17;
- 3 (10) Funds of the employees' retirement system created by
- 4 section 88-109;
- 5 (11) Unemployment compensation fund established under
- 6 section 383-121;
- 7 (12) Hawaii hurricane relief fund established under chapter
- 8 431P;
- 9 (13) Hawaii health systems corporation special funds[+] and
- 10 the subaccounts of its regional system boards;
- 11 (14) Tourism special fund established under section
- 12 201B-11;
- 13 (15) Universal service fund established under chapter 269;
- 14 (16) Integrated tax information management systems special
- 15 fund under section 231-3.2;
- 16 (17) Emergency and budget reserve fund under section
- 17 328L-3;
- 18 (18) Public schools special fees and charges fund under
- 19 section 302A-1130(f);
- 20 (19) Sport fish special fund under section 187A-9.5;
- 21 (20) Neurotrauma special fund under section 321H-4;



- 1 (21) Deposit beverage container deposit special fund under
- 2 section 342G-104;
- 3 (22) Glass advance disposal fee special fund established by
- 4 section 342G-82;
- 5 (23) Center for nursing special fund under section
- 6 [‡] 304A-2163 [‡];
- 7 (24) Passenger facility charge special fund established by
- 8 section 261-5.5;
- 9 (25) Solicitation of funds for charitable purposes special
- 10 fund established by section 467B-15;
- 11 (26) Land conservation fund established by section 173A-5;
- 12 (27) Court interpreting services revolving fund under
- 13 section 607-1.5;
- 14 (28) Trauma system special fund under section 321-22.5;
- 15 (29) Hawaii cancer research special fund;
- 16 (30) Community health centers special fund; and
- 17 (31) Emergency medical services special fund[‡];

18 shall deduct five per cent of all receipts of all other special
 19 funds, which deduction shall be transferred to the general fund
 20 of the State and become general realizations of the State. All
 21 officers of the State and other persons having power to allocate
 22 or disburse any special funds shall cooperate with the director



1 in effecting these transfers. To determine the proper revenue
2 base upon which the central service assessment is to be
3 calculated, the director shall adopt rules pursuant to chapter
4 91 for the purpose of suspending or limiting the application of
5 the central service assessment of any fund. No later than
6 twenty days prior to the convening of each regular session of
7 the legislature, the director shall report all central service
8 assessments made during the preceding fiscal year. [H]"

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

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



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



- 1 (20) Center for nursing special fund under section
- 2 [H]304A-2163 [H];
- 3 (21) Passenger facility charge special fund established by
- 4 section 261-5.5;
- 5 (22) Court interpreting services revolving fund under
- 6 section 607-1.5;
- 7 (23) Trauma system special fund under section 321-22.5;
- 8 (24) Hawaii cancer research special fund;
- 9 (25) Community health centers special fund; and
- 10 (26) Emergency medical services special fund[H];

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

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

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



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

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

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



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

3 (2) Except with respect to appropriations to fund
4 financing agreements under chapter 37D, the University
5 of Hawaii shall have the flexibility to transfer
6 appropriated funds and positions for the operating
7 cost category among programs, among cost elements in a
8 program, and between quarters, as applicable; except
9 with respect to appropriations to fund financing
10 agreements under chapter 37D, the department of
11 education shall have the flexibility to transfer
12 appropriated funds and positions for the operating
13 cost category among programs and among cost elements
14 in a program, and between quarters, as applicable; and
15 the Hawaii health systems corporation and its regional
16 system boards shall have the flexibility to transfer
17 special fund appropriations among [~~community~~
18 ~~hospitals~~] regional system hospital facilities as
19 applicable [~~+~~] and as mutually agreed to by the
20 corporation and the respective regional system board;
21 provided that the Hawaii health systems corporation
22 and the regional system boards shall maintain the



1 integrity and services of each individual [faeility]
2 regional system and shall not transfer appropriations
3 out of any [faeility] regional system that would
4 result in a reduction of services offered by the
5 [faeility] regional system, with due regard for
6 statutory requirements, changing conditions, the needs
7 of the programs, and the effective utilization of
8 resources; and

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

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

20 "Agency" or "participating agency" means the judiciary,
21 any executive department, any independent commission, any board,
22 any authority, any bureau, any office, any other establishment



1 of the State (except the legislature and its agencies), or any
2 public corporation that is supported in whole or in part by
3 state funds, or any agent thereof, authorized by law to expend
4 available moneys; provided that the Hawaii health systems
5 corporation and its regional system boards shall not be governed
6 by this chapter for any financing agreement unless it elects to
7 [~~do so.~~] be."

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

10 "**§37D-2 Financing agreements.** (a) There is hereby
11 established and authorized the financing agreement program of
12 the State. Any agency desiring to acquire or improve projects
13 through the financing agreement program established and
14 authorized by this chapter shall submit a written request to the
15 department providing such information as the department shall
16 require. Notwithstanding any other law to the contrary, and
17 except for the Hawaii health systems corporation[~~]~~ and its
18 regional system boards, only with the approval by the attorney
19 general as to form and legality and upon the written request of
20 one or more participating agencies may the department enter into
21 a financing agreement in accordance with this chapter, except
22 that the board of regents of the University of Hawaii may enter



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



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

3 (2) The financing costs, including the principal and
4 interest components of the financing agreement and
5 insurance premiums;

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

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

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



1 department has granted to it in the financing
2 agreement, against the property that was purchased
3 with the proceeds of the financing agreement, and
4 apply the amounts so received toward payments
5 scheduled to be made by the department under the
6 financing agreement;

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

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



1 authorize the sale, lease, or other disposition of
2 property owned by an agency;

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

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

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

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



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

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

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

9 (2) For lei vendors;

10 (3) For airline and aircraft operations;

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

15 (5) For operation of concessions set aside without any
16 charge;

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

21 (7) For operation of concessions on permits revocable on
22 notice of thirty days or less; provided that no such



1 permits shall be issued for more than a one year
2 period;

3 (8) For operation of concessions or concession spaces for
4 a beach service association dedicated to the
5 preservation of the Hawaii beach boy tradition,
6 incorporated as a nonprofit corporation in accordance
7 with state law, and whose members are appropriately
8 licensed or certified as required by law;

9 (9) For operation of concessions at county zoos, botanic
10 gardens, or other county parks which are
11 environmentally, culturally, historically, or
12 operationally unique and are supported, by nonprofit
13 corporations incorporated in accordance with state law
14 solely for purposes of supporting county aims and
15 goals of the zoo, botanic garden, or other county
16 park, and operating under agreement with the
17 appropriate agency solely for such purposes, aims, and
18 goals;

19 (10) For operation of concessions that furnish goods or
20 services for which there is only one source, as
21 determined by the head of the awarding government



1 agency in writing that shall be included in the
2 contract file; [~~and~~]

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

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

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

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

10 (1) Any procurement of less than \$25,000 or that is
11 considered a small purchase under section 103D-305 and
12 any state or county department contract of less than
13 \$25,000;

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

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



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



1 (G) To make periodic, recurring payments for utility
2 services; [and]

3 (6) Rent for the use or occupation of the premises and
4 facilities at Aloha Stadium, the convention center, or
5 any other state or county large spectator events
6 facility[-]; and

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

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

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

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



- 1 (1) Solicited or entered into before July 1, 1994, unless
- 2 the parties agree to its application to a contract
- 3 solicited or entered into prior to July 1, 1994;
- 4 (2) To disburse funds, irrespective of their source:
- 5 (A) For grants or subsidies as those terms are
- 6 defined in section 42F-101, made by the State in
- 7 accordance with standards provided by law as
- 8 required by article VII, section 4, of the State
- 9 Constitution; or by the counties pursuant to
- 10 their respective charters or ordinances;
- 11 (B) To make payments to or on behalf of public
- 12 officers and employees for salaries, fringe
- 13 benefits, professional fees, or reimbursements;
- 14 (C) To satisfy obligations that the State is required
- 15 to pay by law, including paying fees, permanent
- 16 settlements, subsidies, or other claims, making
- 17 refunds, and returning funds held by the State as
- 18 trustee, custodian, or bailee;
- 19 (D) For entitlement programs, including public
- 20 assistance, unemployment, and workers'
- 21 compensation programs, established by state or
- 22 federal law;



- 1 (E) For dues and fees of organizations of which the
- 2 State or its officers and employees are members,
- 3 including the National Association of Governors,
- 4 the National Association of State and County
- 5 Governments, and the Multi-State Tax Commission;
- 6 (F) For deposit, investment, or safekeeping,
- 7 including expenses related to their deposit,
- 8 investment, or safekeeping;
- 9 (G) To governmental bodies of the State;
- 10 (H) As loans, under loan programs administered by a
- 11 governmental body; and
- 12 (I) For contracts awarded in accordance with chapter
- 13 103F.
- 14 (3) To procure goods, services, or construction from a
- 15 governmental body other than the University of Hawaii
- 16 bookstores, from the federal government, or from
- 17 another state or its political subdivision;
- 18 (4) To procure the following goods or services which are
- 19 available from multiple sources but for which
- 20 procurement by competitive means is either not
- 21 practicable or not advantageous to the State:



- 1 (A) Services of expert witnesses for potential and
2 actual litigation of legal matters involving the
3 State, its agencies, and its officers and
4 employees, including administrative quasi-
5 judicial proceedings;
- 6 (B) Works of art for museum or public display;
- 7 (C) Research and reference materials including books,
8 maps, periodicals, and pamphlets, which are
9 published in print, video, audio, magnetic, or
10 electronic form;
- 11 (D) Meats and foodstuffs for the Kalaupapa
12 settlement;
- 13 (E) Opponents for athletic contests;
- 14 (F) Utility services whose rates or prices are fixed
15 by regulatory processes or agencies;
- 16 (G) Performances, including entertainment, speeches,
17 and cultural and artistic presentations;
- 18 (H) Goods and services for commercial resale by the
19 State;
- 20 (I) Services of printers, rating agencies, support
21 facilities, fiscal and paying agents, and



- 1 registrars for the issuance and sale of the
- 2 State's or counties' bonds;
- 3 (J) Services of attorneys employed or retained to
- 4 advise, represent, or provide any other legal
- 5 service to the State or any of its agencies, on
- 6 matters arising under laws of another state or
- 7 foreign country, or in an action brought in
- 8 another state, federal, or foreign jurisdiction,
- 9 when substantially all legal services are
- 10 expected to be performed outside this State;
- 11 (K) Financing agreements under chapter 37D; and
- 12 (L) Any other goods or services which the policy
- 13 board determines by rules or the chief
- 14 procurement officer determines in writing is
- 15 available from multiple sources but for which
- 16 procurement by competitive means is either not
- 17 practicable or not advantageous to the State; and
- 18 (5) Which are specific procurements expressly exempt from
- 19 any or all of the requirements of this chapter by:
- 20 (A) References in state or federal law to provisions
- 21 of this chapter or a section of this chapter, or



1 references to a particular requirement of this
2 chapter; and

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

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

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

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



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

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

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

7 (1) The [~~city and county of Honolulu,~~] Oahu regional
8 health care system;

9 (2) The [~~county of Kauai,~~] Kauai regional health care
10 system;

11 (3) The [~~county of Maui, except the county of Kalawao,~~]
12 Maui regional health care system;

13 (4) The [~~eastern section of the county of Hawaii,~~] east
14 Hawaii regional health care system, comprising the
15 Puna district, north Hilo district, south Hilo
16 district, Hamakua district, and Kau district; and

17 (5) The [~~western section of the county of Hawaii,~~] west
18 Hawaii regional health care system, comprising the
19 north Kohala district, south Kohala district, north
20 Kona district, and south Kona district;

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



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

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

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

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



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

10 (6) ~~[One member from region II who resides in the county~~
11 ~~of Kauai or from region III who resides in the~~
12 ~~district of Hana or on the island of Lanai; provided~~
13 ~~that in no event shall the member be appointed from~~
14 ~~the same region for two consecutive terms; and]~~ Two
15 additional members who reside in the State shall be
16 appointed by the governor.

17 ~~[7] Four at large members who reside in the State.~~
18 ~~The eleventh member shall be the chairperson of the~~
19 ~~executive public health facility management advisory committee,~~
20 ~~who shall serve as an ex officio, voting member.~~

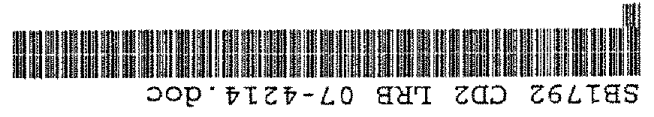
21 ~~The twelfth member7]~~ The thirteenth and fourteenth members,
22 who shall serve as [a] voting [member7] members, shall be [a

1 ~~physieian]~~ physicians with active medical staff privileges at
2 one of the corporation's public health facilities. The
3 physician ~~[member]~~ members shall each serve a term of two years.
4 The initial physician ~~[member]~~ members shall be from ~~[region]~~
5 regional system II, and subsequent physician members shall come
6 from ~~[regions]~~ regional systems IV, III, and V respectively.
7 The physician member ~~[position]~~ positions shall continue to
8 rotate in this order. The physician ~~[member]~~ members shall be
9 appointed to the corporation board by a ~~[simple majority vote of~~
10 ~~the members of the executive public health facility management~~
11 ~~advisory committee]~~ two-thirds majority vote of the corporation
12 board from a list of qualified nominees submitted by the public
13 health facility management advisory ~~[committee for the region~~
14 ~~from which the physician member is to be chosen.]~~ committees or
15 by any regional system board. If for any reason a physician
16 member is unable to serve a full term, the remainder of that
17 term shall be filled by a physician from the same ~~[region]~~
18 regional system.

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



1 Appointments to the corporation board, with the exception
2 of the chairperson of the executive public health facility
3 management advisory committee and the regional physician member,
4 shall be made by the governor, subject to confirmation by the
5 senate pursuant to section 26-34. [Prior to the transfer date,
6 the public health facility management advisory committees
7 appointed pursuant to section 22-66 for each county may
8 recommend names to the governor for each position on the
9 corporation board designated for region which corresponds to its
10 county. After the transfer date, the public health facility
11 management advisory committees appointed pursuant to section
12 22-10 for each region may make such recommendation to the
13 governor. The appointed board members shall serve for a term of
14 four years, provided that upon the initial appointment of the
15 first ten members:
16 (1) Two at large members shall be appointed for a term of
17 two years;
18 (2) Three at large shall be appointed for a term of three
19 years; and
20 (3) Five regional members shall be appointed for a term of
21 four years.]



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

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

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

11 **"§323F-4 Board meetings.** (a) ~~[The corporation board shall~~
12 ~~meet no fewer than four times a year. All meetings of the~~
13 ~~corporation board shall be subject to chapter 92, except that in~~
14 ~~addition to matters exempted pursuant to law, the corporation~~
15 ~~board may elect to hold an executive meeting for the~~
16 ~~consideration of any matters set forth in section 323F-6.]~~ The
17 corporation board and each regional system board shall be exempt
18 from part I of chapter 92 and shall meet no fewer than four
19 times a year; provided that the regional system boards and the
20 corporation board shall meet together at least once a year.
21 Each regional board shall meet at least six times each year;
22 provided that two of these meetings shall be public community



1 meetings for the purpose of informing the community and taking
2 comment on the regional system's performance if these meetings
3 are in addition to the four board meetings. The public
4 community meetings shall be advertised in a newspaper of general
5 circulation in the regional system at least two weeks in
6 advance.

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



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

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

16 "[+] §323F-5 [+] **Disclosure of interests.** All corporation
17 and regional system board members and employees of the
18 corporation shall be subject to chapter 84."

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

21 "[+] §323F-6 [+] **Records.** The corporation and each regional
22 system board shall be subject to the requirements of chapter



1 92F, except that the following categories of government records
2 shall not be required to be disclosed:

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

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

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



1 "§323F-7 Duties and powers of the corporation[-] and
2 regional system boards. (a) Notwithstanding any other law to
3 the contrary[-] and unless otherwise specified, only those
4 duties and powers related to corporation-wide matters, including
5 but not limited to corporation-wide budgeting, personnel
6 policies, procurement policies, fiscal policies, accounting
7 policies, policies related to affiliations, joint ventures and
8 contracts, regulatory compliance, risk management, continuing
9 medical education programs, strategic planning, and capital
10 planning, including the issuance of revenue bonds in any amount,
11 shall be carried out by the corporation [~~shall have and exercise~~
12 ~~the following duties~~] board in collaboration with the regional
13 system boards. Duties and powers[+] related to the operation of
14 facilities within each regional system, including but not
15 limited to regional system and facility budgeting, employment
16 and removal of regional system and facility personnel,
17 purchasing, regional system strategic and capital planning,
18 organization, quality assurance, improvement and reporting,
19 credentialing of medical staff, and the issuance of revenue
20 bonds in any amount with corporation board approval, shall be
21 carried out by the regional system boards, either directly or by
22 delegation to regional and facility administration. Unless



1 otherwise prohibited, the duties and powers granted to the
2 corporation board may be delegated to the regional system
3 boards.

4 (b) Duties and powers exercised by the regional system
5 boards under this chapter or delegated to the regional system
6 boards by the corporation board shall be consistent with
7 corporation-wide policies. Wherever appropriate, corporation-
8 wide policies shall take into account differences among regional
9 systems and among types of facilities, particularly acute care,
10 critical access, and long-term care facilities within the
11 system.

12 New corporation-wide policies, and major changes to
13 existing policies other than those changes mandated by legal or
14 regulatory requirements, shall be developed by the corporation
15 board after consultation with a policies committee. The
16 policies committee shall be made up of representatives of the
17 corporation board and each regional system board or designees of
18 each board. The corporation board shall have two
19 representatives on this committee. The corporation board shall
20 review and consider approval of the policies within thirty days
21 of transmittal by the policies committee or at the next board
22 meeting; provided that, if the policies committee fails to take



1 action within thirty days of receiving the proposed policy, the
2 corporation board may consider and adopt or reject or revise the
3 policy. The regional system boards and corporation board, as
4 needed, may submit a request to the committee to alter
5 corporation-wide policies along with detailed justification for
6 the request. The regional system boards and the corporation
7 board shall collaboratively establish a procedure to further
8 implement this section.

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

- 12 (1) Developing ~~[its own]~~ corporation-wide policies,
13 procedures, and rules necessary or appropriate to
14 plan, operate, manage, and control the system of
15 public health facilities and services without regard
16 to chapter 91; provided that each regional system
17 board shall be responsible for its own policies,
18 procedures, and rules necessary or appropriate to
19 plan, operate, manage, and control the public health
20 facilities within its own regional system consistent
21 with corporate policies;



1 (2) Evaluating the need for additional health facilities
2 and services; provided that each regional system board
3 shall be responsible for the evaluation within its own
4 regional system;

5 (3) Entering into and performing any contracts, leases,
6 cooperative agreements, partnerships, or other
7 transactions whatsoever that may be necessary or
8 appropriate in the performance of its purposes and
9 responsibilities, and on terms [~~it~~] the corporation,
10 or regional system boards, may deem appropriate, with
11 either:

12 (A) Any agency or instrumentality of the United
13 States, or with any state, territory, or
14 possession, or with any subdivision thereof; or

15 (B) Any person, firm, association, partnership, or
16 corporation, whether operated on a for-profit or
17 not-for-profit basis;

18 provided that the transaction furthers the public
19 interest; and provided further that if any dispute
20 arises between any contract, lease, cooperative
21 agreement, partnership, or other transaction entered
22 into by the corporation and a regional system board



1 with regard to matters solely within that regional
2 system, after July 1, 2007, the contract, lease,
3 cooperative agreement, partnership, or other
4 transaction entered into by the regional system board
5 shall prevail; and provided further that such
6 agreements are consistent with corporation policies;

7 (4) Conducting activities and entering into business
8 relationships as the corporation board, or any
9 regional system boards, deems necessary or
10 appropriate, including but not limited to:

11 (A) Creating nonprofit corporations, including but
12 not limited to charitable fund-raising
13 foundations, to be controlled wholly by the
14 corporation, any regional system board, or
15 jointly with others;

16 (B) Establishing, subscribing to, and owning stock in
17 business corporations individually or jointly
18 with others; and

19 (C) Entering into partnerships and other joint
20 venture arrangements, or participating in
21 alliances, purchasing consortia, health insurance
22 pools, or other cooperative arrangements, with



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

9 provided that each regional system board shall be
 10 responsible for conducting the activities under this
 11 paragraph in its own regional system consistent with
 12 policies established by the corporation board;

13 (5) Participating in and developing prepaid health care
 14 service and insurance programs and other alternative
 15 health care delivery programs, including programs
 16 involving the acceptance of capitated payments or
 17 premiums that include the assumption of financial and
 18 actuarial risk; provided that each regional system
 19 board shall be responsible for conducting the
 20 activities under this paragraph in its own regional
 21 system consistent with policies established by the
 22 corporation board;



- 1 (6) Executing, in accordance with all applicable bylaws,
2 rules, and laws, all instruments necessary or
3 appropriate in the exercise of any powers of the
4 ~~[corporation's powers]~~ corporation or regional system
5 boards;
- 6 (7) Preparing and executing all ~~[corporation]~~ corporation-
7 wide budgets, policies, and procedures ~~[r]~~ or any
8 regional system budgets, policies, and procedures;
9 provided that the regional system boards shall submit
10 their regional and facility budgets to the corporation
11 to be consolidated into a corporation-wide budget for
12 purposes of corporation-wide planning and
13 appropriation requests. Regional system and facility
14 budgets shall be received by the corporation and shall
15 be included in the corporation-wide budget upon
16 submittal to the corporation;
- 17 (8) Setting rates and charges for all services provided by
18 the corporation without regard to chapter 91; provided
19 that the duty and power of the corporation board shall
20 be limited to approving the rates and charges
21 developed by the regional system boards for the
22 regional system's facilities and services. Rates and



1 charges may vary among regional systems and facilities
 2 and may be consolidated with the rates of other
 3 regional systems into one charge master. Third-party
 4 payer contracts may be negotiated at the corporation-
 5 wide level with input from the regional systems,
 6 taking into consideration the rates set by the
 7 regional system boards. For purposes of securing
 8 revenue bonds, the corporation or regional system
 9 board may covenant to set, and if necessary increase,
 10 rates and charges as needed to pay debt service and
 11 related obligations plus a coverage factor;

12 (9) Developing a corporation-wide hospital system that is
 13 subject to chapters 76 and 89; provided that
 14 employment of regional system and facility personnel
 15 shall be the responsibility of the regional system
 16 boards pursuant to corporation-wide policies and
 17 procedures, applicable laws, rules, regulations, and
 18 collective bargaining agreements;

19 (10) Developing the corporation's corporation-wide capital
 20 and strategic plans[+] or any regional system board's
 21 capital and strategic plans; provided that each
 22 regional system board shall be responsible for



development of capital and strategic plans in its own regional system that shall be consistent with, and incorporated into, the overall corporation-wide plans; and provided further that the corporation and each regional system board shall be entitled to undertake the acquisition, construction, and improvement of property, facilities, and equipment to carry out these capital and strategic plans;

(11) Suing and being sued; provided that only the corporation may sue or be sued; and provided further that the corporation and regional system boards shall enjoy the same sovereign immunity available to the State;

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

(13) Adopting rules[+] without regard to chapter 91[+] governing the exercise of [~~its~~] the corporation's or



1 regional system boards' powers and the fulfillment of
2 its purpose under this chapter;

3 (14) Entering into any contract or agreement whatsoever,
4 not inconsistent with this chapter or the laws of this
5 State, and authorizing the corporation, regional
6 system boards, and chief executive [officex] officers
7 to enter into all contracts, execute all instruments,
8 and do all things necessary or appropriate in the
9 exercise of the powers granted in this chapter,
10 including securing the payment of bonds; provided that
11 the corporation board shall delegate to a regional
12 system board its authority to enter into and execute
13 contracts or agreements relating to matters
14 exclusively affecting that regional system; provided
15 further that a regional system board shall exercise
16 this power consistent with corporation-wide policies;
17 and provided further that contracts or agreements
18 executed by a regional system board shall encumber
19 only the regional subaccounts of that regional system
20 board;



- 1 (15) Issuing revenue bonds up to \$100,000,000 subject to
2 the approval of the [~~legislature,~~] governor or the
3 director of finance; provided that [~~all~~]:
- 4 (A) All revenue bonds shall be issued pursuant to
5 part III, chapter 39;
- 6 (B) The corporation and any regional system board
7 shall have the power to issue revenue bonds in
8 any amount without regard to any limitation in
9 chapter 39; and
- 10 (C) The corporation shall have the power to incur
11 debt, including the issuance of revenue bonds in
12 any amount, and the regional system boards shall
13 have the power to issue revenue bonds in any
14 amount upon approval by the corporation board;
- 15 (16) Reimbursing the state general fund for debt service on
16 general obligation bonds or reimbursable general
17 obligation bonds issued by the State for the purposes
18 of the corporation[+] or any regional system board;
- 19 (17) Pledging or assigning all or any part of the receipts
20 [~~and~~], revenues, and other financial assets of the
21 corporation or the regional system boards for purposes
22 of meeting or securing bond or health systems



1 liabilities; provided that each regional system board
2 shall be responsible for conducting the activities
3 under this paragraph in its own regional system. Any
4 pledge or assignment by the corporation or any
5 regional system board to secure revenue bonds or
6 health system liabilities shall be valid and binding
7 in accordance with its terms against the pledgor,
8 creditors, and all others asserting rights thereto
9 from the time the pledge or assignment is made,
10 without the need of physical delivery, recordation,
11 filing, or further act. The corporation shall not
12 take or omit to take any act that would interfere
13 with, impair, or adversely affect any pledge of
14 assignment by a regional system board pursuant to this
15 chapter. In connection with issuing revenue bonds or
16 related obligations, consistent with corporation
17 policies and procedures, any regional system board may
18 make such other covenants, binding on the regional
19 system board and the corporation, that the regional
20 system board determines to be necessary or appropriate
21 to establish and maintain security for the revenue
22 bonds or related obligations;



1 (18) Owning, purchasing, leasing, exchanging, or otherwise
2 acquiring property, whether real, personal or mixed,
3 tangible or intangible, and of any interest therein,
4 in the name of the corporation, which property is not
5 owned or controlled by the State but is owned or
6 controlled by the corporation; provided that:

7 (A) Regional system boards shall have custodial
8 control over facilities and physical assets in
9 their respective regional systems. A regional
10 system board may own, purchase, lease, exchange,
11 or otherwise acquire property, whether real,
12 personal or mix, tangible or intangible, and of
13 any interest therein, other than property owned
14 or controlled by the corporation, in the name of
15 the regional system board; provided further that
16 a regional system board shall be subject to
17 section 323F-A; and

18 (B) Each regional system board shall be responsible
19 for conducting the activities under this
20 paragraph in its own regional system;

21 (19) Maintaining, improving, pledging, mortgaging, selling,
22 or otherwise holding or disposing of property, whether



1 real, personal or mixed, tangible or intangible, and
 2 of any interest therein, at any time and manner, in
 3 furtherance of the purposes and mission of the
 4 corporation[+] or any regional system board; provided
 5 that the corporation or any regional system board
 6 legally holds or controls the property in its own
 7 name; provided further that other than to secure
 8 revenue bonds and related obligations and agents, the
 9 corporation or any regional system board shall not
 10 sell, assign, lease, hypothecate, mortgage, pledge,
 11 give, or dispose of all or substantially all of its
 12 property; and provided further that each regional
 13 system board shall be responsible for conducting the
 14 activities under this paragraph in its own regional
 15 system, and control over such property shall be
 16 delegated to each regional system board;

17 (20) Purchasing insurance and creating captive insurers in
 18 any arrangement deemed in the best interest of the
 19 corporation, including but not limited to funding and
 20 payment of deductibles and purchase of reinsurance;
 21 provided that only the corporation shall have the
 22 power to create captive insurers to benefit public



1 health facilities and operations in all regional
2 systems; and provided further that a regional system
3 board may purchase insurance for its regional system
4 in collaboration with the other regional systems and
5 the corporation until captive coverage is provided by
6 the corporation;

7 (21) Acquiring by condemnation, pursuant to chapter 101,
8 any real property required by the corporation to carry
9 out the powers granted by this chapter;

10 (22) Depositing any moneys of the corporation or any
11 regional system board in any banking institution
12 within or without the State, and appointing, for the
13 purpose of making deposits, one or more persons to act
14 as custodians of the moneys of the corporation[+]; or
15 any regional system board; provided that regional
16 system boards may deposit moneys in banking
17 institutions pursuant to corporation-wide guidelines
18 established by the corporation board;

19 (23) Contracting for and accepting any gifts, grants, and
20 loans of funds, property, or any other aid in any form
21 from the federal government, the State, any state
22 agency, or any other source, or any combination



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

12 (24) Providing health and medical services for the public
 13 directly or by agreement or lease with any person,
 14 firm, or private or public corporation, partnership,
 15 or association through or in the health facilities of
 16 the corporation or regional system boards or
 17 otherwise; provided that the regional system boards
 18 shall be responsible for conducting the activities
 19 under this paragraph in their respective regional
 20 systems;

21 (25) Approving medical staff bylaws, rules, and medical
 22 staff appointments and reappointments for all public



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

15 (26) (A) Investing any funds not required for immediate
 16 disbursement in property or in securities that
 17 meet the standard for investments established in
 18 chapter 88 as provided by the corporation
 19 board[+] or any regional system board; provided
 20 that proceeds of bonds and moneys pledged to
 21 secure bonds may be invested in obligations
 22 permitted by any document that authorizes the



1 issuance or securing of bonds; and provided
2 further that the investment assists the
3 corporation or any regional system board in
4 carrying out its public purposes; selling from
5 time to time securities thus purchased and held,
6 and depositing any securities in any bank or
7 financial institution within or without the
8 State. Any funds deposited in a banking
9 institution or in any depository authorized in
10 this section shall be secured in a manner and
11 subject to terms and conditions as the
12 corporation board or a regional system board may
13 determine, with or without payment of any
14 interest on the deposit, including[7] without
15 limitation[7] time deposits evidenced by
16 certificates of deposit. Any bank or financial
17 institution incorporated under the laws of this
18 State may act as depository of any funds of the
19 corporation or a regional system board and may
20 issue indemnity bonds or may pledge securities as
21 may be required by the corporation or regional
22 system board; provided that regional system



1 boards may exercise the powers under this
2 subsection with respect to financial assets of
3 the regional system consistent with corporation-
4 wide policies; and

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

19 (27) Entering into any agreement with the State, including
20 but not limited to contracts for the provision of
21 goods, services, and facilities in support of the
22 corporation's programs[7] or the regional system



1 boards' programs, and contracting for the provision of
2 services to or on behalf of the State; provided that
3 the regional system boards shall be responsible for
4 entering into agreements to provide goods, services,
5 and facilities in support of programs in their
6 respective regional systems consistent with
7 corporation-wide policies;

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

9 (29) Waiving, by means that the corporation or regional
10 system board deems appropriate, the exemption from
11 federal income taxation of interest on the
12 corporation's or regional system boards' bonds, notes,
13 or other obligations provided by the Internal Revenue
14 Code of 1986, as amended, or any other federal statute
15 providing a similar exemption;

16 (30) Developing internal policies and procedures for the
17 procurement of goods and services, consistent with the
18 goals of public accountability and public procurement
19 practices, and subject to management and financial
20 legislative audits; provided that the regional system
21 boards shall be responsible for developing internal
22 policies and procedures for each of their regional



1 systems consistent with the corporation's policies and
2 procedures; and further provided that:

3 (A) The regional system boards and the corporate
4 board shall enjoy the exemption under section
5 103-53(e);

6 (B) The regional system boards shall enjoy the
7 exemption under chapter 103D; and

8 (C) The corporation shall be subject to chapter 103D;

9 (31) Authorizing and establishing positions; provided that
10 regional system boards shall be responsible for hiring
11 and firing regional and facility personnel consistent
12 with corporation policies, except a regional chief
13 executive officer and regional chief financial officer
14 shall only be hired or dismissed upon the approval of
15 the regional system board and the corporation board as
16 further set forth in section 323F-B;

17 ~~[(32) Calling upon the attorney general for such legal~~
18 ~~services as the corporation may require; and~~

19 ~~+(33)]~~ (32) Having and exercising all rights and powers
20 necessary or incidental to or implied from the
21 specific powers granted in this chapter, which
22 specific powers shall not be considered as a



1 limitation upon any power necessary or appropriate to
2 carry out the purposes and intent of this chapter[-];
3 provided that the regional system boards shall be
4 responsible for having and exercising all powers and
5 rights with respect to matters in their regional
6 systems consistent with the law; and

7 (33) Each regional system, through its regional system
8 board, shall:

9 (A) Develop policies and procedures necessary or
10 appropriate to plan, operate, manage, and control
11 the day-to-day operations of facilities within
12 the regional system that are consistent with
13 corporation-wide policies;

14 (B) Exercise custodial control over and use of all
15 assets of the corporation that are located in the
16 regional system pursuant to this chapter; and

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

21 ~~[(b) The corporation]~~ (d) Each regional system board

22 shall not be subject to chapters 36 to 38, 40, [and] 41D, and
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1 103D as well as part I of chapter 92 and shall enjoy the
2 exemptions contained in sections 102-2 and 103-53(e), except as
3 otherwise provided in this chapter. The corporation shall not
4 be subject to chapters 36 to 38, 40, and 41D, as well as part I
5 of chapter 92, and shall enjoy the exemptions contained in
6 sections 102-2 and 103-53(e).

7 ~~[(e)]~~ (e) The duties and powers granted to the corporation
8 or any regional system board may not be used to enter into
9 contractual or business relationships ~~[which]~~ that have the
10 practical effect of allowing or are intended to allow ~~[the~~
11 ~~private sector]~~ private-sector counterparts to replace existing
12 employee positions or responsibilities within the corporation or
13 in any regional system or its facilities; provided the
14 corporation or regional system boards shall be allowed to enter
15 into such relationships to the extent and for the purposes that
16 the division of community hospitals could have done under
17 collective bargaining contracts ~~[which]~~ that were in effect for
18 the 1995-1996 fiscal year."

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

21 "§323F-8 Chief executive officer; exempt positions. (a)

22 The corporation board may appoint, exempt from chapter 76 and
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1 section 26-35(a)(4), a chief executive officer of the
2 corporation whose salary shall be set by the corporation board.
3 The chief executive officer may also appoint up to eighteen
4 other personnel, exempt from chapters 76 and 89, to work
5 directly for the chief executive officer and the corporate
6 board.

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

11 (c) The corporation's chief executive officer or the chief
12 executive officer's designee may appoint, exempt from chapters
13 76 and 89, hospital administrators, assistant administrators,
14 directors of nursing, medical directors, and staff physicians,
15 to facilitate the management of facilities within the
16 corporation; provided that directors of nursing appointed before
17 July 1, 1998, may maintain their civil service status as
18 provided in chapter 76 by so communicating in writing to the
19 chief executive officer by October 31, 1998. Hospital
20 administrators and assistant administrators appointed before
21 July 1, 1983, may maintain their permanent civil service status
22 as provided in chapter 76.



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

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

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

15 "~~[-]~~ §323F-9 ~~[-]~~ Hiring of attorneys. The corporation and
16 regional system boards may employ or retain any attorney, by
17 contract or otherwise, for the purpose of representing the
18 corporation or regional system boards in any litigation,
19 rendering legal counsel ~~[to]~~, or drafting legal documents for
20 the corporation ~~[, or drafting legal documents for the~~
21 ~~corporation-]~~ or regional system boards."

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

3 "§323F-10 Regional public health facility management
4 advisory committees. (a) On the transfer date, there shall be
5 established within the corporation for each region, a public
6 health facility management advisory committee to consist of nine
7 members initially to be appointed by the chief executive officer
8 of the corporation with the advice of the hospital
9 administrators of the facilities in the affected regions. The
10 members shall serve for a term of four years; provided that upon
11 the initial appointment of the members, two shall be appointed
12 for a term of one year, two for a term of two years, two for a
13 term of three years, and three for a term of four years.

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



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

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

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



1 Each regional committee may also adopt other rules as it may
2 consider necessary for the conduct of its business.

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

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

20 (c) Each regional committee may prepare a report for
21 inclusion with the corporation's annual report and audit, which
22 shall include but not be limited to comments and analyses on the



1 corporation's regional operational and capital improvement
2 budgets for its respective region.

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

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

8 " ~~[+]~~ §323F-10.5 ~~[+]~~ Executive public health facility
9 management advisory committee, establishment. (a) There is
10 established within the corporation an executive public health
11 facility management advisory committee to consist of the
12 chairpersons of each of the five regional public health facility
13 management advisory committees. The executive committee shall,
14 through its chairperson, represent the interests of all regional
15 committees on the corporation board.

16 (b) The executive committee shall select its own
17 chairperson to serve on the corporation board and shall adopt
18 rules governing the terms of office and removal from the
19 corporation board. The executive committee shall also adopt
20 rules governing the terms of office for each of the five
21 regional committee chairpersons. The executive committee may



1 also adopt other rules as it may consider necessary for the
2 conduct of its business.

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

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

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

11 "[+] §323F-10.6 [+] Peer review and credentialing.
12 [~~Corporation board or other committee meetings pertaining to~~
13 ~~peer review and credentialing matters shall not be subject to~~
14 ~~part I of chapter 92.] Peer review activities shall be subject~~
15 ~~to [the provisions of]~~ chapters 663 and 671D and all other
16 provisions and restrictions of medical peer review committees
17 established by state law."

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

20 "[+] §323F-11 [+] Executive branch; noninterference.
21 Notwithstanding any other law to the contrary, the governor and
22 executive branch agencies shall limit their responsibilities to



1 that of review and oversight when the corporation or regional
 2 system board receives general funds from the State to subsidize
 3 the operating budgets of deficit facilities. The governor and
 4 executive branch agencies shall not interfere with the systemic
 5 change, capacity building, advocacy, budget, personnel, system
 6 plan development, or plan implementation activities of the
 7 corporation[-] or any regional system board. The governor and
 8 executive branch agencies shall not interfere with the ability
 9 of the corporation or regional system board to function as a
 10 multiple facility public hospital system delivering health care
 11 services to the residents of the State."

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

14 "[~~F~~]§323F-21[~~F~~] Fiscal provisions. (a) There is created
 15 in the state treasury a special fund to be known as the health
 16 systems special fund, into which shall be deposited all fees,
 17 proceeds, reimbursements, and the like owed to or received by
 18 the corporation, any regional system board, and its facilities,
 19 except as herein provided. There shall be established within
 20 the special fund regional subaccounts for each regional system
 21 board upon its establishment. The special fund and the regional



1 subaccounts shall be used solely to fulfill the purposes
2 outlined in this chapter.

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

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

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

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



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

- 13 (1) Where state general funding is reduced;
14 (2) An emergency exists; or
15 (3) There is a renegotiated budget approved by a regional
16 system board.

17 The corporation and regional system boards shall collaboratively
18 develop budgetary guidelines[-] and [~~may allocate to~~] negotiate
19 with each facility reasonable corporation administrative costs,
20 including funds determined by the corporation or any regional
21 system board to be needed from or provided to each facility to:

- 22 (1) Repay corporation or regional system board debts;



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

4 (3) Maintain appropriate reserves.

5 (c) The corporation and regional system boards shall
6 collaboratively develop annual corporation operating and capital
7 budgets, taking into account anticipated surpluses from or
8 subsidies to the facilities pursuant to the annual guidelines
9 described in this section, accumulated corporation and regional
10 system board reserves and accounts, subsidies, if any, that are
11 determined to be needed from the general fund, and other sources
12 of corporation-wide and regional system board income as may be
13 identified.

14 (d) Beginning with the first of the legislative biennium
15 budget years following the establishment of a regional system
16 board, and for each biennium period thereafter, the corporation
17 shall call together all the regional systems through
18 representatives selected by each regional system board, and the
19 chairs of the facility management advisory committees, if any,
20 to determine which services and functions should be provided by
21 the corporation for the next biennium budget period, consistent
22 with this chapter. As part of the biennium budgeting process,



1 the corporation board and the representatives of each regional
2 system, working through the corporation board regional
3 representatives, shall agree upon an allocation methodology for
4 funding the agreed upon and statutorily created corporate
5 services and functions.

6 ~~[(d)]~~ (e) The corporation may share in any facility's
7 surplus and may offset any facility's deficits~~[-]~~ as provided
8 herein. Any regional system board shall share in the surplus of
9 any facility within the regional system and shall offset any
10 facility deficits within its regional system. Operating
11 surpluses of the regional system board shall be reinvested in
12 the operations of that regional system in any prudent manner;
13 provided that upon request, and subject to authorization by the
14 regional system board, the regional system board may share its
15 surplus or resources with a facility outside of the regional
16 system to benefit the corporation-wide system of health care.
17 Obligations undertaken by a facility shall be paid only from
18 funds of that facility, unless the corporation board, the
19 regional system board managing the facility, or ~~[its]~~ an
20 authorized agent explicitly agrees to guarantee the obligation.
21 Loans and other transfers may be made between regional systems



1 upon approval of the affected regional system boards to assist
2 in the cash flow and operations of the public health facilities.

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

7 (1) Bill and collect for its services;

8 (2) Maintain bank accounts; and

9 (3) Pay for needed personnel, supplies, equipment, and
10 other operational and capital expenditures.

11 ~~[(f)]~~ (g) The corporation and each regional system board,
12 subject to policies established by the corporation and each
13 regional system board, respectively, may elect to manage its own
14 capital improvement project and funds, either directly or
15 indirectly by contract; provided that annual reports of the
16 project moneys are provided to the governor and legislature.

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



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

3 "[+] §323F-22 [+] Annual audit and report; disclosure of
4 revenue projections. (a) The corporation shall engage a
5 certified public accountant to conduct an annual audit of its
6 financial affairs, books, and records in accordance with
7 generally accepted accounting principles. The corporation, in
8 consultation with a regional system board, may permit or require
9 a regional system board to retain an audit firm to conduct an
10 independent audit of the regional system. Each regional system
11 board shall submit the results of the annual audit to the
12 corporation board within one hundred twenty days after the close
13 of the regional system board's fiscal year. The corporation
14 shall submit to the governor and the legislature, within one
15 hundred fifty days after the close of the corporation's fiscal
16 year, a report that shall include the audited financial report
17 for that fiscal year[-] for the corporation and each regional
18 system board.

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



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

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

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

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

14 "[+] §323F-23 [+] Exemption from taxation. The corporation
15 and each regional system board shall [not] be [required to pay
16 assessments] exempt from paying any:

17 (1) Assessments levied by any county [~~, nor shall the~~
18 ~~corporation be required to pay state]; and~~

19 (2) State taxes of any kind."

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



1 " ~~[+] §323F-24 [.]~~ Budget oversight. The corporation's and
2 each regional system board's operating and capital improvement
3 budgets shall not be subject to review or approval by the
4 governor or any state agency, except where state general funds
5 or capital improvement moneys are requested. If general funds
6 or capital improvement moneys are requested, then the
7 corporation or any regional system board shall include, with its
8 request, the proposed budget for which the funds or moneys are
9 to be included. The corporation and regional system boards,
10 once operational, shall collaboratively submit ~~[its]~~ their
11 budgets annually to the legislature for review and approval at
12 least twenty days prior to the convening of the regular
13 legislative session, beginning with the budgets for the ~~[1997-~~
14 ~~1998]~~ 2010-2011 biennium fiscal years."

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

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

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

10 (b) Following a transition period of no longer than one
11 year after the establishment of each regional system board, and
12 by mutual agreement, the custodial control over the assets,
13 personnel, services, and operations of the Hawaii health systems
14 corporation with regard to the facilities within the regional
15 system shall be transferred to the regional system board,
16 consistent with system-wide planning, policies, and guidelines,
17 and applicable laws and rules. The corporation and newly
18 established regional system boards shall report to the
19 legislature within thirty days of the establishment of the newly
20 created boards. The corporation shall assist any regional
21 system considering such a request. Each transition shall take



1 no longer than one year, unless a longer period is mutually
2 agreed to by the corporation and the regional system.

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

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

17 An officer or employee of the State who does not have
18 tenure and who may be transferred or appointed to a civil
19 service position as a consequence of this Act shall become a
20 civil service employee without the loss of salary, seniority,
21 prior service credit, vacation, sick leave, or other employee
22 benefits or privileges and without the necessity of examination;



1 provided that such officer or employee possesses the minimum
2 qualifications for the position to which transferred or
3 appointed.

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

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

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

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

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

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



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

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

14 SECTION 39. In codifying the new sections added by section
15 2 of this Act, the reviser of statutes shall substitute
16 appropriate section numbers for the letters used in designating
17 the new sections in this Act.

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

20 SECTION 41. This Act shall take effect on July 1, 2007;
21 provided that the amendments made to section 323F-7(c)(15),
22 Hawaii Revised Statutes, in section 23 of this Act shall not



- 1 take effect if H.B. No. 1764 in any form passed by the
- 2 legislature, regular session of 2007, becomes an Act.



S.B. No. 1792
S.D. 3
H.D. 3
C.D. 2

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. (CD2)

