

ACT 150

H.B. NO. 1579

A Bill for an Act Relating to the Department of Health.

Be It Enacted by the Legislature of the State of Hawaii:

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

The legislature further finds that the complexity of this transfer is high because of logistical, clinical, labor relations, and financial issues. Due to the department of health's recent focus on the response to water contamination issues

at the Red Hill Bulk Fuel Storage Facility and the ongoing coronavirus disease 2019 pandemic, an extension of the date by which the transfer is to be complete is necessary to ensure that the intent of Act 212, Session Laws of Hawaii 2021, is properly achieved.

Accordingly, the purpose of this Act is to:

- (1) Set the proper manner by which the Oahu regional health care system should seek operational funding during the pendency of the transition process;
- (2) Extend the date by which the transfer is to be completed from December 31, 2022, to December 31, 2025;
- (3) Require the transition working group to submit an additional report to the legislature prior to the convening of the regular session of 2025;
- (4) Clarify the procedure for the working group to discuss matters concerning patient privacy and prospective bidders; and
- (5) Appropriate moneys from the general fund to formulate and execute a comprehensive business and transition plan.

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

1. By amending section 6 to read:

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

- (1) The Oahu regional health care system’s budget codes and all related allocated funds of the Oahu region shall be reflected in the state budget and all other related tables; ~~and~~
- (2) The organizational structure of the Oahu regional health care system shall remain unchanged, unless modified and approved by the working group established pursuant to section 9 of this Act, and as approved by the conditions established in this part or as required by law~~[-]; and~~
- (3) During the transition period, all requests for operational funds necessary for the Oahu regional health care system to maintain its operations at Leahi hospital and Maluhia shall be made by the Oahu regional health care system and shall be submitted with budget requests made by the Hawaii health systems corporation; provided further that, when appropriated, funding for the Oahu regional health care system shall be designated under HTH 215, the program ID assigned to the Oahu regional health care system.

(b) The transfer of positions and respective class specifications of the Oahu region from the Hawaii health systems corporation’s personnel system to the department of health, as set forth in ~~[a] the transition [document] documents~~ submitted by the working group established pursuant to section 9 of this Act no later than twenty days prior to the convening of the regular ~~[session] sessions~~ of 2022~~[-]~~ and 2025, shall be completed no later than December 31, ~~[2022,-] 2025~~; provided that:

- (1) All employees of the Oahu region who are employed as of December 31, ~~[2022,-] 2025~~, shall be transferred to the department of health before the transition of the Oahu regional health care system into the department of health is complete;
- (2) All employees of the Oahu region who occupy civil service positions shall be transferred to the department of health by this Act and retain their civil service status, whether permanent or temporary, and

shall maintain their respective functions as reflected in their current position descriptions during the transition period; provided that any changes determined necessary by the working group established pursuant to section 9 of this Act shall follow standard union consultation process prior to implementation;

- (3) Employees shall be transferred without loss of salary; seniority, except as prescribed by applicable collective bargaining agreements; retention points; prior service credit; any vacation and sick leave credits previously earned; and other rights, benefits, and privileges, in accordance with state employment laws;
- (4) The personnel structure of the Oahu regional health care system shall remain unchanged, unless modified and approved by the working group and as approved by the conditions established pursuant to this Act;
- (5) Any employee who, prior to this Act, is exempt from civil service or collective bargaining and is transferred as a consequence of this Act shall be transferred without loss of salary and shall not suffer any loss of prior service credit, contractual rights, vacation or sick leave credits previously earned, or other employee benefits or privileges, and, except in the instance of discipline, shall be entitled to remain employed in the employee's current position for a period of no less than one year after the transition of the Oahu regional health care system into the department of health is complete;
- (6) The wages, hours, and other conditions of employment shall be negotiated or consulted, as applicable, with the respective exclusive representative of the affected employees, in accordance with chapter 89, Hawaii Revised Statutes; and
- (7) The rights, benefits, and privileges currently enjoyed by employees, including those rights, benefits, and privileges under chapters 76, 78, 87A, 88, and 89, Hawaii Revised Statutes, shall not be impaired or diminished as a result of these employees being transitioned to the department of health pursuant to this Act. The transition to the department of health shall not result in any break in service for the affected employees. The rights, benefits, and privileges currently enjoyed by employees shall be maintained under their existing collective bargaining or other agreements and any successor agreement."

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

“(b) Notwithstanding any law to the contrary, the terms of the following members of the board of directors of the Hawaii health systems corporation shall expire on December 31, ~~[2022;]~~ 2025:

- (1) The regional chief executive officer of the Oahu regional health care system; and
 - (2) The two board members residing on the island of Oahu appointed pursuant to section 323F-3(b)(7), Hawaii Revised Statutes.”
3. By amending section 8 to read:

“SECTION 8. (a) During the transition planning period commencing on July 1, 2021, to and including the completion of the transition of the Oahu regional health care system into the department of health no later than December 31, ~~[2022;]~~ 2025, the Oahu regional system board may:

- (1) Develop and implement its own policies, procedures, and rules necessary or appropriate to plan, operate, manage, and control its facilities without regard to chapter 91, Hawaii Revised Statutes;

- (2) Enter into and perform any contract, lease, cooperative agreement, partnership, or other transaction whatsoever that may be necessary or appropriate in the performance of its purposes and responsibilities, and on any terms the regional system board may deem appropriate with either:
 - (A) Any agency or instrumentality of the United States, or with any state, territory, possession, or subdivision thereof; or
 - (B) Any person, firm, association, partnership, or corporation, whether operated on a for-profit or not-for-profit basis; provided that the transaction furthers the public interest;
- (3) Conduct activities and enter into business relationships the regional system board deems necessary or appropriate, including but not limited to:
 - (A) Creating nonprofit corporations, including but not limited to charitable fundraising foundations, to be controlled wholly by the regional system board or jointly with others;
 - (B) Establishing, subscribing to, and owning stock in business corporations individually or jointly with others; and
 - (C) Entering into partnerships and other joint venture arrangements, or participating in alliances, purchasing consortia, health insurance pools, or other cooperative agreements, with any public or private entity; provided that any corporation, venture, or relationship entered into under this subsection shall further the public interest;
- (4) Execute, in accordance with all applicable bylaws, rules, and laws, all instruments necessary or appropriate in the exercise of any powers of the regional system board;
- (5) Make and alter regional system board bylaws and rules for its organization and management without regard to chapter 91, Hawaii Revised Statutes;
- (6) Enter into any contract or agreement whatsoever, not inconsistent with the laws of the State, execute all instruments, and do all things necessary or appropriate in the exercise of the powers granted under chapter 323F, Hawaii Revised Statutes, including securing the payment of bonds; provided that contracts or agreements executed by the regional system board shall only encumber the regional subaccounts of the regional system board;
- (7) Own, purchase, lease, exchange, or otherwise acquire property, whether real, personal, or mixed, tangible or intangible, and any interest therein, in the name of the regional system board; provided that the regional system board shall be subject to the requirements of section 323F-3.5, Hawaii Revised Statutes;
- (8) Contract for and accept any gifts, grants, and loans of funds or property, or any other aid in any form from the federal government, the State, any state agency, or any other source, or any combination thereof, in compliance, subject to chapter 323F, Hawaii Revised Statutes, with the terms and conditions thereof; provided that the regional system board shall be responsible for contracting for and accepting any gifts, grants, loans, property, or other aid if intended to exclusively benefit the Oahu region public health facilities and operations;
- (9) Provide health and medical services to the public directly or by agreement or lease with any person, firm, or private or public corporation, partnership, or association through or in the health fa-

- cilities of the regional system board or otherwise; provided that the regional system board shall be responsible for conducting the activities under this paragraph solely within the Oahu regional system;
- (10) Approve medical staff bylaws, rules, and medical staff appointments and reappointments for all public health facilities of the regional system board, including but not limited to determining the conditions under which a health professional may be extended the privilege of practicing within a health facility, as determined by the regional system board, and adopting and implementing reasonable rules, without regard to chapter 91, Hawaii Revised Statutes, for the credentialing and peer review of all persons and health professionals within the facility; provided that the regional system board shall be the governing body responsible for all medical staff organization, peer review, and credentialing activities to the extent allowed by law;
 - (11) Enter into any agreement with the State, including but not limited to contracts for the provision of goods, services, and facilities for the support of the regional system board's programs, and contracting for the provision of services to or on behalf of the State;
 - (12) Develop internal policies and procedures for the procurement of goods and services, consistent with the goals of public accountability and public procurement practices, and subject to management and financial legislative audits; provided that the regional system board shall enjoy the exemptions under section 103-53(e) and chapter 103D, Hawaii Revised Statutes;
 - (13) Authorize, establish, and abolish positions; and
 - (14) Employ or retain any attorney, by contract or otherwise, for the purpose of representing the regional system board in any litigation, rendering legal counsel, or drafting legal documents for the regional system board.

(b) During the transition period commencing on July 1, 2021, to and including the completion of the transition of the Oahu regional health care system into the department of health no later than December 31, ~~[2022,]~~ 2025, the Oahu regional system board shall continue to enjoy the same sovereign immunity available to the State.

(c) During the transition period commencing on July 1, 2021, to and including the completion of the transition of the Oahu regional health care system into the department of health no later than December 31, ~~[2022,]~~ 2025, the Oahu regional system board shall be exempt from chapters 36, 37, 38, 40, 41D, 103D, 103F, part I of chapter 92, and section 102-2, Hawaii Revised Statutes.”

4. By amending section 9 to read:

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

- (b) The working group shall consist of the following members:
 - (1) The director of health or the director's designee, who shall serve as co-chair and who, along with the chair of the Oahu regional system board or the chair's designee, shall have final authority over transfer activities to be implemented by the working group;
 - (2) The chair of the Oahu regional system board or the chair's designee, who shall serve as co-chair and who, along with the director of health or the director's designee, shall have final authority over transfer activities to be implemented by the working group;

- (3) The chief executive officer of the Oahu regional health care system or the chief executive officer's designee;
 - (4) One or more department of health staff members as deemed necessary by the director of health or the director's designee; and
 - (5) One or more Oahu regional health care system staff members as deemed necessary by the chief executive officer of the Oahu regional health care system or the chief executive officer's designee.
- (c) In addition, the working group shall include the following members who shall serve in a consultative capacity:
- (1) One representative from the behavioral health administration of the department of health;
 - (2) One representative from the department of human resources development;
 - (3) One representative from the department of accounting and general services;
 - (4) One representative from the department of the attorney general;
 - (5) One representative from the department of budget and finance;
 - (6) One representative from the office of planning;
 - (7) The chair of the Hawaii health systems corporation board or the chair's designee;
 - (8) One representative from the Hawaii health systems corporation human resources department;
 - (9) One representative from the Hawaii health systems corporation finance department;
 - (10) One representative from the state procurement office;
 - (11) One representative from the Hawaii Government Employees Association, who shall be invited to participate;
 - (12) One representative from the United Public Workers, who shall be invited to participate;
 - (13) Community representatives as recommended and invited by the co-chairs; and
 - (14) Others as recommended and invited by the co-chairs.
- (d) In carrying out its purpose, the working group shall develop a comprehensive business plan and transfer framework to govern and manage the additional steps necessary to complete the transfer of the Oahu region into the department of health. The comprehensive business plan and transfer framework shall include but not be limited to the following:
- (1) Preparation of a five-year pro forma operating plan and budget for the continuing operations of Leahi hospital and Maluhia;
 - (2) Preparation of a ten-year pro forma capital improvement plan and budget for the continuing operations of Leahi hospital and Maluhia;
 - (3) Identification and preparation of proposed legislation to address any matters not covered by this Act that may be necessary to complete the transfer of the Oahu regional health care system into the department of health;
 - (4) Identification of all real property, appropriations, records, equipment, machines, files, supplies, contracts, books, papers, documents, maps, and other property made, used, acquired, or held by the Oahu regional health care system to effectuate the transfer of the same to the department of health;
 - (5) Identification of all debts and other liabilities that will remain with the Hawaii health systems corporation and the remaining debts and liabilities to be transferred to the department of health;

- (6) Identification of all contractual arrangements and obligations of the Oahu regional health care system, including but not limited to those related to personal service contracts, vendor contracts, and capital improvement projects;
- (7) Development and implementation of any and all policies and procedures necessary to ensure that the facilities within the Oahu regional health care system remain compliant with all federal, state, and local laws and regulations; and
- (8) Development and implementation of procedures to extricate the Oahu regional health care system from system-wide services secured or provided by the Hawaii health systems corporation or enable the Oahu region to continue to utilize those services on a temporary or permanent basis through interagency agreement.

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

(f) The working group shall submit ~~[a report]~~ reports to the legislature no later than twenty days prior to the convening of the regular ~~[session]~~ sessions of 2022 and 2025 that shall include the five-year pro forma operating and budget plan, ten-year pro forma capital improvement plan, proposed legislation to address any matters not covered by this Act that may be necessary to complete the transfer of the Oahu regional health care system into the department of health, and a timeline of major milestones necessary to effectuate the transfer of personnel, assets, liabilities, and contracts needed to complete the transfer pursuant to this Act. The ~~[report]~~ reports shall also document the completion of the transfer and dissolution of the Oahu regional health care system.

(g) The working group shall be dissolved on December 31, ~~[2022,]~~ 2025, or upon completion of the transition of the Oahu regional health care system into the department of health, whichever is first.

(h) The working group may hold executive sessions in compliance with the procedures set out in section 92-4, Hawaii Revised Statutes, to discuss individually identifiable information that could affect patient privacy or information that could identify prospective bidders.

5. By amending section 14 to read:

“SECTION 14. This Act shall take effect on July 1, 2021; provided that part II of this Act shall take effect on December 31, ~~[2022,]~~ 2025.”

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

SECTION 4. This Act shall take effect upon its approval.

(Approved June 27, 2022.)