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# A BILL FOR AN ACT

RELATING TO THE UNIVERSITY OF HAWAII BOARD OF REGENTS.

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

1           SECTION 1. The legislature finds that the board of  
2 education has begun to webcast live streaming audio of its  
3 meetings. The board of regents of the University of Hawaii,  
4 however, has not instituted a similar practice with respect to  
5 its meetings.

6           The legislature further finds that when the federal  
7 Americans with Disabilities Act was signed into law in 1990,  
8 webcasting and streaming video were not significant aspects of  
9 the cultural milieu in the United States. In 2010, a lawsuit  
10 was brought against Netflix by the National Association of the  
11 Deaf, alleging that Netflix was discriminating against deaf and  
12 hard-of-hearing viewers under the Americans with Disabilities  
13 Act because not all of their online streaming video had closed  
14 captions. The defendant argued that their business practices  
15 fell under the federal 21st Century Communications and Video  
16 Accessibility Act instead of the Americans with Disabilities  
17 Act. The court found that these two laws are not mutually



1 exclusive. Compliance with the 21st Century Communications and  
2 Video Accessibility Act does not necessarily preclude potential  
3 legal action based on possible violations of the Americans with  
4 Disabilities Act. As part of a consent decree, Netflix agreed  
5 to caption one hundred per cent of their videos beginning in  
6 2014. Because the case was settled by means of a consent decree  
7 rather than a judicial ruling, there remains room for a  
8 difference of legal opinion on the matter of online media  
9 content accessibility under the Americans with Disabilities Act.

10 The purpose of this Act is to require the board of regents  
11 of the University of Hawaii to:

- 12 (1) By May 1, 2021, begin livestreaming audio and  
13 archiving on its website all board of regents standing  
14 committee meetings;
- 15 (2) By September 1, 2021, begin livestreaming video and  
16 archiving on its website all board of regents  
17 meetings; and
- 18 (3) Move expeditiously to ascertain its obligations and  
19 best practices that should be implemented in complying  
20 with the Americans with Disabilities Act in regard to  
21 the accessibility of webcasting and streaming video of



1 board of regents regular meetings and board of regents  
2 standing committee meetings.

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

5 "**§304A-104 Regents; appointment; tenure; qualifications;**  
6 **meetings.** (a) The affairs of the university shall be under the  
7 general management and control of the board of regents. The  
8 board shall consist of eleven members who shall be appointed by  
9 the governor from lists of qualified candidates presented to the  
10 governor by the candidate advisory council, pursuant to section  
11 304A-104.6, and shall be confirmed by the senate; provided that  
12 if the list of qualified candidates includes fewer than three  
13 candidates at any time during the nomination and confirmation  
14 process, the governor may request that the candidate advisory  
15 council reopen recruitment for qualified candidates. Members  
16 may be removed by the governor. Except as otherwise provided by  
17 law, state officers shall be eligible for appointment and  
18 membership.

19 The term of each member shall be five years, except as  
20 provided for the initial appointment in section 26-11; provided  
21 that the term of the student member shall be two years. Every



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



1 (b) In determining whether to confirm the governor's  
2 nominee to the board of regents, the senate shall consider the  
3 combination of abilities, breadth of experiences, and  
4 characteristics of the board of regents, as a whole, that will  
5 best serve the diverse interests and needs of the students of  
6 the university system and assist the university system in  
7 achieving its strategic goals and performance indicators. The  
8 senate shall consider whether the board reflects the diversity  
9 of the student population, the various counties of the State,  
10 and a broad representation of higher education-related  
11 stakeholders.

12 (c) At its first meeting after June 30 of each year, the  
13 board of regents shall elect a chairperson and one or more vice-  
14 chairpersons who shall serve until the adjournment of the first  
15 meeting of the board of regents after June 30 of the next year,  
16 or thereafter until their successors are elected; provided that  
17 the chairperson and vice chairpersons shall not be elected prior  
18 to the taking of office of regents whose terms shall begin on  
19 July 1 of that year. The board shall appoint a secretary, who  
20 shall not be a member of the board. The president of the  
21 university shall act as executive officer of the board. A



1 majority of the board of regents shall constitute a quorum to  
2 conduct business, and the concurrence of a majority of all the  
3 members to which the board of regents is entitled shall be  
4 necessary to make any action of the board of regents valid. The  
5 board shall meet at least ten times annually and, from time to  
6 time, may meet in each of the counties of Hawaii, Maui, and  
7 Kauai.

8 (d) All board of regents standing committee meetings shall  
9 be:

10 (1) Recorded in live digital audio format by May 1, 2021;

11 and

12 (2) Archived and made available to the public on the board  
13 of regents' website within one week after adjournment  
14 of the meeting;

15 provided that the board of regents shall determine its  
16 accessibility obligations under the Americans with Disabilities  
17 Act of 1990, as amended, and bring its actions into compliance  
18 therewith.

19 (e) All regular meetings of the board of regents shall be:

20 (1) Recorded in live digital video format;

21 (2) Webcast live by September 1, 2021; and



1        (3) Archived and made available to the public on the board  
2                    of regents' website within one week after adjournment  
3                    of the meeting;

4        provided that the board of regents shall determine its  
5        obligations under the Americans with Disabilities Act of 1990,  
6        as amended, concerning accessibility of webcasting and video  
7        streaming of its meetings and bring its actions into compliance  
8        therewith.

9            [~~d~~] (f) The governor shall notify the candidate advisory  
10        council for the board of regents of the University of Hawaii in  
11        writing within ten days of receiving notification that a member  
12        of the board of regents is resigning or has died, or is being  
13        removed by the governor.

14            [~~e~~] (g) The members of the board of regents shall serve  
15        without pay but shall be entitled to their travel expenses  
16        within the State when attending meetings of the board or when  
17        actually engaged in business relating to the work of the board."

18            SECTION 3. Statutory material to be repealed is bracketed  
19        and stricken. New statutory material is underscored.

20            SECTION 4. This Act shall take effect on July 1, 2050.



**Report Title:**

University of Hawaii; Board of Regents; Meetings; Public Access

**Description:**

Requires all public meetings of the board of regents to be recorded in live digital audio format by May 1, 2021, for standing committee meetings, and webcast live by September 1, 2021, for all regular board of regents meetings. Requires all recording to be archived and made available to the public. Requires the Board of Regents to determine its accessibility obligations pursuant to the Americans with Disabilities Act and comply with those obligations. Effective 7/1/2050. (HD1)

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

