
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 Hawaii health
2 systems corporation is the fourth largest public hospital system
3 in the nation and operates public health care facilities that
4 provide essential safety-net hospital and long-term care
5 services throughout the State. The legislature further finds
6 that the continued financial challenges faced by the Hawaii
7 health systems corporation and the State pose a risk to the
8 public health care services provided by the Hawaii health
9 systems corporation. In addition, these factors hinder efforts
10 to improve the quality of health care services provided to the
11 public.

12 Prominent national studies have demonstrated that many
13 public hospital systems have struggled financially for a variety
14 of reasons, including providing a disproportionate level of
15 uncompensated and under-compensated care as compared to private
16 hospital systems and because of constraints and inefficiencies
17 inherent in operating as a governmental agency. As a result, an

1 increasing number of public hospitals have converted to non-
2 public status.

3 While the legislature recognizes the fact that the system
4 of public hospitals in the State will continue to require state
5 subsidies, the legislature finds that allowing the operations of
6 the regional systems of the Hawaii health systems corporation
7 and their facilities to transition into a corporation or
8 corporations, while providing support during the transition,
9 will improve the operations and efficiencies of the Hawaii
10 health systems corporation and benefit the health care of the
11 people of the State of Hawaii. The legislature further finds
12 that it is essential that this transition be an option available
13 to the various regional systems and facilities of the Hawaii
14 health systems corporation as the change needs to be carefully
15 evaluated by the community representatives that comprise the
16 regional system boards. Furthermore, the legislature finds that
17 the Hawaii health systems corporation must stay intact in order
18 to provide central support services to the regional systems and
19 facilities seeking to remain a part of this valuable state
20 agency.

1 PART I

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

4 "**§323F-31 Maintenance of services.** (a) [~~The corporation~~
5 ~~and each regional system board shall notify the legislature of~~
6 ~~any planned substantial reduction or elimination of direct~~
7 ~~patient care services.] No planned substantial reduction or
8 elimination of direct patient care services at any facility
9 shall be undertaken unless all of the following requirements are
10 met:~~

- 11 (1) An initial determination is made as to critical and
12 emergency services which shall not be subject to
13 reduction or elimination pursuant to this section;
14 (2) The plan of the facility to substantially reduce or
15 eliminate any direct patient care services shall first
16 be presented to the regional system board for its
17 approval;
18 (3) Subsequent to the requisite regional system board
19 approval, the facility shall present its plan to the
20 community in which the facility is located, at a
21 community informational meeting, in order to obtain
22 community input on the plan; and

1 (4) Provided that if the regional system board approves
2 the plan, the plan as approved by the regional system
3 board may be submitted to the corporation board for
4 ratification. A facility shall not proceed with the
5 implementation of the plan without corporation board
6 ratification.

7 (b) [~~No substantial reduction or elimination of direct~~
8 ~~patient care services at any facility shall be undertaken by the~~
9 ~~corporation without the approval of the legislature.] Twenty
10 days prior to the implementation of the plan approved by the
11 regional system board and ratified by the corporation board, the
12 regional system board that approved the plan shall give notice
13 of implementation of the plan to the governor, senate president,
14 and the speaker of the house of representatives.~~

15 (c) [~~The legislature shall maintain review and oversight~~
16 ~~authority over the provision of direct patient care services~~
17 ~~provided at each facility and may intervene to counter or~~
18 ~~restrict any substantial reduction or elimination of patient~~
19 ~~care services.] The decision of the regional system board, as
20 ratified by the corporation board, shall be the final decision
21 with respect to the plan. Implementation of the plan shall~~

1 commence and continue, provided that no legislation is enacted

2 that:

3 (1) Requires the reinstatement and continuation of the
4 direct patient care services that are subject to
5 reduction or elimination under the plan; and

6 (2) Includes an appropriation of additional moneys
7 sufficient to adequately fund the mandated
8 reinstatement and continuation of the subject direct
9 patient care services."

10 PART II

11 SECTION 3. **Community hospitals; liabilities prior to**

12 **July 1, 1996; assumption by department of health; report.** (a)

13 On July 1, 2009, the department of health shall assume the total
14 amount of all liabilities and debts or other obligations of the
15 Hawaii health systems corporation that had been accrued up to
16 June 30, 1996, by the community hospitals while the community
17 hospitals were operating within the division of community
18 hospitals of the department of health. The department of
19 health, with the assistance and cooperation of the Hawaii health
20 systems corporation, shall determine the final amount of the
21 liabilities and debts or other obligations to be transferred to

1 and assumed by the department of health pursuant this
2 subsection.

3 (b) The department of health shall report to the
4 legislature the details of the total amount of liabilities and
5 debts or other obligations transferred from the Hawaii health
6 systems corporation and assumed by the department pursuant to
7 subsection (a) no later than December 1, 2009.

8 SECTION 4. **Community hospitals; assumption of liabilities**
9 **by Hawaii health systems corporation; after June 30, 1996.** The
10 Hawaii health systems corporation shall bear the sole
11 responsibility for assuming all liabilities and debts or other
12 obligations accrued beginning on July 1, 1996, and thereafter,
13 by the community hospitals operating within the Hawaii health
14 systems corporation.

15 SECTION 5. **Hawaii health systems corporation; employees'**
16 **retirement system liabilities; after June 30, 1996.** The Hawaii
17 health systems corporation shall bear sole responsibility for
18 making all appropriate employer payments into funds of the
19 employees' retirement system under chapter 88, Hawaii Revised
20 Statutes beginning on July 1, 1996, and thereafter.

21 SECTION 6. Section 88-125, Hawaii Revised Statutes, is
22 amended to read as follows:

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1 "**§88-125 Contributions by certain state agencies.** (a)

2 Each of the departments and agencies hereinafter described
3 [~~and~~], the office of Hawaiian affairs, and the Hawaii health
4 systems corporation shall reimburse the State for the respective
5 amounts payable by the State to cover the liability of the State
6 to the various funds of the system on account of the employees
7 in [~~such~~] the departments and agencies [~~and~~], the trustees of
8 the office of Hawaiian affairs[-], and the employees of the
9 Hawaii health systems corporation. This provision shall apply
10 to any department or agency of the State [~~which~~] that is
11 authorized by law to fix, regulate, and collect rents, rates,
12 fees, or charges of any nature. [~~The provisions herein~~] This
13 subsection shall not apply as to rental units receiving federal
14 subsidies until approval has been obtained from the appropriate
15 federal agency.

16 (b) Whenever any department or agency of the State or the
17 Hawaii health systems corporation receives federal-aid funds
18 [~~which~~] that may be expended for the purpose of covering the
19 liability of the State to the various funds of the system, the
20 department or agency or the Hawaii health systems corporation
21 shall set aside a portion of these funds sufficient to cover the
22 amount of the State's liability to the various funds of the

1 system on account of the employees in the department or agency
2 or the Hawaii health systems corporation whose compensation is
3 paid in whole or part from federal funds.

4 (c) The amount payable by each department or agency of the
5 State, [~~or~~] the office of Hawaiian affairs, or the Hawaii health
6 systems corporation, covered by this section shall be determined
7 at least quarterly by the department of budget and finance on
8 the basis of the payroll of the employees of the department or
9 agency, [~~or~~] trustees of the office of Hawaiian affairs, or the
10 Hawaii health systems corporation who are members of the system
11 in the same manner the allocation of employer contributions is
12 determined in section 88-123. The comptroller of the State, the
13 office of Hawaiian affairs, the Hawaii health systems
14 corporation, or any department or agency having control of its
15 own funds [~~shall~~], upon information furnished by the department
16 of budget and finance, shall issue a check for the proper amount
17 to the director of finance, charging the same to the appropriate
18 fund. The director of finance shall place all such sums to the
19 credit of the State as part payment of the State's contributions
20 to the various funds of the system.

1 federally qualified health center for services to plan
2 beneficiaries.

3 (d) The commissioner may adopt administrative rules
4 pursuant to chapter 91 to effectuate the purpose of this
5 section. The commissioner may require health insurers other
6 than government payors to annually demonstrate compliance with
7 this section, including validation of payment rates in
8 accordance with medicare interim rate letters.

9 The commissioner may require critical access hospitals and
10 federally qualified health centers to provide information as
11 requested by the commissioner to clarify, supplement, or rebut
12 information supplied by a health insurer; provided that the
13 release of information by a critical access hospital or
14 federally qualified health center shall be subject to the
15 provisions of the Health Insurance Portability and
16 Accountability Act of 1996, Pub. L. 104-191.

17 (e) As used in this section:

18 "Government payor" means a state or federal government
19 entity that provides medical assistance in the form of payment
20 or reimbursement to a health care provider for the cost of
21 providing health care to an enrollee or a nongovernmental party
22 contracted by a government entity to do so.

1 (f) This section shall not apply to an accident-only,
2 specified disease, hospital indemnity, medicare supplement,
3 long-term care, or other limited benefit health insurance
4 policy."

5 SECTION 8. Chapter 432, article 1, Hawaii Revised
6 Statutes, is amended by adding a new section to be appropriately
7 designated and to read as follows:

8 "§432:1- **Cost-based payments to critical access**
9 **hospitals and federally qualified health centers.** (a) Mutual
10 benefit societies shall reimburse critical access hospitals as
11 defined in section 346D-1 at a rate not less than one hundred
12 and one per cent of costs, consistent with the medicare
13 reimbursement rate, for all services rendered to health plan
14 beneficiaries.

15 (b) Mutual benefit societies shall pay federally qualified
16 health centers as defined in section 1905(l) of the Social
17 Security Act (42 USC 1396d) no less than their respective
18 prospective payment system rates determined pursuant to sections
19 346-53.6 to 346-53.64.

20 (c) Nothing in this section shall be construed to
21 determine a maximum amount that a mutual benefit society may pay

1 to a critical access hospital or federally qualified health
2 center for services to plan beneficiaries.

3 (d) The commissioner may adopt administrative rules
4 pursuant to chapter 91 to effectuate the purpose of this
5 section. The commissioner may require mutual benefit societies
6 to annually demonstrate compliance with this section, including
7 validation of payment rates in accordance with medicare interim
8 rate letters.

9 The commissioner may require critical access hospitals and
10 federally qualified health centers to provide information as
11 requested by the commissioner to clarify, supplement, or rebut
12 information supplied by a mutual benefit society; provided that
13 the release of information by a critical access hospital or
14 federally qualified health center shall be subject to the
15 provisions of the Health Insurance Portability and
16 Accountability Act of 1996, Pub. L. 104-191."

17 SECTION 9. Chapter 432, article 2, Hawaii Revised
18 Statutes, is amended by adding a new section to be appropriately
19 designated and to read as follows:

20 **"§432:2- Cost-based payments to critical access**
21 **hospitals and federally qualified health centers. (a)**
22 **Fraternal benefit societies shall reimburse critical access**

1 hospitals as defined in section 346D-1 at a rate not less than
2 one hundred and one per cent of costs, consistent with the
3 medicare reimbursement rate, for all services rendered to health
4 plan beneficiaries.

5 (b) Fraternal benefit societies shall pay federally
6 qualified health centers as defined in section 1905(l) of the
7 Social Security Act (42 USC 1396d) no less than their respective
8 prospective payment system rates determined pursuant to sections
9 346-53.6 to 346-53.64.

10 (c) Nothing in this section shall be construed to
11 determine a maximum amount that a fraternal benefit society may
12 pay to a critical access hospital or federally qualified health
13 center for services to plan beneficiaries.

14 (d) The commissioner may adopt administrative rules
15 pursuant to chapter 91 to effectuate the purpose of this
16 section. The commissioner may require fraternal benefit
17 societies to annually demonstrate compliance with this section,
18 including validation of payment rates in accordance with
19 medicare interim rate letters.

20 The commissioner may require critical access hospitals and
21 federally qualified health centers to provide information as
22 requested by the commissioner to clarify, supplement, or rebut

1 information supplied by a fraternal benefit society; provided
2 that the release of information by a critical access hospital or
3 federally qualified health center shall be subject to the
4 provisions of the Health Insurance Portability and
5 Accountability Act of 1996, Pub. L. 104-191."

6 SECTION 10. Chapter 432D, Hawaii Revised Statutes, is
7 amended by adding a new section to be appropriately designated
8 and to read as follows:

9 "§432D- Cost-based payments to critical access
10 hospitals and federally qualified health centers. (a) Health
11 maintenance organizations other than government payors shall
12 reimburse critical access hospitals as defined in section 346D-1
13 at a rate not less than one hundred and one per cent of costs,
14 consistent with the medicare reimbursement rate, for all
15 services rendered to health plan beneficiaries.

16 (b) Health maintenance organizations other than government
17 payors shall pay federally qualified health centers as defined
18 in section 1905(l) of the Social Security Act (42 USC 1396d) no
19 less than their respective prospective payment system rates
20 determined pursuant to sections 346-53.6 to 346-53.64.

21 (c) Nothing in this section shall be construed to
22 determine a maximum amount that a health maintenance

1 organization other than a government payor may pay to a critical
2 access hospital or federally qualified health center for
3 services to plan beneficiaries.

4 (d) The commissioner may adopt administrative rules
5 pursuant to chapter 91 to effectuate the purpose of this
6 section. The commissioner may require health maintenance
7 organizations other than government payors to annually
8 demonstrate compliance with this section, including validation
9 of payment rates in accordance with medicare interim rate
10 letters.

11 The commissioner may require critical access hospitals and
12 federally qualified health centers to provide information as
13 requested by the commissioner to clarify, supplement, or rebut
14 information supplied by a health maintenance organization other
15 than a government payor; provided that the release of
16 information by a critical access hospital or federally qualified
17 health center shall be subject to the provisions of the Health
18 Insurance Portability and Accountability Act of 1996, Pub. L.
19 104-191.

20 (e) As used in this section:

21 "Government payor" means a state or federal government
22 entity that provides medical assistance in the form of

1 reimbursement to a health care provider for the cost of
2 providing health care to an enrollee, or a nongovernmental party
3 contracted by a government entity to do so."

4 PART IV

5 SECTION 11. Chapter 89, Hawaii Revised Statutes, is
6 amended by adding a new section to be appropriately designated
7 and to read as follows:

8 "§89- Negotiating authority; Hawaii health systems
9 corporation. Notwithstanding any law to the contrary, including
10 section 89-6(d), the Hawaii health systems corporation or any of
11 the regional system boards, as a sole employer negotiator, may
12 negotiate with the exclusive representative of any appropriate
13 bargaining unit and execute memoranda of understanding for
14 employees under its control to alter any existing or new
15 collective bargaining agreement on any item or items subject to
16 section 89-9."

17 PART V

18 SECTION 12. Chapter 323F, Hawaii Revised Statutes, is
19 amended by adding a new section to be appropriately designated
20 and to read as follows:

21 "§323F-A Criminal history record checks. (a) The
22 corporation shall develop procedures for obtaining verifiable

1 information regarding the criminal history of persons who are
2 employed or seeking employment, or are current or prospective
3 contractors, providers, or volunteers in any of the
4 corporation's health facilities. The procedures shall include
5 but not be limited to criminal history record checks in
6 accordance with section 846-2.7.

7 The Hawaii criminal justice data center may assess
8 providers and contractors a reasonable fee for criminal history
9 record checks performed, and providers and contractors shall be
10 responsible for making payment directly to the Hawaii criminal
11 justice data center. The corporation shall be responsible for
12 payment to the Hawaii criminal justice data center of the fee
13 for the criminal history record checks for the corporation's
14 employees and volunteers.

15 (b) Except as otherwise specified, any person who is
16 employed or who seeks employment with the corporation, or is a
17 current or prospective contractor, provider, or volunteer in any
18 of the corporation's health facilities, may be required to
19 provide to the corporation:

20 (1) A sworn statement indicating whether or not the person
21 has ever been convicted of an offense for which

1 incarceration was a sentencing option, and the details
2 thereof;

3 (2) Written consent for the corporation to obtain criminal
4 history record check information for verification; and

5 (3) Written consent to be fingerprinted for the purpose of
6 a criminal history record check.

7 Information obtained pursuant to subsection (a) and this
8 subsection shall be used exclusively by the corporation for the
9 purposes of determining whether a person is suitable for working
10 or providing services in any of the corporation's health
11 facilities. All such decisions shall be subject to federal laws
12 and regulations currently or hereafter in effect.

13 (c) Any corporation employee, applicant seeking
14 employment, or current or prospective contractor, provider, or
15 volunteer, who has been convicted of a criminal offense for
16 which incarceration is a sentencing option, may be terminated,
17 not hired, released, or not be used. This action shall be based
18 on the corporation's analysis of whether the nature and
19 circumstances of the crime may pose a risk to the health,
20 safety, or well-being of patients and residents in its health
21 facilities.

1 (d) Notwithstanding any other law to the contrary, for
2 purposes of this section, the corporation shall be exempt from
3 section 831-3.1 and need not conduct investigations,
4 notifications, or hearings under this section in accordance with
5 chapter 91.

6 (e) For the purposes of this section:

7 "Contractor" means any organization or individual that
8 enters into a contract or agreement to provide services to the
9 patients or residents in any of the corporation's health
10 facilities.

11 "Criminal history record check" means an examination of an
12 individual's criminal history records by means including but not
13 limited to fingerprint analysis and name inquiry into state and
14 national criminal history record files.

15 "Provider" means any organization or individual that
16 currently provides or intends to enter into a contract or
17 agreement to provide services to the patients or residents in
18 any of the corporation's health facilities, or is a student in
19 any program at any of the corporation's health facilities."

20 SECTION 13. Section 378-2.5, Hawaii Revised Statutes, is
21 amended by amending subsection (d) to read as follows:

1 "(d) Notwithstanding subsections (b) and (c), the
2 requirement that inquiry into and consideration of a prospective
3 employee's conviction record may take place only after the
4 individual has received a conditional job offer, and the
5 limitation to the most recent ten-year period, excluding the
6 period of incarceration, shall not apply to employers who are
7 expressly permitted to inquire into an individual's criminal
8 history for employment purposes pursuant to any federal or state
9 law other than subsection (a), including:

- 10 (1) The State or any of its branches, political
11 subdivisions, or agencies pursuant to sections 78-2.7
12 and 831-3.1;
- 13 (2) The department of education pursuant to section
14 302A-601.5;
- 15 (3) The department of health with respect to employees,
16 providers, or subcontractors in positions that place
17 them in direct contact with clients when providing
18 non-witnessed direct mental health services pursuant
19 to section 321-171.5;
- 20 (4) The judiciary pursuant to section 571-34;
- 21 (5) The counties pursuant to section 846-2.7;
- 22 (6) Armed security services pursuant to section 261-17(b);

- 1 (7) Providers of a developmental disabilities domiciliary
2 home pursuant to section 333F-22;
- 3 (8) Private schools pursuant to sections 302C-1 and
4 378-3(8);
- 5 (9) Financial institutions in which deposits are insured
6 by a federal agency having jurisdiction over the
7 financial institution pursuant to section 378-3(9);
- 8 (10) Detective agencies and security guard agencies
9 pursuant to sections 463-6(b) and 463-8(b);
- 10 (11) Employers in the business of insurance pursuant to
11 section 431:2-201.3;
- 12 (12) Employers of individuals or supervisors of individuals
13 responsible for screening passengers or property under
14 title 49 [U.S.C. ~~§44901~~] United States Code section
15 44901 or individuals with unescorted access to an
16 aircraft of an air carrier or foreign carrier or in a
17 secured area of an airport in the United States
18 pursuant to title 49 [U.S.C. ~~§44936(a)~~] United States
19 Code section 44936(a);
- 20 (13) The department of human services pursuant to sections
21 346-97 and 352-5.5;

- 1 (14) The public library system pursuant to section
2 302A-601.5;
- 3 (15) The department of public safety pursuant to section
4 353C-5;
- 5 (16) The board of directors of a cooperative housing
6 corporation or the manager of a cooperative housing
7 project pursuant to section 421I-12;
- 8 (17) The board of directors of an association of owners
9 under chapter 514A or 514B, or the manager of a
10 condominium project pursuant to section 514A-82.1 or
11 514B-133; [~~and~~]
- 12 (18) The department of health pursuant to section
13 321-15.2[~~-~~]; and
- 14 (19) The Hawaii health systems corporation with respect to
15 employees, applicants seeking employment, and current
16 or prospective contractors, providers, or volunteers,
17 pursuant to section 323F-A."

18 SECTION 14. Section 846-2.7, Hawaii Revised Statutes, is
19 amended by amending subsection (b) to read as follows:

20 "(b) Criminal history record checks may be conducted by:

- 1 (1) The department of health on operators of adult foster
2 homes or developmental disabilities domiciliary homes
3 and their employees, as provided by section 333F-22;
- 4 (2) The department of health on prospective employees,
5 persons seeking to serve as providers, or
6 subcontractors in positions that place them in direct
7 contact with clients when providing non-witnessed
8 direct mental health services as provided by section
9 321-171.5;
- 10 (3) The department of health on all applicants for
11 licensure for, operators for, and prospective
12 employees, and volunteers at one or more of the
13 following: skilled nursing facility, intermediate
14 care facility, adult residential care home, expanded
15 adult residential care home, assisted living facility,
16 home health agency, hospice, adult day health center,
17 special treatment facility, therapeutic living
18 program, intermediate care facility for the mentally
19 retarded, hospital, rural health center and
20 rehabilitation agency, and, in the case of any of the
21 above-related facilities operating in a private

- 1 residence, on any adult living in the facility other
2 than the client as provided by section 321-15.2;
- 3 (4) The department of education on employees, prospective
4 employees, and teacher trainees in any public school
5 in positions that necessitate close proximity to
6 children as provided by section 302A-601.5;
- 7 (5) The counties on employees and prospective employees
8 who may be in positions that place them in close
9 proximity to children in recreation or child care
10 programs and services;
- 11 (6) The county liquor commissions on applicants for liquor
12 licenses as provided by section 281-53.5;
- 13 (7) The department of human services on operators and
14 employees of child caring institutions, child placing
15 organizations, and foster boarding homes as provided
16 by section 346-17;
- 17 (8) The department of human services on prospective
18 adoptive parents as established under section
19 346-19.7;
- 20 (9) The department of human services on applicants to
21 operate child care facilities, prospective employees
22 of the applicant, and new employees of the provider

1 after registration or licensure as provided by section
2 346-154;

3 (10) The department of human services on persons exempt
4 pursuant to section 346-152 to be eligible to provide
5 child care and receive child care subsidies as
6 provided by section 346-152.5;

7 (11) The department of human services on operators and
8 employees of home and community-based case management
9 agencies and operators and other adults, except for
10 adults in care, residing in foster family homes as
11 provided by section 346-335;

12 (12) The department of human services on staff members of
13 the Hawaii youth correctional facility as provided by
14 section 352-5.5;

15 (13) The department of human services on employees,
16 prospective employees, and volunteers of contracted
17 providers and subcontractors in positions that place
18 them in close proximity to youth when providing
19 services on behalf of the office or the Hawaii youth
20 correctional facility as provided by section 352D-4.3;

21 (14) The judiciary on employees and applicants at detention
22 and shelter facilities as provided by section 571-34;

- 1 (15) The department of public safety on employees and
2 prospective employees who are directly involved with
3 the treatment and care of persons committed to a
4 correctional facility or who possess police powers
5 including the power of arrest as provided by section
6 353C-5;
- 7 (16) The department of commerce and consumer affairs on
8 applicants for private detective or private guard
9 licensure as provided by section 463-9;
- 10 (17) Private schools and designated organizations on
11 employees and prospective employees who may be in
12 positions that necessitate close proximity to
13 children; provided that private schools and designated
14 organizations receive only indications of the states
15 from which the national criminal history record
16 information was provided as provided by section
17 302C-1;
- 18 (18) The public library system on employees and prospective
19 employees whose positions place them in close
20 proximity to children as provided by section
21 302A-601.5;

- 1 (19) The State or any of its branches, political
2 subdivisions, or agencies on applicants and employees
3 holding a position that has the same type of contact
4 with children, vulnerable adults, or persons committed
5 to a correctional facility as other public employees
6 who hold positions that are authorized by law to
7 require criminal history record checks as a condition
8 of employment as provided by section 78-2.7;
- 9 (20) The department of human services on licensed adult day
10 care center operators, employees, new employees,
11 subcontracted service providers and their employees,
12 and adult volunteers as provided by section 346-97;
- 13 (21) The department of human services on purchase of
14 service contracted and subcontracted service providers
15 and their employees serving clients of the adult and
16 community care services branch, as provided by section
17 346-97;
- 18 (22) The department of human services on foster grandparent
19 program, retired and senior volunteer program, senior
20 companion program, and respite companion program
21 participants as provided by section 346-97;

- 1 (23) The department of human services on contracted and
2 subcontracted service providers and their current and
3 prospective employees that provide home and community-
4 based services under Section 1915(c) of the Social
5 Security Act (Title 42 United States Code Section
6 1396n(c)), or under any other applicable section or
7 sections of the Social Security Act for the purposes
8 of providing home and community-based services, as
9 provided by section 346-97;
- 10 (24) The department of commerce and consumer affairs on
11 proposed directors and executive officers of a bank,
12 savings bank, savings and loan association, trust
13 company, and depository financial services loan
14 company as provided by section 412:3-201;
- 15 (25) The department of commerce and consumer affairs on
16 proposed directors and executive officers of a
17 nondepository financial services loan company as
18 provided by section 412:3-301;
- 19 (26) The department of commerce and consumer affairs on the
20 original chartering applicants and proposed executive
21 officers of a credit union as provided by section
22 412:10-103;

1 limited to section 27-1 and chapter 171, any of the regional
2 systems or individual facilities of the Hawaii health systems
3 corporation is hereby authorized to transition into a new legal
4 entity in any form recognized under the laws of the State,
5 including but not limited to:

6 (1) A non-profit corporation;

7 (2) A for-profit corporation;

8 (3) A municipal facility;

9 (4) A public benefit corporation; or

10 (5) Any two or more of the entities in paragraphs (1)
11 through (4).

12 A transition shall occur through the sale, lease, or transfer of
13 all or substantially all of the assets of the facility or
14 regional system; provided that a transition shall comply with
15 chapter 323D.

16 (b) A transition shall only occur upon approval of the
17 appropriate regional system board in the case of a regional
18 system or individual facility transition, or upon approval of
19 the corporation board and regional system boards in the case of
20 the transition of the entire corporation, subject to the
21 following terms and conditions:

1 (1) All proceeds from the sale, lease, or transfer of
2 assets shall be used for health care services in the
3 respective regional system or facility;

4 (2) Any and all liabilities of a regional system or
5 facility transitioning into a new entity that were
6 transferred to the Hawaii health systems corporation
7 upon its creation by Act 262, Session Laws of Hawaii
8 1996, and all liabilities of the regional system or
9 facility related to collective bargaining contracts
10 negotiated by the State, shall become the
11 responsibility of the State; and

12 (3) During the period of transition:

13 (A) The State shall continue to fund the provision of
14 health care services provided for by the regional
15 system or individual facility; and

16 (B) All applicable provisions of this chapter shall
17 continue to apply.

18 Upon the completion of the transition of all the facilities
19 in a regional system to a new entity, the regional system board
20 for that regional system shall terminate; provided that if not
21 all of a regional system's facilities are transitioned to a new
22 entity, the existing regional system board shall not terminate

1 but shall continue to retain jurisdiction over those facilities
2 remaining in the regional system.

3 **§323F-C Regional system board; community hospitals;**
4 **community health centers; collaboration.** Each regional system
5 board and each community hospital under the jurisdiction of the
6 corporation shall collaborate with community health centers
7 within their respective geographic jurisdictions to maximize
8 funding from the state and federal governments to:

- 9 (1) Maximize reimbursement for health care services
10 provided;
11 (2) Acquire funds for capital investment;
12 (3) Provide expanded hours of service; and
13 (4) Ensure the provision of the appropriate level of care
14 to the community served by each community health
15 center."

16 SECTION 16. Section 323F-3.5, Hawaii Revised Statutes, is
17 amended by amending subsection (d) to read as follows:

- 18 "(d) Each regional system board shall [~~be~~]:
19 (1) Be responsible for local governance, operations, and
20 administration of the delivery of services in its
21 respective regional system as set forth in this

1 chapter and as further delegated by the corporation[~~-~~
2 ~~Each regional system board shall include~~];
3 (2) Include medical and health care providers and
4 professionals, consumers, and knowledgeable
5 individuals in other appropriate areas, such as
6 business, finance, and law; provided that no more than
7 three members of the regional system board shall be
8 physicians[~~.- Each regional system board shall be~~];
9 (3) Be as balanced and representative of the community
10 stakeholders as possible[~~-~~]; and
11 (4) Have the powers, duties, and responsibilities that are
12 specific to the regional system board as provided in
13 this chapter."

14 SECTION 17. Section 323F-7, Hawaii Revised Statutes, is
15 amended by amending subsection (c) to read as follows:

16 "(c) Notwithstanding any other law to the contrary, the
17 corporation and any of the regional system boards shall exercise
18 the following duties and powers:

19 (1) Developing corporation-wide policies, procedures, and
20 rules necessary or appropriate to plan, operate,
21 manage, and control the system of public health
22 facilities and services without regard to chapter 91;

1 provided that each regional system board shall be
2 responsible for its own policies, procedures, and
3 rules necessary or appropriate to plan, operate,
4 manage, and control the public health facilities
5 within its own regional system consistent with
6 [~~corporate~~] corporation policies;

7 (2) Evaluating the need for additional health facilities
8 and services; provided that each regional system board
9 shall be responsible for the evaluation within its own
10 regional system;

11 (3) Entering into and performing any contracts, leases,
12 cooperative agreements, partnerships, or other
13 transactions whatsoever that may be necessary or
14 appropriate in the performance of its purposes and
15 responsibilities, and on terms the corporation, or
16 regional system boards, may deem appropriate, with
17 either:

18 (A) Any agency or instrumentality of the United
19 States, or with any state, territory, or
20 possession, or with any subdivision thereof; or

1 (B) Any person, firm, association, partnership, or
2 corporation, whether operated on a for-profit or
3 not-for-profit basis;
4 provided that the transaction furthers the public
5 interest; and provided further that if any dispute
6 arises between any contract, lease, cooperative
7 agreement, partnership, or other transaction entered
8 into by the corporation and a regional system board
9 with regard to matters solely within that regional
10 system, after July 1, 2007, the contract, lease,
11 cooperative agreement, partnership, or other
12 transaction entered into by the regional system board
13 shall prevail; and provided further that such
14 agreements are consistent with corporation policies;
15 (4) Conducting activities and entering into business
16 relationships as the corporation board, or any
17 regional system board, deems necessary or appropriate,
18 including but not limited to:
19 (A) Creating nonprofit corporations, including but
20 not limited to charitable fund-raising
21 foundations, to be controlled wholly by the

1 corporation, any regional system board, or
2 jointly with others;

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

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

18 provided that each regional system board shall be
19 responsible for conducting the activities under this
20 paragraph in its own regional system consistent with
21 policies established by the corporation board;

- 1 (5) Participating in and developing prepaid health care
2 service and insurance programs and other alternative
3 health care delivery programs, including programs
4 involving the acceptance of capitated payments or
5 premiums that include the assumption of financial and
6 actuarial risk; provided that each regional system
7 board shall be responsible for conducting the
8 activities under this paragraph in its own regional
9 system consistent with policies established by the
10 corporation board;
- 11 (6) Executing, in accordance with all applicable bylaws,
12 rules, and laws, all instruments necessary or
13 appropriate in the exercise of any powers of the
14 corporation or regional system boards;
- 15 (7) Preparing and executing all corporation-wide budgets,
16 policies, and procedures or any regional system
17 budgets, policies, and procedures; provided that the
18 regional system boards shall submit their regional and
19 facility budgets to the corporation to be consolidated
20 into a corporation-wide budget for purposes of
21 corporation-wide planning and appropriation requests.
22 Regional system and facility budgets shall be received

1 by the corporation and shall be included in the
2 corporation-wide budget upon submittal to the
3 corporation;

4 (8) Setting rates and charges for all services provided by
5 the corporation without regard to chapter 91; provided
6 that the duty and power of the corporation board shall
7 be limited to approving the rates and charges
8 developed by the regional system boards for the
9 regional system's facilities and services. Rates and
10 charges may vary among regional systems and facilities
11 and may be consolidated with the rates of other
12 regional systems into one charge master. Third-party
13 payer contracts may be negotiated at the corporation-
14 wide level with input from the regional systems,
15 taking into consideration the rates set by the
16 regional system boards. For purposes of securing
17 revenue bonds, the corporation or regional system
18 board may covenant to set, and if necessary increase,
19 rates and charges as needed to pay debt service and
20 related obligations plus a coverage factor;

21 (9) Developing a corporation-wide hospital system that is
22 subject to chapters 76 and 89; provided that

1 employment of regional system and facility personnel
2 shall be the responsibility of the regional system
3 boards pursuant to corporation-wide policies and
4 procedures, applicable laws, rules, regulations, and
5 collective bargaining agreements;

6 (10) Developing the corporation's corporation-wide capital
7 and strategic plans or any regional system board's
8 capital and strategic plans; provided that each
9 regional system board shall be responsible for
10 development of capital and strategic plans in its own
11 regional system that shall be consistent with, and
12 incorporated into, the overall corporation-wide plans;
13 and provided further that the corporation and each
14 regional system board shall be entitled to undertake
15 the acquisition, construction, and improvement of
16 property, facilities, and equipment to carry out these
17 capital and strategic plans;

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

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

1 system board shall exercise this power consistent with
2 corporation-wide policies; and provided further that
3 contracts or agreements executed by a regional system
4 board shall encumber only the regional subaccounts of
5 that regional system board;

6 (15) Issuing revenue bonds up to \$100,000,000 subject to
7 the approval of the governor or the director of
8 finance; provided that:

9 (A) All revenue bonds shall be issued pursuant to
10 part III, chapter 39;

11 (B) The corporation and any regional system board
12 shall have the power to issue revenue bonds in
13 any amount without regard to any limitation in
14 chapter 39; and

15 (C) The corporation shall have the power to incur
16 debt, including the issuance of revenue bonds in
17 any amount, and the regional system boards shall
18 have the power to issue revenue bonds in any
19 amount upon approval by the corporation board;

20 (16) Reimbursing the state general fund for debt service on
21 general obligation bonds or reimbursable general

1 obligation bonds issued by the State for the purposes
2 of the corporation or any regional system board;
3 (17) Pledging or assigning all or any part of the receipts,
4 revenues, and other financial assets of the
5 corporation or the regional system boards for purposes
6 of meeting or securing bond or health systems
7 liabilities; provided that each regional system board
8 shall be responsible for conducting the activities
9 under this paragraph in its own regional system. Any
10 pledge or assignment by the corporation or any
11 regional system board to secure revenue bonds or
12 health system liabilities shall be valid and binding
13 in accordance with its terms against the pledgor,
14 creditors, and all others asserting rights thereto
15 from the time the pledge or assignment is made,
16 without the need of physical delivery, recordation,
17 filing, or further act. The corporation shall not
18 take or omit to take any act that would interfere
19 with, impair, or adversely affect any pledge ~~[of]~~ or
20 assignment by a regional system board pursuant to this
21 chapter. In connection with issuing revenue bonds or
22 related obligations, consistent with corporation

1 policies and procedures, any regional system board may
2 make such other covenants, binding on the regional
3 system board and the corporation, that the regional
4 system board determines to be necessary or appropriate
5 to establish and maintain security for the revenue
6 bonds or related obligations;

7 (18) Owning, purchasing, leasing, exchanging, or otherwise
8 acquiring property, whether real, personal, or mixed,
9 tangible or intangible, and of any interest therein,
10 in the name of the corporation, which property is not
11 owned or controlled by the State but is owned or
12 controlled by the corporation; provided that:

13 (A) Regional system boards shall have custodial
14 control over facilities and physical assets in
15 their respective regional systems. A regional
16 system board may own, purchase, lease, exchange,
17 or otherwise acquire property, whether real,
18 personal, or ~~mixed~~ mixed, tangible or
19 intangible, and of any interest therein, other
20 than property owned or controlled by the
21 corporation, in the name of the regional system

1 board; provided further that a regional system
2 board shall be subject to section 323F-3.5; and
3 (B) Each regional system board shall be responsible
4 for conducting the activities under this
5 paragraph in its own regional system;

6 (19) Maintaining, improving, pledging, mortgaging, selling,
7 or otherwise holding or disposing of property, whether
8 real, personal, or mixed, tangible or intangible, and
9 of any interest therein, at any time and manner, in
10 furtherance of the purposes and mission of the
11 corporation or any regional system board; provided
12 that the corporation or any regional system board
13 legally holds or controls the property in its own
14 name; provided further that other than to secure
15 revenue bonds and related obligations and agents, and
16 to transition into a new entity, the corporation or
17 any regional system board shall not sell, assign,
18 lease, hypothecate, mortgage, pledge, give, or dispose
19 of all or substantially all of its property; and
20 provided further that each regional system board shall
21 be responsible for conducting the activities under
22 this paragraph in its own regional system, and control

1 over such property shall be delegated to each regional
2 system board;

3 (20) Purchasing insurance and creating captive insurers in
4 any arrangement deemed in the best interest of the
5 corporation, including but not limited to funding and
6 payment of deductibles and purchase of reinsurance;
7 provided that only the corporation shall have the
8 power to create captive insurers to benefit public
9 health facilities and operations in all regional
10 systems; and provided further that a regional system
11 board may purchase insurance for its regional system
12 in collaboration with the other regional systems and
13 the corporation until captive coverage is provided by
14 the corporation;

15 (21) Acquiring by condemnation, pursuant to chapter 101,
16 any real property required by the corporation to carry
17 out the powers granted by this chapter;

18 (22) Depositing any moneys of the corporation or any
19 regional system board in any banking institution
20 within or without the State, and appointing, for the
21 purpose of making deposits, one or more persons to act
22 as custodians of the moneys of the corporation[+] or

1 any regional system board; provided that regional
2 system boards may deposit moneys in banking
3 institutions pursuant to corporation-wide guidelines
4 established by the corporation board;

5 (23) Contracting for and accepting any gifts, grants, and
6 loans of funds, property, or any other aid in any form
7 from the federal government, the State, any state
8 agency, or any other source, or any combination
9 thereof, and complying, subject to this chapter, with
10 the terms and conditions thereof; provided that the
11 regional system boards shall be responsible for
12 contracting for and accepting any gifts, grants,
13 loans, property, or other aid if intended to benefit
14 the public health facilities and operations
15 exclusively in their respective regional systems; and
16 provided further that all contracting for or
17 acceptance of gifts, grants, loans, property, or other
18 aid shall be consistent with corporation-wide policies
19 established by the corporation board;

20 (24) Providing health and medical services for the public
21 directly or by agreement or lease with any person,
22 firm, or private or public corporation, partnership,

1 or association through or in the health facilities of
2 the corporation or regional system boards or
3 otherwise; provided that the regional system boards
4 shall be responsible for conducting the activities
5 under this paragraph in their respective regional
6 systems;

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

1 (26) (A) Investing any funds not required for immediate
2 disbursement in property or in securities that
3 meet the standard for investments established in
4 chapter 88 as provided by the corporation board
5 or any regional system board; provided that
6 proceeds of bonds and moneys pledged to secure
7 bonds may be invested in obligations permitted by
8 any document that authorizes the issuance or
9 securing of bonds; and provided further that the
10 investment assists the corporation or any
11 regional system board in carrying out its public
12 purposes; selling from time to time securities
13 thus purchased and held, and depositing any
14 securities in any bank or financial institution
15 within or without the State. Any funds deposited
16 in a banking institution or in any depository
17 authorized in this section shall be secured in a
18 manner and subject to terms and conditions as the
19 corporation board or a regional system board may
20 determine, with or without payment of any
21 interest on the deposit, including without
22 limitation time deposits evidenced by

1 certificates of deposit. Any bank or financial
2 institution incorporated under the laws of this
3 State may act as depository of any funds of the
4 corporation or a regional system board and may
5 issue indemnity bonds or may pledge securities as
6 may be required by the corporation or regional
7 system board; provided that regional system
8 boards may exercise the powers under this
9 subsection with respect to financial assets of
10 the regional system consistent with corporation-
11 wide policies; and

12 (B) Notwithstanding subparagraph (A), contracting
13 with the holders of any of its notes or bonds as
14 to the custody, collection, securing, investment,
15 and payment of any moneys of the corporation or
16 regional system board and of any moneys held in
17 trust or otherwise for the payment of notes or
18 bonds and carrying out the contract. Moneys held
19 in trust or otherwise for the payment of notes or
20 bonds or in any way to secure notes or bonds, and
21 deposits of such moneys, may be secured in the
22 same manner as moneys of the corporation or

1 regional system board, and all banks and trust
2 companies are authorized to give security for the
3 deposits;

4 (27) Entering into any agreement with the State, including
5 but not limited to contracts for the provision of
6 goods, services, and facilities in support of the
7 corporation's programs or the regional system boards'
8 programs, and contracting for the provision of
9 services to or on behalf of the State; provided that
10 the regional system boards shall be responsible for
11 entering into agreements to provide goods, services,
12 and facilities in support of programs in their
13 respective regional systems consistent with
14 corporation-wide policies;

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

16 (29) Waiving, by means that the corporation or regional
17 system board deems appropriate, the exemption from
18 federal income taxation of interest on the
19 corporation's or regional system boards' bonds, notes,
20 or other obligations provided by the Internal Revenue
21 Code of 1986, as amended, or any other federal statute
22 providing a similar exemption;

1 (30) Developing internal policies and procedures for the
2 procurement of goods and services, consistent with the
3 goals of public accountability and public procurement
4 practices, and subject to management and financial
5 legislative audits; provided that the regional system
6 boards shall be responsible for developing internal
7 policies and procedures for each of their regional
8 systems consistent with the corporation's policies and
9 procedures; and further provided that:

10 (A) The regional system boards and the [~~corporate~~
11 corporation] board shall enjoy the exemption under
12 section 103-53(e);

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

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

16 (31) Authorizing and establishing positions; provided that
17 regional system boards shall be responsible for hiring
18 and firing regional and facility personnel consistent
19 with corporation policies, except a regional chief
20 executive officer [~~and regional chief financial~~
21 ~~officer~~] shall only be hired or dismissed upon the
22 approval of the regional system board [~~and the~~

- 1 ~~corporation board]~~ as further set forth in section
2 323F-8.5;
- 3 (32) Having and exercising all rights and powers necessary
4 or incidental to or implied from the specific powers
5 granted in this chapter, which specific powers shall
6 not be considered as a limitation upon any power
7 necessary or appropriate to carry out the purposes and
8 intent of this chapter; provided that the regional
9 system boards shall be responsible for having and
10 exercising all powers and rights with respect to
11 matters in their regional systems consistent with the
12 law; and
- 13 (33) Each regional system, through its regional system
14 board, shall:
- 15 (A) Develop policies and procedures necessary or
16 appropriate to plan, operate, manage, and control
17 the day-to-day operations of facilities within
18 the regional system that are consistent with
19 corporation-wide policies;
- 20 (B) Exercise custodial control over and use of all
21 assets of the corporation that are located in the
22 regional system pursuant to this chapter; and

1 (C) Expend funds within its approved regional system
2 budget and expend additional funds in excess of
3 its approved regional system budget upon approval
4 of the corporation board."

5 SECTION 18. Section 323F-8.5, Hawaii Revised Statutes, is
6 amended by amending its title and subsections (a) and (b) to
7 read as follows:

8 "[+]§323F-8.5[+] **Regional chief executive officer; exempt**
9 **position.** (a) Upon establishment[~~, and until December 31,~~
10 ~~2008~~], a regional system board may appoint a regional chief
11 executive officer [~~and regional chief financial officer~~] whose
12 salary shall be set by the corresponding regional system board
13 and may discharge a regional chief executive officer [~~or~~
14 ~~regional chief financial officer for cause, consistent with~~
15 ~~subsection (b)~~]; provided that the position shall be exempt from
16 chapter 76 and section 26-35(a)(4). [~~Effective January 1, 2009,~~
17 ~~the hiring and firing of the regional chief executive officers~~
18 ~~shall be subject to approval of both the regional system board~~
19 ~~and the corporation board.~~] Each regional chief executive
20 officer may also appoint, as necessary, other personnel, exempt
21 from chapters 76 and 89, to work directly for the regional chief

1 executive officer for the regional system and for the
2 corresponding regional system board.

3 (b) Any regional system board or its designee may
4 discharge its exempt personnel with or without cause; provided
5 that removal without cause shall not prejudice any contract
6 rights of personnel[; and provided further that the discharge of
7 a regional chief executive officer shall be limited to the
8 reasons outlined in section 323F-3.5(e) up to December 31, 2008.
9 Effective January 1, 2009, regional chief executive officers and
10 other exempt personnel shall be subject to discipline, including
11 discharge, in accordance with duly executed contracts, laws
12 governing exempt personnel of the State, and regional system
13 policies adopted in accordance with corporate policies]."

14 PART VII

15 SECTION 19. If any provision of this Act, or the
16 application thereof to any person or circumstance is held
17 invalid, the invalidity does not affect other provisions or
18 applications of the Act, which can be given effect without the
19 invalid provision or application, and to this end the provisions
20 of this Act are severable.

21 SECTION 20. In codifying the new sections added by parts V
22 and VI of this Act, the revisor of statutes shall substitute

1 appropriate section numbers for the letters used in designating
2 the new sections in this Act.

3 SECTION 21. This Act does not affect rights and duties
4 that matured, penalties that were incurred, and proceedings that
5 were begun before its effective date.

6 SECTION 22. Statutory material to be repealed is bracketed
7 and stricken. New statutory material is underscored.

8 SECTION 23. This Act shall take effect on July 1, 2050.

Report Title:

Hawaii Health Systems Corporation; Regional Systems; New Entity

Description:

Authorizes a facility or regional health care system under the Hawaii health systems corporation to transition into a new legal entity; amends the maintenance of services requirements; requires Hawaii health systems corporation to assume liabilities and debts or other obligations accrued beginning on 07/01/1996; requires commercial health plans to provide a minimum reimbursement level; authorizes special negotiating authority for Hawaii health systems corporation with bargaining units; authorizes criminal history record checks. Effective 07/01/2050. (SD2)