

ACT 72

S.B. NO. 563

A Bill for an Act Relating to the University of Hawaii.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that while the candidate advisory council for the board of regents of the University of Hawaii has nominated many outstanding appointees to the board, important concerns have been raised as to the selection process. Since the passage of Act 56, Session Laws of Hawaii 2007, to implement the amendments to article X, section 6, of the Hawaii state constitution, a number of issues have arisen from this new method of regent selection, which has hampered the work of the regents candidate advisory council and led to questions about the final selection of appointees during the senate confirmation process.

The purpose of this Act is to reconstitute the form and processes of the candidate advisory council to increase the consideration and appointment of qualified individuals to serve as members of the board of regents and effectively lead the University of Hawaii.

SECTION 2. Chapter 304A, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§304A- Candidate advisory council for the board of regents of the University of Hawaii.** (a) The candidate advisory council for the board of regents of the University of Hawaii shall recruit, evaluate, and present to the governor qualified candidates for nomination to a vacant seat on the board of regents. The candidate advisory council shall be attached to the University of Hawaii for administrative purposes.

(b) The candidate advisory council shall:

(1) Develop and implement a fair and independent procedure for evaluating candidates to serve on the board of regents;

- (2) Require candidates and members of their immediate families to disclose any existing or anticipated contracts or financial transactions with the University of Hawaii;
  - (3) Actively solicit and accept applications from potential candidates;
  - (4) Evaluate candidates for the board of regents on their background, experience, and potential for discharging the responsibilities of a member of the board of regents, based upon the qualifications imposed by the Hawaii state constitution; and
  - (5) Present a list of at least three candidates to the governor for nomination and appointment for each vacant seat on the board of regents of the University of Hawaii.
- (c) The candidate advisory council shall initiate the recruitment and evaluation of candidates for each vacancy on the board of regents within:
- (1) Sixty days of a vacancy; or
  - (2) At least one hundred twenty days prior to the expiration of a regent's term.
- (d) To provide continuity for the board of regents, the governor may recommend to the candidate advisory council the reappointment of a member of the board of regents, subject to the advice and consent of the senate.
- (e) The candidate advisory council shall consist of seven voting members to be appointed without regard to section 26-34 as follows:
- (1) One member who shall be appointed by the president of the senate;
  - (2) One member who shall be appointed by the speaker of the house of representatives; and
  - (3) Five members who shall be appointed by the governor.

A member of the Association of Emeritus Regents of the University of Hawaii, appointed by the chair of the Association of Emeritus Regents of the University of Hawaii, shall serve as an ex officio, nonvoting member of the candidate advisory council, for a term not to exceed two years; provided that the appointment shall run concurrently with the term of the appointing chair.

The president of the senate, speaker of the house of representatives, and governor are encouraged to appoint full-time students of the university, university faculty, university staff, or university alumni to the candidate advisory council; provided that if a full-time student is appointed to the candidate advisory council, the student shall have been enrolled as a full-time student for at least three consecutive semesters and shall serve for a term of two years.

(f) Voting members of the candidate advisory council shall serve for the following terms:

- (1) Those appointed by the president of the senate and speaker of the house of representatives shall serve for a term of four years; and
- (2) Those appointed by the governor shall serve for a term of four years; provided that such appointments shall run concurrently with the term of the appointing governor.

(g) Appointees to the candidate advisory council shall have a general understanding of the purposes of higher education, the mission and strategic goals of the University of Hawaii system, and the role and responsibilities of the board of regents. Appointees shall be individuals who are widely viewed as having placed the broad public interest ahead of special interests, are respected by the community, and are highly qualified to recruit and evaluate candidates for the governor's consideration.

(h) Any member of the candidate advisory council whose term has expired may continue in office as a holdover member until a successor is appointed; provided that a holdover member shall not hold office for more than six months following the expiration of the member's term of office.

(i) A vacancy occurring in the membership of the candidate advisory council during a term shall be filled for the remainder of the unexpired term thereof by the appointing authority who appointed the member who creates the vacancy.

(j) The candidate advisory council shall operate in a wholly nonpartisan manner. No member of the candidate advisory council shall run for or hold any elected office of the State or any of its political subdivisions while serving on the candidate advisory council. A member of the candidate advisory council shall resign from the candidate advisory council prior to filing nomination papers for an elected office of the State or any of its political subdivisions.

(k) The chairperson of the candidate advisory council shall be elected by a majority of the voting members of the candidate advisory council. A majority of the members to which the candidate advisory council is entitled shall constitute a quorum to conduct business. The concurrence of a majority of the voting members of the candidate advisory council shall be necessary to make any action of the candidate advisory council valid. The candidate advisory council shall meet annually and at other times as necessary. The candidate advisory council shall be exempt from part I of chapter 92.

(l) Members of the candidate advisory council shall serve without compensation but shall be reimbursed for expenses, including travel expenses, necessary for the performance of their duties."

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

**"§304A-104 Regents; appointment; tenure; qualifications; meetings.** (a) The affairs of the university shall be under the general management and control of the board of regents [~~consisting~~]. The board shall consist of fifteen members who shall be appointed [and] by the governor from lists of qualified candidates presented to the governor by the candidate advisory council, pursuant to section 304A- , and shall be confirmed by the senate; provided that if the list of qualified candidates includes fewer than three candidates at any time during the nomination and confirmation process, the governor may request that the candidate advisory council reopen recruitment for qualified candidates. Members may be removed by the governor. Except as otherwise provided by law, state officers shall be eligible for appointment and membership.

The term of each member shall be five years, except as provided for the initial appointment in section 26-11; provided that the term of the student member shall be two years. Every member may serve beyond the expiration date of the member's term of appointment until the member's successor has been appointed by the governor and confirmed by the senate in accordance with article X, section 6 of the Hawaii state constitution. Members shall serve no more than two consecutive five-year terms; provided that the members who are initially appointed to terms of two years or less pursuant to section 26-11(a) may be reappointed to two ensuing five-year terms. If a member is to be appointed to a second term of five years, the senate shall consider the question of whether to reconfirm the member at least one hundred twenty days prior to the conclusion of a member's first five-year term; provided that if the senate is not in session within one hundred twenty days prior to the conclusion of the member's first five-year term, the member shall continue to serve until the senate convenes for the next regular session or the next special session for which the senate is authorized to consider the question of reconfirmation.

(b) In determining whether to confirm the governor's nominee to the board of regents, the senate shall consider the combination of abilities, breadth

of experiences, and characteristics of the board of regents, as a whole, that will best serve the diverse interests and needs of the students of the university system and assist the university system in achieving its strategic goals and performance indicators. The senate shall consider whether the board reflects the diversity of the student population, the various counties of the State, and a broad representation of higher education-related stakeholders.

~~[(b)]~~ (c) At ~~[a meeting preceding July 1 of each year,]~~ its first meeting after June 30 of each year, the board of regents shall elect a chairperson and ~~[up to two]~~ one or more vice-chairpersons ~~[whose terms shall be from July 1 to]~~ who shall serve until the adjournment of the first meeting of the board of regents after June 30 of the next year, or thereafter until their successors are elected[-]; provided that the chairperson and vice chairpersons shall not be elected prior to the taking of office of regents whose terms shall begin on July 1 of that year. The board shall appoint a secretary, who shall not be a member of the board. The president of the university shall act as executive officer of the board. A majority of the board of regents shall constitute a quorum to conduct business, and the concurrence of a majority of all the members to which the board of regents is entitled shall be necessary to make any action of the board of regents valid. The board shall meet at least ten times annually and, from time to time, may meet in each of the counties of Hawaii, Maui, and Kauai.

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

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

SECTION 4. Section 304A-104.5, Hawaii Revised Statutes, is repealed.

SECTION 5. Each member serving on the regents candidate advisory council for the board of regents of the University of Hawaii on the effective date of this Act shall serve until that member's current term expires, whereupon:

- (1) If that member was appointed by the president of the senate or speaker of the house of representatives, then the president of the senate or speaker of the house of representatives, as the case may be, shall make the appointment to fill the member's seat in accordance with this Act;
- (2) If that member was appointed by the chair of the Association of Emeritus Regents of the University of Hawaii, then the chair of the Association of Emeritus Regents of the University of Hawaii shall make the appointment to fill the member's seat in accordance with this Act; and
- (3) If that member was appointed by an authority other than the president of the senate, speaker of the house of representatives, or chair of the Association of Emeritus Regents of the University of Hawaii, then the governor shall make the appointment to fill the member's seat in accordance with this Act.

If the seat of any member of the regents candidate advisory council serving on the effective date of this Act becomes vacant prior to the expiration of the member's term, then the appropriate appointing authority shall fill the vacancy for the remainder of the unexpired term in accordance with this Act.

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**SECTION 6.** Statutory material to be repealed is bracketed and stricken.  
New statutory material is underscored.<sup>1</sup>

**SECTION 7.** This Act shall take effect upon its approval.  
(Approved May 13, 2013.)

**Note**

1. Edited pursuant to HRS §23G-16.5.