

JAN 23 2009

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# A BILL FOR AN ACT

RELATING TO GOVERNMENT EMPLOYEES.

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

1           SECTION 1. Section 26-31, Hawaii Revised Statutes, is  
2 amended to read as follows:

3           "§26-31 Selection and terms of single executives as heads  
4 of departments. (a) Except as otherwise provided by the  
5 Constitution of the State or by this chapter, each principal  
6 department shall be headed by a single executive, who shall be  
7 nominated and, by and with the advice and consent of the senate,  
8 appointed by the governor, for a term to expire at the end of  
9 the term for which the governor was elected.

10           (b) A vacancy occurring during a term shall be filled for  
11 the unexpired balance of the term, subject to the provisions of  
12 [~~Article~~] article V, section 6 of the Constitution of the State.  
13 Where a vacancy occurs during a term, the governor shall  
14 nominate a candidate to fill the vacancy not later than thirty  
15 calendar days after the convening of the next regular session of  
16 the legislature following the creation of the vacancy.



1       (c) The governor may remove a single executive from office  
2 at any time, except that the removal of the attorney general  
3 shall be subject to the advice and consent of the senate."

4       SECTION 2. Section 26-33, Hawaii Revised Statutes, is  
5 amended to read as follows:

6       "§26-33 Performance of duties of vacant office. (a) In  
7 the event of a vacancy in any office for which the governor has  
8 the power of appointment or nomination, the governor [~~may~~] shall  
9 designate some other officer or employee of the State to perform  
10 the duties of the vacant office until the office is filled[-]  
11 pursuant to section 26-31 or section 26-34. The authority  
12 derived from this section shall not continue for a longer period  
13 than sixty days after the vacancy occurs. If the governor fails  
14 to designate an officer or employee to perform the duties of the  
15 vacant office or if the designee's authority expires before the  
16 vacant office is filled pursuant to section 26-31 or section 26-  
17 34, the duties of the vacant office shall be performed:

- 18       (1) In the department of the attorney general, by the  
19       highest ranking deputy attorney general;  
20       (2) In the department of defense, by the highest ranking  
21       general officer serving in the department on a full-  
22       time basis, or, if there is none, then by the highest



1           ranking field grade officer serving in the department  
2           on a full-time basis;

3           (3) In all other departments, by the division head with  
4           the highest seniority;

5           (4) On all boards and commissions subject to section 26-34  
6           that function as the head of an agency, by the  
7           division head with the highest seniority; and

8           (5) On all other boards and commissions, notwithstanding  
9           section 78-4, by the executive officer or  
10           administrator assigned to the board or commission.

11           (b) An officer or employee designated to perform the  
12 duties of a vacant office shall [~~so long as the authority~~  
13 ~~continues,~~] receive the compensation attached to the vacant  
14 office, or the compensation attached to the officer's or  
15 employee's regular office or employment, whichever is the  
16 higher[-], for so long as the authority to perform the duties of  
17 the vacant office continues.

18           (c) The authority of an officer or employee designated  
19 under this section to perform the duties of a vacant office  
20 shall continue until a permanent appointment is made by the  
21 governor and confirmed by the senate under section 26-31 or  
22 section 26-34.



1        (d) This section shall not apply to the board of regents  
2 of the University of Hawaii or the judicial selection  
3 commission."

4        SECTION 3. Section 26-34, Hawaii Revised Statutes, is  
5 amended by amending subsections (b) and (c) to read as follows:

6        "(b) Any member of a board or commission whose term has  
7 expired and who is not disqualified for membership under  
8 subsection (a) may continue in office as a holdover member until  
9 a successor is nominated and appointed; provided that a holdover  
10 member shall not hold office beyond the end of the [~~second~~] next  
11 regular legislative session following the expiration of the  
12 member's term of office.

13        (c) A vacancy occurring in the membership of any board or  
14 commission during a term shall be filled for the unexpired term  
15 thereof, subject to [~~Article~~] article V, section 6 of the  
16 Constitution of the State [~~-~~] and section 26-33."

17        SECTION 4. Section 304A-104, Hawaii Revised Statutes, is  
18 amended to read as follows:

19        "**§304A-104 Regents; appointment; tenure; qualifications;**  
20 **meetings.** (a) The affairs of the university shall be under the  
21 general management and control of the board of regents  
22 consisting of fifteen members who shall be appointed and may be



1 removed by the governor. Except as otherwise provided by law,  
2 state officers shall be eligible for appointment and membership.  
3 The term of each member shall be five years, except as provided  
4 for the initial appointment in section 26-11; provided that the  
5 term of the student member shall be two years. [~~Every member~~  
6 ~~may serve beyond the expiration date of the member's term of~~  
7 ~~appointment until the member's successor has been appointed by~~  
8 ~~the governor and confirmed by the senate in accordance with~~  
9 ~~article X, section 6 of the Hawaii Constitution.~~] Members shall  
10 serve no more than two consecutive five-year terms; provided  
11 that the members who are initially appointed to terms of two  
12 years or less pursuant to section 26-11(a) may be reappointed to  
13 two ensuing five-year terms. If a member is to be appointed to  
14 a second term of five years, the senate shall consider the  
15 question of whether to reconfirm the member [~~at least one~~  
16 ~~hundred twenty days prior to the conclusion of a member's first~~  
17 ~~five year term; provided that if the senate is not in session~~  
18 ~~within one hundred twenty days prior to the conclusion of the~~  
19 ~~member's first five year term, the member shall continue to~~  
20 ~~serve until the senate convenes for the next regular session or~~  
21 ~~the next special session for which the senate is authorized to~~  
22 ~~consider the question of reconfirmation].~~



1 (b) At its first meeting after June 30, the board of  
2 regents shall elect a chairperson and vice-chairperson, who  
3 shall serve until adjournment of its first meeting after June 30  
4 of the next year or thereafter until their successors are  
5 appointed. The board shall appoint a secretary, who shall not  
6 be a member of the board. The president of the university shall  
7 act as executive officer of the board. From May 1, 2007 and  
8 until such time that the board of regents has at least fourteen  
9 members, seven members of the board of regents shall constitute  
10 a quorum to conduct business, and the concurrence of at least  
11 seven members of the board of regents shall be necessary to make  
12 any action of the board of regents valid; provided that upon  
13 filling at least fourteen of the fifteen board of regents seats  
14 required under subsection (a), a majority of the board of  
15 regents shall constitute a quorum to conduct business, and the  
16 concurrence of a majority of all the members to which the board  
17 of regents is entitled shall be necessary to make any action of  
18 the board of regents valid. The board shall meet at least ten  
19 times annually and, from time to time, may meet in each of the  
20 counties of Hawaii, Maui, and Kauai.

21 (c) The governor shall notify the regents candidate  
22 advisory council in writing within ten days of receiving



1 notification that a member of the board of regents is resigning,  
2 has died, or is being removed by the governor.

3 (d) The members of the board of regents shall serve  
4 without pay but shall be entitled to their travel expenses  
5 within the State when attending meetings of the board or when  
6 actually engaged in business relating to the work of the board."

7 SECTION 5. Section 371-4, Hawaii Revised Statutes, is  
8 amended as follows:

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

10 "(a) There is created a labor and industrial relations  
11 appeals board composed of three members nominated and, by and  
12 with the advice and consent of the senate, appointed by the  
13 governor for terms of ten years each, except that the terms of  
14 members first appointed shall be for six, eight, and ten years  
15 respectively as designated by the governor at the time of  
16 appointments. The governor shall designate the chairperson of  
17 the board, who shall be an attorney at law licensed to practice  
18 in all of the courts of this State. Each member shall hold  
19 office until the member's successor is appointed and  
20 qualified[-] through nomination and, by and with the advice and  
21 consent of the senate, appointment by the governor. Because  
22 cumulative experience and continuity in office are essential to



1 the proper handling of appeals under workers' compensation law  
2 and other labor laws, it is hereby declared to be in the public  
3 interest to continue board members in office as long as  
4 efficiency is demonstrated. The members shall devote full time  
5 to their duties as members of the board. Effective July 1,  
6 2005, the chairperson of the board shall be paid a salary set at  
7 eighty-seven per cent of the salary of the director of labor and  
8 industrial relations, and the salary of each of the other  
9 members shall be ninety-five per cent of the chairperson's  
10 salary."

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

12 "(e) If any member of the board is unable to act because  
13 of absence, temporary disability, or disqualification, the  
14 governor [~~may make a temporary appointment and the appointee~~  
15 ~~shall have all the powers and duties of a regular member of the~~  
16 board.] shall designate some other officer or employee of the  
17 State to perform the duties of the vacant office until the  
18 office is filled through nomination and, by and with the advice  
19 and consent of the senate, appointment by the governor. The  
20 authority derived from this section shall not continue for a  
21 period longer than sixty days after the vacancy occurs. If the  
22 governor fails to designate an officer or employee to perform





# S.B. NO. 473

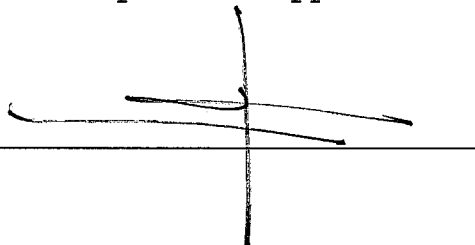
1 the duties of the vacant office or if the designee's authority  
2 expires before the vacant office is filled through nomination  
3 and, by and with the advice and consent of the senate,  
4 appointment by the governor, the duties of the vacant office  
5 shall be performed by the division head with the highest  
6 seniority within the department."

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

9 SECTION 7. This Act shall take effect upon its approval.

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INTRODUCED BY: \_\_\_\_\_

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**Report Title:**

Nominations; Appointees; Advise and Consent; Holdover; Vacancy

**Description:**

Shortens the allowed time for holdover appointments and clarifies the appointment process for positions which require the consent of the senate.

