

JAN 18 2013

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

12 The legislature further finds that on August 29, 2012,
13 pursuant to senate rule 20, the senate president appointed a
14 senate special committee on accountability to conduct
15 informational briefings to review the oversight, accountability,
16 and transparency of the operational and financial management of
17 the University of Hawaii system, including but not limited to
18 the University of Hawaii's athletic department.



1 During the informational briefings, the committee focused
2 on, among other things, the oversight and transparency of the
3 University's fiscal and operational administration, including
4 the role of the board of regents. The informational briefings
5 reaffirmed the importance of granting the governor the authority
6 to select and appoint regents on the basis of how each regent's
7 individual strengths will add to and complement the overall
8 quality of the board of regents. It has become clear that the
9 governor will not be able to adequately select nominees to the
10 board of regents unless the governor has more control and
11 involvement in the recruitment and selection process. The
12 legislature believes that it is appropriate to reassess and
13 seriously consider making significant changes to the form and
14 function of the regents candidate advisory council.

15 The purpose of this Act is to reconstitute the form and
16 processes of the candidate advisory council to maximize the
17 governor's ability to appoint qualified individuals to serve as
18 members of the board of regents and effectively lead the
19 University of Hawaii.

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



1 "§304A- Candidate advisory council for the board of
2 regents of the University of Hawaii. (a) The candidate
3 advisory council for the board of regents of the University of
4 Hawaii shall recruit, rate, and present to the governor
5 qualified candidates for nomination to a vacant seat on the
6 board of regents. The candidate advisory council shall be
7 temporarily placed in the office of the governor for
8 administrative purposes.

- 9 (b) The candidate advisory council shall:
- 10 (1) Develop and implement a fair and independent procedure
11 for rating candidates to serve on the board of
12 regents;
 - 13 (2) Require candidates and members of their immediate
14 family to disclose any existing or anticipated
15 contracts or financial transactions with the
16 University of Hawaii, and family relationships with
17 University of Hawaii employees;
 - 18 (3) Actively solicit and accept applications from
19 potential candidates;
 - 20 (4) Rate candidates for the board of regents on their
21 backgrounds, experience, and potential for discharging
22 the responsibilities of a member of the board of



1 regents, based upon the qualifications imposed by the
2 state constitution; and

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

7 (c) The candidate advisory council shall initiate the
8 recruitment and rating of candidates for each vacancy on the
9 board of regents within:

10 (1) Thirty days of a vacancy; or

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

13 (d) To provide continuity for the board of regents, the
14 governor may recommend to the candidate advisory council the
15 reappointment of a board of regents member, subject to senate
16 confirmation.

17 (e) The candidate advisory council shall consist of five
18 members, to be appointed by the governor without regard to
19 section 26-34, and one non-voting ex officio member who shall be
20 the most recent emeritus chair of the board of regents.

21 Appointees to the candidate advisory council shall have a
22 general understanding of the purposes of higher education, the



1 mission and strategic goals of the University of Hawaii system,
2 and the role and responsibilities of the board of regents.
3 Appointees shall be individuals who are widely viewed as having
4 placed the broad public interest ahead of special interests, who
5 are respected by the community, and who are highly qualified to
6 recruit and rate candidates for the governor's consideration.

7 (f) Each member of the candidate advisory council shall
8 serve for the duration of the term of the governor by whom the
9 member was appointed.

10 (g) The candidate advisory council shall operate in a
11 wholly nonpartisan manner. No member of the candidate advisory
12 council shall run for or hold any elected office of the State or
13 its political subdivisions. Any member of the candidate
14 advisory council shall resign from the candidate advisory
15 council prior to filing nomination papers for an elected office
16 of the State or its political subdivisions.

17 (h) The governor shall appoint the chairperson of the
18 candidate advisory council. A majority of the members to which
19 the candidate advisory council is entitled shall constitute a
20 quorum to do business. The concurrence of a majority of all the
21 members to which the candidate advisory council is entitled



1 shall be necessary to make any action of the candidate advisory
2 council valid.

3 (i) Members of the candidate advisory council shall serve
4 without compensation but shall be reimbursed for expenses,
5 including travel, board, and lodging expenses, necessary for the
6 performance of their duties."

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

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



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

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



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

9 [~~(b)~~] (c) At a meeting preceding July 1 of each year, the
10 board of regents shall elect a chairperson and up to two vice-
11 chairpersons whose terms shall be from July 1 to June 30 of the
12 next year or thereafter until their successors are elected. The
13 board shall appoint a secretary, who shall not be a member of
14 the board. The president of the university shall act as
15 executive officer of the board. A majority of the board of
16 regents shall constitute a quorum to conduct business, and the
17 concurrence of a majority of all the members to which the board
18 of regents is entitled shall be necessary to make any action of
19 the board of regents valid. The board shall meet at least ten
20 times annually and, from time to time, may meet in each of the
21 counties of Hawaii, Maui, and Kauai.



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

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

10 SECTION 4. Section 304A-104.5, Hawaii Revised Statutes, is
11 repealed.

12 ~~["§304A-104.5 Regents candidate advisory council for the~~
13 ~~board of regents of the University of Hawaii. (a) There is~~
14 ~~established the regents candidate advisory council for the board~~
15 ~~of regents of the University of Hawaii to present to the~~
16 ~~governor pools of qualified candidates from which the members of~~
17 ~~the board of regents shall be nominated and, by and with the~~
18 ~~consent of the senate, appointed by the governor. The regents~~
19 ~~candidate advisory council shall establish the criteria for~~
20 ~~qualifying, screening, and presenting to the governor candidates~~
21 ~~for membership on the board of regents. The regents candidate~~



1 ~~advisory council shall be attached to the University of Hawaii~~
2 ~~for administrative purposes.~~

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

7 ~~(1) Sixty days of a vacancy that arises by resignation,~~
8 ~~death, or removal by the governor; or~~

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

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

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

19 ~~(1) For two seats from the same county or two at large~~
20 ~~seats, no fewer than four and no more than six~~
21 ~~candidates;~~



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



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



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

5 ~~Upon submission of the names of candidates to the governor, the~~
6 ~~regents candidate advisory council shall make available the~~
7 ~~names of candidates to the public through the University of~~
8 ~~Hawaii.~~

9 ~~(e) For each board seat to be filled, the governor shall~~
10 ~~select one nominee from among the candidates submitted by the~~
11 ~~regents candidate advisory council.~~

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

15 ~~(1) One member shall be appointed by the president of the~~
16 ~~senate;~~

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

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

20 ~~(4) One member shall be appointed by one of the co chairs~~
21 ~~of the All-Campus Council of Faculty-Senate Chairs of~~
22 ~~the University of Hawaii. A person may not be~~



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



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

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

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

18 ~~(i) The regents candidate advisory council shall operate~~
19 ~~in a wholly nonpartisan manner. No individual, while a member~~
20 ~~of the regents candidate advisory council, shall run for or hold~~
21 ~~any elected office under the United States or the State or any~~
22 ~~of its political subdivisions.~~



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

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

16 ~~(l) Notwithstanding chapter 92F or any other law to the~~
17 ~~contrary, all information required by the regents candidate~~
18 ~~advisory council shall be confidential, including without~~
19 ~~limitation, all council information obtained, reviewed, or~~
20 ~~considered before and after council decisionmaking.~~
21 ~~Confidential regents candidate advisory council information~~
22 ~~shall include documents, data, or other information that are not~~



1 ~~of public record, including without limitation, personal~~
2 ~~financial information; the names of applicants; applications and~~
3 ~~the personal, financial, and other information contained therein~~
4 ~~submitted by the applicants to the regents candidate advisory~~
5 ~~council; interviews; schedules; reports; studies; background~~
6 ~~checks; credit reports; surveys and reports prepared for or on~~
7 ~~the regents candidate advisory council's behalf; the results of~~
8 ~~any evaluations or assessments conducted by the regents~~
9 ~~candidate advisory council; the substance and details of any~~
10 ~~discussions with regents candidate advisory council members; and~~
11 ~~the substance and details of discussions and deliberations of~~
12 ~~the regents candidate advisory council and any of its committees~~
13 ~~during meetings."]~~

14 SECTION 5. The members of the candidate advisory council
15 for the board of regents of the University of Hawaii who are
16 serving on the effective date of this Act shall serve until the
17 council is reconstituted by the governor's appointment of five
18 members to the council pursuant to this Act at which time the
19 members of the regents candidate advisory council who are
20 serving on the effective date of this Act shall be discharged
21 from office and the members appointed directly by the governor
22 pursuant to this Act shall begin their service. The governor



1 shall appoint five members to the council no later than
2 days after the effective date of this Act.

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

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

6

INTRODUCED BY: Jill
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S.B. NO. 563

Report Title:

University of Hawaii Board of Regents; Candidate Advisory Council

Description:

Amends the form and function of the candidate advisory council for the board of regents of the University of Hawaii. Repeals section 304A-104.5, HRS.

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

