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# 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. On August 29, 2012, pursuant to senate rule 20,  
2 the senate president appointed a senate special committee on  
3 accountability to conduct informational briefings to review the  
4 oversight, accountability, and transparency of the operational  
5 and financial management of the University of Hawaii system,  
6 including but not limited to the University of Hawaii's athletic  
7 department.

8           The committee held informational briefings on September 24,  
9 2012, and October 2, 2012.

10           During the informational briefings, the committee found,  
11 among other things, that the board of regents and the University  
12 of Hawaii system has spent large amounts of money to contract  
13 with independent attorneys rather than use the university  
14 general counsel or attorney general.

15           The purpose of this Act is to:

16           (1) Charge the board of regents with direct oversight of  
17           the university general counsel;



1           (2) Limit the exemption from the prohibition against state  
2           departments contracting with attorneys that is  
3           currently provided to the University of Hawaii so that  
4           it applies only to the board of regents of the  
5           University of Hawaii; and

6           (3) Require the auditor to review the contracts for legal  
7           services entered into by the University of Hawaii to  
8           examine their provisions, scope, justification, and  
9           underlying policies, and report to the legislature  
10          regarding the auditor's findings.

11          SECTION 2. Section 28-8.3, Hawaii Revised Statutes, is  
12          amended by amending subsection (a) to read as follows:

13          "(a) No department of the State other than the attorney  
14          general may employ or retain any attorney, by contract or  
15          otherwise, for the purpose of representing the State or the  
16          department in any litigation, rendering legal counsel to the  
17          department, or drafting legal documents for the department;  
18          provided that the foregoing provision shall not apply to the  
19          employment or retention of attorneys:

20          (1) By the public utilities commission, the labor and  
21          industrial relations appeals board, and the Hawaii  
22          labor relations board;



- 1           (2) By any court or judicial or legislative office of the  
2           State; provided that if the attorney general is  
3           requested to provide representation to a court or  
4           judicial office by the chief justice or the chief  
5           justice's designee, or to a legislative office by the  
6           speaker of the house of representatives and the  
7           president of the senate jointly, and the attorney  
8           general declines to provide such representation on the  
9           grounds of conflict of interest, the attorney general  
10          shall retain an attorney for the court, judicial, or  
11          legislative office, subject to approval by the court,  
12          judicial, or legislative office;
- 13          (3) By the legislative reference bureau;
- 14          (4) By any compilation commission that may be constituted  
15          from time to time;
- 16          (5) By the real estate commission for any action involving  
17          the real estate recovery fund;
- 18          (6) By the contractors license board for any action  
19          involving the contractors recovery fund;
- 20          (7) By the office of Hawaiian affairs;



- 1 (8) By the department of commerce and consumer affairs for  
2 the enforcement of violations of chapters 480 and  
3 485A;
- 4 (9) As grand jury counsel;
- 5 (10) By the Hawaiian home lands trust individual claims  
6 review panel;
- 7 (11) By the Hawaii health systems corporation, or its  
8 regional system boards, or any of their facilities;
- 9 (12) By the auditor;
- 10 (13) By the office of ombudsman;
- 11 (14) By the insurance division;
- 12 (15) By the board of regents of the University of Hawaii;
- 13 (16) By the Kahoolawe island reserve commission;
- 14 (17) By the division of consumer advocacy;
- 15 (18) By the office of elections;
- 16 (19) By the campaign spending commission;
- 17 (20) By the Hawaii tourism authority, as provided in  
18 section 201B-2.5;
- 19 (21) By the division of financial institutions for any  
20 action involving the mortgage loan recovery fund; or
- 21 (22) By a department, in the event the attorney general,  
22 for reasons deemed by the attorney general to be good



1           and sufficient, declines to employ or retain an  
2           attorney for a department; provided that the governor  
3           waives the provision of this section."

4           SECTION 3. Section 304A-1005, Hawaii Revised Statutes, is  
5           amended by amending subsection (a) to read as follows:

6           "(a) The board of regents may appoint or retain by  
7           contract one or more attorneys who are independent of the  
8           attorney general, to provide legal services for the university,  
9           including:

- 10           (1) Representation of the university in civil actions to  
11           which the university is a party, either directly or  
12           through the acts or omissions of its officers or  
13           employees;
- 14           (2) Advice and assistance to ensure the lawful and  
15           efficient administration and operation of the  
16           university;
- 17           (3) Review and approval of documents relating to the  
18           acquisition of land or interest in land by the  
19           university; and
- 20           (4) Any other legal service specified by the board of  
21           regents.



1       The board of regents shall have direct oversight of the  
2 university general counsel and shall not delegate this authority  
3 to the university president. The university general counsel  
4 shall report directly to the board of regents. The board of  
5 regents may fix the compensation of the attorneys appointed  
6 pursuant to this section. Attorneys appointed or retained by  
7 contract shall be exempt from chapters 76 and 89."

8       SECTION 4. The auditor shall review all contracts with  
9 attorneys to provide legal services entered into by the  
10 University of Hawaii within the past five years from the  
11 effective date of this Act to examine their justification,  
12 scope, provisions, and underlying policies.

13       The auditor shall submit a report of the examination  
14 performed to the legislature no later than twenty days prior to  
15 the convening of the regular session of 2014.

16       SECTION 5. Statutory material to be repealed is bracketed  
17 and stricken. New statutory material is underscored.

18       SECTION 6. This Act shall take effect on July 1, 2050.



**Report Title:**

University of Hawaii; Board of Regents; General Counsel; Audit

**Description:**

Charges the Board of Regents with oversight of the University General Counsel. Exempts the Board of Regents, and repeals UH's exemption, from the prohibition to contract with attorneys. Requires the Auditor to review legal contracts entered into by UH. Effective 07/01/50. (SD2)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

