

JAN 21 2022

A BILL FOR AN ACT

RELATING TO THE DEPARTMENT OF HEALTH.

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

1 SECTION 1. The legislature finds that Act 212, Session
2 Laws of Hawaii 2021, requires the transfer of the Oahu regional
3 health care system facilities of the Hawaii health systems
4 corporation, comprising Leahi hospital and Maluhia, to the
5 department of health.

6 The legislature further finds that the complexity of this
7 transfer is high because of logistical, clinical, labor
8 relations, and financial issues. Due to the department of
9 health's recent focus on the response to water contamination
10 issues at Red Hill and the ongoing coronavirus disease 2019
11 pandemic, an extension of the date by which the transfer is to
12 be complete is necessary to assure that the intent of Act 212,
13 Session Laws of Hawaii 2021, is properly achieved.

14 Accordingly, the purpose of this Act is to:

15 (1) Extend the date by which the transfer is to be
16 completed from December 31, 2022, to December 31,
17 2023;



1 (2) Grant the transition working group certain exemptions
2 to enable it to carry out its responsibilities more
3 expeditiously;

4 (3) Set the proper manner by which the Oahu regional
5 health care system should seek operational funding
6 during the pendency of the transition process; and

7 (4) Appropriate moneys from the general fund to formulate
8 and execute a comprehensive business and transition
9 plan.

10 SECTION 2. Act 212, Session Laws of Hawaii 2021, is
11 amended as follows:

12 1. By amending section 6 to read:

13 "SECTION 6. (a) The budget of the Oahu regional health
14 care system shall be transferred from the Hawaii health systems
15 corporation to the department of health; provided that:

16 (1) The Oahu regional health care system's budget codes
17 and all related allocated funds of the Oahu region
18 shall be reflected in the state budget and all other
19 related tables; [~~and~~]

20 (2) The organizational structure of the Oahu regional
21 health care system shall remain unchanged, unless



1 modified and approved by the working group established
2 pursuant to section 9 of this Act, and as approved by
3 the conditions established in this part or as required
4 by law[~~-~~]; and

5 (3) During the transition period, all requests for
6 operational funds necessary for the Oahu regional
7 health care system to maintain its operations at Leahi
8 Hospital and Maluhia shall be made by the Oahu
9 regional health care system and shall be submitted
10 with budget requests made by the Hawaii health systems
11 corporation; provided further that, when appropriated,
12 funding for the Oahu regional health care system shall
13 be designated under HTH 215, the program ID assigned
14 to the Oahu regional health care system.

15 (b) The transfer of positions and respective class
16 specifications of the Oahu region from the Hawaii health systems
17 corporation's personnel system to the department of health, as
18 set forth in a transition document submitted by the working
19 group established pursuant to section 9 of this Act no later
20 than twenty days prior to the convening of the regular session



1 of 2022, shall be completed no later than December 31, [~~2022,~~
2 2023]; provided that:

3 (1) All employees of the Oahu region who are employed as
4 of December 31, [~~2022,~~ 2023], shall be transferred to
5 the department of health before the transition of the
6 Oahu regional health care system into the department
7 of health is complete;

8 (2) All employees of the Oahu region who occupy civil
9 service positions shall be transferred to the
10 department of health by this Act and retain their
11 civil service status, whether permanent or temporary,
12 and shall maintain their respective functions as
13 reflected in their current position descriptions
14 during the transition period; provided that any
15 changes determined necessary by the working group
16 established pursuant to section 9 of this Act shall
17 follow standard union consultation process prior to
18 implementation;

19 (3) Employees shall be transferred without loss of salary;
20 seniority, except as prescribed by applicable
21 collective bargaining agreements; retention points;



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1 prior service credit; any vacation and sick leave
2 credits previously earned; and other rights, benefits,
3 and privileges, in accordance with state employment
4 laws;

5 (4) The personnel structure of the Oahu regional health
6 care system shall remain unchanged, unless modified
7 and approved by the working group and as approved by
8 the conditions established pursuant to this Act;

9 (5) Any employee who, prior to this Act, is exempt from
10 civil service or collective bargaining and is
11 transferred as a consequence of this Act shall be
12 transferred without loss of salary and shall not
13 suffer any loss of prior service credit, contractual
14 rights, vacation or sick leave credits previously
15 earned, or other employee benefits or privileges, and,
16 except in the instance of discipline, shall be
17 entitled to remain employed in the employee's current
18 position for a period of no less than one year after
19 the transition of the Oahu regional health care system
20 into the department of health is complete;



1 (6) The wages, hours, and other conditions of employment
2 shall be negotiated or consulted, as applicable, with
3 the respective exclusive representative of the
4 affected employees, in accordance with chapter 89,
5 Hawaii Revised Statutes; and

6 (7) The rights, benefits, and privileges currently enjoyed
7 by employees, including those rights, benefits, and
8 privileges under chapters 76, 78, 87A, 88, and 89,
9 Hawaii Revised Statutes, shall not be impaired or
10 diminished as a result of these employees being
11 transitioned to the department of health pursuant to
12 this Act. The transition to the department of health
13 shall not result in any break in service for the
14 affected employees. The rights, benefits, and
15 privileges currently enjoyed by employees shall be
16 maintained under their existing collective bargaining
17 or other agreements and any successor agreement."

18 2. By amending subsection (b) of section 7 to read:

19 "(b) Notwithstanding any law to the contrary, the terms of
20 the following members of the board of directors of the Hawaii



1 health systems corporation shall expire on December 31, [~~2022~~]
2 2023:

- 3 (1) The regional chief executive officer of the Oahu
4 regional health care system; and
- 5 (2) The two board members residing on the island of Oahu
6 appointed pursuant to section 323F-3(b)(7), Hawaii
7 Revised Statutes."

8 3. By amending section 8 to read:

9 "SECTION 8. (a) During the transition planning period
10 commencing on July 1, 2021, to and including the completion of
11 the transition of the Oahu regional health care system into the
12 department of health no later than December 31, [~~2022~~] 2023,
13 the Oahu regional system board may:

- 14 (1) Develop and implement its own policies, procedures,
15 and rules necessary or appropriate to plan, operate,
16 manage, and control its facilities without regard to
17 chapter 91, Hawaii Revised Statutes;
- 18 (2) Enter into and perform any contract, lease,
19 cooperative agreement, partnership, or other
20 transaction whatsoever that may be necessary or
21 appropriate in the performance of its purposes and



1 responsibilities, and on any terms the regional system
2 board may deem appropriate with either:

3 (A) Any agency or instrumentality of the United
4 States, or with any state, territory, possession,
5 or subdivision thereof; or

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

10 (3) Conduct activities and enter into business
11 relationships the regional system board deems
12 necessary or appropriate, including but not limited
13 to:

14 (A) Creating nonprofit corporations, including but
15 not limited to charitable fundraising
16 foundations, to be controlled wholly by the
17 regional system board or jointly with others;

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



- 1 (C) Entering into partnerships and other joint
2 venture arrangements, or participating in
3 alliances, purchasing consortia, health insurance
4 pools, or other cooperative agreements, with any
5 public or private entity; provided that any
6 corporation, venture, or relationship entered
7 into under this subsection shall further the
8 public interest;
- 9 (4) Execute, in accordance with all applicable bylaws,
10 rules, and laws, all instruments necessary or
11 appropriate in the exercise of any powers of the
12 regional system board;
- 13 (5) Make and alter regional system board bylaws and rules
14 for its organization and management without regard to
15 chapter 91, Hawaii Revised Statutes;
- 16 (6) Enter into any contract or agreement whatsoever, not
17 inconsistent with the laws of the State, execute all
18 instruments, and do all things necessary or
19 appropriate in the exercise of the powers granted
20 under chapter 323F, Hawaii Revised Statutes, including
21 securing the payment of bonds; provided that contracts



1 or agreements executed by the regional system board
2 shall only encumber the regional subaccounts of the
3 regional system board;

4 (7) Own, purchase, lease, exchange, or otherwise acquire
5 property, whether real, personal, or mixed, tangible
6 or intangible, and any interest therein, in the name
7 of the regional system board; provided that the
8 regional system board shall be subject to the
9 requirements of section 323F-3.5, Hawaii Revised
10 Statutes;

11 (8) Contract for and accept any gifts, grants, and loans
12 of funds or 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, in compliance, subject to chapter 323F,
16 Hawaii Revised Statutes, with the terms and conditions
17 thereof; provided that the regional system board shall
18 be responsible for contracting for and accepting any
19 gifts, grants, loans, property, or other aid if
20 intended to exclusively benefit the Oahu region public
21 health facilities and operations;



- 1 (9) Provide health and medical services to the public
2 directly or by agreement or lease with any person,
3 firm, or private or public corporation, partnership,
4 or association through or in the health facilities of
5 the regional system board or otherwise; provided that
6 the regional system board shall be responsible for
7 conducting the activities under this paragraph solely
8 within the Oahu regional system;
- 9 (10) Approve medical staff bylaws, rules, and medical staff
10 appointments and reappointments for all public health
11 facilities of the regional system board, including but
12 not limited to determining the conditions under which
13 a health professional may be extended the privilege of
14 practicing within a health facility, as determined by
15 the regional system board, and adopting and
16 implementing reasonable rules, without regard to
17 chapter 91, Hawaii Revised Statutes, for the
18 credentialing and peer review of all persons and
19 health professionals within the facility; provided
20 that the regional system board shall be the governing
21 body responsible for all medical staff organization,



- 1 peer review, and credentialing activities to the
2 extent allowed by law;
- 3 (11) Enter into any agreement with the State, including but
4 not limited to contracts for the provision of goods,
5 services, and facilities for the support of the
6 regional system board's programs, and contracting for
7 the provision of services to or on behalf of the
8 State;
- 9 (12) Develop internal policies and procedures for the
10 procurement of goods and services, consistent with the
11 goals of public accountability and public procurement
12 practices, and subject to management and financial
13 legislative audits; provided that the regional system
14 board shall enjoy the exemptions under
15 section 103-53(e) and chapter 103D, Hawaii Revised
16 Statutes;
- 17 (13) Authorize, establish, and abolish positions; and
- 18 (14) Employ or retain any attorney, by contract or
19 otherwise, for the purpose of representing the
20 regional system board in any litigation, rendering



1 legal counsel, or drafting legal documents for the
2 regional system board.

3 (b) During the transition period commencing on July 1,
4 2021, to and including the completion of the transition of the
5 Oahu regional health care system into the department of health
6 no later than December 31, [~~2022~~,] 2023, the Oahu regional
7 system board shall continue to enjoy the same sovereign immunity
8 available to the State.

9 (c) During the transition period commencing on July 1,
10 2021, to and including the completion of the transition of the
11 Oahu regional health care system into the department of health
12 no later than December 31, [~~2022~~,] 2023, the Oahu regional
13 system board shall be exempt from chapters 36, 37, 38, 40, 41D,
14 103D, 103F, part I of chapter 92, and section 102-2, Hawaii
15 Revised Statutes."

16 4. By amending section 9 to read:

17 "SECTION 9. (a) There is established a working group of
18 the Oahu regional health care system and department of health to
19 develop, evaluate, and implement any additional steps necessary
20 to complete the transition of the Oahu regional health care
21 system into the department of health.



1 (b) The working group shall consist of the following
2 members:

3 (1) The director of health or the director's designee, who
4 shall serve as co-chair and who, along with the chair
5 of the Oahu regional system board or the chair's
6 designee, shall have final authority over transfer
7 activities to be implemented by the working group;

8 (2) The chair of the Oahu regional system board or the
9 chair's designee, who shall serve as co-chair and who,
10 along with the director of health or the director's
11 designee, shall have final authority over transfer
12 activities to be implemented by the working group;

13 (3) The chief executive officer of the Oahu regional
14 health care system or the chief executive officer's
15 designee;

16 (4) One or more department of health staff members as
17 deemed necessary by the director of health or the
18 director's designee; and

19 (5) One or more Oahu regional health care system staff
20 members as deemed necessary by the chief executive



1 officer of the Oahu regional health care system or the
2 chief executive officer's designee.

3 (c) In addition, the working group shall include the
4 following members who shall serve in a consultative capacity:

- 5 (1) One representative from the behavioral health
6 administration of the department of health;
- 7 (2) One representative from the department of human
8 resources development;
- 9 (3) One representative from the department of accounting
10 and general services;
- 11 (4) One representative from the department of the attorney
12 general;
- 13 (5) One representative from the department of budget and
14 finance;
- 15 (6) One representative from the office of planning;
- 16 (7) The chair of the Hawaii health systems corporation
17 board or the chair's designee;
- 18 (8) One representative from the Hawaii health systems
19 corporation human resources department;
- 20 (9) One representative from the Hawaii health systems
21 corporation finance department;



1 (10) One representative from the state procurement office;

2 (11) One representative from the Hawaii Government
3 Employees Association, who shall be invited to
4 participate;

5 (12) One representative from the United Public Workers, who
6 shall be invited to participate;

7 (13) Community representatives as recommended and invited
8 by the co-chairs; and

9 (14) Others as recommended and invited by the co-chairs.

10 (d) In carrying out its purpose, the working group shall
11 develop a comprehensive business plan and transfer framework to
12 govern and manage the additional steps necessary to complete the
13 transfer of the Oahu region into the department of health. The
14 comprehensive business plan and transfer framework shall include
15 but not be limited to the following:

16 (1) Preparation of a five-year pro forma operating plan
17 and budget for the continuing operations of Leahi
18 hospital and Maluhia;

19 (2) Preparation of a ten-year pro forma capital
20 improvement plan and budget for the continuing
21 operations of Leahi hospital and Maluhia;



- 1 (3) Identification and preparation of proposed legislation
2 to address any matters not covered by this Act that
3 may be necessary to complete the transfer of the Oahu
4 regional health care system into the department of
5 health;
- 6 (4) Identification of all real property, appropriations,
7 records, equipment, machines, files, supplies,
8 contracts, books, papers, documents, maps, and other
9 property made, used, acquired, or held by the Oahu
10 regional health care system to effectuate the transfer
11 of the same to the department of health;
- 12 (5) Identification of all debts and other liabilities that
13 will remain with the Hawaii health systems corporation
14 and the remaining debts and liabilities to be
15 transferred to the department of health;
- 16 (6) Identification of all contractual arrangements and
17 obligations of the Oahu regional health care system,
18 including but not limited to those related to personal
19 service contracts, vendor contracts, and capital
20 improvement projects;



1 (7) Development and implementation of any and all policies
2 and procedures necessary to ensure that the facilities
3 within the Oahu regional health care system remain
4 compliant with all federal, state, and local laws and
5 regulations; and

6 (8) Development and implementation of procedures to
7 extricate the Oahu regional health care system from
8 system-wide services secured or provided by the Hawaii
9 health systems corporation or enable the Oahu region
10 to continue to utilize those services on a temporary
11 or permanent basis through interagency agreement.

12 (e) Members of the working group shall serve without
13 compensation but shall be reimbursed for reasonable expenses
14 necessary for the performance of their duties, including travel
15 expenses. No member of the working group shall be subject to
16 chapter 84, Hawaii Revised Statutes, solely because of the
17 member's participation in the working group.

18 (f) The working group shall submit a report to the
19 legislature no later than twenty days prior to the convening of
20 the regular session of 2022 that shall include the five-year pro
21 forma operating and budget plan, ten-year pro forma capital



1 improvement plan, proposed legislation to address any matters
2 not covered by this Act that may be necessary to complete the
3 transfer of the Oahu regional health care system into the
4 department of health, and a timeline of major milestones
5 necessary to effectuate the transfer of personnel, assets,
6 liabilities, and contracts needed to complete the transfer
7 pursuant to this Act. The report shall also document the
8 completion of the transfer and dissolution of the Oahu regional
9 health care system.

10 (g) The working group shall be dissolved on December 31,
11 ~~[2022,]~~ 2023, or upon completion of the transition of the Oahu
12 regional health care system into the department of health,
13 whichever is first.

14 (h) The working group shall be exempt from chapter 92,
15 Hawaii Revised Statutes."

16 5. By amending section 14 to read:

17 "SECTION 14. This Act shall take effect on July 1, 2021;
18 provided that part II of this Act shall take effect on
19 December 31, ~~[2022,]~~ 2023."

20 SECTION 3. There is appropriated out of the general
21 revenues of the State of Hawaii the sum of \$ or so



1 much thereof as may be necessary for fiscal year 2022-2023 for
 2 the creation of a comprehensive business plan and transfer
 3 framework for the transfer of the Oahu regional health care
 4 system and its facilities, Leahi hospital and Maluhia, to the
 5 department of health.


6 The sum appropriated shall be expended by the department of
 7 health for the purposes of this Act.

8 SECTION 4. Statutory material to be repealed is bracketed
 9 and stricken. New statutory material is underscored.

10 SECTION 5. This Act shall take effect on July 1, 2022.

11

INTRODUCED BY:





S.B. NO. 2595

Report Title:

DOH; HHSC; Oahu Region; Leahi Hospital; Maluhia; Transition;
Working Group; Appropriation

Description:

Extends the deadline by which the transfer of the Oahu regional health care system from the Hawaii Health Systems Corporation to the Department of Health shall take place. Sets the manner by which the Oahu Regional Health Care System should request operational funding during the transitional period. Exempts the working group from Chapter 92, HRS. Appropriates moneys.

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