



EXECUTIVE CHAMBERS  
HONOLULU

NEIL ABERCROMBIE  
GOVERNOR

Tuesday, March 13, 2012, 2:00 PM  
State Capitol Room 309

Testimony of  
NEIL ABERCROMBIE  
Governor, State of Hawaii

To the House Higher Education Committee  
Representative Scott Nishimoto, Chair  
Representative Mark Nakashima, Vice Chair

SB 2005 SD 2 - Relating to the University of Hawaii

Chair Nishimoto, Vice Chair Nakashima, and members of the Committee:

Thank you for the opportunity to provide testimony in support of SB 2005 SD2. This bill amends article X, section 6, of the Hawaii State Constitution to modify the appointment process for the Board of Regents of the University of Hawaii and repeals reference to the Candidate Advisory Council for the Board of Regents of the University of Hawaii. Senate Draft 2 includes a defective date of 2050, reflecting the Senate's intent to continue discussion on this bill.

I believe that the University of Hawaii system is the single most underutilized public resource in Hawaii. UH contributes to and plays a leadership role in every element of improving Hawaii. The UH Regents provide vital leadership to ensure that college is accessible and affordable for students on all islands, support the entrepreneurial professor, facilitate innovation and technology transfer, support renovation, support premier education and research projects, and improve student success.

The RCAC process was established by 2006 constitutional amendment, was defined in statute in 2007, and was amended in 2008, 2010 and 2011. Quality Regents have been appointed and confirmed through the established process, and UH has achieved many milestones under the leadership of Regents appointed through the RCAC process.

However, the current RCAC process limits the Governor's authority to appoint Regents. And since the RCAC process was established, the Senate has denied

advice and consent for Regents appointees in 3 of 4 legislative sessions.

This bill would repeal the constitutional reference to a candidate advisory council requirement for selection of members of the Board of Regents of the UH. This would allow the Governor more flexibility in recruiting, selecting and appointing Regents.

In making appointments for boards and commissions, I consider the individual qualities—personal and professional—of the candidates, as well as how the candidates would balance the board in terms of their experience, skill sets or perspectives. The Board of Regents' balance among the members is important to fulfill the Board's charge to govern and steward public higher education. As an example, there has been an ongoing concern about gender balance on the Board of Regents. Prior to my administration, there was only one woman among the 15 Regents. Last year, I appointed and the Senate confirmed three female Regents. Therefore, 4 of 15 sitting Regents are women. Last month, the RCAC transmitted their list of candidates for four positions that will become vacant this year. Of the 12 candidates, only two are women. If the Senate confirms my appointments, only 3 of 15 Regents will be women. As Governor, I need to balance many characteristics of the candidates to reflect the diversity of Hawaii and the functional needs of the Board of Regents. Considering only a limited "short list" of candidates makes it extremely challenging to balance the Board on the many dimensions of importance to the University and our state.

The University and state are best served by a process that increases the Governor's ability to select and appoint Regents. SB2005 SD2 provides this opportunity through a constitutional amendment to modify the appointment process for the Board of Regents.

Thank you for your consideration.

Regents Candidate Advisory Council  
University of Hawaii

THE HONORABLE SCOTT Y. NISHIMOTO, CHAIR  
House Committee on Higher Education  
Twenty-Sixth State Legislature  
Regular Session of 2012  
State of Hawai'i

March 12, 2012

LEGISLATIVE TESTIMONY IN OPPOSITION TO  
S. B. 2005, S.D.2  
RELATING TO THE BOARD OF REGENTS OF THE UNIVERSITY OF HAWAII

Hearing Date:  
March 13, 2012, 2:00 pm, Conference Room 309

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

Chair Nishimoto, Vice Chair Nakashima, and members of the House Committee on Higher Education:

The Officers of the Regents Candidate Advisory Council of the University of Hawaii submit testimony in opposition to S. B. 2005, S.D. 2.

We call to the committee's attention the legislative history of Act 56 of the 2007 Legislative Session. The Regents Candidate Advisory Council (RCAC) was created that year after Hawaii voters overwhelmingly supported the Hawaii Board of Regents Candidates Act, a 2006 legislatively referred constitutional amendment regarding the selection process for the Board of Regents of the University of Hawaii.

In 2007, the Legislature went through the extraordinary effort to override Governor Lingle's veto and her objections over how the RCAC was to be established. Her administration bills, S.B. 1517 and H.B. 1431, proposed to place the appointing control of the RCAC under the control of the governor failed. The 2007 Legislature fully concurred with the Senate Higher Education Committee that ***"the Governor should not be solely responsible for appointing a separate body that qualifies and presents candidates for appointment to the Board of Regents" and that the legislation would "ensure that the law reflects the spirit of the constitutional amendment that was approved by the people of Hawaii"***.

Legislative Testimony  
In Opposition of SB 2005, S. D. 2  
March 12, 2012  
Page 2 of 2

This proposed legislation calls for amending Article X, Section 6, of the Hawaii State Constitution to modify the appointment process for the board of regents. Passage of this constitutional amendment would abolish the enabling authority of the RCAC and reestablish the governor's authority to nominate and, with the advice and consent of the senate, appoint the members of the board of regents of the University of Hawaii

Such proposed legislation goes against the clear mandate Hawaii's voters overwhelmingly approved in 2006. It is an abrupt and total change in the position this committee and the 2007 Legislature took when it passed legislation to create the RCAC.

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 selected by the Governor from lists provided by the RCAC. To the best of the Council's knowledge, we believe all members of the Board or Regents selected under the RCAC process have served or are serving with honor and distinction.

We know of no issue that adversely hampers the work of the Council and do not recall receiving any communication from either the Executive or Legislative Branch that adversely questioned or identified any RCAC process that adversely affected the final selection of appointees during the Senate confirmation process.

For these reasons, we strongly urge the Committee to table this bill.

Karl Fujii, Chair  
Neil Bellinger, Vice-Chair  
L. Thomas Ramsey, Secretary  
Regents Candidate Advisory Council  
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House Committee on Higher Education  
Tuesday, March 13, 2012  
2:00 p.m.

**SB 2005, SD2, Proposing a Constitutional Amendment to Article X, Section 6, of the Hawaii State Constitution to Modify the Appointment Process for the Board of Regents of the University of Hawaii.**

Dear Chairperson Nishimoto and Committee Members:

On behalf of the University of Hawaii Professional Assembly, our union supports the repeal of the candidate advisory council for the Board of Regents through a constitutional amendment to be placed on the 2012 General election ballot. We believe the current system used to select members of the Board of Regents has become so onerous that many outstanding citizens, who would have made excellent Board of Regents, are not willing to submit to the advisory council process. In the past, UHPA opposed the current approach and has continued to do so believing it did not represent the interests of the faculty nor the institution itself.

We believe that the Governor should have the authority to nominate and appoint Board of Regent members on their own volition. The Governor, in order to be accountable to the people, should not be limited in his or her choices through a restricted list garnered by an advisory committee. Senate consent is the correct mechanism to ensure the appropriateness of the appointment.

The University of Hawaii Professional Assembly strongly recommends passage of this bill.

Respectively submitted,

Kristeen Hanselman  
Associate Executive Director

UNIVERSITY OF HAWAII  
PROFESSIONAL ASSEMBLY

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**nakashima2 - Susie**

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**From:** Windward Ahupua`a Alliance [info@waa-hawaii.org]  
**Sent:** Tuesday, March 13, 2012 10:14 AM  
**To:** HEDtestimony  
**Subject:** \*\*\*\*\*SPAM\*\*\*\*\* SB2005 SD2 - Proposed Constitutional Amendment re Board of Regents

**COMMITTEE ON HIGHER EDUCATION**

*Rep. Scott Nishimoto, Chair*  
*Rep. Mark Nakashima, Vice Chair*

**2 pm**  
**Tuesday, March 13, 2012**  
**Conference Room 309**

**SB 2005 SD2 - PROPOSING A CONSTITUTIONAL AMENDMENT TO ARTICLE X, SECTION 6**  
**OF THE HAWAII STATE CONSTITUTION TO MODIFY THE APPOINTMENT PROCESS**  
**FOR THE BOARD OF REGENTS OF THE UNIVERSITY OF HAWAII**

**STRONGLY OPPOSE**

My name is Shannon Wood, the president & co-founder of the *Windward Ahupua`a Alliance*, a 501c3 Hawai`i non-profit corporation, established in July, 2002, to create the Ko`olau Greenbelt & Heritage Trails System in order to restore, protect & provide public access to the *mauka* (mountain) lands on the Windward side of O`ahu along the base of *Na Ko`olau* as well as to support locally-owned sustainable economic activities in the more developed areas. Its mandate, however, has expanded over the years well beyond these important regional issues.

*WAA* now works to educate & inform residents, visitors, businesses, policymakers at all levels of government, and the media about using **SMART GROWTH** principles which promote sustainability. *WAA* also advocates on matters impacting life-long formal & informal educational opportunities - in particular, charter schools and the *University of Hawai`i at Manoa*..

I first started attending the **Board of Regents** meetings during the last two years of the *Waihee Administration* and have attended more than 85 of them over the past 20 years.

Since *UH* became a semi-autonomous entity within state government along with establishing the *Regents Candidate Advisory Council* during the *Lingle Administration* - there has been a major shift in the makeup of the **BOR** by changing the placement process.

Let us be clear that the law was changed because legislators were not happy the fact that **Governor Lingle** could load up the *Board of Regents* with her people for well over a decade until their terms expired.

Don't misunderstand me - the people who have served as *Regents* over the first 100 years were decent, caring people. However, the world has changed. We need highly-qualified community leaders who can deal with the changing economy, diverse social justices issues, and changes in the physical environment.

Selecting highly-qualified candidates - not just political buddies of the **Fifth Floor Occupants** - is absolutely required to make sure that *UH* thrives over its second 100 years. That is what the *Regents Candidate Advisory Council* has done.

**NOTE** : I forwarded a story to this **Committee** from the February 13 **Honolulu Star-Advertiser** about the 12 **BOR** candidates sent to the **Governor**.

I strongly oppose all three of the bills being heard today and urge that you defer further action on them. If you are concerned about the quality of the candidates or their political connections, then change the criteria. However, do not take a huge step backwards in addressing the multiplicity of challenges faced by the *University of Hawai`i System* by letting the **Governor** - whoever she or he may be - select the candidates for the *Board of Regents* without going through a significant and important non-political screening process.

Shannon Wood, *President*

*Windward Ahupua`a Alliance*

**PLANT A NATIVE TREE CAMPAIGN**

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TESTIMONY OF HOWARD H. KARR  
HOUSE COMMITTEE ON HIGHER EDUCATION  
THE TWENTY-SIXTH LEGISLATURE  
REGULAR SESSION OF 2012  
TUESDAY, MARCH 13, 2012  
2:00 P.M.  
CONFERENCE ROOM 309  
STATE CAPITOL  
415 SOUTH BERETANIA STREET  
HONOLULU, HI 96813

SB 2005, S.D. 2 PROPOSING A CONSTITUTIONAL AMENDMENT TO ARTICLE X,  
SECTION 6, OF THE HAWAII STATE CONSTITUTION TO MODIFY  
THE APPOINTMENT PROCESS FOR THE BOARD OF REGENTS  
OF THE UNIVERSITY OF HAWAII

Chair Nishimoto, Vice Chair Nakashima and Members of the House Committee on  
Higher Education:

Good afternoon. My name is Howard Karr and I am here today to provide testimony  
OPPOSING SB 2005, S.D.2.

By background, I am locally born and educated in Hawaii's public school system. I  
graduated from the University of Hawaii in 1963 with a BBA in Accounting. I am a  
certified public accountant and retired as Vice Chairman and Chief Financial Officer of  
First Hawaiian Bank in 2002, after 29 years with the Bank.

I have served 17 years as a Trustee of the University of Hawaii Foundation, the  
University's fundraising arm, and chaired this organization three times. In late 2007, I  
applied, was nominated, appointed, and confirmed to the Board of Regents (BOR) in  
2008 under its new appointment process. I served as its Vice Chairman for AY 2008-  
2009 and as its Chairman for AY 2009-2011.

This Senate bill would eliminate the nonpartisan selection of the University of Hawaii's  
governing body, the Board of Regents, through an amendment to the State Constitution  
and would repeal reference to the Regents Candidate Advisory Council (RCAC) in the  
Hawaii Revised Statutes. In November 2006, the voters of Hawaii mandated a change  
and voted to amend the State Constitution to allow for qualified applicants to be vetted  
and nominated by the RCAC. Enabling legislation provided that the seven (7) members  
of the RCAC be appointed by the governor (1), president of the Senate (1), the speaker  
of the House of Representatives (1), and several of the University's constituent groups –  
All Campus Council of Faculty Senate Chairs (1), Executive Council of the University of  
Hawaii Student Caucus (1), Association of Emeritus Regents (1), and the University of  
Hawaii Alumni Association (1).



In 2010, the Executive Council of the University of Hawaii Student Caucus was replaced with a seven-member student advisory group.

By background, the Hawaii State Constitution established the University of Hawaii as a constitutionally independent corporation and is not an administrative or executive agency according to Attorney General's Opinion 61-84. The BOR reports to the people as opposed to the Board of Education which reports to the Governor.

Section 304A-104.5, Hawaii Revised Statutes, the current enabling legislation, states that:

- RCAC shall be selected in a wholly nonpartisan manner;
- RCAC appointees shall have a general understanding of the purposes of higher education, the University's mission and the responsibilities of the BOR;
- RCAC appointees shall be individuals who are widely viewed as having a high level of prominence in their respective professions and are respected members of the community.

In accordance with its legislative directive, the RCAC has developed comprehensive rules, procedures, Regents' duties and selection criteria of Regents. In its description of the duties and responsibilities of the BOR, the RCAC has effectively captured the major functions and governance responsibilities of the BOR. As summarized below, the BOR:

- hires, evaluates, fires the chief executive officer;
- establishes policies which management utilizes to run and operate the University;
- develops and updates strategic plans;
- is an independent policy-making body that reflects the public interest and defends the institution from "undue influence" and pressure from political and special interests;
- acts as a unit – one body, one voice.

As a matter of information, the attached summarizes the key statistics of the RCAC efforts in the selection of the Regents for the 2007 – 2012 BOR recruitment process. The RCAC has done an exceptional job in its mission.

A testament to the RCAC selection process is evident from the many accomplishments of the University and BOR in the last five years and which will have positive future implications. During this period, major accomplishments have included:

- Hired MRC Greenwood as its first woman President. She has provided effective and strong leadership during these economic times and budget cutbacks. She possesses the vision, commitment and energy to take the University to greater levels;

- Successful labor negotiations resulted in a six-year pact with the faculty. University administration, with consultation with the BOR, and collaboration with the faculty resulted in this settlement;
- Also, in collaboration with the University's administration and faculty union, the voluminous BOR policies (over 600 pages), were reviewed, rewritten, and approved. The number of pages has been reduced by 70%, to under 150 pages. Much of the policies have been incorporated into executive policies with the relevant responsibilities delegated accordingly with BOR oversight;
- The University has proven to be an economic stimulus to Hawaii's economy in the last few years. Through major capital improvement projects – completion of the CMORE building; construction of the new Cancer Research Center which will be completed in late 2012 (project was restructured and revitalized after a prolonged delay); construction of a new West Oahu campus to be ready for classes in the fall 2012; a new IT building with construction to start in 2012; expansion of the UH-Manoa Student Campus Center in 2012; construction of a new UH-Hilo College of Pharmacy building to start in 2012, revitalization of the Mauna Kea 30-meter telescope project (a \$1.2 - \$1.5 billion project), and several other major/minor deferred repairs and maintenance projects. These projects in the last couple years have exceeded \$400 million per year, which has provided a stimulus to the construction industry. General obligation and revenue bonds with the assistance of the Legislative and Executive branches facilitated this team effort. Also, many of the above construction projects were done under a pilot exception (Act 82, Session Laws of Hawaii 2010) in the State's procurement code which expedited the procurement of construction services while maintaining fairness and transparency;
- Despite increased student enrollment at all ten campuses coupled with the economic downturn, the University was able to manage a tight budget with less public funds (\$100 million per year in the last biennium);
- Acceptable and reasonable student tuition increases for the next five years to offset state budget cuts and increasing operating costs were passed recently;
- Memberships in the more prestigious and formidable Mountain West and Big West Conferences were confidentially accomplished with the Administration's leadership and consultation with the BOR;
- Over \$300 million was raised in private funds in collaboration with the University of Hawaii Foundation, which is the largest capital campaign to date. Going forward, the University and Foundation are focused on an even larger capital campaign.

These are some of the major accomplishments under a nonpartisan BOR. Many of us would not have served under the old system.

In changing the present process for RCAC, extreme caution should be exercised so as not to jeopardize the University's accreditation. The BOR selection process, in all phases, must be independent and free of political influence. Independence of the BOR in governing the University of Hawaii is extremely crucial for its continuing accreditation

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through its governing accrediting association, the Western Association of Schools and Colleges.

The present process is working. As the old adage goes – “If it ain’t broken, don’t fix it.”

Personally, my experience and actions on the BOR were always with the student, University and State in mind. Without speaking for the other Regents, I believe they share the same concern.

Thank you for giving me an opportunity to testify.