



UNIVERSITY
of HAWAII®
SYSTEM

**House Committee on Higher Education
Friday, March 14, 2024 2:00 P.M.**

Testimony by:

Chair Gabe Lee and First Vice Chair Laurie Tochiki of the Board of Regents

S.B. No. 741 – RELATING TO THE UNIVERSITY OF HAWAII

Chair Garrett, Vice Chair Amato, and members of the Committee:

The Board of Regents met on February 6, 2025 and after review and discussion voted to oppose this bill. The University of Hawai'i already has a statutorily created and functioning Independent Audit Committee (H.R.S. §304A-321), that is exempt from chapter 91 and part I of chapter 92 to the extent that the independent audit committee is engaging in discussions with internal or external auditors on matters that should remain confidential in accordance with nationally recognized best practices for independent audit committees, or in proceedings arising from an investigation by the independent audit committee relating to potentially actionable civil or criminal conduct, regardless of whether the investigation is pending or outstanding.

The Board of Regents also has an office of internal audit that is structurally an office separate from the administration of the University of Hawai'i. Additionally, at the discretion of the chair of the independent audit committee, discussions under this subsection may be held in the absence of the president of the University of Hawai'i or the chief financial officer of the university.

The Board of Regents supports the bill's general objective of ensuring accountability and transparency of operations relating to the University of Hawai'i – including the Board of Regents. However, the creation of a separate entity to audit the portions of the university that is already charged with governance oversight appears to be duplicative. Lastly, the Legislature already has the authority to direct the Legislative Auditor to conduct an audit of the University of Hawai'i System as well as the Board of Regents. This capability may already be the prudent approach to address whatever objectives the concept in S.B. 741 would also seek to create.

Thank you for the opportunity to testify in providing supportive comments on the intent of S.B. No. 741.



The House Committee on Higher Education

March 14, 2025

Room 309

2:00 PM

RE: **SB 741, Relating to the University of Hawaii**

Attention: Chair Andrew Garrett, Vice Chair Terez Amato and members of the Committee

The University of Hawaii Professional Assembly (UHPA), the exclusive bargaining representative for all University of Hawai'i faculty members across Hawai'i's statewide 10-campus system, **opposes SB 741**, establishing an external audit committee for the Board of Regents and the University of Hawai'i System.

While the UHPA is in support of ensuring accountability and transparency for the University of Hawai'i and its Board of Regents, we are concerned that this bill is unnecessarily duplicative and without a clear purpose that is not already being achieved through current statutory audits.

The University of Hawaii currently has a statutorily created and functioning Independent Audit Committee that engages with internal and external auditors in accordance with nationally recognized best practices. Likewise, the Board of Regents has an office of internal audit that is structurally separate from the UH administration. Additionally, the Legislature already has the authority to direct the Legislative Auditor to conduct an audit of the UH System and the Board or Regents.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'C. L. Fern'.

Christian L. Fern
Executive Director
University of Hawaii Professional Assembly

University of Hawaii
Professional Assembly

1017 Palm Drive ♦ Honolulu, Hawaii 96814-1928
Telephone: (808) 593-2157 ♦ Facsimile: (808) 593-2160
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OFFICE OF INFORMATION PRACTICES

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To: House Committee on Higher Education

From: Carlotta Amerino, Director

Date: March 14, 2025, 2:00 p.m.
State Capitol, Conference Room 309

Re: Testimony on S.B. No. 741
Relating to the University of Hawaii

Thank you for the opportunity to submit testimony on this bill, which would create a new External Audit Committee within the University of Hawaii. The Office of Information Practices (OIP) takes no position on the substance of this bill, but offers **comments** regarding the proposed committee's partial exemption from part I of chapter 92, the Sunshine Law.

Proposed subsection 304A-__(c), HRS, at bill page 2 lines 4-12, exempts the new committee "from chapter 91 and chapter 92 to the extent that the audit committee is engaging in discussions that should remain confidential in accordance with nationally recognized best practices for external and independent audit committees, or in proceedings arising from an investigation by the external audit committee relating to potentially actionable civil or criminal conduct, regardless of whether the investigation is pending or outstanding." OIP is concerned that the first part of this exemption, for discussions "that should remain confidential in accordance with nationally recognized best practices," is subjective and requires clarification as to what situations and discussions would be covered by it. At a minimum, some reference is needed to what specific sources comprise the

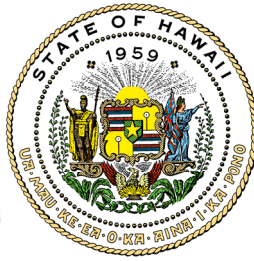
“nationally recognized best practices” that this bill would set as the standard for when the committee is exempted from the Sunshine Law.

This bill also does not specify whether this Sunshine Law exemption is intended to be an authorized purpose for which the committee can hold an executive session, or something else. As written, the bill could be read to mean that committee members could talk about committee business together outside a meeting in any numbers or in any situation, without going through the formality of holding a meeting and going into executive session, so long as they believed that “nationally recognized best practices” called for confidentiality for the topics discussed.

Finally, OIP notes as a technical matter that the Sunshine Law is only part I of chapter 92, HRS, and the remainder of chapter 92 includes topics such as a default quorum requirement for boards and the authorization to charge copy fees for government records, none of which are apparently relevant to the External Audit Committee’s wish for confidentiality.

OIP therefore respectfully recommends that this Committee amend this bill to (1) either specify the topics of discussion that the committee can keep confidential (OIP does not know what those topics are and thus cannot suggest language), or reference in the Committee report a specific set of standards that are an example of the nationally recognized best practices referred to in the bill; and (2) change bill page 2 lines 4 to 6 to read “The external audit committee may hold an executive session as provided in sections 92-4 and 92-5 to discuss matters . . .”

Thank you for considering OIP’s testimony.



HOUSE COMMITTEE ON HIGHER EDUCATION
The Honorable Andrew Takuya Garrett, Chair
The Honorable Terez Amato, Vice Chair

S.B. NO. 741, RELATING TO THE UNIVERSITY OF Hawai'i

Hearing: Friday, March 14, 2025, 2:00 p.m.

The Office of the Auditor has strong concerns about being a member of the External Audit Committee proposed in S.B. No. 741 and requests that it be removed from the External Audit Committee established by the bill. The External Audit Committee will include a representative of the Office of the Auditor along with representatives from other groups, and will be responsible for providing oversight relating to enterprise risk management. Acting as a member of the External Audit Committee will, at a minimum, create the appearance that the Auditor is not independent from the University of Hawai'i and thus not capable of exercising objective and impartial judgment in future audits of the University of Hawai'i.

Our audits are conducted in accordance with Government Auditing Standards which require us to be independent of the departments and programs we audit. To maintain that independence – which is one of the fundamental and guiding principles upon which we operate – we cannot be involved in program oversight or decision-making that is appropriately management's responsibility. Moreover, Government Auditing Standards establish rigorous requirements to ensure that our work is objective, unbiased, and sufficiently supported by appropriate and sufficient evidence.



House Committee on Higher Education
Honorable Andrew Takuya Garrett, Chair
Honorable Terez Amato, Vice Chair

**RE: Testimony in Opposition to S.B. 741, Relating to the University of
Hawaii**

Hearing: March 14, 2025 at 2:00 p.m.

Dear Chair and Members of the Committee:

My name is Ben Creps. I am a staff attorney at the Public First Law Center, a nonprofit organization that promotes government transparency. Thank you for the opportunity to respectfully submit testimony in **opposition** to S.B. 741.

We specifically oppose the Sunshine Law exemption provided at page 2, lines 4 – 12 and respectfully ask that it be struck from this measure.

The language of the proposed exemption is overly broad, convoluted, and the exemption it creates is unclear. Any exemptions to chapter 92 of the Hawai`i Revised Statutes (HRS) should be clearly articulated and narrowly defined. And existing exemptions under HRS § 92-5(a) provide more than adequate protections. The proposed exemption is thus unnecessary.

Thank you again for the opportunity to testify in opposition to S.B. 741.



Committee on Higher Education
The Hawaii State House of Representatives
415 S Beretania St.
Honolulu, HI 96813

Re: OPPOSITION to Bill [SB 741](#)

March 11, 2025

Dear Chair Garrett, Vice Chair Amato, and esteemed members of the Committee on Higher Education,

My name is Erika Molyneux, and I am a faculty-member at Leeward Community College. The statements expressed are my opinions as an individual and do not represent the position of my college.

Please OPPOSE Bill [SB 741](#), which establishes an External Audit Committee within the University of Hawaii (UH) to audit the University of Hawaii System and the Board of Regents (BOR). While I support the idea of transparency, as written, this bill currently:

1. Duplicates of existing legislation, entities, and services.
2. Entangles currently independent auditing committee members by involving them within a University-based committee.
3. Uses vague verbiage and reasoning.
4. Represents legislative overreach into the BOR, threatening institutional accreditation.

I am concerned that this bill has continually passed through the Senate, despite primarily receiving opposition. In the least, according to both Carlotta Amerino, Director of the State of Hawaii Office of Information Practice, and Ben Creps, an attorney at the Public First Law Center, a nonprofit organization that promotes government transparency, the bill needs clarification regarding the committee exemptions from "chapter 91 and chapter 92" as reasoning for this stipulation is currently subjective and vague.

It also appears the committee and purpose for which the bill was written is duplicative. Gabe Lee, a current BOR regent stated there is *already has a statutorily created and functioning Independent Audit Committee (H.R.S. §304A321) and the Office of Internal Audit that is structurally an office separate from the administration of the University of Hawai'i.that does exactly what this bill calls for, meaning the bill is duplicative. And "the Legislature already has the authority to direct the Legislative Auditor to conduct an audit of the University of Hawai'i System as well as the Board of Regents.*

The Office of the Auditor also specifically sent testimony stating that *The Office of the Auditor has strong concerns about being a member of the External Audit Committee proposed in S.B. No. 741. The External Audit Committee will include a representative of the Office of the Auditor along with representatives from other groups and is required to provide oversight relating to enterprise risk management. Being a member of the External Audit Committee will, at a minimum, create the appearance that we are not independent of the University of Hawai'i and thus not capable of exercising objective and impartial judgment in future audits of the University of Hawai'i.*

This bill may be considered legislative overreach into the affairs of UH and the BOR. According to [Standard IV.C.4](#) from The Accrediting Commission for Community and Junior Colleges, our accrediting body, *The governing board is an independent, policy-making body that reflects the public interest in the institution's educational quality. It advocates for and defends the institution and protects it from undue influence or political pressure.*

For all these reasons and more, I strongly OPPOSE Bill [SB 741](#) and ask that you do the same. Mahalo nui for your time and consideration.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Erika Molyneux', with a long horizontal flourish extending to the right.

Erika Molyneux
Assistant Professor, New Media Arts
Leeward Community College
Resident of Kāneoʻhe, Hawaiʻi

Committee on Higher Education
The Hawaii State House of Representatives
415 S Beretania St.
Honolulu, HI 96813

Re: OPPOSITION to Bill [SB 741](#)

March 12, 2025

Dear Chair Garrett, Vice Chair Amato, and esteemed members of the Committee on Higher Education,

My name is P. Jayne Bopp; I am a professor of sociology and the accreditation liaison officer for Leeward Community College. The statements expressed are my opinions as an individual and do not represent the position of my college.

Please OPPOSE Bill [SB 741](#), which establishes an External Audit Committee within the University of Hawaii (UH) to audit the University of Hawaii System and the Board of Regents (BOR). While I support the idea of transparency, as written, this bill currently:

1. Duplicates of existing legislation, entities, and services.
2. Entangles currently independent auditing committee members by involving them within a University-based committee.
3. Uses vague verbiage and reasoning.
4. Represents legislative overreach into the BOR, threatening institutional accreditation.

I am concerned that this bill has continually passed through the Senate, despite primarily receiving opposition. In the least, according to both Carlotta Amerino, Director of the State of Hawaii Office of Information Practice, and Ben Creps, an attorney at the Public First Law Center, a nonprofit organization that promotes government transparency, the bill needs clarification regarding the committee exemptions from "chapter 91 and chapter 92" as reasoning for this stipulation is currently subjective and vague.

It also appears the committee and purpose for which the bill was written is duplicative. Gabe Lee, a current BOR regent stated there is *already has a statutorily created and functioning Independent Audit Committee (H.R.S. §304A321) and the Office of Internal Audit that is structurally an office separate from the administration of the University of Hawai'i that does exactly what this bill calls for, meaning the bill is duplicative. And "the Legislature already has the authority to direct the Legislative Auditor to conduct an audit of the University of Hawai'i System as well as the Board of Regents.*

The Office of the Auditor also specifically sent testimony stating that *The Office of the Auditor has strong concerns about being a member of the External Audit Committee proposed in S.B. No. 741. The External Audit Committee will include a representative of the Office of the Auditor along with representatives from other groups and is required to provide oversight relating to enterprise risk management. Being a member of the External Audit Committee will, at a minimum, create the appearance that we are not independent of the University of Hawai'i and thus not capable of exercising objective and impartial judgment in future audits of the University of Hawai'i.*

This bill may be considered legislative overreach into the affairs of UH and the BOR. According to the Accrediting Commission for Community and Junior Colleges, our accrediting body, Standard 4.6 states that, *"The governing board functions effectively as a collective entity to promote the institution's values and mission and fulfill its fiduciary responsibilities. The governing board demonstrates an ability to self-govern in adherence to its bylaws and expectations for best practices in board governance"*.

For all these reasons and more, I strongly OPPOSE Bill [SB 741](#) and ask that you do the same. Mahalo nui for your time and consideration.

Sincerely,

A handwritten signature in black ink that reads "P. Jayne Bopp". The script is cursive and fluid, with the first letters of each word being capitalized and prominent.

P. Jayne Bopp
Professor and Accreditation Liaison Officer
Leeward Community College
Resident of Kāne'ohe, Hawai'i

12 March 2025

Committee on Higher Education
The Hawai'i State House of Representatives
415 S Beretania St.
Honolulu, HI 96813

Re: OPPOSITION to Bill [SB 741](#)

Dear Chair Garrett, Vice Chair Amato, and members of the Committee on Higher Education,

My name Michael Oishi, and I am associate professor of literature at Leeward Community College. The statements expressed are my opinions as an individual and do not represent the position of my college.

Please OPPOSE Bill [SB 741](#), which establishes an External Audit Committee within the University of Hawai'i (UH) to audit the University of Hawai'i System and the Board of Regents (BOR). While I support the idea of transparency and accountability, as written, this bill currently:

1. Duplicates of existing legislation, entities, and services at a time when we should be focusing on government economizing, right-sizing, and efficiency.
2. Entangles currently independent auditing committee members by involving them within a university-based committee.
3. Uses vague verbiage and reasoning.
4. Represents legislative overreach into the BOR, threatening institutional accreditation which demands that accredited institutions be free of undue influence or political pressure.

For all these reasons and more, I strongly OPPOSE Bill [SB 741](#) and ask that you do the same. Mahalo nui for your time and consideration.

Yours Sincerely,

Michael Oishi

Michael Oishi
Mililani, Hawai'i

SB-741

Submitted on: 3/12/2025 6:30:50 PM

Testimony for HED on 3/14/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Michelle Igarashi	Individual	Oppose	Written Testimony Only

Comments:

The proposed bill, which subjects UH's Board of Regents to legislative, gubernatorial, and judicial oversight, represents a significant and concerning overreach. By undermining the Board's intended independence, this legislation compromises its ability to effectively govern and manage the educational institution, the state's only university of higher ed, under its purview. This intrusion into the Board's autonomy disrupts the delicate balance of power necessary for sound governance, potentially politicizing educational decisions and hindering the Board's capacity to act in the best interests of students and the institution they serve. Such a shift risks transforming the Board from an independent body focused on long-term educational strategy into a tool of political expediency, jeopardizing the stability and integrity of the educational system. This legislative overreach not only threatens the Board's ability to operate efficiently but also sets a dangerous precedent for undue political interference in higher education.