

GOVERNMENT OFFICE



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HONOLULU

NEIL ABERCROMBIE
GOVERNOR

May 13, 2013

The Honorable Donna Mercado Kim,
President
and Members of the Senate
Twenty-Seventh State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

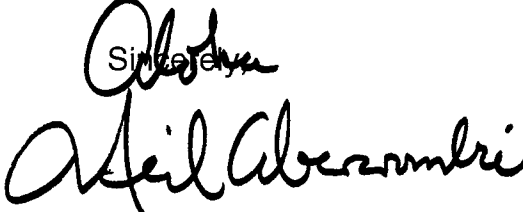
The Honorable Joseph M. Souki,
Speaker and Members of the
House of Representatives
Twenty-Seventh State Legislature
State Capitol, Room 431
Honolulu, Hawaii 96813

Dear President Kim, Speaker Souki, and Members of the Legislature:

This is to inform you that on May 13, 2013, the following bill was signed into law:

SB563 SD3 HD2 CD1

RELATING TO THE UNIVERSITY OF HAWAII
ACT 072 (13)

Sincerely,


NEIL ABERCROMBIE
Governor, State of Hawaii

Approved by the Governor
on MAY 13 2013

ACT 072

THE SENATE
TWENTY-SEVENTH LEGISLATURE, 2013
STATE OF HAWAII

S.B. NO. 563
S.D. 3
H.D. 2
C.D. 1

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 Hawaii
7 state constitution, a number of issues have arisen from this new
8 method of regent selection, which has hampered the work of the
9 regents candidate advisory council and led to questions about
10 the final selection of appointees during the senate confirmation
11 process.

12 The purpose of this Act is to reconstitute the form and
13 processes of the candidate advisory council to increase the
14 consideration and appointment of qualified individuals to serve
15 as members of the board of regents and effectively lead the
16 University of Hawaii.



1 SECTION 2. Chapter 304A, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§304A- Candidate advisory council for the board of
5 regents of the University of Hawaii. (a) The candidate
6 advisory council for the board of regents of the University of
7 Hawaii shall recruit, evaluate, and present to the governor
8 qualified candidates for nomination to a vacant seat on the
9 board of regents. The candidate advisory council shall be
10 attached to the University of Hawaii for administrative
11 purposes.

12 (b) The candidate advisory council shall:
13 (1) Develop and implement a fair and independent procedure
14 for evaluating candidates to serve on the board of
15 regents;
16 (2) Require candidates and members of their immediate
17 families to disclose any existing or anticipated
18 contracts or financial transactions with the
19 University of Hawaii;
20 (3) Actively solicit and accept applications from
21 potential candidates;



1 (4) Evaluate candidates for the board of regents on their
2 background, experience, and potential for discharging
3 the responsibilities of a member of the board of
4 regents, based upon the qualifications imposed by the
5 Hawaii state constitution; and

6 (5) Present a list of at least three candidates to the
7 governor for nomination and appointment for each
8 vacant seat on the board of regents of the University
9 of Hawaii.

10 (c) The candidate advisory council shall initiate the
11 recruitment and evaluation of candidates for each vacancy on the
12 board of regents within:

13 (1) Sixty days of a vacancy; or

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

16 (d) To provide continuity for the board of regents, the
17 governor may recommend to the candidate advisory council the
18 reappointment of a member of the board of regents, subject to
19 the advice and consent of the senate.

20 (e) The candidate advisory council shall consist of seven
21 voting members to be appointed without regard to section 26-34
22 as follows:



1 (1) One member who shall be appointed by the president of
2 the senate;

3 (2) One member who shall be appointed by the speaker of
4 the house of representatives; and

5 (3) Five members who shall be appointed by the governor.

6 A member of the Association of Emeritus Regents of the
7 University of Hawaii, appointed by the chair of the Association
8 of Emeritus Regents of the University of Hawaii, shall serve as
9 an ex officio, nonvoting member of the candidate advisory
10 council, for a term not to exceed two years; provided that the
11 appointment shall run concurrently with the term of the
12 appointing chair.

13 The president of the senate, speaker of the house of
14 representatives, and governor are encouraged to appoint full-
15 time students of the university, university faculty, university
16 staff, or university alumni to the candidate advisory council;
17 provided that if a full-time student is appointed to the
18 candidate advisory council, the student shall have been enrolled
19 as a full-time student for at least three consecutive semesters
20 and shall serve for a term of two years.

21 (f) Voting members of the candidate advisory council shall
22 serve for the following terms:



1 (1) Those appointed by the president of the senate and
2 speaker of the house of representatives shall serve
3 for a term of four years; and

4 (2) Those appointed by the governor shall serve for a term
5 of four years; provided that such appointments shall
6 run concurrently with the term of the appointing
7 governor.

8 (g) Appointees to the candidate advisory council shall
9 have a general understanding of the purposes of higher
10 education, the mission and strategic goals of the University of
11 Hawaii system, and the role and responsibilities of the board of
12 regents. Appointees shall be individuals who are widely viewed
13 as having placed the broad public interest ahead of special
14 interests, are respected by the community, and are highly
15 qualified to recruit and evaluate candidates for the governor's
16 consideration.

17 (h) Any member of the candidate advisory council whose
18 term has expired may continue in office as a holdover member
19 until a successor is appointed; provided that a holdover member
20 shall not hold office for more than six months following the
21 expiration of the member's term of office.



1 (i) A vacancy occurring in the membership of the candidate
2 advisory council during a term shall be filled for the remainder
3 of the unexpired term thereof by the appointing authority who
4 appointed the member who creates the vacancy.

5 (j) The candidate advisory council shall operate in a
6 wholly nonpartisan manner. No member of the candidate advisory
7 council shall run for or hold any elected office of the State or
8 any of its political subdivisions while serving on the candidate
9 advisory council. A member of the candidate advisory council
10 shall resign from the candidate advisory council prior to filing
11 nomination papers for an elected office of the State or any of
12 its political subdivisions.

13 (k) The chairperson of the candidate advisory council
14 shall be elected by a majority of the voting members of the
15 candidate advisory council. A majority of the members to which
16 the candidate advisory council is entitled shall constitute a
17 quorum to conduct business. The concurrence of a majority of
18 the voting members of the candidate advisory council shall be
19 necessary to make any action of the candidate advisory council
20 valid. The candidate advisory council shall meet annually and
21 at other times as necessary. The candidate advisory council
22 shall be exempt from part I of chapter 92.



1 (1) Members of the candidate advisory council shall serve
2 without compensation but shall be reimbursed for expenses,
3 including travel expenses, necessary for the performance of
4 their duties."

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

7 "**§304A-104 Regents; appointment; tenure; qualifications;**
8 **meetings.** (a) The affairs of the university shall be under the
9 general management and control of the board of regents
10 [~~consisting~~]. The board shall consist of fifteen members who
11 shall be appointed [and] by the governor from lists of qualified
12 candidates presented to the governor by the candidate advisory
13 council, pursuant to section 304A- , and shall be confirmed by
14 the senate; provided that if the list of qualified candidates
15 includes fewer than three candidates at any time during the
16 nomination and confirmation process, the governor may request
17 that the candidate advisory council reopen recruitment for
18 qualified candidates. Members may be removed by the governor.
19 Except as otherwise provided by law, state officers shall be
20 eligible for appointment and membership.

21 The term of each member shall be five years, except as
22 provided for the initial appointment in section 26-11; provided



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

19 (b) In determining whether to confirm the governor's
20 nominee to the board of regents, the senate shall consider the
21 combination of abilities, breadth of experiences, and
22 characteristics of the board of regents, as a whole, that will



1 best serve the diverse interests and needs of the students of
2 the university system and assist the university system in
3 achieving its strategic goals and performance indicators. The
4 senate shall consider whether the board reflects the diversity
5 of the student population, the various counties of the State,
6 and a broad representation of higher education-related
7 stakeholders.

8 ~~[(b)]~~ (c) At ~~[a meeting preceding July 1 of each year,]~~
9 its first meeting after June 30 of each year, the board of
10 regents shall elect a chairperson and ~~[up to two]~~ one or more
11 vice-chairpersons ~~[whose terms shall be from July 1 to]~~ who
12 shall serve until the adjournment of the first meeting of the
13 board of regents after June 30 of the next year, or thereafter
14 until their successors are elected[-]; provided that the
15 chairperson and vice chairpersons shall not be elected prior to
16 the taking of office of regents whose terms shall begin on
17 July 1 of that year. The board shall appoint a secretary, who
18 shall not be a member of the board. The president of the
19 university shall act as executive officer of the board. A
20 majority of the board of regents shall constitute a quorum to
21 conduct business, and the concurrence of a majority of all the
22 members to which the board of regents is entitled shall be



1 necessary to make any action of the board of regents valid. The
2 board shall meet at least ten times annually and, from time to
3 time, may meet in each of the counties of Hawaii, Maui, and
4 Kauai.

5 ~~[(e)]~~ (d) The governor shall notify the ~~[regents]~~
6 candidate advisory council for the board of regents of the
7 University of Hawaii in writing within ten days of receiving
8 notification that a member of the board of regents is
9 resigning~~[r]~~ or has died, or is being removed by the governor.

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

14 SECTION 4. Section 304A-104.5, Hawaii Revised Statutes, is
15 repealed.

16 ~~["§304A-104.5 Regents candidate advisory council for the~~
17 ~~board of regents of the University of Hawaii. (a) There is~~
18 ~~established the regents candidate advisory council for the board~~
19 ~~of regents of the University of Hawaii to present to the~~
20 ~~governor pools of qualified candidates from which the members of~~
21 ~~the board of regents shall be nominated and, by and with the~~
22 ~~consent of the senate, appointed by the governor. The regents~~



1 ~~candidate advisory council shall establish the criteria for~~
2 ~~qualifying, screening, and presenting to the governor candidates~~
3 ~~for membership on the board of regents. The regents candidate~~
4 ~~advisory council shall be attached to the University of Hawaii~~
5 ~~for administrative purposes.~~

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

10 ~~(1) Sixty days of a vacancy that arises by resignation,~~
11 ~~death, or removal by the governor, or~~

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

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

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



- 1 ~~(1) For two seats from the same county or two at large~~
2 ~~seats, no fewer than four and no more than six~~
3 ~~candidates;~~
- 4 ~~(2) For three seats from the same county, no fewer than~~
5 ~~five and no more than eight candidates; and~~
- 6 ~~(3) For more than three seats, the regents candidate~~
7 ~~advisory council shall determine appropriate minimum~~
8 ~~numbers of candidates, which shall provide for at~~
9 ~~least three candidates for the final seat, and maximum~~
10 ~~numbers of candidates.~~
- 11 ~~(d) In making its presentations, the regents candidate~~
12 ~~advisory council shall:~~
- 13 ~~(1) Develop a statement that includes the selection~~
14 ~~criteria to be applied and a description of the~~
15 ~~responsibilities and duties of a member of the board~~
16 ~~of regents and distribute this statement to potential~~
17 ~~candidates;~~
- 18 ~~(2) Screen and qualify candidates for each position on the~~
19 ~~board of regents based on their background,~~
20 ~~experience, and potential for discharging the~~
21 ~~responsibilities of a member of the board of regents;~~



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



1 ~~make recommendations to the regents candidate advisory~~
2 ~~council based on the qualifications of the candidates~~
3 ~~applying for the position; and~~

4 ~~(6) Require each candidate to disclose any existing or~~
5 ~~anticipated contracts with the University of Hawaii or~~
6 ~~any existing or anticipated financial transactions~~
7 ~~with the University of Hawaii.~~

8 ~~Upon submission of the names of candidates to the governor, the~~
9 ~~regents candidate advisory council shall make available the~~
10 ~~names of candidates to the public through the University of~~
11 ~~Hawaii.~~

12 ~~(c) For each board seat to be filled, the governor shall~~
13 ~~select one nominee from among the candidates submitted by the~~
14 ~~regents candidate advisory council.~~

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

18 ~~(1) One member shall be appointed by the president of the~~
19 ~~senate;~~

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

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



1 ~~(4) One member shall be appointed by one of the co chairs~~
2 ~~of the All Campus Council of Faculty Senate Chairs of~~
3 ~~the University of Hawaii. A person may not be~~
4 ~~appointed as a member of the regents candidate~~
5 ~~advisory council under this paragraph, if within the~~
6 ~~five years immediately preceding that appointment, the~~
7 ~~person served on the All Campus Council of Faculty~~
8 ~~Senate Chairs of the University of Hawaii;~~
9 ~~(5) One member shall be appointed by the chairperson of~~
10 ~~the Executive Council of the University of Hawaii~~
11 ~~Student Caucus. A person may not be appointed as a~~
12 ~~member of the regents candidate advisory council under~~
13 ~~this paragraph, if within one year immediately~~
14 ~~preceding that appointment, the person served on the~~
15 ~~Executive Council of the University of Hawaii Student~~
16 ~~Caucus;~~
17 ~~(6) One member shall be appointed by the chairperson of~~
18 ~~the Association of Emeritus Regents; and~~
19 ~~(7) One member shall be appointed by the president of the~~
20 ~~University of Hawaii Alumni Association;~~
21 ~~provided that members appointed under paragraphs (4) to (7)~~
22 ~~shall be selected from the general public and may include~~

1 ~~members of the constituencies represented; provided further that~~
2 ~~each appointee satisfies the requirements for appointment~~
3 ~~provided in this subsection.~~

4 ~~The regents candidate advisory council shall be selected in~~
5 ~~a wholly nonpartisan manner. Appointees to the regents~~
6 ~~candidate advisory council shall have a general understanding of~~
7 ~~the purposes of higher education, the mission of the University~~
8 ~~of Hawaii system, and the responsibilities of the board of~~
9 ~~regents. Appointees shall be individuals who are widely viewed~~
10 ~~as having placed the broad public interest ahead of special~~
11 ~~interests, having achieved a high level of prominence in their~~
12 ~~respective professions, and being respected members of the~~
13 ~~community.~~

14 ~~(g) Members of the regents candidate advisory council~~
15 ~~shall serve four year terms.~~

16 ~~(h) If a vacancy occurs, a successor shall be appointed in~~
17 ~~the same manner and subject to the same qualifications as the~~
18 ~~person's predecessor. The person appointed to fill a vacancy~~
19 ~~shall serve for the remainder of the term of the person's~~
20 ~~predecessor.~~

21 ~~(i) The regents candidate advisory council shall operate~~
22 ~~in a wholly nonpartisan manner. No individual, while a member~~



1 ~~of the regents candidate advisory council, shall run for or hold~~
2 ~~any elected office under the United States or the State or any~~
3 ~~of its political subdivisions.~~

4 ~~(j) The members of the regents candidate advisory council~~
5 ~~shall choose a chairperson from among themselves. A majority of~~
6 ~~all the members to which the regents candidate advisory council~~
7 ~~is entitled shall constitute a quorum to conduct business. The~~
8 ~~concurrence of a majority of all the members to which the~~
9 ~~regents candidate advisory council is entitled shall be~~
10 ~~necessary to make any action of the regents candidate advisory~~
11 ~~council valid. The regents candidate advisory council shall~~
12 ~~meet annually and at other times as necessary. The regents~~
13 ~~candidate advisory council shall be exempt from part I of~~
14 ~~chapter 92.~~

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

19 ~~(l) Notwithstanding chapter 92F or any other law to the~~
20 ~~contrary, all information required by the regents candidate~~
21 ~~advisory council shall be confidential, including without~~
22 ~~limitation, all council information obtained, reviewed, or~~



1 ~~considered before and after council decisionmaking.~~
2 ~~Confidential regents candidate advisory council information~~
3 ~~shall include documents, data, or other information that are not~~
4 ~~of public record, including without limitation, personal~~
5 ~~financial information; the names of applicants; applications and~~
6 ~~the personal, financial, and other information contained therein~~
7 ~~submitted by the applicants to the regents candidate advisory~~
8 ~~council; interviews; schedules; reports; studies; background~~
9 ~~checks; credit reports; surveys and reports prepared for or on~~
10 ~~the regents candidate advisory council's behalf; the results of~~
11 ~~any evaluations or assessments conducted by the regents~~
12 ~~candidate advisory council; the substance and details of any~~
13 ~~discussions with regents candidate advisory council members; and~~
14 ~~the substance and details of discussions and deliberations of~~
15 ~~the regents candidate advisory council and any of its committees~~
16 ~~during meetings."]~~

17 SECTION 5. Each member serving on the regents candidate
18 advisory council for the board of regents of the University of
19 Hawaii on the effective date of this Act shall serve until that
20 member's current term expires, whereupon:

- 21 (1) If that member was appointed by the president of the
- 22 senate or speaker of the house of representatives,



1 then the president of the senate or speaker of the
2 house of representatives, as the case may be, shall
3 make the appointment to fill the member's seat in
4 accordance with this Act;

5 (2) If that member was appointed by the chair of the
6 Association of Emeritus Regents of the University of
7 Hawaii, then the chair of the Association of Emeritus
8 Regents of the University of Hawaii shall make the
9 appointment to fill the member's seat in accordance
10 with this Act; and

11 (3) If that member was appointed by an authority other
12 than the president of the senate, speaker of the house
13 of representatives, or chair of the Association of
14 Emeritus Regents of the University of Hawaii, then the
15 governor shall make the appointment to fill the
16 member's seat in accordance with this Act.

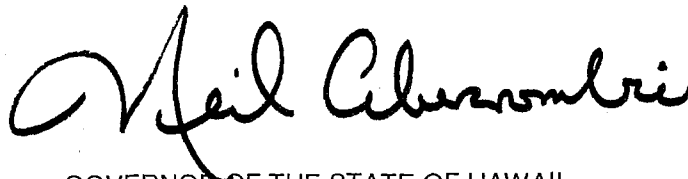
17 If the seat of any member of the regents candidate advisory
18 council serving on the effective date of this Act becomes vacant
19 prior to the expiration of the member's term, then the
20 appropriate appointing authority shall fill the vacancy for the
21 remainder of the unexpired term in accordance with this Act.



1 SECTION 6. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

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

APPROVED this 13 day of MAY, 2013



GOVERNOR OF THE STATE OF HAWAII