
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) Limit the number of attorneys the board of regents may
17 appoint to serve as the university general counsel to
18 one attorney;



1 (2) Allow the board of regents to contract with
2 independent attorneys solely in cases where the
3 university general counsel and attorney general lack
4 sufficient expertise; and

5 (3) Require contracted attorneys to consult with and work
6 in conjunction with the university general counsel.

7 SECTION 2. Section 304A-1005, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "~~+~~§304A-1005~~+~~ **University general counsel.** (a) The
10 board of regents may appoint ~~[or retain by contract]~~ one ~~[or~~
11 ~~more attorneys]~~ attorney who ~~[are]~~ is independent of the
12 attorney general, to serve as the university general counsel,
13 and to provide legal services for the university, including:

14 (1) Representation of the university in civil actions to
15 which the university is a party, either directly or
16 through the acts or omissions of its officers or
17 employees;

18 (2) Advice and assistance to ensure the lawful and
19 efficient administration and operation of the
20 university;



1 (3) Review and approval of documents relating to the
2 acquisition of land or interest in land by the
3 university; and

4 (4) Any other legal service specified by the board of
5 regents.

6 The board of regents shall have direct oversight over the
7 university general counsel and shall not delegate this duty to
8 the university president. The university general counsel shall
9 report directly to the board of regents. The board of regents
10 may fix the compensation of the [~~attorneys~~] attorney appointed
11 pursuant to this [~~section. Attorneys~~] subsection. The attorney
12 appointed [~~or retained by contract~~] pursuant to this subsection
13 shall be exempt from chapters 76 and 89.

14 (b) Nothing in this section precludes the board of regents
15 from requesting and securing legal services from the department
16 of the attorney general, for the university, the board of
17 regents or its members, or the university's officers and
18 employees, upon mutual agreement.

19 (c) The board of regents may retain by contract one or
20 more attorneys who are independent from the university general
21 counsel and attorney general to provide legal services for the
22 university, the board of regents or its members, or the



H.B. NO. 1073

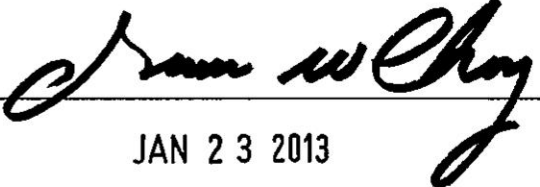
1 university's officers and employees, solely in cases in which
2 the university general counsel and attorney general each
3 acknowledge a lack of sufficient expertise; provided that the
4 independent attorney shall consult with and work in conjunction
5 with the attorney general. The board may fix the compensation
6 of attorneys retained by contract pursuant to this subsection.
7 Attorneys retained by contract pursuant to this subsection shall
8 be exempt from chapters 76, 78, 88, and 89."

9 SECTION 3. Statutory material to be repealed is bracketed
10 and stricken. New statutory material is underscored.

11 SECTION 4. This Act shall take effect upon its approval.

12

INTRODUCED BY:


JAN 23 2013



H.B. NO. 1073

Report Title:

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

Description:

Amends section 304A-1005, HRS, to: (1) Limit the board of regents to appointing only one university general counsel; (2) Require the board of regents to have direct oversight over the university counsel and prohibit the board of regents from delegating this responsibility to the president of the university; (3) Require the university general counsel to report directly to the board of regents; and (4) Allow the board of regents to contract with independent attorneys solely in cases where the university general counsel and attorney general each acknowledge a lack of sufficient expertise. Requires contracted attorneys to consult with and work in conjunction with the attorney general.

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





House Committee on Higher Education
Tuesday, February 5, 2013
2:00 p.m.

HB 1073, Relating to the University of Hawaii.

Dear Chairman Choy and Committee Members:

The University of Hawaii Professional Assembly (UHPA) has expressed concerns regarding the operations of the University of Hawaii General Counsel and its responsibility in carrying out functions relating to the collective bargaining agreement and its implementation. The experience of UHPA indicates there is not a clear line of authority between the University of Hawaii President and Legal Counsel regarding responsibility for legal matters, such as prohibited practices, and matters regarding the relationship with the exclusive bargaining representative. This has resulted in delegation of authority to resolve legal issues to the campus level with the employment of outside counsel. UHPA has strenuously objected to this delegation and the problems inherent in removing the accountability from both the President and General Counsel acting upon behalf of the Board of Regents in significant matters.

UHPA believes that the funds being expended on the use of outside legal counsel directly impact instructional program by transferring legal costs to the respective campus and instructional department due to arbitrations and Hawaii Labor Relations Board activities. This type of expenditure itself should be suspect and a matter of concern regarding financial accountability for overall legal expenditures authorized by the UH President and General Counsel.

UHPA appreciates the intent of HB 1073 to clarify and seek remediation in the operations of the University of Hawaii General Counsel functions.

Respectively submitted,

Kristeen Hanselman
Associate Executive Director

**UNIVERSITY OF HAWAII
PROFESSIONAL ASSEMBLY**

1017 Palm Drive · Honolulu, Hawaii 96814-1928
Telephone: (808) 593-2157 · Facsimile: (808) 593-2160
Web Page: <http://www.uhpa.org>

ichiyama3 - Malia

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, January 31, 2013 6:05 PM
To: HEDtestimony
Cc: mendezj@hawaii.edu
Subject: *Submitted testimony for HB1073 on Feb 5, 2013 14:00PM*

HB1073

Submitted on: 1/31/2013

Testimony for HED on Feb 5, 2013 14:00PM in Conference Room 309

Submitted By	Organization	Testifier Position	Present at Hearing
Javier Mendez-Alvarez	Individual	Support	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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