
A BILL FOR AN ACT

RELATING TO HIGHER EDUCATION.

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

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PART I

SECTION 1. The legislature finds that the prudent and transparent management of public funds appropriated by the legislature and expended by the University of Hawaii is a matter of statewide concern and therefore under the legislature's purview pursuant to article X, section 6, of the Hawaii state constitution.

The purpose of this Act is to:

- (1) Require that all University of Hawaii procurements for construction, including consultant services necessary for construction, shall be subject to the supervision of the department of accounting and general services on behalf of the board of regents of the University of Hawaii, subject to certain requirements; and
- (2) Establish an independent audit committee within the board of regents of the University of Hawaii to assist the board in discharging its constitutional powers and duties with respect to the university.



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PART II

SECTION 2. Section 103D-203, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) The chief procurement officer for each of the following state entities shall be:

- (1) The judiciary--the administrative director of the courts;
- (2) The senate--the president of the senate;
- (3) The house of representatives--the speaker of the house of representatives;
- (4) The office of Hawaiian affairs--the chairperson of the board;
- (5) The University of Hawaii--the president of the University of Hawaii; provided that the administrator of the state procurement office of the department of accounting and general services shall be the chief procurement officer for procurements for construction as provided under section 304A-2672;
- (6) The department of education, excluding the Hawaii public library system--the superintendent of education;

- 1 (7) The Hawaii health systems corporation--the chief
- 2 executive officer of the Hawaii health systems
- 3 corporation; and
- 4 (8) The remaining departments of the executive branch of
- 5 the State and all governmental bodies administratively
- 6 attached to them--the administrator of the state
- 7 procurement office of the department of accounting and
- 8 general services."

9 SECTION 3. Section 304A-2672, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "~~§~~304A-2672~~§~~ **Powers of the board.** Notwithstanding
12 any law to the contrary, the board may:

- 13 (1) Designate as a university project, any undertaking,
- 14 improvement, or facility on any one or more of the
- 15 areas in one or more of the educational institutions
- 16 under the jurisdiction of the board;
- 17 (2) Construct and maintain university projects, including
- 18 a university project included or to be in a university
- 19 system; provided that all procurements for
- 20 construction, including consultant services necessary
- 21 for such construction, shall be subject to the
- 22 supervision of the department of accounting and



1 general services on behalf of the board; provided that
 2 the department of accounting and general services
 3 shall not be responsible for procurements necessary,
 4 as determined by the comptroller, for repair and
 5 maintenance or continuing ongoing university projects;
 6 provided further that contracts for construction or
 7 related construction consultant services that are in
 8 effect prior to the effective date of Act _____,
 9 Session Laws of Hawaii 2013, shall not be assumed by
 10 the department of accounting and general services, but
 11 shall remain under the control of the board;

12 (3) Combine two or more university projects into a
 13 university system on one or more of the areas on any
 14 one or more of the educational institutions under the
 15 jurisdiction of the board, and to maintain the system;

16 (4) Combine two or more university projects, university
 17 systems, or university projects and university systems
 18 into a network, on any one or more of the areas on any
 19 one or more of the educational institutions under the
 20 jurisdiction of the board, and to maintain the
 21 network;



- 1 (5) Prescribe and collect rents, fees, and charges for the
2 use of or services furnished by any university project
3 and the facilities thereof, and pledge any
4 appropriation to any university project and the
5 facilities thereof that in aggregate, produces revenue
6 of the university at least sufficient to comply with
7 section 304A-2681;
- 8 (6) With the approval of the governor, issue revenue bonds
9 under this subpart in such principal amount as may be
10 authorized by the legislature from time to time to
11 finance in whole or in part the cost of construction
12 or the cost of maintenance of any university project,
13 including funding reserves therefor;
- 14 (7) Pledge to the punctual payment of revenue bonds and
15 interest thereon, all or any part of the revenue of
16 the university, including any appropriation, in an
17 amount sufficient to pay the revenue bonds and
18 interest as the same become due and to create and
19 maintain reasonable reserves therefor;
- 20 (8) Establish a loan program or a commercial paper program
21 upon terms and conditions that the board may
22 determine; and



1 (9) Advance moneys of the university, not otherwise
2 required, and do any and all other lawful acts as may
3 be necessary, convenient, or desirable, for carrying
4 into execution and administering this subpart."

5 PART III

6 SECTION 4. Chapter 304A, Hawaii Revised Statutes, is
7 amended by adding a new subpart to part I to be appropriately
8 designated and to read as follows:

9 " . Independent Audit Committee

10 §304A- Independent audit committee; established; powers;

11 duties. (a) There is established within the board of regents
12 of the University of Hawaii an advisory body to be known as the
13 independent audit committee.

14 (b) The independent audit committee shall consist of at
15 least three members but not more than five members who shall be
16 appointed by the chairperson of the board of regents, from among
17 the members of the board of regents, except as provided in this
18 subsection. The chair of the independent audit committee shall
19 be selected by and from among its members.

20 The independent audit committee shall include one or more
21 individuals with financial expertise. If no member of the board
22 of regents has the requisite skills, the board of regents shall



1 execute other arrangements, which may include the appointment of
2 members of the general public to the independent audit committee
3 who possess the requisite financial expertise, to ensure that
4 the independent audit committee has the capacity to carry out
5 its duties.

6 (c) The board of regents shall generally:

7 (1) Establish the charter of the independent audit
8 committee and set forth its members' roles and
9 responsibilities;

10 (2) Consider changes to the independent audit committee's
11 charter that are necessary in response to new laws,
12 regulations, and best practices; and

13 (3) Conduct an annual review of the independent audit
14 committee's charter to reassess its adequacy and adopt
15 any proposed and necessary changes to the charter.

16 (d) The independent audit committee shall undertake
17 professional development to improve the financial expertise of
18 the independent audit committee as a whole, including:

19 (1) Attendance at seminars and conferences;

20 (2) Attendance at educational sessions including special
21 speakers; and

22 (3) The study of analytical tools for audit committees.



- 1 (e) The independent audit committee shall engage in
2 operations relating to enterprise risk management including:
- 3 (1) Providing oversight of risk management, which shall
4 include determining overall strategy and influencing
5 the university's risk philosophy;
- 6 (2) Inquiring of the president of the University of
7 Hawaii, the chief financial officer of the university,
8 and external auditors about significant risks or
9 exposures faced by the university;
- 10 (3) Assessing steps that the president of the University
11 of Hawaii has taken or proposes to take to minimize
12 those risks to the university and periodically
13 reviewing compliance with those steps; and
- 14 (4) Reviewing with the general counsel of the University
15 of Hawaii, external auditors, external counsel, and
16 the chief financial officer of the university legal
17 and regulatory matters that, in the opinion of the
18 president of the University of Hawaii, may have a
19 material impact upon the financial statements, related
20 organization compliance policies, and programs and
21 reports received from regulators.



1 (f) The independent audit committee shall hold meetings as
2 needed to address matters on its agenda, not less frequently
3 than twice per year. The independent audit committee may
4 request the president of the University of Hawaii or others to
5 attend its meetings or to provide pertinent information as
6 necessary. The board of regents shall provide in the charter of
7 the independent audit committee for the independent audit
8 committee to take action between meetings by unanimous consent.

9 (g) The independent audit committee shall review its
10 effectiveness annually and shall prepare, or oversee the
11 preparation of, an annual report to the board of regents.

12 (h) The annual report of the independent audit committee
13 shall address other matters affecting the management and
14 organization of the University of Hawaii by engaging in
15 functions, including:

16 (1) Reviewing with the president of the University of
17 Hawaii and an external auditor retained pursuant to
18 subsection (q) the effect of any regulatory and
19 accounting initiatives and unique transactions,
20 including relationships with legally separate
21 entities, to determine whether the accounting for
22 those transactions applied best practices;



- 1 (2) Reviewing significant related party transactions;
- 2 (3) Reviewing with the president of the University of
- 3 Hawaii and the chief financial officer of the
- 4 university, any interim financial reports or reports
- 5 on internal control issued with respect to the
- 6 university since the last meeting of the independent
- 7 audit committee; and
- 8 (4) Reviewing with an external auditor who performs an
- 9 audit the following:
- 10 (A) All critical accounting policies and practices
- 11 used by the external auditor; provided that:
- 12 (i) All alternative treatments of financial
- 13 information within generally accepted
- 14 accounting principles have been discussed
- 15 with the president of the University of
- 16 Hawaii;
- 17 (ii) The ramifications of each alternative are
- 18 discussed; and
- 19 (iii) The treatment preferred by the university is
- 20 discussed;



1 (B) Any consultation with audit firms other than the
2 external auditor, including the reasons for, and
3 results of, the consultation; and

4 (C) Any other information relating to significant
5 estimates and judgments.

6 (i) The independent audit committee shall also review with
7 any external auditor and the chief financial officer of the
8 university matters affecting internal control and an internal
9 audit, including:

10 (1) The adequacy of the University of Hawaii's internal
11 control, including computerized information system
12 controls and security; and

13 (2) Any related significant findings and recommendations
14 of the internal and external auditors, together with
15 the responses of the president of the University of
16 Hawaii.

17 (j) The independent audit committee shall also review
18 matters affecting the accounting policies and procedures of the
19 University of Hawaii by:

20 (1) Ensuring that accounting policies, procedures, and
21 related controls are documented and reviewed with the
22 independent audit committee;



- 1 (2) Reviewing accounting controls annually;
- 2 (3) Reviewing with the president of the University of
- 3 Hawaii policies and procedures with respect to
- 4 officers, key employees, and disqualified persons as
- 5 defined under section 4958 of the Internal Revenue
- 6 Code of 1986, as amended; and
- 7 (4) Inquiring of the president of the University of Hawaii
- 8 and the chief financial officer regarding the
- 9 financial health of the university.
- 10 (k) The independent audit committee shall review the
- 11 University of Hawaii's antifraud programs and controls and aid
- 12 in discovering and remedying incidences of fraud.
- 13 (1) Notwithstanding part V of chapter 378, the independent
- 14 audit committee shall review:
- 15 (1) Procedures for the receipt, retention, and treatment
- 16 of complaints received by the University of Hawaii
- 17 regarding accounting, internal accounting controls,
- 18 auditing matters, or suspected fraud that may be
- 19 submitted by any party internal or external to the
- 20 university; and
- 21 (2) Any complaints that may have been received, the
- 22 current status of those complaints, and the resolution



1 of those complaints, if any resolution has been
2 reached;
3 provided that any person who makes a complaint covered by this
4 section shall be accorded the same protections as under part V
5 of chapter 378.

6 (m) With regard to internal control and internal audit,
7 the independent audit committee shall also:

8 (1) Review with any external auditor, the chief financial
9 officer of the university, and the comptroller the
10 audit scope and plan of the internal auditors;

11 (2) Address the coordination of audit efforts to ensure
12 the completeness of coverage, reduction of redundant
13 efforts, and the effective use of audit resources; and

14 (3) Discuss with the chief financial officer of the
15 university and the external auditor opportunities for
16 reliance by the external auditor on the audit
17 activities of any internal audit.

18 (n) For internal audits, the independent audit committee
19 shall review the following with the president of the University
20 of Hawaii and the chief financial officer of the university:



- 1 (1) Significant findings of internal audits conducted
2 during the university's previous and current fiscal
3 year and the president's responses;
- 4 (2) Whether internal auditors have encountered
5 difficulties in discharging their responsibilities in
6 the course of their audits, such as any restrictions
7 on the scope of their work or access to required
8 information;
- 9 (3) Any changes required in the scope of internal audits;
10 (4) The budget and staffing of internal audit operations;
11 (5) An audit plan to govern internal audits; and
12 (6) The compliance of internal audits with the Institute
13 of Internal Auditors' International Standards for the
14 Professional Practice of Internal Auditing.
- 15 (o) Internal auditors shall meet separately with any
16 external auditor to coordinate audit plans to optimize the
17 ability of the external auditor to rely upon the results of the
18 internal audit team.
- 19 (p) The independent audit committee shall annually
20 evaluate the performance of any internal audit, including:
- 21 (1) The adequacy of the audit plan;
22 (2) The management of the execution of the audit plan;



1 (3) The adequacy of human and other resources available to
2 execute the audit plan;

3 (4) The ability of any external auditor to rely upon the
4 internal audit work product in the annual audit
5 performed by an external auditor retained pursuant to
6 subsection (q); and

7 (5) The nature of the findings or results of any internal
8 audits.

9 (q) Subject to approval by the board of regents, the
10 independent audit committee shall select one or more external
11 auditors to be retained by the University of Hawaii. The
12 independent audit committee shall:

13 (1) Approve an audit plan;

14 (2) Establish the audit fees of any external auditor;

15 (3) Pre-approve any non-audit services provided by the
16 external auditor, including tax services, before such
17 services are rendered;

18 (4) Review with the president of the University of Hawaii
19 the significance of contracting out audit services;
20 and

21 (5) Ensure that single audit obligations are incorporated
22 into an annual audit plan.



1 (r) The independent audit committee shall review all
2 material written communications between any external auditor and
3 the president of the University of Hawaii, including any
4 management letter or schedule of unadjusted differences.

5 (s) The independent audit committee shall annually
6 evaluate any external auditor; provided that communications with
7 the external auditor in the evaluation shall be done so as to
8 maintain the open flow of communication between the external
9 auditor and the independent audit committee.

10 (t) The independent audit committee shall review the
11 following matters relating to any annual audit with the
12 president of the University of Hawaii and any external auditor:

13 (1) The university's annual financial statements and
14 related footnotes;

15 (2) The external auditor's audit of the financial
16 statements and the external auditor's report;

17 (3) The external auditor's judgments about the quality of
18 the university's accounting principles as applied in
19 the university's financial reporting;

20 (4) Any significant changes required in the external
21 auditor's audit plan;



1 (5) Any serious difficulties or disputes with the
2 president of the University of Hawaii encountered
3 during the audit; and

4 (6) Matters to be discussed by the Statement on Auditing
5 Standards No. 114, The Auditor's Communication with
6 those Charged with Governance (AICPA, Professional
7 Standards), related to the conduct of any annual
8 audit.

9 (u) The independent audit committee may hire external
10 auditors, legal counsel, or other consultants as necessary, to
11 address any issues arising from:

12 (1) The execution of the whistleblower protection
13 procedures established pursuant to subsection (1);

14 (2) Any statutory or contractual procedures when engaging
15 external resources; and

16 (3) The detection of fraud.

17 (v) The independent audit committee shall submit an annual
18 report to the board of regents and the legislature no later than
19 twenty days prior to the convening of each regular session of
20 the legislature on matters that include the following:



- 1 (1) All instances of material weakness in internal
- 2 control, including the responses of university
- 3 management; and
- 4 (2) All instances of fraud, including the responses of
- 5 university management."

PART IV

7 SECTION 5. The administrator of the state procurement
8 office shall submit a report to the legislature, no later than
9 twenty days prior to the regular session of 2016, of the
10 administrator's findings and recommendations, including any
11 proposed legislation, relating to the transparency, efficiency,
12 and compliance of the University of Hawaii's procurement of
13 construction contracts and construction-related consultant
14 services pursuant to chapter 103D, Hawaii Revised Statutes, and
15 improvement, if any, in adhering to the requirements in section
16 3 of this Act.

17 SECTION 6. There is appropriated out of the general
18 revenues of the State of Hawaii the sum of \$ or so
19 much thereof as may be necessary for fiscal year 2013-2014 and
20 the same sum or so much thereof as may be necessary for fiscal
21 year 2014-2015 for additional staff positions to supervise



1 assigned University of Hawaii construction projects for new
2 buildings.

3 The sum appropriated shall be expended by the department of
4 accounting and general services for the purposes of this Act.

5 **PART V**

6 SECTION 7. Statutory material to be repealed is bracketed
7 and stricken. New statutory material is underscored.

8 SECTION 8. This Act does not affect rights and duties that
9 matured, penalties that were incurred, and proceedings that were
10 begun before its effective date.

11 SECTION 9. This Act shall take effect on July 1, 2050;
12 provided that sections 2 and 3 of this Act shall be repealed on
13 July 1, 2015, and sections 103D-203(a)(5) and 304A-2672, Hawaii
14 Revised Statutes, shall be reenacted in the form in which they
15 read on the day prior to the effective date of this Act.



Report Title:

University of Hawaii; Procurement; Independent Audit Committee

Description:

Amends section 304A-2672, HRS, to require all University of Hawaii procurements for construction, including consultant services necessary for construction, to be subject to the supervision of the department of accounting and general services on behalf of the Board of Regents, subject to certain requirements. Requires a report on the impacts of and compliance with the amendments to section 304A-2672, HRS, to the legislature. Repeals the amendments to section 304A-2672, HRS, on July 1, 2015. Establishes an independent audit committee within the board of regents of the University of Hawaii. Appropriates funds. Effective 7/1/2050. (SD2)

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