
A BILL FOR AN ACT

RELATING TO THE HAWAII HEALTH SYSTEMS CORPORATION.

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

1 SECTION 1. The legislature finds that the State's
2 community hospital system, Hawaii health systems corporation, is
3 the fourth largest public hospital system in the nation. The
4 Hawaii health system corporation's public health facilities
5 provide essential safety-net hospital and long-term care
6 services through out the State and are often the only hospitals
7 in many rural communities. Due to rapid changes taking place in
8 the health care industry, the legislature acknowledges that the
9 governing structure of our public hospital system must provide
10 the appropriate flexibility and autonomy needed to compete and
11 remain viable and respond to the needs of the specific
12 communities served 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, after years of study. Act 262 was largely the result of
2 the work of a task force established pursuant to Act 266,
3 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 where the hospitals are located and meet with the
12 management of the facilities and the Hawaii health systems
13 corporation executives in order to give the communities a voice
14 in 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 the regional board recommendation. Further,
19 the regional board concept would enhance the ability of local
20 communities and stakeholders to participate in the decision-
21 making and operation of their own community hospitals. While
22 the management advisory committees have been diligent in



1 representing the communities, their role has been solely
2 advisory. Local community stakeholders, through independent
3 regional boards, are in the best position to make the critical
4 decisions relating to the local operation of their community
5 hospitals. Additionally, regional boards would have the ability
6 to address local needs and concerns in a more timely fashion.

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

11 The purpose of this Act is to advance the State's
12 commitment to provide quality health care for the people of the
13 State, by adopting the original task force recommendation of
14 community-based governance and establishing a regional affiliate
15 corporation for the Maui region as an initial step to more
16 regional control for all regions, to be governed by a community-
17 based regional board of directors, and to provide the necessary
18 authority for each regional affiliate corporation to accomplish
19 the goal of community-based governance. This Act also
20 establishes the process for enabling other regions to develop
21 regional boards and become a regional affiliate corporation.



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

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

17 (b) Upon its establishment, a regional affiliate
18 corporation shall assume custodial care of all real property,
19 including land, structures, and fixtures, and any other physical
20 assets, such as personal property, including furnishings,
21 equipment, and inventory, of the corporation within its region.
22 No sale or encumbrance of any such real property or such other

1 physical assets of the corporation shall be permitted without
2 the mutual consent of the Hawaii health systems corporation
3 board and the appropriate regional board. The Hawaii health
4 systems corporation board shall enter into an agreement with a
5 regional board to lease, at a nominal annual rent of \$1, any
6 such real property, or such other physical assets for use by the
7 regional affiliate corporation.

8 **§323F-B Establishment of a regional affiliate corporation**
9 **for Maui region.** There is established the regional affiliate
10 corporation for the Maui region that shall consist of Kula
11 hospital, Lanai community hospital, and Maui memorial medical
12 center and all other public health facilities created or
13 acquired hereafter by the regional affiliate corporation within
14 the region.

15 **§323F-C Regional boards.** (a) Each regional affiliate
16 corporation, upon its establishment, shall be governed by a
17 regional board of directors to consist of not less than seven
18 members and not more than fifteen members, as determined by the
19 regional board after the initial regional board is established,
20 which shall carry out the duties and responsibilities of the
21 regional affiliate corporation.



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

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

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

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

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

19 (i) One member shall be chosen from the members
20 of the corporation board. This individual
21 shall not be a physician and may not be a
22 resident of the region; and



1 (ii) Three members shall be chosen from a list of
2 six individuals who may be medical and
3 health care providers and professionals,
4 consumers, and knowledgeable individuals in
5 other appropriate areas such as business and
6 law. These individuals shall not be
7 physicians currently in active practice;

8 (C) Three physicians shall be appointed from a list
9 of six physicians nominated by a majority vote of
10 the medical staff of the public health facilities
11 in the region present at a duly noticed meeting
12 from a list of qualified candidates submitted by
13 the medical executive committees in the region;

14 (2) One member of each initial regional board nominated by
15 the house of representatives, senate, and medical
16 executive committees in a region shall be appointed
17 for a term of two years;

18 (3) One member of each initial regional board nominated by
19 the regional public health facility management
20 advisory committee for the region shall be appointed
21 for a term of two years;



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

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

7 Except for the appointment of a representative from the
8 corporation, all other members of a regional board shall be
9 residents of the region. Each regional board shall elect its
10 own chair.

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

20 (c) Any member of a regional board may be removed for
21 cause by the governor or for cause by vote of a two-thirds
22 majority of the regional board's voting members then in office.



1 For purposes of this section, cause shall include without
2 limitation:

3 (1) Malfeasance in office;

4 (2) Persistent failure to attend regularly called
5 meetings;

6 (3) Sentencing for conviction of a felony, to the extent
7 allowed by section 831-3.1; or

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

11 **§323F-D Regional chief executive officers; exempt**

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



1 (b) Any regional board or its designee may discharge its
2 exempt personnel with or without cause; provided that removal
3 without cause shall not prejudice any contract rights of
4 personnel.

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

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

14 "Regional affiliate corporation" means an affiliate
15 corporation for a region that was established by Act 262,
16 Session Laws of Hawaii 1996, and is a public body corporate and
17 politic affiliated with the corporation.

18 "Regional board" means a regional board of directors of a
19 regional affiliate corporation of the corporation."

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



1 "(b) Ten members of the corporation board shall be
2 appointed by the governor from two lists of nominees, consisting
3 of at least twenty candidates each, submitted by the president
4 of the senate and the speaker of the house of representatives,
5 respectively, as follows:

- 6 (1) One member from region I who resides in the city and
7 county of Honolulu;
- 8 (2) One member from region II who resides in the county of
9 Kauai;
- 10 (3) One member from region III who resides in the county
11 of Maui;
- 12 (4) One member from region IV who resides in the eastern
13 section of the county of Hawaii;
- 14 (5) One member from region V who resides in the western
15 section of the county of Hawaii;
- 16 (6) One member from region II who resides in the county of
17 Kauai or from region III who resides in the district
18 of Hana or on the island of Lanai; provided that in no
19 event shall the member be appointed from the same
20 region for two consecutive terms; and
- 21 (7) Four at-large members who reside in the State.



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

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



1 serve a full term, the remainder of that term shall be filled by
2 a physician from the same region.

3 The thirteenth member shall be the director of health or
4 the director's designee, who shall serve as an ex officio,
5 voting member.

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

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

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

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



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

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

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

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



1 corporation board or each regional board shall require the
2 affirmative vote of a majority of those present and voting at
3 the meeting; except that a vote of two-thirds of the [~~members~~]
4 entire membership of the [~~corporation~~] respective board then in
5 office shall be required for any of the following actions:

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

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

20 "[+]§323F-5[+] **Disclosure of interests.** All corporation
21 and regional board members and employees of the corporation and



1 any regional affiliate corporation shall be subject to chapter
2 84."

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

5 "[~~†~~§323F-6~~†~~] **Records.** The corporation and each regional
6 affiliate corporation shall be subject to the requirements of
7 chapter 92F, except that the following categories of government
8 records shall not be required to be disclosed:

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

20 Any person denied access to any such government records
21 shall have available the remedies specified in sections 92F-15
22 and 92F-15.5. Government records protected from disclosure by



1 this section shall be subject to the interagency disclosure
2 provisions of section 92F-19. Section 624-25.5 shall apply to
3 this part notwithstanding anything to the contrary contained in
4 this section."

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

7 "**§323F-7 Duties and powers of the corporation[-] and**
8 **regional affiliate corporations.** (a) Notwithstanding any other
9 law to the contrary[~~-~~] and unless otherwise specified, only
10 those duties and powers related to corporation-wide matters,
11 including, but not limited to, corporation-wide budgeting,
12 personnel policies, procurement policies, strategic planning,
13 and capital planning, including the issuance of revenue bonds in
14 any amount, shall be carried out by the corporation [~~shall have~~
15 ~~and exercise the following duties]~~ board. Duties and powers[+]
16 related to the operation of facilities within each region,
17 including, but not limited to, regional and facility budgeting,
18 employment and removal of regional and facility personnel,
19 purchasing, regional strategic and capital planning,
20 organization, quality assurance, improvement and reporting,
21 credentialing of medical staff, and the issuance of revenue
22 bonds in an amount up to and including \$100,000,000, shall be



1 carried out by the regional boards, either directly or by
2 delegation to regional and facility administration. Unless
3 otherwise specified, the duties and powers granted to the
4 corporation board may be delegated to the regional boards of the
5 regional affiliate corporations.

6 (b) Notwithstanding any other law to the contrary, the
7 corporation, either directly or through any of the regional
8 boards, shall exercise the following duties and powers:

- 9 (1) Developing its own policies, procedures, and rules
10 necessary or appropriate to plan, operate, manage, and
11 control the system of public health facilities and
12 services without regard to chapter 91; provided that
13 each regional board shall be responsible for its own
14 policies, procedures, and rules necessary or
15 appropriate to plan, operate, manage, and control the
16 public health facilities within its own region;
- 17 (2) Evaluating the need for additional health facilities
18 and services; provided that each regional board shall
19 be responsible for the evaluation within its own
20 region;
- 21 (3) Entering into and performing any contracts, leases,
22 cooperative agreements, partnerships, or other



1 transactions whatsoever that may be necessary or
2 appropriate in the performance of its purposes and
3 responsibilities, and on terms [~~it~~] the corporation or
4 each regional affiliate corporation for its own region
5 may deem appropriate, with either:

6 (A) Any agency or instrumentality of the United
7 States, or with any state, territory, or
8 possession, or with any subdivision thereof; or

9 (B) Any person, firm, association, partnership, or
10 corporation, whether operated on a for-profit or
11 not-for-profit basis; provided that the
12 transaction furthers the public interest;

13 and provided further that if any dispute arises
14 between any contract, lease, cooperative agreement,
15 partnership, or other transaction entered into by the
16 corporation and a regional affiliate corporation with
17 regard to matters solely within that region, the
18 contract, lease, cooperative agreement, partnership,
19 or other transaction entered into by the regional
20 affiliate corporation shall prevail;

21 (4) Conducting activities and entering into business
22 relationships as the corporation board or any regional



1 board deems necessary or appropriate, including but
2 not limited to:

3 (A) Creating nonprofit corporations, including but
4 not limited to charitable fund-raising
5 foundations, to be controlled wholly by the
6 corporation, any regional affiliate corporation,
7 or jointly with others;

8 (B) Establishing, subscribing to, and owning stock in
9 business corporations individually or jointly
10 with others; and

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



1 provided that each regional board shall be responsible
2 for conducting the activities under this paragraph in
3 its own region;

4 (5) Participating in and developing prepaid health care
5 service and insurance programs and other alternative
6 health care delivery programs, including programs
7 involving the acceptance of capitated payments or
8 premiums that include the assumption of financial and
9 actuarial risk; provided that each regional board
10 shall be responsible for conducting the activities
11 under this paragraph in its own region;

12 (6) Executing, in accordance with all applicable bylaws,
13 rules, and laws, all instruments necessary or
14 appropriate in the exercise of any powers of the
15 [~~corporation's powers;~~] corporation or any regional
16 affiliate corporation;

17 (7) Preparing and executing all [~~corporation~~] corporation-
18 wide budgets, policies, and procedures[+] or any
19 regional affiliate corporation budgets, policies, and
20 procedures respectively; provided that regional
21 affiliate corporations shall submit their regional and
22 facility budgets to the corporation to be consolidated



- 1 into a corporation-wide budget for purposes of
2 corporation-wide planning and appropriation requests;
- 3 (8) Setting rates and charges for all services provided by
4 the corporation without regard to chapter 91; provided
5 that the duty and power of the corporation board shall
6 be limited to approving the rates and charges
7 developed by a regional board for that region's
8 facilities and services. A region's rates and charges
9 shall be consolidated with the rates of any other
10 regions into one charge master, and third party payor
11 contracts may be negotiated at the corporation-wide
12 level with input from the regions and taking into
13 consideration the rates set by regional boards;
- 14 (9) Developing a corporation-wide hospital personnel
15 system that is subject to chapters 76 and 89; provided
16 that employment of regional and facility personnel
17 shall be the responsibility of the regional boards;
- 18 (10) Developing the corporation's corporation-wide capital
19 and strategic plans[+] or any regional affiliate
20 corporation's regional capital and strategic plans
21 respectively; provided that each regional board shall
22 be responsible for development of capital and



1 strategic plans in its own region that shall be
2 consistent with, and incorporated into, the overall
3 corporation-wide plans;

4 (11) Suing and being sued; provided that the corporation
5 and any regional affiliate corporation shall enjoy the
6 same sovereign immunity available to the State;

7 (12) Making and altering corporation board and any regional
8 board bylaws for its organization and management
9 without regard to chapter 91; provided that regional
10 boards shall be responsible for the final approval of
11 regional board bylaws;

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

16 (14) Entering into any contract or agreement whatsoever,
17 not inconsistent with this chapter or the laws of this
18 State, and authorizing the corporation, regional
19 affiliate corporations, and chief executive [~~officer~~]
20 officers to enter into all contracts, execute all
21 instruments, and do all things necessary or
22 appropriate in the exercise of the powers granted in



1 this chapter, including securing the payment of bonds;
2 provided that each regional board shall be responsible
3 for entering into contracts and executing all
4 instruments relating to matters in its own region;

5 (15) Issuing revenue bonds subject to the approval of the
6 legislature; provided that all revenue bonds shall be
7 issued pursuant to part III, chapter 39; provided that
8 the corporation shall have the power to issue revenue
9 bonds in any amount, and each regional affiliate
10 corporation shall have the power to issue revenue
11 bonds in an amount up to and including \$100,000,000;

12 (16) Reimbursing the state general fund for debt service on
13 general obligation bonds or reimbursable general
14 obligation bonds issued by the State for the purposes
15 of the corporation[+] or any regional affiliate
16 corporation;

17 (17) Pledging or assigning all or any part of the receipts
18 and revenues of the corporation or any regional
19 affiliate corporation for purposes of meeting bond or
20 health systems liabilities; provided that each
21 regional board shall be responsible for conducting the
22 activities under this paragraph in its own region;



- 1 (18) Owning, purchasing, leasing, exchanging, or otherwise
2 acquiring property, whether real, personal or mixed,
3 tangible or intangible, and of any interest therein,
4 in the name of the corporation, which property is not
5 owned or controlled by the State but is owned or
6 controlled by the corporation[+]. A regional
7 affiliate corporation shall have the power to own,
8 purchase, lease, exchange, or otherwise acquire
9 property, whether real, personal or mixed, tangible or
10 intangible, and of any interest therein, other than
11 property owned or controlled by the corporation, in
12 the name of the regional affiliate corporation;
13 provided further that a regional affiliate corporation
14 shall be subject to section 323F-A; and provided
15 further that each regional board shall be responsible
16 for conducting the activities under this paragraph in
17 its own region;
- 18 (19) Maintaining, improving, pledging, mortgaging, selling,
19 or otherwise holding or disposing of property, whether
20 real, personal or mixed, tangible or intangible, and
21 of any interest therein, at any time and manner, in
22 furtherance of the purposes and mission of the



1 corporation[+] or any regional affiliate corporation;
2 provided that the corporation or any regional
3 affiliate corporation legally holds or controls the
4 property in its own name; provided further that the
5 corporation or any regional affiliate corporation
6 shall not sell, assign, lease, hypothecate, mortgage,
7 pledge, give, or dispose of all or substantially all
8 of its property; and provided further that each
9 regional board shall be responsible for conducting the
10 activities under this paragraph in its own region;

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



- 1 (21) Acquiring by condemnation, pursuant to chapter 101,
2 any real property required by the corporation or any
3 regional affiliate corporation to carry out the powers
4 granted by this chapter;
- 5 (22) Depositing any moneys of the corporation or any
6 regional affiliate corporation in any banking
7 institution within or without the State, and
8 appointing, for the purpose of making deposits, one or
9 more persons to act as custodians of the moneys of the
10 corporation[+] or any regional affiliate corporation;
- 11 (23) Contracting for and accepting any gifts, grants, and
12 loans of funds, property, or any other aid in any form
13 from the federal government, the State, any state
14 agency, or any other source, or any combination
15 thereof, and complying, subject to this chapter, with
16 the terms and conditions thereof; provided that each
17 regional board shall be responsible for contracting
18 for and accepting any gifts, grants, loans, property,
19 or other aid if intended to benefit the public health
20 facilities and operations in its own region;
- 21 (24) Providing health and medical services for the public
22 directly or by agreement or lease with any person,



1 firm, or private or public corporation, partnership,
2 or association through or in the health facilities of
3 the corporation or any regional affiliate corporation
4 or otherwise; provided that each regional board shall
5 be responsible for conducting the activities under
6 this paragraph in its own region;

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

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



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



1 securities as may be required by the corporation
2 board[+] or any regional board; and

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

17 (27) Entering into any agreement with the State including
18 but not limited to contracts for the provision of
19 goods, services, and facilities in support of the
20 corporation's programs[+] or any regional affiliate
21 corporation's programs, and contracting for the
22 provision of services to or on behalf of the State;



1 provided that each regional board shall be responsible
2 for entering into agreements to provide goods,
3 services, and facilities in support of programs in its
4 own region;

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

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

13 (30) Developing internal policies and procedures for the
14 procurement of goods and services, consistent with the
15 goals of public accountability and public procurement
16 practices; provided that each regional board shall be
17 responsible for developing internal policies and
18 procedures for its own region; and provided further
19 that:

20 (A) A regional board shall:

21 (i) Not be subject to chapter 103D; and



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

2 and

3 (B) The corporation shall:

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

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

6 (31) Authorizing and establishing positions; provided that
7 regional affiliate corporations shall be responsible
8 for hiring and firing of regional and facility
9 personnel, except a regional chief executive officer
10 shall only be hired or dismissed upon the approval of
11 a regional board;

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

14 ~~(33)]~~ (32) Having and exercising all rights and powers
15 necessary or incidental to or implied from the
16 specific powers granted in this chapter, which
17 specific powers shall not be considered as a
18 limitation upon any power necessary or appropriate to
19 carry out the purposes and intent of this chapter[-];
20 provided that each regional board shall be responsible
21 for having and exercising all powers and rights with
22 respect to matters in its own region; and



1 (33) With respect to a regional affiliate corporation,
2 through its regional board:

3 (A) Develop policies and procedures necessary or
4 appropriate to plan, operate, manage, and control
5 the day-to-day operation of facilities within a
6 region that are consistent with corporation-wide
7 policies;

8 (B) Exercise custodial control over and use of all
9 assets of the corporation that are located in the
10 regional affiliated corporation's region pursuant
11 to section 323F-A; and

12 (C) Expend funds within approved regional budgets and
13 expend additional funds in excess of approved
14 regional budgets upon approval of the corporation
15 board.

16 (b) [~~The corporation~~] Each regional affiliate corporation
17 shall not be subject to chapters 36 to 38, 40, [and] 41D, and
18 103D, and shall enjoy the exemptions contained in sections 102-2
19 and 103-53(e) except as otherwise provided in this chapter. The
20 corporation shall not be subject to chapters 36 to 38, 40, and
21 41D, and shall enjoy the exemptions contained in sections 102-2
22 and 103-53(e).



1 (c) The duties and powers granted to the corporation or
2 any regional affiliate corporation may not be used to enter into
3 contractual or business relationships which have the practical
4 effect of allowing or are intended to allow the private sector
5 counterparts to replace existing employee positions or
6 responsibilities within the corporation or any regional
7 affiliate corporation or its facilities; provided the
8 corporation or any regional affiliate corporation shall be
9 allowed to enter into such relationships to the extent and for
10 the purposes that the division of community hospitals could have
11 done under collective bargaining contracts which were in effect
12 for the 1995-1996 fiscal year."

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

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



1 (b) The corporation board or its designee may discharge
2 its exempt personnel with or without cause; provided that
3 removal without cause shall not prejudice any contract rights of
4 personnel.

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

17 (d) Upon the establishment of a regional affiliate
18 corporation and corresponding regional board, the authority to
19 appoint regional hospital administrators, assistant
20 administrators, directors of nursing, medical directors, and
21 staff physicians under subsection (c) shall be superseded by
22 section 323F-D for each region affected. No incumbent personnel



1 shall lose a position without specific action taken by the
2 appropriate regional board."

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

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

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

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



1 for a term of one year, two for a term of two years, two for a
2 term of three years, and three for a term of four years.

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

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

18 The management advisory committee for the East Hawaii
19 region shall have three members who reside in the Ka'u district,
20 three members who reside in the Hamakua/North Hilo districts,
21 and three members who reside in the South Hilo/Puna districts.
22 The management advisory committee for the West Hawaii region



1 shall have not less than three members who reside in the North
2 Kohala/South Kohala districts.

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

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

19 (b) Each regional committee shall sit in an advisory
20 capacity to the chief executive officer on matters concerning
21 the formulation of regional operational and capital improvement
22 budgets, and the planning, construction, improvement,



1 maintenance, and operation of public health facilities within
2 its respective jurisdiction and shall sit in an advisory
3 capacity to the governor on matters concerning the nominees for
4 positions on the corporation board. Nothing in this section
5 shall be construed as precluding or preventing the committees
6 from coordinating their efforts and activities with the facility
7 administrators within their counties.

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

13 (d) Upon the establishment of a regional affiliate
14 corporation and its initial regional board, this section shall
15 no longer apply to the region in which the regional affiliate
16 corporation has been established."

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

19 "[+]§323F-10.5[+] **Executive public health facility**
20 **management advisory committee; establishment.** (a) There is
21 established within the corporation an executive public health
22 facility management advisory committee to consist of the



1 chairpersons of each of the five regional public health facility
2 management advisory committees. The executive committee shall,
3 through its chairperson, represent the interests of all regional
4 committees on the corporation board.

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

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

16 (d) Upon the establishment of a regional affiliate
17 corporation and its initial regional board, this section shall
18 no longer apply to the region in which the regional affiliate
19 corporation has been established."

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



1 "~~[+]§323F-10.6[+]~~ **Peer review and credentialing.**

2 ~~[Corporation board or other committee meetings pertaining to~~
3 ~~peer review and credentialing matters shall not be subject to~~
4 ~~part I of chapter 92.]~~ Peer review activities shall be subject
5 to ~~[the provisions of]~~ chapters 663 and 671D and all other
6 provisions and restrictions of medical peer review committees
7 established by state law."

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

10 "~~[+]§323F-11[+]~~ **Executive branch; noninterference.**

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



1 facility public hospital system delivering health care services
2 to the residents of the State."

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

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

15 The corporation and any regional affiliate corporation may
16 establish and maintain, within [~~its~~] the health systems special
17 fund[~~]~~ or any regional subaccount, any other accounts that may
18 be necessary and appropriate to carry out its purposes and
19 responsibilities.

20 The corporation and any regional affiliate corporation may
21 provide reasonable reserves for any of the following purposes:

22 (1) Insurance deductibles;



- 1 (2) The improvement, replacement, or expansion of [~~its~~]
- 2 their facilities or services;
- 3 (3) The securing of the corporation's or any regional
- 4 affiliate corporation's bonds, notes, or other
- 5 instruments of indebtedness; or
- 6 (4) Any other purpose [~~it~~] the corporation or any regional
- 7 affiliated corporation deems necessary or appropriate
- 8 in the performance of [~~its~~] their purposes and
- 9 responsibilities.

10 (b) The corporation board and any regional board shall

11 collaboratively develop annual operating and capital budgets for

12 each facility. The corporation and any regional affiliate

13 corporation shall collaboratively develop budgetary guidelines,

14 and may [~~allocate to~~] negotiate with each facility reasonable

15 [~~corporation~~] corporate administrative costs, including funds

16 determined by the corporation or any regional affiliate

17 corporation to be needed from or provided to each facility to:

- 18 (1) Repay corporation or any regional affiliate
- 19 corporation debts;
- 20 (2) Provide subsidies to any facility determined to be
- 21 unable to fund from within that facility's programs
- 22 and services deemed essential to community needs; and



1 (3) Maintain appropriate reserves.

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

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



1 from funds of that facility, unless the corporation board,
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 each 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 each 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 each any regional board may
17 hold public informational meetings on its budget.

18 Representatives of any county government, state government, or
19 any other person having an interest in the budget, shall have
20 the right to be heard at the meetings."

21 SECTION 16. 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 each 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 each regional affiliate corporation.

11 (b) In addition to the submittal of the audit required
12 under subsection (a), the corporation, in cooperation with each
13 regional affiliate corporation, shall submit a report to the
14 legislature at least twenty days prior to the convening of each
15 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) Each 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 regional affiliated corporation to its
5 respective region."

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

8 "~~[f]~~**\$323F-23**~~[t]~~ **Exemption from taxation.** The corporation
9 and each 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 18. Section 323F-24, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "~~[f]~~**\$323F-24**~~[t]~~ **Budget oversight.** The corporation's and
17 each 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 any 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 each regional
3 affiliate corporation shall collaboratively submit its budgets
4 annually to the legislature for review and approval at least
5 twenty days prior to the convening of the regular legislative
6 session, beginning with the budgets for the [~~1997-1998~~] 2009-
7 2011 fiscal [~~years-~~] biennium."

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

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

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

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



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

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

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

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

18 "(e) The attorney general, or in the case of the [~~board~~]:
19 (1) Board of regents of the University of Hawaii[~~, its~~];
20 or



1 (2) Corporation board of the Hawaii health systems
2 corporation under section 323F-3 or any regional board
3 under chapter 323F-C,
4 the university general counsel[7] or the attorneys retained by
5 the corporation board of the Hawaii health systems corporation
6 or any regional board under section 323F-9, respectively, shall
7 represent and defend a member in any civil action for which
8 immunity is conferred under subsection (b), or when the attorney
9 general, or, if the action involves a member of the board of
10 regents, the university general counsel, determines that
11 indemnification is available to the member under subsection (c),
12 and the member against whom the action is brought has submitted
13 a written request for representation and has provided the
14 attorney general, or the university general counsel in the case
15 of an action involving a member of the board of regents, with
16 all process or complaint served upon the member within a
17 reasonable period of time, but not more than five days after
18 being served with the process or complaint. The attorney
19 general, or the university general counsel, may terminate the
20 representation and defense of the member at any time if, after
21 representation and defense is accepted, the attorney general, or



1 the university general counsel, determines that indemnification
2 would not be available to the member under subsection (c)."

3 SECTION 22. Section 28-8.3, Hawaii Revised Statutes, is
4 amended as follows:

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

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

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

16 (2) By any court or judicial or legislative office of the
17 State;

18 (3) By the legislative reference bureau;

19 (4) By any compilation commission that may be constituted
20 from time to time;

21 (5) By the real estate commission for any action involving
22 the real estate recovery fund;



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



1 (21) By the Hawaii tourism authority, as provided in
2 section 201B-2.5; or

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

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

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

21 SECTION 23. Section 29-24, Hawaii Revised Statutes, is
22 amended by amending subsection (a) to read as follows:



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

21 SECTION 24. Section 36-27, Hawaii Revised Statutes, is
22 amended to read as follows:



1 "§36-27 Transfers from special funds for central service
2 **expenses.** Except as provided in this section, and
3 notwithstanding any other law to the contrary, from time to
4 time, the director of finance, for the purpose of defraying the
5 prorated estimate of central service expenses of government in
6 relation to all special funds, except the:

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



- 1 (12) Hawaii hurricane relief fund established under chapter
- 2 431P;
- 3 (13) Hawaii health systems corporation special funds[+] and
- 4 the special funds of any of the regional affiliate
- 5 corporations of the Hawaii health systems corporation;
- 6 (14) Tourism special fund established under section
- 7 201B-11;
- 8 (15) Universal service fund established under chapter 269;
- 9 (16) Integrated tax information management systems special
- 10 fund under section 231-3.2;
- 11 (17) Emergency and budget reserve fund under section
- 12 328L-3;
- 13 (18) Public schools special fees and charges fund under
- 14 section 302A-1130(f);
- 15 (19) Sport fish special fund under section 187A-9.5;
- 16 (20) Neurotrauma special fund under section 321H-4;
- 17 (21) Deposit beverage container deposit special fund under
- 18 section 342G-104;
- 19 (22) Glass advance disposal fee special fund established by
- 20 section 342G-82;
- 21 (23) Center for nursing special fund under section
- 22 [+]304A-2163[+];



- 1 (24) Passenger facility charge special fund established by
2 section 261-5.5;
- 3 (25) Solicitation of funds for charitable purposes special
4 fund established by section 467B-15;
- 5 (26) Land conservation fund established by section 173A-5;
- 6 (27) Court interpreting services revolving fund under
7 section 607-1.5;
- 8 (28) Trauma system special fund under section 321-22.5;
- 9 (29) Hawaii cancer research special fund;
- 10 (30) Community health centers special fund; and
- 11 (31) Emergency medical services special fund[+];
- 12 shall deduct five per cent of all receipts of all other special
13 funds, which deduction shall be transferred to the general fund
14 of the State and become general realizations of the State. All
15 officers of the State and other persons having power to allocate
16 or disburse any special funds shall cooperate with the director
17 in effecting these transfers. To determine the proper revenue
18 base upon which the central service assessment is to be
19 calculated, the director shall adopt rules pursuant to chapter
20 91 for the purpose of suspending or limiting the application of
21 the central service assessment of any fund. No later than
22 twenty days prior to the convening of each regular session of



1 the legislature, the director shall report all central service
2 assessments made during the preceding fiscal year.[+]"

3 SECTION 25. Section 36-30, Hawaii Revised Statutes, is
4 amended by amending subsection (a) to read as follows:

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

6 (1) Transportation use special fund established by section
7 261D-1;

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

10 (3) School cafeteria special funds of the department of
11 education;

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

13 (5) State educational facilities improvement special fund;

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

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

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

18 (9) Unemployment compensation fund established under
19 section 383-121;

20 (10) Hawaii hurricane relief fund established under chapter
21 431P;



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



- 1 (23) Trauma system special fund under section 321-22.5;
 - 2 (24) Hawaii cancer research special fund;
 - 3 (25) Community health centers special fund; and
 - 4 (26) Emergency medical services special fund[+];
- 5 shall be responsible for its pro rata share of the
 6 administrative expenses incurred by the department responsible
 7 for the operations supported by the special fund concerned.[+]"

8 SECTION 26. Section 37-53, Hawaii Revised Statutes, is
 9 amended to read as follows:

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



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

12 SECTION 27. Section 37-74, Hawaii Revised Statutes, is
13 amended by amending subsection (d) to read as follows:

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

- 17 (1) Authorized transfers or changes, when made, shall be
18 reported to the legislature;
- 19 (2) Except with respect to appropriations to fund
20 financing agreements under chapter 37D, the University
21 of Hawaii shall have the flexibility to transfer
22 appropriated funds and positions for the operating



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



1 programs, and the effective utilization of resources;

2 and

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

11 SECTION 28. Section 37D-1, Hawaii Revised Statutes, is
12 amended by amending the definition of "agency" to read as
13 follows:

14 ""Agency" or "participating agency" means the judiciary,
15 any executive department, any independent commission, any board,
16 any authority, any bureau, any office, any other establishment
17 of the State (except the legislature and its agencies), or any
18 public corporation that is supported in whole or in part by
19 state funds, or any agent thereof, authorized by law to expend
20 available moneys; provided that the Hawaii health systems
21 corporation and any of its regional affiliate corporations shall



1 not be governed by this chapter for any financing agreement
2 unless it elects to do so."

3 SECTION 29. Section 37D-2, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "**§37D-2 Financing agreements.** (a) There is hereby
6 established and authorized the financing agreement program of
7 the State. Any agency desiring to acquire or improve projects
8 through the financing agreement program established and
9 authorized by this chapter shall submit a written request to the
10 department providing such information as the department shall
11 require. Notwithstanding any other law to the contrary, and
12 except for the Hawaii health systems corporation[~~r~~] and any of
13 its regional affiliate corporations, only with the approval by
14 the attorney general as to form and legality and upon the
15 written request of one or more participating agencies may the
16 department enter into a financing agreement in accordance with
17 this chapter, except that the board of regents of the University
18 of Hawaii may enter into a financing agreement in accordance
19 with this chapter without the approval of the director and of
20 the attorney general as to form and legality if the principal
21 amount of the financing agreement does not exceed \$3,000,000. A
22 financing agreement may be entered into by the department on



1 behalf of one or more participating agencies at any time (before
2 or after commencement or completion of any improvements or
3 acquisitions to be financed) and shall be upon terms and
4 conditions the department finds to be advantageous. In each
5 case of a written request by the judiciary to participate in the
6 financing agreement program, the department shall implement the
7 request; provided that the related financing agreement shall be
8 upon terms and conditions the department finds to be
9 advantageous. Any financing agreement entered into by the
10 department without the approval required by this section shall
11 be void and of no effect. A single financing agreement may
12 finance a single item or multiple items of property to be used
13 by multiple agencies or may finance a single item or multiple
14 items of property to be used by a single agency. The department
15 shall bill any participating agency that benefits from property
16 acquired with the proceeds of a financing agreement for such
17 participating agency's pro rata share of:

- 18 (1) The department's costs of administration of the
19 financing agreement program; and
20 (2) The financing costs, including the principal and
21 interest components of the financing agreement and
22 insurance premiums;



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

6 (b) Financing agreements shall be subject to the following
7 limitations:

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



1 scheduled to be made by the department under the
2 financing agreement;

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

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

21 (4) Except as otherwise provided in this section with
22 respect to the University of Hawaii, the sale,



1 assignment, or other disposition of any financing
2 agreements, including certificates of participation
3 relating thereto, shall require the approval of the
4 director; and

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

8 SECTION 30. Section 41D-2, Hawaii Revised Statutes, is
9 amended by amending subsection (b) to read as follows:

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

19 SECTION 31. Section 102-2, Hawaii Revised Statutes, is
20 amended by amending subsection (b) to read as follows:



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

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

7 (2) For lei vendors;

8 (3) For airline and aircraft operations;

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

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

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

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



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



- 1 (11) For operation of concession or concession spaces at
- 2 the convention center under chapter 201B[-]; and
- 3 (12) For the Hawaii health systems corporation and any
- 4 regional affiliate corporation."

5 SECTION 32. Section 103-53, Hawaii Revised Statutes, is
6 amended by amending subsection (e) to read as follows:

- 7 "(e) This section shall not apply to:
- 8 (1) Any procurement of less than \$25,000 or that is
- 9 considered a small purchase under section 103D-305 and
- 10 any state or county department contract of less than
- 11 \$25,000;
- 12 (2) Emergency purchases for the procurement of goods,
- 13 services, or construction under section 103D-307,
- 14 disaster relief under chapter 127, or a civil defense
- 15 emergency under chapter 128;
- 16 (3) Grants and subsidies disbursed by a state agency
- 17 pursuant to chapter 42F or in accordance with
- 18 standards provided by law as required by article VII,
- 19 section 4, of the State Constitution, or made by the
- 20 counties pursuant to their respective charters or
- 21 ordinances;
- 22 (4) Contracts or agreements between government agencies;



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



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

3 (7) Contracts or agreements of the Hawaii health systems
4 corporation and any regional affiliate corporation."

5 SECTION 33. Section 103D-102, Hawaii Revised Statutes, is
6 amended to read as follows:

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

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

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

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



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



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



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



- 1 service to the State or any of its agencies, on
2 matters arising under laws of another state or
3 foreign country, or in an action brought in
4 another state, federal, or foreign jurisdiction,
5 when substantially all legal services are
6 expected to be performed outside this State;
- 7 (K) Financing agreements under chapter 37D; and
- 8 (L) Any other goods or services which the policy
9 board determines by rules or the chief
10 procurement officer determines in writing is
11 available from multiple sources but for which
12 procurement by competitive means is either not
13 practicable or not advantageous to the State; and
- 14 (5) Which are specific procurements expressly exempt from
15 any or all of the requirements of this chapter by:
- 16 (A) References in state or federal law to provisions
17 of this chapter or a section of this chapter, or
18 references to a particular requirement of this
19 chapter; and
- 20 (B) Trade agreements, including the Uruguay Round
21 General Agreement on Tariffs and Trade (GATT)
22 which require certain non-construction and non-



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

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

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

14 SECTION 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 each region, be conveyed to the corresponding
18 regional affiliate corporation at such time as each regional
19 corporation is established, such that all of the activities and
20 services of the health facilities be continued without
21 interruption by the corresponding regional affiliate
22 corporation; provided that the Hawaii health systems corporation



1 shall lease, at a nominal annual rent of \$1, any real property,
2 including land, structures, and fixtures, or any other physical
3 assets, such as personal property, including furnishings,
4 equipment, or inventory, to a regional affiliate corporation
5 within its 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 a 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 region, shall be transferred to the regional affiliate
13 corporation. The corporation and newly established regional
14 affiliate corporation for the Maui region shall report to the
15 legislature within thirty days of the establishment of the Maui
16 regional affiliate corporation. Any other regional affiliate
17 corporation shall be deemed established without further
18 legislative authorization; provided that:

- 19 (1) The regional administrator;
20 (2) A majority of the administrative and medical staff;
21 and
22 (3) The management advisory committee



1 of that region petition the corporation for regional governance.
2 The corporation shall assist the petitioning region and shall
3 consult, assist, and advise the petitioners and shall not impede
4 the petitioned transition to a regional affiliate corporation.
5 Each transition shall take no longer than one year, unless a
6 longer period is mutually agreed to by the corporation and the
7 petitioning region. A transition shall be deemed completed and
8 a regional affiliate corporation shall be deemed established
9 upon the publication by the corporation of a proclamation in a
10 newspaper of general circulation in the county in which the
11 region is located that the regional affiliate corporation is
12 established. The petitioning region shall notify the governor,
13 the president of the senate, and the speaker of the house of
14 representatives immediately upon submittal of a petition to the
15 corporation and shall report to the legislature within thirty
16 days after the transition is complete and the regional affiliate
17 corporation is established.

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



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

7 (d) All officers and employees whose functions are
8 transferred by the Act shall be transferred with their functions
9 and shall continue to perform their regular duties upon their
10 transfer, subject to the state personnel laws and 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 any 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 any regional affiliate corporation, all contributions to such
22 funds or system to be paid by the employer on account of such



1 officer or employee shall be paid by the corresponding 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 a regional affiliate
9 corporation upon establishment of the regional affiliate
10 corporation pursuant to section 323F-A(b), Hawaii Revised
11 Statutes.

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



1 health systems corporation located within the corresponding
2 region.

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

10 (c) Each regional affiliate corporation shall assume and
11 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 that region.
14 Each regional affiliate corporation shall have representation on
15 the corporation's bargaining team to address each region's needs
16 with regard to efficiency and effectiveness.

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



1 or the Hawaii health systems corporation to abrogate these
2 responsibilities and obligations.

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

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

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

15 SECTION 40. This Act shall take effect on July 1, 2007;
16 provided that section 2 shall take effect on July 1, 2008.



Report Title:

Hawaii Health Systems Corporation; Maui Regional Affiliate

Description:

Authorizes establishment of regional affiliate corporations under the Hawaii Health Systems Corporation. Establishes powers, duties, rights, and obligations of the Hawaii Health Systems Corporation and regional affiliates. Establishes a regional affiliate corporation for the Maui region. (SD2)

