



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 2546 SD2 - 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 the intent of SB 2546 SD 2. The bill amends section 304A-104.5 of HRS and amends the form and function of the University of Hawaii Regents Candidate Advisory Council. 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. I appreciate the service of RCAC members.

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.

The RCAC process presumes to insulate Regents' selection from political consideration. Instead, the process adds a layer of decision making. Seven individuals are appointed directly to the RCAC by leaders of stakeholder groups such as the chairperson of the Executive Council of the University of Hawaii Student Caucus, one of the co-chairs of the All Campus Council of Faculty Senate Chairs of the University of Hawaii, president of the University of Hawaii Alumni Association and the Governor. We rely on the good judgment of these individuals to present a "short list" of Regents candidates, but there are no mechanisms to hold these individuals accountable for the exercise of their responsibilities.

The current RCAC process discourages candidates from applying for the Board of Regents. The process involves three levels of screening: RCAC to identify qualified candidates to present to the Governor, Governor to make appointments, and Senate to confirm appointees. Many appointees and potential candidates reported reluctance to apply or seek reappointment because of the burden of the process that requires significant commitment of time and exposure.

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 UH and state are best served by a process that increases the Governor's flexibility to appoint Regents. SB2546 SD2 provides this opportunity by changing the composition of the RCAC to be five members selected by the Governor and the most recent past Chair of the Board of Regents.

Thank you for your consideration.

Regents Candidate Advisory Council  
University of Hawaii

March 12, 2012

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

LEGISLATIVE TESTIMONY IN OPPOSITION TO  
S. B. 2546, SD2  
RELATING TO THE BOARD OF REGENTS OF THE UNIVERSITY OF HAWAII

Hearing Date:  
March 13, 2:00 p.m. 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. 2546, 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"***.

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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 of 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 are gubernatorial appointments selected from 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 regent 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.

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Concluding Remarks

We call to the committee's attention the legislative history of Act 56 of the 2007 Legislative Session. The Regent 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.

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. 2546, SD2.

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

**SB 2546, SD2, Relating to the University of Hawaii.**

Dear Chairman Nishimoto and Committee Members:

The University of Hawaii Professional Assembly supports the passage of this measure as an important improvement in the Board of Regents selection process. UHPA believes that the Governor should have the ability to exercise greater influence over the Board of Regent selection process by appointments to a candidate advisory council that emphasizes knowledge of higher education.

UHPA believes that the interests of the faculty and the institution are better met through this legislation that will encourage qualified persons to consider Board of Regents appointments.

Respectively submitted,

A handwritten signature in black ink that reads "Kristeen Hanselman".

Kristeen Hanselman  
Associate Executive Director

**UNIVERSITY OF HAWAII  
PROFESSIONAL ASSEMBLY**

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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. 2546, S.D.2 RELATING TO 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 2546, 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 change the nonpartisan selection of the University of Hawaii's governing body, the Board of Regents, through a restructuring of the Regents Candidate Advisory Council (RCAC). 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 a Regents Candidate Advisory Council. 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 M.R.C. 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 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 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 students, 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.