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# A BILL FOR AN ACT

RELATING TO THE UNIVERSITY OF HAWAII.

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

1           SECTION 1. The legislature finds that while the candidate  
2 advisory council for the board of regents of the University of  
3 Hawaii has nominated many outstanding appointees to the board,  
4 important concerns have been raised as to the selection process.  
5 Since the passage of Act 56, Session Laws of Hawaii 2007, to  
6 implement the amendments to article X, section 6 of the state  
7 constitution, a number of issues have arisen from the new method  
8 of regent selection that hampered the work of the regents  
9 candidate advisory council and led to questions regarding the  
10 final selection of appointees during the senate confirmation  
11 process.

12           Particularly at this time, in light of the 2011 board of  
13 education appointment process, the legislature can see the  
14 potential value in granting the governor the authority to select  
15 and appoint regents on the basis of how each regent's individual  
16 strengths will add to and complement the overall board of  
17 regents. It has become clear that the governor will not be able  
18 to adequately select nominees to the board of regents unless the



1 governor has more control and involvement in the recruitment and  
2 selection process. The legislature believes that it is  
3 appropriate to reassess and seriously consider making  
4 significant changes to the form and function of the regents  
5 candidate advisory council.

6 The purpose of this Act is to reconstitute the form and  
7 processes of the candidate advisory council to maximize the  
8 governor's ability to appoint qualified individuals to serve as  
9 members of the board of regents and effectively lead the  
10 University of Hawaii.

11 SECTION 2. Chapter 304A, Hawaii Revised Statutes, is  
12 amended by adding a new section to part I to be appropriately  
13 designated and to read as follows:

14 "§304A- Candidate advisory council for the board of  
15 regents of the University of Hawaii. (a) The candidate  
16 advisory council for the board of regents of the University of  
17 Hawaii shall recruit, rate, and present to the governor  
18 qualified candidates for nomination to a vacant seat on the  
19 board of regents. The candidate advisory council shall be  
20 placed in the office of the governor for administrative  
21 purposes.

22 (b) The candidate advisory council shall:



- 1        (1) Develop and implement a fair and independent procedure  
2        for rating candidates to serve on the board of  
3        regents;
- 4        (2) Require candidates and members of their immediate  
5        family to disclose any existing or anticipated  
6        contracts or financial transactions with the  
7        University of Hawaii, and family relationships with  
8        University of Hawaii employees;
- 9        (3) Actively solicit and accept applications from  
10       potential candidates;
- 11       (4) Rate candidates for the board of regents on their  
12       backgrounds, experience, and potential for discharging  
13       the responsibilities of a member of the board of  
14       regents, based upon the qualifications imposed by the  
15       state constitution; and
- 16       (5) Present a list of at least three candidates to the  
17       governor for nomination and appointment for each  
18       vacant seat on the board of regents of the University  
19       of Hawaii.
- 20       (c) The candidate advisory council shall initiate the  
21       recruitment and rating of candidates for each vacancy on the  
22       board of regents within:



1       (1) Thirty days of a vacancy; or

2       (2) At least one hundred twenty days prior to the  
3       expiration of a regent's term.

4       (d) To provide continuity for the board of regents, the  
5       governor may recommend to the candidate advisory council the  
6       reappointment of a board of regents member, subject to senate  
7       confirmation.

8       (e) The candidate advisory council shall consist of five  
9       members, to be appointed by the governor without regard to  
10      section 26-34, and one non-voting ex officio member who shall be  
11      the most recent emeritus chair of the board of regents.

12      Appointees to the candidate advisory council shall have a  
13      general understanding of the purposes of higher education, the  
14      mission and strategic goals of the University of Hawaii system,  
15      and the role and responsibilities of the board of regents.

16      Appointees shall be individuals who are widely viewed as having  
17      placed the broad public interest ahead of special interests, who  
18      are respected by the community, and who are highly qualified to  
19      recruit and rate candidates for the governor's consideration.

20      (f) Each member of the candidate advisory council shall  
21      serve for the duration of the term of the governor by whom the  
22      member was appointed.



1       (g) The candidate advisory council shall operate in a  
2 wholly nonpartisan manner. No member of the candidate advisory  
3 council shall run for or hold any elected office of the State or  
4 its political subdivisions. Any member of the candidate  
5 advisory council shall resign from the candidate advisory  
6 council prior to filing nomination papers for an elected office  
7 of the State or its political subdivisions.

8       (h) The governor shall appoint the chairperson of the  
9 candidate advisory council. A majority of the members to which  
10 the candidate advisory council is entitled shall constitute a  
11 quorum to do business. The concurrence of a majority of all the  
12 members to which the candidate advisory council is entitled  
13 shall be necessary to make any action of the candidate advisory  
14 council valid.

15       (i) Members of the candidate advisory council shall serve  
16 without compensation but shall be reimbursed for expenses,  
17 including travel, board, and lodging expenses, necessary for the  
18 performance of their duties."

19       SECTION 3. Section 304A-104, Hawaii Revised Statutes, is  
20 amended to read as follows:

21       "**§304A-104 Regents; appointment; tenure; qualifications;**  
22 **meetings.** (a) The affairs of the university shall be under the



1 general management and control of the board of regents  
2 [~~consisting~~]. The board shall consist of fifteen members who  
3 shall be appointed [and] by the governor from lists of qualified  
4 candidates presented to the governor by the candidate advisory  
5 council and shall be confirmed by the senate; provided that if  
6 the list of qualified candidates includes less than three  
7 candidates at any time during the nomination and confirmation  
8 process, the governor may request that the candidate advisory  
9 council reopen recruitment for qualified candidates. Members  
10 may be removed by the governor. Except as otherwise provided by  
11 law, state officers shall be eligible for appointment and  
12 membership.

13 The term of each member shall be five years, except as  
14 provided for the initial appointment in section 26-11; provided  
15 that the term of the student member shall be two years. Every  
16 member may serve beyond the expiration date of the member's term  
17 of appointment until the member's successor has been appointed  
18 by the governor and confirmed by the senate in accordance with  
19 article X, section 6 of the Hawaii constitution. Members shall  
20 serve no more than two consecutive five-year terms; provided  
21 that the members who are initially appointed to terms of two  
22 years or less pursuant to section 26-11(a) may be reappointed to



1 two ensuing five-year terms. If a member is to be appointed to  
2 a second term of five years, the senate shall consider the  
3 question of whether to reconfirm the member at least one hundred  
4 twenty days prior to the conclusion of a member's first five-  
5 year term; provided that if the senate is not in session within  
6 one hundred twenty days prior to the conclusion of the member's  
7 first five-year term, the member shall continue to serve until  
8 the senate convenes for the next regular session or the next  
9 special session for which the senate is authorized to consider  
10 the question of reconfirmation.

11 (b) In determining whether to confirm the governor's  
12 nominee to the board of regents, the senate shall consider the  
13 combination of abilities, breadth of experiences, and  
14 characteristics of the board of regents, as a whole, that will  
15 best serve the diverse interests and needs of the students of  
16 the university system and assist the university system in  
17 achieving its strategic goals and performance indicators. The  
18 senate shall consider such factors as whether the board reflects  
19 the diversity of the student population, the various counties of  
20 the State, and a broad representation of higher education-  
21 related stakeholders.



1        [~~(b)~~] (c) At a meeting preceding July 1 of each year, the  
2 board of regents shall elect a chairperson and up to two vice-  
3 chairpersons whose terms shall be from July 1 to June 30 of the  
4 next year or thereafter until their successors are elected. The  
5 board shall appoint a secretary, who shall not be a member of  
6 the board. The president of the university shall act as  
7 executive officer of the board. A majority of the board of  
8 regents shall constitute a quorum to conduct business, and the  
9 concurrence of a majority of all the members to which the board  
10 of regents is entitled shall be necessary to make any action of  
11 the board of regents valid. The board shall meet at least ten  
12 times annually and, from time to time, may meet in each of the  
13 counties of Hawaii, Maui, and Kauai.

14        [~~(e)~~] (d) The governor shall notify the [~~regents~~]  
15 candidate advisory council for the board of regents of the  
16 University of Hawaii in writing within ten days of receiving  
17 notification that a member of the board of regents is resigning,  
18 has died, or is being removed by the governor.

19        [~~(d)~~] (e) The members of the board of regents shall serve  
20 without pay but shall be entitled to their travel expenses  
21 within the State when attending meetings of the board or when  
22 actually engaged in business relating to the work of the board."





1 SECTION 4. Section 304A-104.5, Hawaii Revised Statutes, is  
2 repealed.

3 ~~["§304A-104.5 Regents candidate advisory council for the~~  
4 ~~board of regents of the University of Hawaii. (a) There is~~  
5 ~~established the regents candidate advisory council for the board~~  
6 ~~of regents of the University of Hawaii to present to the~~  
7 ~~governor pools of qualified candidates from which the members of~~  
8 ~~the board of regents shall be nominated and, by and with the~~  
9 ~~consent of the senate, appointed by the governor. The regents~~  
10 ~~candidate advisory council shall establish the criteria for~~  
11 ~~qualifying, screening, and presenting to the governor candidates~~  
12 ~~for membership on the board of regents. The regents candidate~~  
13 ~~advisory council shall be attached to the University of Hawaii~~  
14 ~~for administrative purposes.~~

15 ~~(b) Except as provided in subsection (c), the regents~~  
16 ~~candidate advisory council shall present no fewer than two and~~  
17 ~~no more than four qualified candidates for each seat on the~~  
18 ~~board of regents to the governor within:~~

19 ~~(1) Sixty days of a vacancy that arises by resignation,~~  
20 ~~death, or removal by the governor; or~~

21 ~~(2) One hundred twenty days prior to the expiration of a~~  
22 ~~term.~~



1 ~~The regents candidate advisory council shall be deemed to have~~  
2 ~~fulfilled its obligation under this section upon presentation of~~  
3 ~~the names of the minimum number of candidates required to be~~  
4 ~~presented for each seat or seats on the board of regents.~~

5 ~~(c) When there are multiple seats vacant within the same~~  
6 ~~county or within the at large membership, the regents candidate~~  
7 ~~advisory council shall present candidates for seats on the board~~  
8 ~~of regents to the governor as follows:~~

9 ~~(1) For two seats from the same county or two at large~~  
10 ~~seats, no fewer than four and no more than six~~  
11 ~~candidates;~~

12 ~~(2) For three seats from the same county, no fewer than~~  
13 ~~five and no more than eight candidates; and~~

14 ~~(3) For more than three seats, the regents candidate~~  
15 ~~advisory council shall determine appropriate minimum~~  
16 ~~numbers of candidates, which shall provide for at~~  
17 ~~least three candidates for the final seat, and maximum~~  
18 ~~numbers of candidates.~~

19 ~~(d) In making its presentations, the regents candidate~~  
20 ~~advisory council shall:~~

21 ~~(1) Develop a statement that includes the selection~~  
22 ~~criteria to be applied and a description of the~~



- 1 ~~responsibilities and duties of a member of the board~~  
2 ~~of regents and distribute this statement to potential~~  
3 ~~candidates;~~
- 4 ~~(2) Screen and qualify candidates for each position on the~~  
5 ~~board of regents based on their background,~~  
6 ~~experience, and potential for discharging the~~  
7 ~~responsibilities of a member of the board of regents;~~
- 8 ~~(3) Publicly advertise pending vacancies and actively~~  
9 ~~solicit and accept applications from potential~~  
10 ~~candidates;~~
- 11 ~~(4) Develop and implement a fair, independent, and~~  
12 ~~nonpartisan procedure for selecting candidates to~~  
13 ~~serve on the board of regents;~~
- 14 ~~(5) Ensure student involvement by establishing a student~~  
15 ~~advisory group composed of:~~
- 16 ~~(A) The senior student affairs officer of the~~  
17 ~~University of Hawaii system;~~
- 18 ~~(B) No fewer than three student representatives from~~  
19 ~~the University of Hawaii student caucus who shall~~  
20 ~~represent, to the maximum extent possible, the~~  
21 ~~interests of the various University of Hawaii~~  
22 ~~campuses on each island; and~~



1           ~~(C) No fewer than three student life advisors who~~  
2                   ~~shall represent, to the maximum extent possible,~~  
3                   ~~the interests of the various University of Hawaii~~  
4                   ~~campuses on each island,~~  
5           ~~who shall work with and assist the regents candidate~~  
6           ~~advisory council to recruit and evaluate candidates~~  
7           ~~for the student member of the board of regents and~~  
8           ~~make recommendations to the regents candidate advisory~~  
9           ~~council based on the qualifications of the candidates~~  
10           ~~applying for the position; and~~

11           ~~(6) Require each candidate to disclose any existing or~~  
12                   ~~anticipated contracts with the University of Hawaii or~~  
13                   ~~any existing or anticipated financial transactions~~  
14                   ~~with the University of Hawaii.~~

15           ~~Upon submission of the names of candidates to the governor, the~~  
16           ~~regents candidate advisory council shall make available the~~  
17           ~~names of candidates to the public through the University of~~  
18           ~~Hawaii.~~

19           ~~(e) For each board seat to be filled, the governor shall~~  
20           ~~select one nominee from among the candidates submitted by the~~  
21           ~~regents candidate advisory council.~~



1       ~~(f) The regents candidate advisory council shall consist~~  
2 ~~of seven members to be appointed without regard to section 26-34~~  
3 ~~as follows:~~

4       ~~(1) One member shall be appointed by the president of the~~  
5       ~~senate;~~

6       ~~(2) One member shall be appointed by the speaker of the~~  
7       ~~house of representatives;~~

8       ~~(3) One member shall be appointed by the governor;~~

9       ~~(4) One member shall be appointed by one of the co-chairs~~  
10       ~~of the All-Campus Council of Faculty Senate Chairs of~~  
11       ~~the University of Hawaii. A person may not be~~  
12       ~~appointed as a member of the regents candidate~~  
13       ~~advisory council under this paragraph, if within the~~  
14       ~~five years immediately preceding that appointment, the~~  
15       ~~person served on the All-Campus Council of Faculty~~  
16       ~~Senate Chairs of the University of Hawaii;~~

17       ~~(5) One member shall be appointed by the chairperson of~~  
18       ~~the Executive Council of the University of Hawaii~~  
19       ~~Student Caucus. A person may not be appointed as a~~  
20       ~~member of the regents candidate advisory council under~~  
21       ~~this paragraph, if within one year immediately~~  
22       ~~preceding that appointment, the person served on the~~



1           ~~Executive Council of the University of Hawaii Student~~  
2           ~~Caucus;~~

3           ~~(6) One member shall be appointed by the chairperson of~~  
4           ~~the Association of Emeritus Regents; and~~

5           ~~(7) One member shall be appointed by the president of the~~  
6           ~~University of Hawaii Alumni Association;~~

7           ~~provided that members appointed under paragraphs (4) to (7)~~  
8           ~~shall be selected from the general public and may include~~  
9           ~~members of the constituencies represented; provided further that~~  
10          ~~each appointee satisfies the requirements for appointment~~  
11          ~~provided in this subsection.~~

12          ~~The regents candidate advisory council shall be selected in~~  
13          ~~a wholly nonpartisan manner. Appointees to the regents~~  
14          ~~candidate advisory council shall have a general understanding of~~  
15          ~~the purposes of higher education, the mission of the University~~  
16          ~~of Hawaii system, and the responsibilities of the board of~~  
17          ~~regents. Appointees shall be individuals who are widely viewed~~  
18          ~~as having placed the broad public interest ahead of special~~  
19          ~~interests, having achieved a high level of prominence in their~~  
20          ~~respective professions, and being respected members of the~~  
21          ~~community.~~



1       ~~(g) Members of the regents candidate advisory council~~  
2 ~~shall serve four-year terms.~~

3       ~~(h) If a vacancy occurs, a successor shall be appointed in~~  
4 ~~the same manner and subject to the same qualifications as the~~  
5 ~~person's predecessor. The person appointed to fill a vacancy~~  
6 ~~shall serve for the remainder of the term of the person's~~  
7 ~~predecessor.~~

8       ~~(i) The regents candidate advisory council shall operate~~  
9 ~~in a wholly nonpartisan manner. No individual, while a member~~  
10 ~~of the regents candidate advisory council, shall run for or hold~~  
11 ~~any elected office under the United States or the State or any~~  
12 ~~of its political subdivisions.~~

13       ~~(j) The members of the regents candidate advisory council~~  
14 ~~shall choose a chairperson from among themselves. A majority of~~  
15 ~~all the members to which the regents candidate advisory council~~  
16 ~~is entitled shall constitute a quorum to conduct business. The~~  
17 ~~concurrence of a majority of all the members to which the~~  
18 ~~regents candidate advisory council is entitled shall be~~  
19 ~~necessary to make any action of the regents candidate advisory~~  
20 ~~council valid. The regents candidate advisory council shall~~  
21 ~~meet annually and at other times as necessary. The regents~~



1 ~~candidate advisory council shall be exempt from part I of~~  
2 ~~chapter 92.~~

3 ~~(k) Members of the regents candidate advisory council~~  
4 ~~shall serve without compensation but shall be reimbursed for~~  
5 ~~expenses, including travel, board, and lodging expenses,~~  
6 ~~necessary for the performance of their duties.~~

7 ~~(l) Notwithstanding chapter 92F or any other law to the~~  
8 ~~contrary, all information required by the regents candidate~~  
9 ~~advisory council shall be confidential, including without~~  
10 ~~limitation, all council information obtained, reviewed, or~~  
11 ~~considered before and after council decisionmaking.~~  
12 ~~Confidential regents candidate advisory council information~~  
13 ~~shall include documents, data, or other information that are not~~  
14 ~~of public record, including without limitation, personal~~  
15 ~~financial information; the names of applicants; applications and~~  
16 ~~the personal, financial, and other information contained therein~~  
17 ~~submitted by the applicants to the regents candidate advisory~~  
18 ~~council; interviews; schedules; reports; studies; background~~  
19 ~~checks; credit reports; surveys and reports prepared for or on~~  
20 ~~the regents candidate advisory council's behalf; the results of~~  
21 ~~any evaluations or assessments conducted by the regents~~  
22 ~~candidate advisory council; the substance and details of any~~





1 ~~discussions with regents candidate advisory council members; and~~  
2 ~~the substance and details of discussions and deliberations of~~  
3 ~~the regents candidate advisory council and any of its committees~~  
4 ~~during meetings." ]~~

5 SECTION 5. The members of the candidate advisory council  
6 for the board of regents of the University of Hawaii who are  
7 serving on the effective date of this Act shall serve until the  
8 council is reconstituted by the governor's appointment of five  
9 members to the council pursuant to this Act. The governor shall  
10 appoint five members to the council no later than            days  
11 after the effective date of this Act.

12 SECTION 6. Statutory material to be repealed is bracketed  
13 and stricken. New statutory material is underscored.

14 SECTION 7. This Act shall take effect on July 1, 2050.



**Report Title:**

University of Hawaii Board of Regents; Candidate Advisory Council

**Description:**

Amends the form and function of the University of Hawaii regents candidate advisory council. Repeals section 304A-104.5, HRS. Effective 7/1/2050. (SD2)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

