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# A BILL FOR AN ACT

RELATING TO THE HAWAII HEALTH SYSTEMS CORPORATION.

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

1           SECTION 1. The legislature finds that the State's  
2 community hospital system, Hawaii health systems corporation, is  
3 the fourth largest public hospital system in the nation. The  
4 Hawaii health systems 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 quasi-public agency, the  
16 Hawaii health systems corporation. This arrangement is the  
17 result of landmark legislation, Act 262, Session Laws of Hawaii



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

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

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



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

7 During the 1996 conference committee hearings on S.B.  
8 No. 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  
16 systems corporation has developed strong administrative and  
17 clinical leadership in all five regions and is now ready for the  
18 implementation of a pilot program in the Maui region to  
19 investigate the effects of implementation of the regional board  
20 recommendation and whether the regional board concept would  
21 enhance the ability of local communities and stakeholders to  
22 participate in the decision-making and operation of their own



1 community hospitals. While the management advisory committees  
2 have been diligent in representing the communities, their role  
3 has been solely advisory. This pilot program will provide  
4 insight into the benefits of local operation of community  
5 hospitals through an independent regional board.

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

11 The purpose of this Act is to advance the State's  
12 commitment to provide quality health care for the people of  
13 Hawaii, by moving forward on the original task force  
14 recommendation of community-based governance and establishing a  
15 Maui regional affiliate corporation pilot program for the Maui  
16 region, to be governed by a community-based regional board of  
17 directors, and to provide the necessary authority for the Maui  
18 regional affiliate corporation pilot program to accomplish the  
19 goal of community-based governance.

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

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1           "§323F-A Maui regional affiliate corporation; transfer of  
2 assets. (a) There shall be a regional affiliate corporation  
3 for the Maui region specified in section 323F-2. The Maui  
4 regional affiliate corporation shall be a public body corporate  
5 and politic affiliated with the corporation and shall be placed  
6 within the department of health for administrative purposes  
7 specified in section 26-35(a)(6) only. No real property,  
8 including land, structures, and fixtures, or other physical  
9 assets, such as personal property, including furnishings,  
10 equipment, and inventory, of the corporation shall be  
11 transferred to the Maui regional affiliate corporation; provided  
12 that all health systems financial assets and financial  
13 liabilities of the Maui region shall be transferred.

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



1 board shall enter into an agreement with the Maui regional board  
2 to lease, at a nominal annual rent of \$1, any real property or  
3 other physical assets for use by the Maui regional affiliate  
4 corporation.

5 (c) The Maui regional affiliate corporation shall consist  
6 of Kula hospital, Lanai community hospital, and Maui memorial  
7 medical center and all other public health facilities created or  
8 acquired hereafter by the Maui regional affiliate corporation.

9 **§323F-B Maui regional board.** (a) The Maui regional  
10 affiliate corporation, shall be governed by a regional board of  
11 directors to consist of not fewer than seven members and not  
12 more than fifteen members, as determined by the regional board  
13 after the initial regional board is established, which shall  
14 carry out the duties and responsibilities of the Maui regional  
15 affiliate corporation.

16 (1) The Maui regional board shall initially consist of  
17 eleven members to be appointed by the governor  
18 pursuant to section 26-34 as follows:

19 (A) Four members shall be appointed by the governor  
20 within thirty days of receipt of a qualified list  
21 of candidates as follows:



- 1           (i) Two members shall be chosen from a list of  
2           four individuals submitted by the speaker of  
3           the house of representatives. This list  
4           shall not include physicians; and
- 5           (ii) Two members shall be chosen from a list of  
6           four individuals submitted by the president  
7           of the senate. This list shall not include  
8           physicians;
- 9           (B) Four members shall be nominated by the regional  
10           public health facility management advisory  
11           committee, for appointment by the governor, for  
12           the region as follows:
- 13           (i) One member shall be chosen from the members  
14           of the corporation board. This individual  
15           shall not be a physician and shall not be a  
16           resident of the Maui region; and
- 17           (ii) Three members shall be chosen from a list of  
18           six individuals who may be medical and  
19           health care providers and professionals,  
20           consumers, and knowledgeable individuals in  
21           other appropriate areas such as business and



1                   law. These individuals shall not be  
2                   physicians currently in active practice;  
3                   and  
4                   (C) Three physicians shall be appointed from a list  
5                   of six physicians nominated by a majority vote of  
6                   the medical staff of the public health facilities  
7                   in the Maui region present at a duly noticed  
8                   meeting from a list of qualified candidates  
9                   submitted by the medical executive committees in  
10                   the region;  
11                   (2) One member of the initial Maui regional board  
12                   nominated by the house of representatives, senate, and  
13                   medical executive committees in the Maui region shall  
14                   be appointed for a term of two years;  
15                   (3) One member of the initial Maui regional board  
16                   nominated by the regional public health facility  
17                   management advisory committee for the Maui region  
18                   shall be appointed for a term of two years;  
19                   (4) The remaining members of the initial Maui regional  
20                   board and all members appointed thereafter shall be  
21                   appointed for terms of three years; and





1       (5) New Maui regional board members appointed to the Maui  
2       regional board after the initial Maui board shall be  
3       selected in the same manner as the original members.

4       Except for the appointment of a representative from the  
5       corporation, all other members of the Maui regional board shall  
6       be residents of the Maui region. The Maui regional board shall  
7       elect its own chair.

8       (b) The Maui regional board shall be responsible for local  
9       governance, operations, and administration of the delivery of  
10       services in the Maui region. The Maui regional board shall  
11       include non-physician medical and health care providers and  
12       professionals, consumers, and knowledgeable individuals in other  
13       appropriate areas, such as business and law; provided that only  
14       three members of the Maui regional board shall be physicians.  
15       The Maui regional board shall be as balanced and representative  
16       of the community stakeholders as possible.

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

22       (1) Malfeasance in office;



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

8        **§323F-C Regional chief executive officer; exempt position.**

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

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



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

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

9        "(e) Nothing in this section shall be construed as in any  
 10 manner affecting the civil service laws applicable to the  
 11 several counties, the judiciary, or the Hawaii health systems  
 12 corporation[7] or Maui regional affiliate corporation, which  
 13 shall remain the same as if this chapter had not been enacted."

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

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

17        "(a) For purposes of this section, "member" means any  
 18 person who is appointed, in accordance with the law, to serve on  
 19 a temporary or permanent state board, including members of the  
 20 local school board of any charter school established under  
 21 chapter 302B, council, authority, committee, or commission,  
 22 established by law or elected to the board of education, or the



1 board of trustees of the employees' retirement system under  
2 section 88-24[+], or the corporation board of the Hawaii health  
3 systems corporation under section 323F-3 and Maui regional board  
4 under section 323F-C; provided that "member" shall not include  
5 any person elected to serve on a board or commission in  
6 accordance with chapter 11 other than a person elected to serve  
7 on the board of education."

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

9 "(e) The attorney general, or in the case of the [~~board~~]:

10 (1) Board of regents of the University of Hawaii[~~-its~~];

11 the university general counsel[~~-~~]or

12 (2) Corporation board of the Hawaii health systems

13 corporation under section 323F-3 or Maui regional

14 board under section 323F-C, or the attorneys retained

15 by the corporation board of the Hawaii health systems

16 corporation or Maui regional board under section

17 323F-9, respectively,

18 shall represent and defend a member in any civil action for  
19 which immunity is conferred under subsection (b), or when the  
20 attorney general, or, if the action involves a member of the  
21 board of regents, the university general counsel, determines  
22 that indemnification is available to the member under subsection



1 (c), and the member against whom the action is brought has  
 2 submitted a written request for representation and has provided  
 3 the attorney general, or the university general counsel in the  
 4 case of an action involving a member of the board of regents,  
 5 with all process or complaint served upon the member within a  
 6 reasonable period of time, but not more than five days after  
 7 being served with the process or complaint. The attorney  
 8 general, or the university general counsel, may terminate the  
 9 representation and defense of the member at any time if, after  
 10 representation and defense is accepted, the attorney general, or  
 11 the university general counsel, determines that indemnification  
 12 would not be available to the member under subsection (c)."

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

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

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



- 1 (1) By the public utilities commission, the labor and
- 2 industrial relations appeals board, and the Hawaii
- 3 labor relations board;
- 4 (2) By any court or judicial or legislative office of the
- 5 State;
- 6 (3) By the legislative reference bureau;
- 7 (4) By any compilation commission that may be constituted
- 8 from time to time;
- 9 (5) By the real estate commission for any action involving
- 10 the real estate recovery fund;
- 11 (6) By the contractors license board for any action
- 12 involving the contractors recovery fund;
- 13 (7) By the trustees for any action involving the travel
- 14 agency recovery fund;
- 15 (8) By the office of Hawaiian affairs;
- 16 (9) By the department of commerce and consumer affairs for
- 17 the enforcement of violations of chapters 480 and 485;
- 18 (10) As grand jury counsel;
- 19 (11) By the Hawaiian home lands trust individual claims
- 20 review panel;



- 1 (12) By the Hawaii health systems corporation, Maui  
2 regional affiliate corporation, or any of [~~its~~] their  
3 facilities;
- 4 (13) By the auditor;
- 5 (14) By the office of ombudsman;
- 6 (15) By the insurance division;
- 7 (16) By the University of Hawaii;
- 8 (17) By the Kahoolawe island reserve commission;
- 9 (18) By the division of consumer advocacy;
- 10 (19) By the office of elections;
- 11 (20) By the campaign spending commission;
- 12 (21) By the Hawaii tourism authority, as provided in  
13 section 201B-2.5; or
- 14 (22) By a department, in the event the attorney general,  
15 for reasons deemed by the attorney general good and  
16 sufficient, declines, to employ or retain an attorney  
17 for a department; provided that the governor thereupon  
18 waives the provision of this section."
- 19 2. By amending subsection (c) to read:
- 20 "(c) Every attorney employed by any department on a full-  
21 time basis, except an attorney employed by the public utilities  
22 commission, the labor and industrial relations appeals board,



1 the Hawaii labor relations board, the office of Hawaiian  
2 affairs, the Hawaii health systems corporation[7] or Maui  
3 regional affiliate corporation, the department of commerce and  
4 consumer affairs in prosecution of consumer complaints,  
5 insurance division, the division of consumer advocacy, the  
6 University of Hawaii, the Hawaii tourism authority as provided  
7 in section 201B-2.5, the Hawaiian home lands trust individual  
8 claims review panel, or as grand jury counsel, shall be a deputy  
9 attorney general."

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

12 "(a) There is established in the state treasury an  
13 interagency federal revenue maximization revolving fund into  
14 which shall be deposited all funds and proceeds collected from  
15 the federal government and third-party payors for costs not  
16 previously claimed by the State, with the exception of proceeds  
17 collected for services provided by the Hawaii health systems  
18 corporation[7] or Maui regional affiliate corporation, for  
19 reimbursement of federally-funded state programs. For purposes  
20 of this chapter, federally-funded state programs include but  
21 shall not be limited to those federally-funded programs within  
22 the departments of human services and health, and shall not





1 include the federally-funded program within the department of  
2 education as provided in [+]section[+] 302A-1406. Expenditures  
3 and transfers from the fund shall be made by the comptroller in  
4 proportional allocations established by the comptroller and the  
5 director of finance. Transfers shall be made to the department  
6 claiming the reimbursement for expenses incurred related to  
7 federal fund reimbursement claims and to the general fund of the  
8 State. Moneys in the fund may be expended for consultant  
9 services rendered under subsection (b)."

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

12 "**§36-27 Transfers from special funds for central service**  
13 **expenses.** Except as provided in this section, and  
14 notwithstanding any other law to the contrary, from time to  
15 time, the director of finance, for the purpose of defraying the  
16 prorated estimate of central service expenses of government in  
17 relation to all special funds, except the:

- 18 (1) Special out-of-school time instructional program fund  
19 under section 302A-1310;
- 20 (2) School cafeteria special funds of the department of  
21 education;
- 22 (3) Special funds of the University of Hawaii;



- 1 (4) State educational facilities improvement special fund;
- 2 (5) Convention center enterprise special fund under
- 3 section 201B-8;
- 4 (6) Special funds established by section 206E-6;
- 5 (7) Housing loan program revenue bond special fund;
- 6 (8) Housing project bond special fund;
- 7 (9) Aloha Tower fund created by section 206J-17;
- 8 (10) Funds of the employees' retirement system created by
- 9 section 88-109;
- 10 (11) Unemployment compensation fund established under
- 11 section 383-121;
- 12 (12) Hawaii hurricane relief fund established under chapter
- 13 431P;
- 14 (13) Hawaii health systems corporation special funds[+] and
- 15 the Maui regional affiliate corporation special funds;
- 16 (14) Tourism special fund established under section
- 17 201B-11;
- 18 (15) Universal service fund established under chapter 269;
- 19 (16) Integrated tax information management systems special
- 20 fund under section 231-3.2;
- 21 (17) Emergency and budget reserve fund under section
- 22 328L-3;



- 1 (18) Public schools special fees and charges fund under
- 2 section 302A-1130(f);
- 3 (19) Sport fish special fund under section 187A-9.5;
- 4 (20) Neurotrauma special fund under section 321H-4;
- 5 (21) Deposit beverage container deposit special fund under
- 6 section 342G-104;
- 7 (22) Glass advance disposal fee special fund established by
- 8 section 342G-82;
- 9 (23) Center for nursing special fund under section
- 10 [+]304A-2163[+];
- 11 (24) Passenger facility charge special fund established by
- 12 section 261-5.5;
- 13 (25) Solicitation of funds for charitable purposes special
- 14 fund established by section 467B-15;
- 15 (26) Land conservation fund established by section 173A-5;
- 16 (27) Court interpreting services revolving fund under
- 17 section 607-1.5;
- 18 (28) Trauma system special fund under section 321-22.5;
- 19 (29) Hawaii cancer research special fund;
- 20 (30) Community health centers special fund; and
- 21 (31) Emergency medical services special fund[+];



1 shall deduct five per cent of all receipts of all other special  
 2 funds, which deduction shall be transferred to the general fund  
 3 of the State and become general realizations of the State. All  
 4 officers of the State and other persons having power to allocate  
 5 or disburse any special funds shall cooperate with the director  
 6 in effecting these transfers. To determine the proper revenue  
 7 base upon which the central service assessment is to be  
 8 calculated, the director shall adopt rules pursuant to chapter  
 9 91 for the purpose of suspending or limiting the application of  
 10 the central service assessment of any fund. No later than  
 11 twenty days prior to the convening of each regular session of  
 12 the legislature, the director shall report all central service  
 13 assessments made during the preceding fiscal year.[+]"

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

- 16 "(a) Each special fund, except the:
- 17 (1) Transportation use special fund established by section
  - 18 261D-1;
  - 19 (2) Special out-of-school time instructional program fund
  - 20 under section 302A-1310;
  - 21 (3) School cafeteria special funds of the department of
  - 22 education;



- 1 (4) Special funds of the University of Hawaii;
- 2 (5) State educational facilities improvement special fund;
- 3 (6) Special funds established by section 206E-6;
- 4 (7) Aloha Tower fund created by section 206J-17;
- 5 (8) Funds of the employees' retirement system created by
- 6 section 88-109;
- 7 (9) Unemployment compensation fund established under
- 8 section 383-121;
- 9 (10) Hawaii hurricane relief fund established under chapter
- 10 431P;
- 11 (11) Convention center enterprise special fund established
- 12 under section 201B-8;
- 13 (12) Hawaii health systems corporation special funds[+] and
- 14 the Maui regional affiliate corporation special funds;
- 15 (13) Tourism special fund established under section
- 16 201B-11;
- 17 (14) Universal service fund established under chapter 269;
- 18 (15) Integrated tax information management systems special
- 19 fund under section 231-3.2;
- 20 (16) Emergency and budget reserve fund under section
- 21 328L-3;



- 1 (17) Public schools special fees and charges fund under
- 2 section 302A-1130(f);
- 3 (18) Sport fish special fund under section 187A-9.5;
- 4 (19) Neurotrauma special fund under section 321H-4;
- 5 (20) Center for nursing special fund under section
- 6 [+]304A-2163[+];
- 7 (21) Passenger facility charge special fund established by
- 8 section 261-5.5;
- 9 (22) Court interpreting services revolving fund under
- 10 section 607-1.5;
- 11 (23) Trauma system special fund under section 321-22.5;
- 12 (24) Hawaii cancer research special fund;
- 13 (25) Community health centers special fund; and
- 14 (26) Emergency medical services special fund[+];

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

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

20 "**§37-53 Transfer of special funds.** At any time during a  
 21 fiscal year, notwithstanding any other law to the contrary, any  
 22 department may, with the approval of the governor or the



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



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

3 "(d) No appropriation transfers or changes between  
4 programs or agencies shall be made without legislative  
5 authorization; provided that:

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

8 (2) Except with respect to appropriations to fund  
9 financing agreements under chapter 37D, the University  
10 of Hawaii shall have the flexibility to transfer  
11 appropriated funds and positions for the operating  
12 cost category among programs, among cost elements in a  
13 program, and between quarters, as applicable; except  
14 with respect to appropriations to fund financing  
15 agreements under chapter 37D, the department of  
16 education shall have the flexibility to transfer  
17 appropriated funds and positions for the operating  
18 cost category among programs and among cost elements  
19 in a program, and between quarters, as applicable; and  
20 the Hawaii health systems corporation and the Maui  
21 regional affiliate corporation shall have the  
22 flexibility to transfer special fund appropriations





1 among community hospitals facilities as applicable[+]  
2 and as mutually agreed to by the corporation and the  
3 Maui regional affiliate corporation; provided that the  
4 Hawaii health systems corporation and the Maui  
5 regional affiliate corporation shall maintain the  
6 integrity and services of each individual facility and  
7 shall not transfer appropriations out of any facility  
8 that would result in a reduction of services offered  
9 by the facility, with due regard for statutory  
10 requirements, changing conditions, the needs of the  
11 programs, and the effective utilization of resources;  
12 and

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



1 SECTION 11. Section 37D-1, Hawaii Revised Statutes, is  
2 amended by amending the definition of "agency" or "participating  
3 agency" to read as follows:

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

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

16 "**§37D-2 Financing agreements.** (a) There is hereby  
17 established and authorized the financing agreement program of  
18 the State. Any agency desiring to acquire or improve projects  
19 through the financing agreement program established and  
20 authorized by this chapter shall submit a written request to the  
21 department providing such information as the department shall  
22 require. Notwithstanding any other law to the contrary, and



1 except for the Hawaii health systems corporation[7] and the Maui  
2 regional affiliate corporation, only with the approval by the  
3 attorney general as to form and legality and upon the written  
4 request of one or more participating agencies may the department  
5 enter into a financing agreement in accordance with this  
6 chapter, except that the board of regents of the University of  
7 Hawaii may enter into a financing agreement in accordance with  
8 this chapter without the approval of the director and of the  
9 attorney general as to form and legality if the principal amount  
10 of the financing agreement does not exceed \$3,000,000. A  
11 financing agreement may be entered into by the department on  
12 behalf of one or more participating agencies at any time (before  
13 or after commencement or completion of any improvements or  
14 acquisitions to be financed) and shall be upon terms and  
15 conditions the department finds to be advantageous. In each  
16 case of a written request by the judiciary to participate in the  
17 financing agreement program, the department shall implement the  
18 request; provided that the related financing agreement shall be  
19 upon terms and conditions the department finds to be  
20 advantageous. Any financing agreement entered into by the  
21 department without the approval required by this section shall  
22 be void and of no effect. A single financing agreement may



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

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

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

- 19 (1) Amounts payable by a participating agency to or upon  
20 the direction of the department in respect to a  
21 project and by the department under a financing  
22 agreement shall be limited to available moneys. In no



1           circumstance shall the department be obligated to pay  
2           amounts due under a financing agreement from any  
3           source other than available moneys. If, by reason of  
4           insufficient available moneys or other reason, amounts  
5           due under a financing agreement are not paid when due,  
6           the lender may exercise any property right that the  
7           department has granted to it in the financing  
8           agreement, against the property that was purchased  
9           with the proceeds of the financing agreement, and  
10          apply the amounts so received toward payments  
11          scheduled to be made by the department under the  
12          financing agreement;

13          (2) No property rights may be granted in property unless  
14          the property is being acquired, is to be substantially  
15          improved, is to be refinanced with the proceeds of a  
16          financing agreement, or is land on which the property  
17          is located;

18          (3) Notwithstanding any other law to the contrary, and  
19          except for the Hawaii health systems corporation and  
20          the Maui regional affiliate corporation, and as  
21          otherwise provided in this section with respect to the  
22          University of Hawaii, and except as provided in



1 chapter 323F as to the Hawaii health systems  
 2 corporation[7] and the Maui regional affiliate  
 3 corporation, an agency shall not have the power to  
 4 enter into a financing agreement, except through the  
 5 department as authorized by this chapter, and nothing  
 6 in this chapter shall be construed to authorize the  
 7 sale, lease, or other disposition of property owned by  
 8 an agency;

9 (4) Except as otherwise provided in this section with  
 10 respect to the University of Hawaii, the sale,  
 11 assignment, or other disposition of any financing  
 12 agreements, including certificates of participation  
 13 relating thereto, shall require the approval of the  
 14 director; and

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

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

20 "(b) Any provision in this section to the contrary  
 21 notwithstanding, the University of Hawaii (as to casualty  
 22 insurance risks only), the Research Corporation of the



1 University of Hawaii (as to casualty insurance risks only),  
 2 [~~and~~] the public health facilities of the department of health  
 3 (with respect to medical malpractice risks only), and the Hawaii  
 4 health systems corporation and Maui regional affiliate  
 5 corporation shall be exempt from the requirements of this  
 6 chapter."

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

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

- 12 (1) For operation of ground transportation services and  
 13 parking lot operations at airports, except for motor  
 14 vehicle rental operations under chapter 437D;
- 15 (2) For lei vendors;
- 16 (3) For airline and aircraft operations;
- 17 (4) For automatic teller machines and vending machines,  
 18 except vending machines located at public schools  
 19 operated by blind or visually handicapped persons in  
 20 accordance with section 302A-412;
- 21 (5) For operation of concessions set aside without any  
 22 charge;



1           (6) For operation of concessions by handicapped or blind  
2           persons; except concessions operated in the public  
3           schools by blind or visually handicapped persons in  
4           accordance with section 302A-412;

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

9           (8) For operation of concessions or concession spaces for  
10          a beach service association dedicated to the  
11          preservation of the Hawaii beachboy tradition,  
12          incorporated as a nonprofit corporation in accordance  
13          with state law, and whose members are appropriately  
14          licensed or certified as required by law;

15          (9) For operation of concessions at county zoos, botanic  
16          gardens, or other county parks which are  
17          environmentally, culturally, historically, or  
18          operationally unique and are supported, by nonprofit  
19          corporations incorporated in accordance with state law  
20          solely for purposes of supporting county aims and  
21          goals of the zoo, botanic garden, or other county  
22          park, and operating under agreement with the





- 1 appropriate agency solely for such purposes, aims, and  
2 goals;
- 3 (10) For operation of concessions that furnish goods or  
4 services for which there is only one source, as  
5 determined by the head of the awarding government  
6 agency in writing that shall be included in the  
7 contract file; [~~and~~]
- 8 (11) For operation of concession or concession spaces at  
9 the convention center under chapter 201B[-]; and
- 10 (12) For the Hawaii health systems corporation and Maui  
11 regional affiliate corporation."

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

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

- 15 (1) Any procurement of less than \$25,000 or that is  
16 considered a small purchase under section 103D-305 and  
17 any state or county department contract of less than  
18 \$25,000;
- 19 (2) Emergency purchases for the procurement of goods,  
20 services, or construction under section 103D-307,  
21 disaster relief under chapter 127, or a civil defense  
22 emergency under chapter 128;



- 1           (3) Grants and subsidies disbursed by a state agency  
2           pursuant to chapter 42F or in accordance with  
3           standards provided by law as required by article VII,  
4           section 4, of the State Constitution, or made by the  
5           counties pursuant to their respective charters or  
6           ordinances;
- 7           (4) Contracts or agreements between government agencies;
- 8           (5) Contracts or agreements to disburse funds:
- 9           (A) To make payments to or on behalf of public  
10           officers and employees for salaries, fringe  
11           benefits, professional fees, and reimbursements;
- 12           (B) To satisfy obligations required to be paid by  
13           law, including fees, judgments, settlements, and  
14           other payments for resolving claims;
- 15           (C) To make refunds or return funds held by the State  
16           or county as trustee, custodian, or bailee;
- 17           (D) For entitlement programs, including public  
18           assistance, unemployment, and workers'  
19           compensation programs, established by state or  
20           federal law;



- 1 (E) For deposit, investment, or safekeeping,  
2 including sums to pay expenses related to their  
3 deposit investment, or safekeeping;
- 4 (F) For loans under government-administered loan  
5 programs; or
- 6 (G) To make periodic, recurring payments for utility  
7 services; [~~and~~]
- 8 (6) Rent for the use or occupation of the premises and  
9 facilities at Aloha Stadium, the convention center, or  
10 any other state or county large spectator events  
11 facility[~~-~~]; and
- 12 (7) Contracts or agreements of the Hawaii health systems  
13 corporation and Maui regional affiliate corporation."

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

16 "**§103D-102 Application of this chapter.** (a) This chapter  
17 shall apply to all procurement contracts made by governmental  
18 bodies whether the consideration for the contract is cash,  
19 revenues, realizations, receipts, or earnings, any of which the  
20 State receives or is owed; in-kind benefits; or forbearance;  
21 provided that nothing in this chapter or rules adopted hereunder  
22 shall prevent any governmental body from complying with the



1 terms and conditions of any other grant, gift, bequest, or  
2 cooperative agreement.

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

5 (1) Solicited or entered into before July 1, 1994, unless  
6 the parties agree to its application to a contract  
7 solicited or entered into prior to July 1, 1994;

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

9 (A) For grants or subsidies as those terms are  
10 defined in section 42F-101, made by the State in  
11 accordance with standards provided by law as  
12 required by article VII, section 4, of the State  
13 Constitution; or by the counties pursuant to  
14 their respective charters or ordinances;

15 (B) To make payments to or on behalf of public  
16 officers and employees for salaries, fringe  
17 benefits, professional fees, or reimbursements;

18 (C) To satisfy obligations that the State is required  
19 to pay by law, including paying fees, permanent  
20 settlements, subsidies, or other claims, making  
21 refunds, and returning funds held by the State as  
22 trustee, custodian, or bailee;



- 1 (D) For entitlement programs, including public  
2 assistance, unemployment, and workers'  
3 compensation programs, established by state or  
4 federal law;
- 5 (E) For dues and fees of organizations of which the  
6 State or its officers and employees are members,  
7 including the National Association of Governors,  
8 the National Association of State and County  
9 Governments, and the Multi-State Tax Commission;
- 10 (F) For deposit, investment, or safekeeping,  
11 including expenses related to their deposit,  
12 investment, or safekeeping;
- 13 (G) To governmental bodies of the State;
- 14 (H) As loans, under loan programs administered by a  
15 governmental body; and
- 16 (I) For contracts awarded in accordance with chapter  
17 103F.
- 18 (3) To procure goods, services, or construction from a  
19 governmental body other than the University of Hawaii  
20 bookstores, from the federal government, or from  
21 another state or its political subdivision;



- 1           (4) To procure the following goods or services which are
- 2           available from multiple sources but for which
- 3           procurement by competitive means is either not
- 4           practicable or not advantageous to the State:
- 5           (A) Services of expert witnesses for potential and
- 6           actual litigation of legal matters involving the
- 7           State, its agencies, and its officers and
- 8           employees, including administrative quasi-
- 9           judicial proceedings;
- 10          (B) Works of art for museum or public display;
- 11          (C) Research and reference materials including books,
- 12          maps, periodicals, and pamphlets, which are
- 13          published in print, video, audio, magnetic, or
- 14          electronic form;
- 15          (D) Meats and foodstuffs for the Kalaupapa
- 16          settlement;
- 17          (E) Opponents for athletic contests;
- 18          (F) Utility services whose rates or prices are fixed
- 19          by regulatory processes or agencies;
- 20          (G) Performances, including entertainment, speeches,
- 21          and cultural and artistic presentations;



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



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

3 (A) References in state or federal law to provisions  
4 of this chapter or a section of this chapter, or  
5 references to a particular requirement of this  
6 chapter; and

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

13 (c) Notwithstanding subsection (a), this chapter shall not  
14 apply to contracts made by the Hawaii health systems corporation  
15 and Maui regional affiliate corporation.

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





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

4 "Maui regional affiliate corporation" means an affiliate  
5 corporation for the Maui region that was established by Act 262,  
6 Session Laws of Hawaii 1996, and is a public body corporate and  
7 politic affiliated with the corporation.

8 "Maui regional board" means a regional board of directors  
9 of the Maui regional affiliate corporation of the corporation."

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

12 "(b) Ten members of the corporation board shall be  
13 appointed by the governor from two lists of nominees, consisting  
14 of at least twenty candidates each, submitted by the president  
15 of the senate and the speaker of the house of representatives,  
16 respectively, as follows:

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

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

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



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

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

5 (6) One member from region II who resides in the county of  
6 Kauai or from region III who resides in the district  
7 of Hana or on the island of Lanai; provided that in no  
8 event shall the member be appointed from the same  
9 region for two consecutive terms; and

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

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

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



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

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

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



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

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

10 (2) Three at-large members shall be appointed for a term  
11 of three years; and

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

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

19 SECTION 19. Section 323F-4, Hawaii Revised Statutes, is  
20 amended to read as follows:

21 "**§323F-4 Board meetings.** (a) The corporation board shall  
22 meet no fewer than four times a year. The corporation board and



1 Maui regional board shall be exempt from part I of chapter 92  
2 and shall meet no fewer than six times a year; provided that the  
3 Maui regional board shall hold at least two public community  
4 meetings for the purpose of informing the community and taking  
5 comment on the Maui region's performance. [All meetings of the  
6 corporation board shall be subject to chapter 92, except that in  
7 addition to matters exempted pursuant to law, the corporation  
8 board may elect to hold an executive meeting for the  
9 consideration of any matters set forth in section 323F-6.]

10 (b) All business of the corporation board and Maui  
11 regional board shall be conducted at a regular or special  
12 meeting at which a quorum is present, consisting of at least a  
13 majority of the directors then in office. Any action of the  
14 corporation board or Maui regional board shall require the  
15 affirmative vote of a majority of those present and voting at  
16 the meeting; except that a vote of two-thirds of the [~~members~~]  
17 entire membership of the [~~corporation~~] respective board then in  
18 office shall be required for any of the following actions:

19 (1) Removal by the corporation board or Maui regional  
20 board of one of its members[, ~~with the exception of~~  
21 ~~the eleventh and twelfth members set forth in section~~



1           ~~323F-3, who may only be removed pursuant to sections~~  
2           ~~323F-10 and 323F-10.5];~~

3           (2) Amendment by the corporation or Maui regional board of  
4           its bylaws;

5           (3) Hiring or removing the chief executive officer of the  
6           corporation[+] or Maui regional chief executive  
7           officer; and

8           (4) Any other actions as provided by the corporation or  
9           Maui regional board bylaws."

10          SECTION 20. Section 323F-5, Hawaii Revised Statutes, is  
11          amended to read as follows:

12          "~~[+]§323F-5[+]~~ **Disclosure of interests.** All corporation  
13          and Maui regional board members and employees of the corporation  
14          and Maui regional affiliate corporation shall be subject to  
15          chapter 84."

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

18          "~~[+]§323F-6[+]~~ **Records.** The corporation and Maui regional  
19          affiliate corporation shall be subject to the requirements of  
20          chapter 92F, except that the following categories of government  
21          records shall not be required to be disclosed:



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

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

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

21 "**§323F-7 Duties and powers of the corporation[ ] and Maui**  
22 **regional affiliate corporation.** (a) Notwithstanding any other



1 law to the contrary[~~7~~] and unless otherwise specified, only  
2 those duties and powers related to corporation-wide matters,  
3 including but not limited to corporation-wide budgeting,  
4 personnel policies, procurement policies, strategic planning,  
5 and capital planning, including the issuance of revenue bonds in  
6 any amount, shall be carried out by the corporation [~~shall have~~  
7 and exercise the following duties] board. Duties and powers[~~+~~]  
8 related to the operation of facilities within the Maui region,  
9 including but not limited to regional and facility budgeting,  
10 employment and removal of regional and facility personnel,  
11 purchasing, regional strategic and capital planning,  
12 organization, quality assurance, improvement and reporting,  
13 credentialing of medical staff, and the issuance of revenue  
14 bonds in an amount up to and including \$ \_\_\_\_\_, shall be  
15 carried out by the Maui regional board, either directly or by  
16 delegation to regional and facility administration. Unless  
17 otherwise specified, the duties and powers granted to the  
18 corporation board may be delegated to the Maui regional board of  
19 the Maui regional affiliate corporation.

20 (b) Notwithstanding any other law to the contrary, the  
21 corporation, either directly or through the Maui regional board,  
22 shall exercise the following duties and powers:





- 1 (1) Developing its own policies, procedures, and rules  
2 necessary or appropriate to plan, operate, manage, and  
3 control the system of public health facilities and  
4 services without regard to chapter 91; provided that  
5 the Maui regional board shall be responsible for its  
6 own policies, procedures, and rules necessary or  
7 appropriate to plan, operate, manage, and control the  
8 public health facilities within its own region;
- 9 (2) Evaluating the need for additional health facilities  
10 and services; provided that the Maui regional board  
11 shall be responsible for the evaluation within the  
12 Maui region;
- 13 (3) Entering into and performing any contracts, leases,  
14 cooperative agreements, partnerships, or other  
15 transactions whatsoever that may be necessary or  
16 appropriate in the performance of its purposes and  
17 responsibilities, and on terms [~~it~~] the corporation or  
18 Maui regional affiliate corporation for the Maui  
19 region may deem appropriate, with either:
- 20 (A) Any agency or instrumentality of the United  
21 States, or with any state, territory, or  
22 possession, or with any subdivision thereof; or



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

4 provided that the transaction furthers the public  
5 interest; and provided further that if any dispute  
6 arises between any contract, lease, cooperative  
7 agreement, partnership, or other transaction entered  
8 into by the corporation and Maui regional affiliate  
9 corporation with regard to matters solely within the  
10 Maui region, the contract, lease, cooperative  
11 agreement, partnership, or other transaction entered  
12 into by the Maui regional affiliate corporation shall  
13 prevail;

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

18 (A) Creating nonprofit corporations, including but  
19 not limited to charitable fund-raising  
20 foundations, to be controlled wholly by the  
21 corporation, Maui regional affiliate corporation,  
22 or jointly with others;



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

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

16 provided that the Maui regional board shall be  
17 responsible for conducting the activities under this  
18 paragraph in the Maui region;

19 (5) Participating in and developing prepaid health care  
20 service and insurance programs and other alternative  
21 health care delivery programs, including programs  
22 involving the acceptance of capitated payments or



1 premiums that include the assumption of financial and  
2 actuarial risk; provided that the Maui regional board  
3 shall be responsible for conducting the activities  
4 under this paragraph in the Maui region;

5 (6) Executing, in accordance with all applicable bylaws,  
6 rules, and laws, all instruments necessary or  
7 appropriate in the exercise of any powers of the  
8 [~~corporation's powers,~~] corporation or Maui regional  
9 affiliate corporation;

10 (7) Preparing and executing all [~~corporation~~] corporation-  
11 wide budgets, policies, and procedures[+] or Maui  
12 regional affiliate corporation budgets, policies, and  
13 procedures, respectively; provided that the Maui  
14 regional affiliate corporation shall submit its  
15 regional and facility budgets to the corporation to be  
16 consolidated into a corporation-wide budget for  
17 purposes of corporation-wide planning and  
18 appropriation requests;

19 (8) Setting rates and charges for all services provided by  
20 the corporation without regard to chapter 91; provided  
21 that the duty and power of the corporation board shall  
22 be limited to approving the rates and charges



1           developed by the Maui regional board for the Maui  
2           region's facilities and services. Third-party payor  
3           contracts may be negotiated at the corporation-wide  
4           level with input from the Maui region and taking into  
5           consideration the rates set by the Maui regional  
6           board;

7           (9) Developing a corporation-wide hospital personnel  
8           system that is subject to chapters 76 and 89; provided  
9           that employment of Maui's regional and facility  
10           personnel shall be the responsibility of the Maui  
11           regional board;

12           (10) Developing the corporation's corporation-wide capital  
13           and strategic plans[+] or Maui regional affiliate  
14           corporation's regional capital and strategic plans,  
15           respectively; provided that the Maui regional board  
16           shall be responsible for development of capital and  
17           strategic plans in its own region that shall be  
18           consistent with, and incorporated into, the overall  
19           corporation-wide plans;

20           (11) Suing and being sued; provided that the corporation  
21           and Maui regional affiliate corporation shall enjoy  
22           the same sovereign immunity available to the State;



- 1           (12) Making and altering corporation board and Maui  
2                   regional board bylaws for its organization and  
3           management without regard to chapter 91; provided that  
4                   the Maui regional board shall be responsible for the  
5                   final approval of its regional board bylaws;
- 6           (13) Adopting rules[7] without regard to chapter 91[7]  
7                   governing the exercise of [~~its~~] the corporation's or  
8                   Maui regional affiliate corporation's powers and the  
9                   fulfillment of its purpose under this chapter;
- 10          (14) Entering into any contract or agreement whatsoever,  
11                   not inconsistent with this chapter or the laws of this  
12                   State, and authorizing the corporation, Maui regional  
13                   affiliate corporation, and chief executive [~~officer~~]  
14                   officers to enter into all contracts, execute all  
15                   instruments, and do all things necessary or  
16                   appropriate in the exercise of the powers granted in  
17                   this chapter, including securing the payment of bonds;  
18                   provided that the Maui regional board shall be  
19                   responsible for entering into contracts and executing  
20                   all instruments relating to matters in the Maui  
21                   region;



- 1 (15) Issuing revenue bonds subject to the approval of the  
2 legislature; provided that all revenue bonds shall be  
3 issued pursuant to part III, chapter 39; provided  
4 further that the corporation shall have the power to  
5 issue revenue bonds in any amount, and the Maui  
6 regional affiliate corporation shall have the power to  
7 issue revenue bonds in an amount up to and including  
8 \$\_\_\_\_\_;
- 9 (16) Reimbursing the state general fund for debt service on  
10 general obligation bonds or reimbursable general  
11 obligation bonds issued by the State for the purposes  
12 of the corporation[+] or Maui regional affiliate  
13 corporation;
- 14 (17) Pledging or assigning all or any part of the receipts  
15 and revenues of the corporation or Maui regional  
16 affiliate corporation for purposes of meeting bond or  
17 health systems liabilities; provided that the Maui  
18 regional board shall be responsible for conducting the  
19 activities under this paragraph in the Maui region;
- 20 (18) Owning, purchasing, leasing, exchanging, or otherwise  
21 acquiring property, whether real, personal or mixed,  
22 tangible or intangible, and of any interest therein,



1 in the name of the corporation, which property is not  
 2 owned or controlled by the State but is owned or  
 3 controlled by the corporation[+]. The Maui regional  
 4 affiliate corporation shall have the power to own,  
 5 purchase, lease, exchange, or otherwise acquire  
 6 property, whether real, personal or mixed, tangible or  
 7 intangible, and of any interest therein, other than  
 8 property owned or controlled by the corporation, in  
 9 the name of the Maui regional affiliate corporation;  
 10 provided that the Maui regional affiliate corporation  
 11 shall be subject to section 323F-A; and provided  
 12 further that the Maui regional board shall be  
 13 responsible for conducting the activities under this  
 14 paragraph in the Maui region;

15 (19) Maintaining, improving, pledging, mortgaging, selling,  
 16 or otherwise holding or disposing of property, whether  
 17 real, personal or mixed, tangible or intangible, and  
 18 of any interest therein, at any time and manner, in  
 19 furtherance of the purposes and mission of the  
 20 corporation[+] or Maui regional affiliate corporation;  
 21 provided that the corporation or Maui regional  
 22 affiliate corporation legally holds or controls the





1 property in its own name; provided further that the  
2 corporation or Maui regional affiliate corporation  
3 shall not sell, assign, lease, hypothecate, mortgage,  
4 pledge, give, or dispose of all or substantially all  
5 of its property; and provided further that the Maui  
6 regional board shall be responsible for conducting the  
7 activities under this paragraph in the Maui region;

8 (20) Purchasing insurance and creating captive insurers in  
9 any arrangement deemed in the best interest of the  
10 corporation[7] or Maui regional affiliate corporation,  
11 including but not limited to funding and payment of  
12 deductibles and purchase of reinsurance; provided that  
13 only the corporation shall have the power to create  
14 captive insurers to benefit public health facilities  
15 and operations in all regions; and provided further  
16 that the Maui regional board shall otherwise be  
17 responsible for purchasing insurance for the Maui  
18 region;

19 (21) Acquiring by condemnation, pursuant to chapter 101,  
20 any real property required by the corporation or Maui  
21 regional affiliate corporation to carry out the powers  
22 granted by this chapter;



- 1           (22) Depositing any moneys of the corporation or Maui  
2           regional affiliate corporation in any banking  
3           institution within or without the State, and  
4           appointing, for the purpose of making deposits, one or  
5           more persons to act as custodians of the moneys of the  
6           corporation[+] or Maui regional affiliate corporation;
- 7           (23) Contracting for and accepting any gifts, grants, and  
8           loans of funds, property, or any other aid in any form  
9           from the federal government, the State, any state  
10          agency, or any other source, or any combination  
11          thereof, and complying, subject to this chapter, with  
12          the terms and conditions thereof; provided that the  
13          Maui regional board shall be responsible for  
14          contracting for and accepting any gifts, grants,  
15          loans, property, or other aid if intended to benefit  
16          the public health facilities and operations in the  
17          Maui region;
- 18          (24) Providing health and medical services for the public  
19          directly or by agreement or lease with any person,  
20          firm, or private or public corporation, partnership,  
21          or association through or in the health facilities of  
22          the corporation or Maui regional affiliate corporation



1 or otherwise; provided that the Maui regional board  
2 shall be responsible for conducting the activities  
3 under this paragraph in the Maui region;

4 (25) Approving medical staff bylaws, rules, and medical  
5 staff appointments and reappointments for all public  
6 health facilities[7] of the corporation or Maui  
7 regional affiliate corporation, including [without  
8 limitation,] but not limited to determining the  
9 conditions under which a health professional may be  
10 extended the privilege of practicing within a health  
11 facility, as determined by the Maui regional board,  
12 and adopting and implementing reasonable rules,  
13 without regard to chapter 91, for the credentialing  
14 and peer review of all persons and health  
15 professionals within the facility; provided that the  
16 Maui regional board shall be responsible for all  
17 credentialing activities;

18 (26) (A) Investing any funds not required for immediate  
19 disbursement in property or in securities that  
20 meet the standard for investments established in  
21 chapter 88 as provided by the corporation  
22 board[+] or Maui regional board; provided the



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



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

15 (27) Entering into any agreement with the State, including  
16 but not limited to contracts for the provision of  
17 goods, services, and facilities in support of the  
18 corporation's programs[7] or Maui regional affiliate  
19 corporation's programs, and contracting for the  
20 provision of services to or on behalf of the State;  
21 provided that the Maui regional board shall be  
22 responsible for entering into agreements to provide



- 1           goods, services, and facilities in support of programs  
2           in the Maui region;
- 3           (28) Having a seal and altering the same at pleasure;
- 4           (29) Waiving, by means that the corporation or Maui  
5           regional affiliate corporation deems appropriate, the  
6           exemption from federal income taxation of interest on  
7           the corporation's or Maui regional affiliate  
8           corporation's bonds, notes, or other obligations  
9           provided by the Internal Revenue Code of 1986, as  
10          amended, or any other federal statute providing a  
11          similar exemption;
- 12          (30) Developing internal policies and procedures for the  
13          procurement of goods and services, consistent with the  
14          goals of public accountability and public procurement  
15          practices; provided that the Maui regional board shall  
16          be responsible for developing internal policies and  
17          procedures for the Maui region; and provided further  
18          that:
- 19                (A) The Maui regional board shall:
- 20                    (i) Not be subject to chapter 103D; and
- 21                    (ii) Enjoy the exemption under section 103-53(e);
- 22                    and



1           (B) The corporation shall:

2                   (i) Be subject to chapter 103D; and

3                   (ii) Enjoy the exemption under section 103-53(e);

4       (31) Authorizing and establishing positions; provided that

5           the Maui regional affiliate corporation shall be

6           responsible for hiring and firing of regional and

7           facility personnel, except the Maui regional chief

8           executive officer shall only be hired or dismissed

9           upon the approval of the Maui regional board;

10       ~~[(32) Calling upon the attorney general for such legal~~

11           ~~services as the corporation may require; and~~

12       ~~(33)]~~ (32) Having and exercising all rights and powers

13           necessary or incidental to or implied from the

14           specific powers granted in this chapter, which

15           specific powers shall not be considered as a

16           limitation upon any power necessary or appropriate to

17           carry out the purposes and intent of this chapter[-];

18           provided that the Maui regional board shall be

19           responsible for having and exercising all powers and

20           rights with respect to matters in the Maui region; and

21       (33) With respect to the Maui regional affiliate

22           corporation, through the Maui regional board, shall:



- 1           (A) Develop policies and procedures necessary or
- 2           appropriate to plan, operate, manage, and control
- 3           the day-to-day operation of facilities within the
- 4           Maui region that are consistent with corporation-
- 5           wide policies;
- 6           (B) Exercise custodial control over and use of all
- 7           assets of the corporation that are located in the
- 8           Maui regional affiliated corporation's region
- 9           pursuant to section 323F-A; and
- 10          (C) Expend funds within its approved regional budget
- 11          and expend additional funds in excess of its
- 12          approved regional budget upon approval of the
- 13          corporation board.

14          ~~[(b)]~~ (c) [The corporation] The Maui regional affiliate

15 corporation shall not be subject to chapters 36 to 38, 40, [and]

16 41D, and 103D, and shall enjoy the exemptions contained in

17 sections 102-2 and 103-53(e), except as otherwise provided in

18 this chapter. The corporation shall not be subject to chapters

19 36 to 38, 40, and 41D, and shall enjoy the exemptions contained

20 in sections 102-2 and 103-53(e).

21          ~~[(e)]~~ (d) The duties and powers granted to the corporation

22 or Maui regional affiliate corporation may not be used to enter





1 into contractual or business relationships [~~which~~] that have the  
2 practical effect of allowing or are intended to allow the  
3 [~~private-sector~~] private-sector counterparts to replace existing  
4 employee positions or responsibilities within the corporation or  
5 Maui regional affiliate corporation or its facilities; provided  
6 the corporation or Maui regional affiliate corporation shall be  
7 allowed to enter into such relationships to the extent and for  
8 the purposes that the division of community hospitals could have  
9 done under collective bargaining contracts [~~which~~] that were in  
10 effect for the 1995-1996 fiscal year."

11 SECTION 23. Section 323F-8, Hawaii Revised Statutes, is  
12 amended to read as follows:

13 **"§323F-8 Chief executive officer; exempt positions.** (a)  
14 The corporation board may appoint, exempt from chapter 76 and  
15 section 26-35(a)(4), a chief executive officer of the  
16 corporation whose salary shall be set by the corporation board.  
17 The chief executive officer may also appoint up to eighteen  
18 other personnel, exempt from chapters 76 and 89, to work  
19 directly for the chief executive officer and the corporate  
20 board.

21 (b) The corporation board or its designee may discharge  
22 its exempt personnel with or without cause; provided that



1 removal without cause shall not prejudice any contract rights of  
2 personnel.

3 (c) The corporation's chief executive officer or the chief  
4 executive officer's designee may appoint, exempt from chapters  
5 76 and 89, hospital administrators, assistant administrators,  
6 directors of nursing, medical directors, and staff physicians,  
7 to facilitate the management of facilities within the  
8 corporation; provided that directors of nursing appointed before  
9 July 1, 1998, may maintain their civil service status as  
10 provided in chapter 76 by so communicating in writing to the  
11 chief executive officer by October 31, 1998. Hospital  
12 administrators and assistant administrators appointed before  
13 July 1, 1983, may maintain their permanent civil service status  
14 as provided in chapter 76.

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



1 SECTION 24. Section 323F-9, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "[~~f~~]**S323F-9**[~~+~~] **Hiring of attorneys.** The corporation and  
4 Maui regional affiliate corporation may employ or retain any  
5 attorney, by contract or otherwise, for the purpose of  
6 representing the corporation or Maui regional affiliate  
7 corporation in any litigation, rendering legal counsel [~~to~~], or  
8 drafting legal documents for the corporation[~~, or drafting legal~~  
9 ~~documents for the~~] or Maui regional affiliate corporation."

10 SECTION 25. Section 323F-10, Hawaii Revised Statutes, is  
11 amended to read as follows:

12 "**S323F-10 Regional public health facility management**  
13 **advisory committees.** (a) On the transfer date, there shall be  
14 established within the corporation for each region, a public  
15 health facility management advisory committee to consist of nine  
16 members initially to be appointed by the chief executive officer  
17 of the corporation with the advice of the hospital  
18 administrators of the facilities in the affected regions. The  
19 members shall serve for a term of four years; provided that upon  
20 the initial appointment of the members, two shall be appointed  
21 for a term of one year, two for a term of two years, two for a  
22 term of three years, and three for a term of four years.



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

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

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



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

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

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



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

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

11 (d) Upon the establishment of the Maui regional affiliate  
12 corporation and its initial regional board, this section shall  
13 no longer apply to the Maui region."

14 SECTION 26. Section 323F-10.5, Hawaii Revised Statutes, is  
15 amended to read as follows:

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



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

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

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

14 (d) Upon the establishment of the Maui regional affiliate  
15 corporation and its initial regional board, this section shall  
16 no longer apply to the Maui region."

17 SECTION 27. Section 323F-10.6, Hawaii Revised Statutes, is  
18 amended to read as follows:

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

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



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

4 SECTION 28. Section 323F-11, Hawaii Revised Statutes, is  
5 amended to read as follows:

6 "[~~+~~]**\$323F-11**[~~+~~] **Executive branch; noninterference.**

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

21 SECTION 29. Section 323F-21, Hawaii Revised Statutes, is  
22 amended to read as follows:





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

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

16 The corporation and Maui regional affiliate corporation may  
17 provide reasonable reserves for any of the following purposes:

- 18 (1) Insurance deductibles;
- 19 (2) The improvement, replacement, or expansion of ~~[its]~~  
20 their facilities or services;



1           (3) The securing of the corporation's or Maui regional  
2           affiliate corporation's bonds, notes, or other  
3           instruments of indebtedness; or

4           (4) Any other purpose [~~it~~] the corporation or Maui  
5           regional affiliate corporation deems necessary or  
6           appropriate in the performance of [~~its~~] their purposes  
7           and responsibilities.

8           (b) The corporation board and Maui regional board shall  
9           collaboratively develop annual operating and capital budgets for  
10          each facility. The corporation and Maui regional affiliate  
11          corporation shall collaboratively develop budgetary guidelines,  
12          and may [~~allocate to~~] negotiate with each facility reasonable  
13          [~~corporation~~] corporate administrative costs, including funds  
14          determined by the corporation or Maui regional affiliate  
15          corporation to be needed from or provided to each facility to:

16           (1) Repay corporation or Maui regional affiliate  
17           corporation debts;

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

21           (3) Maintain appropriate reserves.



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

11           (d) The corporation may share in any facility's surplus  
12 and may offset any facility's deficits. The Maui regional  
13 affiliate corporation shall share in the surplus of any facility  
14 within the Maui region and shall offset any facility deficits  
15 within the Maui region. Operating surpluses of the Maui  
16 regional affiliate corporation shall be reinvested in the  
17 operations of the Maui region in any prudent manner; provided  
18 that upon request, the Maui regional affiliate corporation may  
19 share its surplus or resources with a facility outside of the  
20 Maui region, subject to authorization by the Maui regional  
21 board, to benefit the corporation-wide system of health care.  
22 Obligations undertaken by a facility shall be paid only from



1 funds of that facility, unless the corporation board, Maui  
2 regional board, or [~~its~~] an authorized agent explicitly agrees  
3 to guarantee the obligation.

4 (e) In accordance with each annual facility budget, each  
5 facility of the corporation and Maui regional affiliate  
6 corporation, 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) The corporation and Maui regional affiliate  
12 corporation may elect to manage its own capital improvement  
13 project and funds, either directly or indirectly by contract;  
14 provided that annual reports of the project moneys are provided  
15 to the governor and legislature.

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

21 SECTION 30. Section 323F-22, Hawaii Revised Statutes, is  
22 amended to read as follows:



1 " [+]§323F-22[+] **Annual audit and report; disclosure of**  
2 **revenue projections.** (a) The corporation and Maui regional  
3 affiliate corporation shall engage a certified public accountant  
4 to conduct an annual audit of its financial affairs, books, and  
5 records in accordance with generally accepted accounting  
6 principles. The corporation shall submit to the governor and  
7 the legislature within one hundred fifty days after the close of  
8 the corporation's fiscal year, a report that shall include the  
9 audited financial report for that fiscal year[-] for the  
10 corporation and Maui regional affiliate corporation.

11 (b) In addition to the submittal of the audit required  
12 under subsection (a), the corporation, in cooperation with the  
13 Maui regional affiliate corporation, shall submit a report to  
14 the legislature at least twenty days prior to the convening of  
15 each regular session that shall include but not be limited to:

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



1        (c) The Maui regional board shall prepare a report for  
2 inclusion with the corporation's annual report and audit, which  
3 shall include but not be limited to comments and analyses on the  
4 services provided by the Maui regional affiliate corporation to  
5 the Maui region."

6        SECTION 31. Section 323F-23, Hawaii Revised Statutes, is  
7 amended to read as follows:

8        "~~[-]~~ **§323F-23** ~~[+]~~ **Exemption from taxation.** The corporation  
9 and Maui regional affiliate corporation shall ~~[not]~~ be ~~[required~~  
10 ~~to pay assessments]~~ exempt from paying any:

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

13        (2) State taxes of any kind."

14        SECTION 32. Section 323F-24, Hawaii Revised Statutes, is  
15 amended to read as follows:

16        "~~[-]~~ **§323F-24** ~~[+]~~ **Budget oversight.** The corporation's and  
17 Maui regional affiliate corporation's operating and capital  
18 improvement budgets shall not be subject to review or approval  
19 by the governor or any state agency, except where state general  
20 funds or capital improvement moneys are requested. If general  
21 funds or capital improvement moneys are requested, then the  
22 corporation or Maui regional affiliate corporation shall include



1 with its request, the proposed budget for which the funds or  
2 moneys are to be included. The corporation and Maui regional  
3 affiliate corporation shall collaboratively submit [~~its~~] their  
4 budgets annually to the legislature for review and approval at  
5 least twenty days prior to the convening of the regular  
6 legislative session, beginning with the budgets for the [~~1997-~~  
7 ~~1998~~] 2009-2011 fiscal [~~years-~~] biennium."

8 SECTION 33. Section 323F-31, Hawaii Revised Statutes, is  
9 amended by amending subsection (a) to read as follows:

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

14 SECTION 34. (a) It is the intent of this Act that all  
15 rights, powers, functions, and operational authority of the  
16 Hawaii health systems corporation, with respect to the health  
17 facilities in the Maui region, be conveyed to the Maui regional  
18 affiliate corporation at such time as the Maui regional  
19 affiliate corporation is established, such that all of the  
20 activities and services of the health facilities be continued  
21 without interruption by the Maui regional affiliate corporation;  
22 provided that the Hawaii health systems corporation shall lease,



1 at a nominal annual rent of \$1, any real property, including  
2 land, structures, and fixtures, or any other physical assets,  
3 such as personal property, including furnishings, equipment, or  
4 inventory, to the Maui regional affiliate corporation within the  
5 Maui region pursuant to section 323F-A(b), Hawaii Revised  
6 Statutes. This Act shall be construed with this intent.

7 (b) Following a transition period of no longer than one  
8 year after the establishment of the Maui regional affiliate  
9 corporation, and by mutual agreement, the governance and  
10 operational rights, powers, functions, and duties of the Hawaii  
11 health systems corporation with regard to the facilities within  
12 the Maui region, shall be transferred to the Maui regional  
13 affiliate corporation. The corporation and newly established  
14 Maui regional affiliate corporation for the Maui region shall  
15 report to the legislature within thirty days of the  
16 establishment of the Maui regional affiliate corporation.

17 (c) The financial assets, including hospital funds  
18 relating to health facilities in the Maui region, shall be  
19 conveyed to the Maui regional affiliate corporation at such time  
20 as the Maui regional affiliate corporation is established. Upon  
21 establishment, the Maui regional affiliate corporation shall  
22 assume the responsibility of the Hawaii health systems





1 corporation with respect to the Maui region for all contracts,  
2 agreements, and leases for commodities, services, property, and  
3 supplies used by the Hawaii health systems corporation, all of  
4 which shall be transferred to the Maui regional affiliate  
5 corporation, including real property leases.

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

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

20 An officer or employee of the State who does not have  
21 tenure and who may be transferred or appointed to a civil  
22 service position as a consequence of this Act, shall become a



1 civil service employee without the loss of salary, seniority,  
2 prior service credit, vacation, sick leave, or other employee  
3 benefits or privileges and without the necessity of examination;  
4 provided that such officer or employee possesses the minimum  
5 qualifications for the position to which transferred or  
6 appointed.

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

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



1 such officer or employee shall be paid by the Maui regional  
2 affiliate corporation.

3 SECTION 35. All appropriations, records, equipment,  
4 machines, files, supplies, contracts, books, papers,  
5 documentation, maps, and other personal property heretofore  
6 made, used, acquired, or held by the Hawaii health systems  
7 corporation relating to the functions transferred, shall be  
8 placed into the custodial control of the Maui regional affiliate  
9 corporation upon establishment of the Maui regional affiliate  
10 corporation pursuant to section 323F-A(b), Hawaii Revised  
11 Statutes.

12 SECTION 36. (a) The Maui regional affiliate corporation,  
13 in carrying out its duties and responsibilities, may enter into  
14 appropriate agreements with the Hawaii health systems  
15 corporation, if necessary, to use the Maui regional health  
16 facilities and real property under the control of the Hawaii  
17 health systems corporation prior to the completed establishment  
18 of the Maui regional affiliate corporation. Each agreement  
19 shall require compensation of a nominal amount for the use of  
20 any facilities or real property. Until the agreements are  
21 finalized, the Maui regional affiliate corporation shall be



1 entitled to use the facilities and real property of the Hawaii  
2 health systems corporation located within the Maui region.

3 (b) State agencies shall continue to provide to the Maui  
4 regional affiliate corporation, without charge, for six months  
5 after the establishment of the Maui regional affiliate  
6 corporation, services that the state agencies provided to the  
7 Hawaii health systems corporation until the Maui regional  
8 affiliate corporation enters into a written contract with the  
9 state agencies or chooses to terminate the services.

10 (c) The Maui regional affiliate corporation shall assume  
11 and honor all collective bargaining agreements applicable to  
12 employees of the Hawaii health systems corporation, with respect  
13 to the employees of the health facilities within the Maui  
14 region. The Maui regional affiliate corporation shall have  
15 representation on the corporation's bargaining team to address  
16 the Maui region's needs with regard to efficiency and  
17 effectiveness.

18 (d) Upon establishment, the Maui regional affiliate  
19 corporation shall assume and honor all responsibilities and  
20 obligations transferred to it from the Hawaii health systems  
21 corporation, regarding the imposition of rates, rents, fees, and  
22 charges for the use of health facilities. In no way shall this



1 Act be construed as allowing the Maui regional affiliate  
2 corporation or the Hawaii health systems corporation to abrogate  
3 these responsibilities and obligations.

4 SECTION 37. All acts passed prior to or during this  
5 regular session of 2007, whether enacted before or after passage  
6 of this Act shall be interpreted to conform to this Act, unless  
7 the acts specifically provide that this Act is being amended.  
8 In so far as this Act is inconsistent with any other law, this  
9 Act shall control.

10 SECTION 38. In codifying the new sections added by section  
11 2 of this Act, the revisor of statutes shall substitute  
12 appropriate section numbers for the letters used in designating  
13 the new sections in this Act.

14 SECTION 39. Statutory material to be repealed is bracketed  
15 and stricken. New statutory material is underscored.

16 SECTION 40. This Act shall take effect on July 1, 2121;  
17 provided that section 2 shall take effect on July 1, 2122;  
18 provided further that this Act shall be repealed on June 30,  
19 2012 and the respective sections amended pursuant to this Act  
20 shall be reenacted in the form in which they appeared on the day  
21 prior to the effective date of this Act.



**Report Title:**

Hawaii Health Systems Corporation; Maui Regional Affiliate

**Description:**

Authorizes the establishment of the Maui regional affiliate corporation under the Hawaii Health Systems Corporation. Establishes powers, duties, rights, and obligations of the Hawaii Health Systems Corporation and Maui regional affiliate corporation. (SB1792 HD2)

