

JAN 18 2013

A BILL FOR AN ACT

RELATING TO THE BOARD OF REGENTS.

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

1 SECTION 1. Section 304A-104, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§304A-104 Regents; appointment; tenure; qualifications;
4 meetings, suspension and removal. (a) The affairs of the
5 university shall be under the general management and control of
6 the board of regents consisting of fifteen members who shall be
7 appointed and may be removed by the governor. Except as
8 otherwise provided by law, state officers shall be eligible for
9 appointment and membership. The term of each member shall be
10 five years, except as provided for the initial appointment in
11 section 26-11; provided that the term of the student member
12 shall be two years. Every member may serve beyond the
13 expiration date of the member's term of appointment until the
14 member's successor has been appointed by the governor and
15 confirmed by the senate in accordance with article X, section 6
16 of the Hawaii constitution. Members shall serve no more than
17 [~~two consecutive~~] one five-year term[s]; provided that the
18 members who are initially appointed to terms of two years or



1 less pursuant to section 26-11(a) may be reappointed to two
2 ensuing five-year terms. [~~If a member is to be appointed to a~~
3 ~~second term of five years, the senate shall consider the~~
4 ~~question of whether to reconfirm the member at least one hundred~~
5 ~~twenty days prior to the conclusion of a member's first five-~~
6 ~~year term; provided that if the senate is not in session within~~
7 ~~one hundred twenty days prior to the conclusion of the member's~~
8 ~~first five year term, the member shall continue to serve until~~
9 ~~the senate convenes for the next regular session or the next~~
10 ~~special session for which the senate is authorized to consider~~
11 ~~the question of reconfirmation.]~~

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



1 times annually and, from time to time, may meet in each of the
2 counties of Hawaii, Maui, and Kauai.

3 (c) The governor shall notify the regents candidate
4 advisory council in writing within ten days of receiving
5 notification that a member of the board of regents is resigning,
6 has died, or is being removed by the governor.

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

11 (e) Suspension. The governor may, after providing notice
12 and an opportunity for a hearing, suspend a member of the Board
13 of Regents while a final disposition is pending on:

14 (1) A criminal complaint, presentment, information, or
15 indictment involving a felony in any jurisdiction;

16 (2) An information or formal criminal charges of a
17 misdemeanor;

18 (3) An allegation of an ethics violation under
19 consideration before a state or county ethics
20 commission;

21 (4) A written complaint under consideration before the
22 governor, signed under oath by the person making



1 the complaint, that alleges malfeasance or
2 nonfeasance in office, if the governor determines,
3 after an investigation, that there is probable
4 cause to believe that malfeasance or nonfeasance in
5 office has occurred; a determination of probable
6 cause under this paragraph

7 (A) Must specify with particularity the factual
8 basis for the determination;

9 (B) Must include objective evidence of substantial
10 and material malfeasance or nonfeasance; and

11 (C) May not be based on political differences or
12 the discretionary performance of a lawful act
13 or a prescribed duty; or

14 (5) A formal allegation or charge by a professional or
15 occupational licensing body alleging or finding a
16 violation of licensing statutes or regulations that
17 is related to the regent's ability or fitness to
18 serve as a regent.

19 A regent who has been suspended may request a hearing to defend
20 against the grounds for the suspension stated in the accusation
21 or lift the suspension.



1 (f) The governor may remove a member of the Board of
2 Regents for good cause by providing to the member an accusation
3 and an opportunity for a hearing and judicial review. As used in
4 this subsection, "good cause" means:

5 (1) A conviction of a felony in any jurisdiction;

6 (2) A conviction of a misdemeanor in any jurisdiction
7 if the misdemeanor involves dishonesty, breach of
8 trust, or the University of Hawaii;

9 (3) Substantial and material malfeasance or
10 nonfeasance in office that is not based on
11 political differences or the discretionary
12 performance of a lawful act or prescribed duty; in
13 this paragraph "malfeasance or nonfeasance in
14 office" includes

15 (A) Misconduct in office;

16 (B) an inability to serve for an extended period of
17 time, except for military duty;

18 (C) Neglect of duty or unjustified failure to
19 perform the duties of the Board of Regents;

20 (D) Incompetence;

21 (E) Incapacity;



1 (F) Self-dealing involving the University of
2 Hawaii;

3 (4) A violation of a professional or occupational
4 licensing statute or regulation that is related
5 to the regent's fitness to serve as a regent,
6 resulting in the revocation or suspension of a
7 professional or occupational license issued under
8 state law.

9 (g) A hearing held under subsections (e) or (f) shall be
10 initiated by the governor or request to the governor, and
11 conducted by the senate. Upon completion of the hearing and
12 based upon clear and convincing evidence, the president of the
13 senate shall make a determination, as applicable, to:

- 14 (1) To continue or lift a suspension of a regent; or
- 15 (2) To remove or not remove a regent.

16 The governor shall carry out the decision of the senate within
17 thirty (30) days of receipt of the decision.

18 SECTION 2. Statutory material to be repealed is bracketed
19 and stricken. New statutory material is underscored.

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

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S.B. NO. 797

INTRODUCED BY:

[Handwritten signature]

Melanie J...

Rose P...

D.C. ...



S.B. NO. 797

Report Title:

Removal of Regent from University Board of Regents

Description:

Designates grounds and process for suspension or removal of a regent.

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

