

# OFFICE OF INFORMATION PRACTICES

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To: House Committee on Judiciary

From: Cheryl Kakazu Park, Director

Date: March 19, 2019, 2:05 p.m.  
State Capitol, Conference Room 325

Re: Testimony on S.B. No. 919, H.D. 1  
Relating to the University of Hawaii Board of Regents

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Thank you for the opportunity to submit testimony on this bill, which would change the composition and term length of the Board of Regents of the University of Hawaii. The Office of Information Practices (OIP) previously testified about a broad Sunshine Law exemption proposed by the S.D. 2 version of this bill. That provision was deleted from the bill and is not included in the H.D. 1 version of the bill. OIP has no further concern regarding this bill.

Thank you for the opportunity to testify.

## HOUSE COMMITTEE ON JUDICIARY

### Senate Bill 919, HD 1, Relating to the University Board of Regents

Tuesday, March 19, 2019, 2:05 PM, Conference Room 325

Chair Lee and Committee Members:

My name is Lee Putnam and I have the honor of serving as Chair of the Board of Regents (BOR) this year. Let me take a brief moment on a personal note. I would like you to know that I am completing the last year of my five-year term and did not apply for reappointment.

Also, I should make it clear that my testimony is not an official statement on behalf of the Board. We have had an opportunity to talk about the substance of the bill but have not had an opportunity to take any formal action on a position. I can say that the strong sentiment of the Board is that this is not helpful legislation and should not be enacted.

Both the State Constitution and Statutes assign broad powers and heavy responsibilities to the BOR, to formulate policy and exercise control over the University. All Regents individually and as a body take their fiduciary obligations very seriously. We are all volunteers who all devote a great deal of personal time, effort, and resources to the University.

The current number of fifteen (15) Regents has been in place for almost a decade and is well suited to accomplishing the governance of the University. Much of the work is done in committee. The BOR has seven standing committees, all of which meet at least 3 times a year, some more often than that. We also appoint Regents to serve as Board members or liaisons to an additional nine affiliate organizations. Each Regent serves on two or more committees and twelve have accepted additional responsibility as appointees to an affiliate organization. The Board meets at least 10 times a year. In preparation for Board, committee, and affiliate organization meetings, each Regent studies voluminous meeting materials. Further, individual Regents participate in commencements and other university functions.

Clearly the time commitment for all Regents is quite significant, even more so since all the meetings require travel, mostly for the neighbor island Regents but also for the Oahu Regents since Board meetings are held on a neighbor island once or twice each year. **Reducing the current number of Regents will have a deleterious effect since increased demands on the remaining BOR members will become a major deterrent to potential applicants for appointment to the BOR.** Currently there is a balance between Regents who are retired and those actively engaged with their careers, bringing diverse experiences and views. This may no longer be sustainable if demands on time and attention increase.

Geographic diversity also contributes to the quality of BOR decision making. The current composition of the Board calls for at least 5 members from the neighbor islands, at least 7 from O`ahu, and the remaining 3 members (a student Regent and 2 at large) may come from any county. The bill jeopardizes this balance by making it possible that only 3 Regents would come from O`ahu. **Segmentation by Congressional Districts could have unintended negative consequences.** This requirement should be deleted.

Finally, the additional language concerning holding the President “accountable for decisions, actions, and leases that incur additional costs to the university” is unnecessary. The Board has in place policies, procedures, and practices regarding the duties of the President and regular evaluations of the President’s performance. While costs are just one aspect of decision making, many existing policies and practices support strong BOR oversight of costs. Authority over operating and CIP budgets is not delegated. Contracts (including leases) over defined thresholds must come to the Board for approval. The Board maintains close oversight of expenditures through quarterly reports comparing budget-to-actual expenditures. The Board has full authority to hire, evaluate, and remove the President. **Holding the President accountable is one of the primary functions of the BOR and including this in statute is redundant.** Significantly, Section 26-11(a) of the current statute clearly states, “The board shall have *exclusive jurisdiction* over the internal organization and *management* of the university.” [emphasis added]

In summary, this bill does harm to the effectiveness of the Board of Regents. I respectfully request that it be held in your committee.

Thank you for this opportunity to testify in strong opposition.

**SB-919-HD-1**

Submitted on: 3/18/2019 3:53:21 PM

Testimony for JUD on 3/19/2019 2:05:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
jeff portnoy	Individual	Oppose	Yes

Comments:

Although i am Vice-Chair of the UH Board of Regents, i am testifying in my individual capacity and will testify in person tomorrow. I have served proudly for the past 5 plus years as a Regent. I am strongly against this Bill for many reasons. First The Constitution of the State of Hawaii provides complete autonomy to the University ( other than for financial matters). Second, reducing the number of Regents makes no sense. It will lessen the Board's diversity. .Furthermore, the work we do as volunteers is substantial with 15 members, and increasing the workload will only serve to limit the pool of folks willing to serve. The proposed division of Oahu Regents also makes no sense. The flagship institution in the UH sysytem is in Manoa. Requiring two Oahu Regents to come from district 2 is unreasonable. It maybe that the best qualified candidates meet that requirement but it should not be mandated. Lastly, the provision holding the Regents " accountable" .by statute, for the actions of the President is punitive, undefined by what exactly is " accountable", does not define the punishmnet the Board should impose, etc. I can assure you that we take our roles as Regents quite seriously, including our review of the president's performance, including, as part of that review, the work of his subordinates. Candidly, it is my personal belief that part of this proposed legislation is punitive. We can collectively, as regents and legislators, do much better in improving our University and Colleges by working together. Proposed statutes like this do not accomplish this goal.

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March 18, 2019

The Honorable Chris Lee, chair  
and members of the Committee on Judiciary  
House of Representatives  
State Capitol  
Honolulu, Hawaii

Dear Representatives:

Subject: SB 919, SD 2 HD 1 (relating to the University of Hawaii Board of Regents)

There is an old adage “if it ain’t broke, don’t fix it.” I believe this applies to the matter of this bill.

The bill proposes changes to the size and composition of the members of the Board of Regents. HD 1 of this bill is an improvement over SD 1, but the bill still does not state a rationale for any of the proposed changes.

Senate Standing Committee Report no. 941 dated March 1, 2019, the Senate’s most correspondence on this bill, states that the bill “will better enable the Board of Regents to fulfill its constitutional mandate to formulate policy and exercise control of the University.” HD 1 sheds no further light on a rationale, and none of the versions of this bill has offered an explanation as to how this bill will achieve these objectives.

In the absence of a reason to make these changes, I encourage you to hold this bill in your committee.

Mahalo for your consideration.

Sincerely yours,

*Randolph G. Moore*