

SB2005, SD1

Regent Candidate Advisory Council
University of Hawaii

February 21, 2012

THE HONORABLE CLAYTON HEE, CHAIR
Senate Committee on Judiciary and Labor
Twenty-Sixth State Legislature
Regular Session of 2012
State of Hawai'i

LEGISLATIVE TESTIMONY IN OPPOSITION TO
S. B. 2005, SD1
RELATING TO THE BOARD OF REGENTS OF THE UNIVERSITY OF HAWAII

Hearing Date:
February 22, 2012, 9:45 am Conference Room 211

Submitted by:
OFFICERS OF THE REGENT CANDIDATE ADVISORY COUNCIL
UNIVERSITY OF HAWAII

Chair Hee, Vice Chair Shimabukuro, and members of the Senate Committee on Judiciary and Labor:

The Officers of the Regent Candidate Advisory Council of the University of Hawaii submit testimony in opposition to S. B. 2005, SD1.

We respectfully submit that the introduction of this proposed legislation is based on erroneous misperceptions as enumerated below.

Misperception #1

Without merit, the RCAC elected to reject a request to furnish the Governor names of candidate regents.

Fact Check

Various comments made about the RCAC's interactions with the Governor's office are absolutely inaccurate. Such comments fail to cite that events that trigger the need for the RCAC to generate a list of regent candidates, as well as the submittal of the Council's candidate lists to the Governor, follow strict prescribed processes and procedures set forth in state statutes, the Council's administrative rules, and further guidance provided by two unanimous rulings by the State Supreme Court.

Misperception #2

The RCAC processes limit the Governor's authority to appoint Regents.

Fact Check

The Hawaii voters, not the RCAC, mandated limiting the Governor's authority to appoint Regents. *A constituent-based candidate selection committee was thoroughly debated and voted upon by the 2006 and 2007 Legislatures.*

In 2006, the Legislature passed a constitutional ballot amendment seeking voter approval requiring University Board of Regents be selected from a pool of qualified candidates screened and proposed by a candidate advisory council. Later that year, Hawaii voters overwhelmingly passed the constitutional amendment.

In 2007, the Legislature outright disregarded Governor Lingle's attempt to create a Governor's Advisory Council under the administrative control of the Governor (H.B. 1431 and S.B. 1517), promoting instead, the passage of a constituent-based Regents Candidate Advisory Council (RCAC). The Legislature took the extraordinary step of overriding Governor Lingle's veto of the creation of the RCAC because it strongly believed the Governor should not be solely responsible for appointing a separate body that qualifies and presents candidates for appointment to the Board of Regents.

Misperception #3

Failure to confirm the Governor's regent appointments in three of four legislative sessions is proof positive that the RCAC process is broken.

Fact Check

The RCAC process is successfully working and clearly not broken. *While testimony submitted during the confirmation proceedings overwhelmingly demonstrated that all the Governor's appointments were respected community leaders and well qualified to serve on the BOR, the Senate believed a handful of the Governor's appointments were not suitably qualified to serve as UH regents. It is important to note that under the RCAC process, a disproportional amount of appointments that failed to receive senate advice and consent were from the islands of Hawaii and Maui. In the years immediately preceding the establishment of the RCAC, many more BOR appointments failed senate advice and consent; hence the voters mandated the creation of the RCAC, a new process of screening and selecting UH regents.*

Approximately six years have lapsed since the passage of the constitutional amendment, and the creation of the RCAC. All 15 members currently serving on the UH Board of Regents were gubernatorial appointments selected from a lists provided by the RCAC. It is without dispute that all BOR members selected under this process were or are outstanding leaders in the community and have served or are serving the University and the state with honor and distinction.

Misperception #4

RCAC recruitment process is narrow in focus and not comprehensive in taking into account the skill sets and synergistic nature of the BOR board governance processes.

Fact Check

As part of its comprehensive deliberation process, the RCAC goes through great lengths to solicit input from many stakeholders on the types of complementary skills sets that would further strengthen board governance and synergy and help guide the institution's strategic directions in teaching, research, and community service.

Misperception #5

RCAC recruitment and screening process is onerous and limits qualified candidates from applying.

Fact Check

The RCAC recruitment and screening processes are not overwhelming, but rather thorough and comprehensive -- as it should be given the important governing duties UH Regents must deal with. *The Council's selection process is comprehensive, transparent, well balanced, and solely and exclusively merit-based. The compilation of candidate regents lists occurs only after the RCAC completes its comprehensive review and selection process. It is significant that for the first time in the UH's 100 year existence, the RCAC process encourages all UH stakeholders to participate in the selection process by submitting names of BOR candidates for consideration.*

Concluding Remarks

The Legislature has made great strides in granting the University increasing autonomy. Since the BOR selects its chief executive officer, the appropriate accountability is for the Governor and the Legislature to hold the President and the University Regents fully accountable for UH outcomes. The proposed legislation runs contrary to the mandate of Hawaii voters, and is an abrupt and total change in the strong position the Legislature took on this matter in the 2006 and 2007 legislative sessions.

For these reasons, we strongly urge the Committee to table S.B. 2005, SD1.

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