

JAN 18 2008

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# A BILL FOR AN ACT

RELATING TO THE UNIVERSITY OF HAWAII.

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

1           SECTION 1. The purpose of this Act is to amend Act 56,  
2 Session Laws of Hawaii 2007, that establishes a candidate  
3 advisory council for the board of regents of the University of  
4 Hawaii in conformity with the amendment to article X, section 6  
5 of the Hawaii State Constitution, ratified by the voters on  
6 November 7, 2006. Specifically, this Act:

7           (1) Requires the submission of candidates within sixty  
8 days following notification from the governor of a  
9 vacancy due to resignation, death, or removal by the  
10 governor;

11           (2) Requires the council to submit the names of candidates  
12 to the governor;

13           (3) Makes confidential all candidate advisory council  
14 information before and after decisionmaking;

15           (4) Requires that the candidate reside in the geographic  
16 area the candidate represents;



1           (5) Requires the governor to notify the regents candidate  
2           advisory council of vacancies on the board of regents  
3           in a timely manner; and

4           (6) Authorizes an administrator position to be established  
5           to support the candidate advisory council and provides  
6           for an appropriation of \$152,000 from general funds to  
7           support candidate advisory council operations.

8           SECTION 2. Section 26-11, Hawaii Revised Statutes, is  
9 amended by amending subsection (a) to read as follows:

10           "(a) The University of Hawaii shall be headed by an  
11 executive board to be known as the board of regents.

12           The board shall consist of fifteen members. At least one  
13 member shall be a University of Hawaii student at the time of  
14 the initial appointment. This member may be reappointed for one  
15 additional term even though the member may no longer be a  
16 student at the time of reappointment. The governor shall reduce  
17 the terms of those initially appointed to each seat on the board  
18 of regents to provide, as far as practicable, for the expiration  
19 of three terms each year; provided that the term of the student  
20 member shall not be reduced.



1 At least twelve members, except for the student member,  
2 shall represent and reside in the specified geographic areas as  
3 follows:

- 4 (1) Two members from the county of Hawaii;
- 5 (2) Two members from the county of Maui;
- 6 (3) One member from the county of Kauai; and
- 7 (4) Seven members from the city and county of Honolulu.

8 The board shall have the power, in accordance with the  
9 Constitution of the State and with law, to formulate policy and  
10 to exercise control over the university through its executive  
11 officer, the president of the university. The board shall have  
12 exclusive jurisdiction over the internal organization and  
13 management of the university."

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

16 **"§304A-104 Regents; appointment; tenure; qualifications;**  
17 **meetings.** (a) The affairs of the university shall be under the  
18 general management and control of the board of regents  
19 consisting of fifteen members who shall be appointed and may be  
20 removed by the governor. Except as otherwise provided by law,  
21 state officers shall be eligible for appointment and membership.  
22 The term of each member shall be five years, except as provided



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

20 (b) At its first meeting after June 30, the board of  
21 regents shall elect a chairperson and vice-chairperson, who  
22 shall serve until adjournment of its first meeting after June 30



1 of the next year or thereafter until their successors are  
2 appointed. The board shall appoint a secretary, who shall not  
3 be a member of the board. The president of the university shall  
4 act as executive officer of the board. From May 1, 2007 and  
5 until such time that the board of regents has at least fourteen  
6 members, seven members of the board of regents shall constitute  
7 a quorum to conduct business, and the concurrence of at least  
8 seven members of the board of regents shall be necessary to make  
9 any action of the board of regents valid; provided that upon  
10 filling at least fourteen of the fifteen board of regents seats  
11 required under subsection (a), a majority of the board of  
12 regents shall constitute a quorum to conduct business, and the  
13 concurrence of a majority of all the members to which the board  
14 of regents is entitled shall be necessary to make any action of  
15 the board of regents valid. The board shall meet at least ten  
16 times annually and, from time to time, may meet in each of the  
17 counties of Hawaii, Maui, and Kauai.

18 (c) The governor shall notify the regents candidate  
19 advisory council within ten days of receiving notification that  
20 a member of the board of regents is resigning, has died, or is  
21 being removed by the governor.



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

5           SECTION 4. Section 304A-104.5, Hawaii Revised Statutes, is  
 6 amended to read as follows:

7           " ~~[+] §304A-104.5 [ ]—Candidate~~ Regents candidate advisory  
 8 council for the board of regents of the University of Hawaii.

9           (a) There is established the regents candidate advisory council  
 10 for the board of regents of the University of Hawaii to present  
 11 to the governor pools of qualified candidates from which the  
 12 members of the board of regents shall be nominated and, by and  
 13 with the consent of the senate, appointed by the governor. The  
 14 regents candidate advisory council shall establish the criteria  
 15 for qualifying, screening, and presenting to the governor  
 16 candidates for membership on the board of regents. The regents  
 17 candidate advisory council shall be attached to the University  
 18 of Hawaii for administrative purposes.

19           (b) Except as provided in subsection (c), within sixty  
 20 days of convening its first meeting, the regents candidate  
 21 advisory council shall present no fewer than two and no more  
 22 than four qualified candidates to the governor for each vacant



1 seat on the board of regents that has arisen due to resignation,  
2 death, or removal by the governor; provided that for all  
3 subsequent presentations to the governor, the regents candidate  
4 advisory council shall present no fewer than two and no more  
5 than four candidates for each seat on the board of regents to  
6 the governor within:

7 (1) [~~Thirty~~] Sixty days of a vacancy that arises by  
8 resignation, death, or removal by the governor; or

9 (2) One hundred twenty days prior to the expiration of a  
10 term.

11 (c) When there are multiple seats vacant within the same  
12 county or within the at-large membership, the regents candidate  
13 advisory council shall present candidates for seats on the board  
14 of regents to the governor as follows:

15 (1) For two seats from the same county or two at-large  
16 seats, no fewer than four and no more than six  
17 candidates;

18 (2) For three seats from the same county, no fewer than  
19 five and no more than eight candidates; and

20 (3) For more than three seats, the regents candidate  
21 advisory council shall determine appropriate minimum  
22 numbers of candidates, which shall provide for at



1           least three candidates for the final seat, and maximum  
2           numbers of candidates.

3           (d) In making its presentations, the regents candidate  
4 advisory council shall:

5           (1) Develop a statement that includes the selection  
6           criteria to be applied and a description of the  
7           responsibilities and duties of a member of the board  
8           of regents and distribute this statement to potential  
9           candidates;

10          (2) Screen and qualify candidates for each position on the  
11          board of regents based on their background,  
12          experience, and potential for discharging the  
13          responsibilities of a member of the board of regents;

14          (3) Publicly advertise pending vacancies and actively  
15          solicit and accept applications from potential  
16          candidates;

17          (4) Develop and implement a fair, independent, and  
18          nonpartisan procedure for selecting candidates to  
19          serve on the board of regents; and

20          (5) Require each candidate to disclose any existing or  
21          anticipated contracts with the University of Hawaii or





1           any existing or anticipated financial transactions  
2           with the University of Hawaii.

3   Upon submission of the names of candidates to the governor,  
4   ~~[presentations of]~~ the regents candidate advisory council shall  
5   ~~[be made]~~ make available the names of candidates to the public  
6   ~~[by]~~ through the University of Hawaii.

7           (e) For each board seat to be filled, the governor shall  
8   select one nominee from among the candidates submitted by the  
9   regents candidate advisory ~~[council's presentations.]~~ council.

10          (f) The regents candidate advisory council shall consist  
11   of seven members to be appointed without regard to section 26-34  
12   as follows:

- 13          (1) One member shall be appointed by the president of the  
14             senate;
- 15          (2) One member shall be appointed by the speaker of the  
16             house of representatives;
- 17          (3) One member shall be appointed by the governor;
- 18          (4) One member shall be appointed by one of the co-chairs  
19             of the All Campus Council of Faculty Senate Chairs of  
20             the University of Hawaii;



1           (5) One member shall be appointed by the chairperson of  
2           the Executive Council of the University of Hawaii  
3           Student Caucus;

4           (6) One member shall be appointed by the chairperson of  
5           the Association of Emeritus Regents; and

6           (7) One member shall be appointed by the president of the  
7           University of Hawaii Alumni Association;

8 provided that members appointed under paragraphs (4) to (7)  
9 shall be selected from the general public and may include  
10 members of the constituencies represented; provided further that  
11 each appointee satisfies the requirements for appointment  
12 provided in this subsection, except that individuals who are or  
13 have served as members of the executive councils or boards for  
14 the organizations under paragraphs (4) [~~and~~] or (5) within the  
15 last five years immediately preceding the establishment or a  
16 vacancy on the regents candidate advisory council for which the  
17 persons may be qualified to fill shall not be eligible to serve  
18 as members of the regents candidate advisory council.

19           The regents candidate advisory council shall be selected in  
20 a wholly nonpartisan manner. If any member has not been  
21 appointed within one hundred eighty days of [~~the~~] May 1, 2007,  
22 the sitting members on the regents candidate advisory council



1 shall make an interim appointment to fill the vacant seat. The  
2 interim appointee shall satisfy the requirements for appointment  
3 provided in this subsection and shall serve until the time when  
4 the appropriate appointing authority makes an appointment for  
5 the vacant seat as provided in this subsection. Appointees to  
6 the regents candidate advisory council shall have a general  
7 understanding of the purposes of higher education, the mission  
8 of the University of Hawaii system, and the responsibilities of  
9 the board of regents. Appointees shall be individuals who are  
10 widely viewed as having placed the broad public interest ahead  
11 of special interests, having achieved a high level of prominence  
12 in their respective professions, and being respected members of  
13 the community.

14 (g) Members of the regents candidate advisory council  
15 shall serve four-year terms; provided that the three members  
16 initially appointed by the governor, the president of the  
17 senate, and the speaker of the house of representatives shall  
18 serve for terms of two years; provided further that terms for  
19 appointments of the initial members of the regents candidate  
20 advisory council shall be deemed to begin on July 1, 2007,  
21 regardless of the actual date of appointment.



1 (h) If a vacancy occurs, a successor shall be appointed in  
2 the same manner and subject to the same qualifications as the  
3 person's predecessor. The person appointed to fill a vacancy  
4 shall serve for the remainder of the term of the person's  
5 predecessor.

6 (i) The regents candidate advisory council shall operate  
7 in a wholly nonpartisan manner. No individual, while a member  
8 of the regents candidate advisory council, shall run for or hold  
9 any elected office under the United States or the State or any  
10 of its political subdivisions.

11 (j) The regents candidate advisory council shall convene  
12 its first meeting on or after thirty-one days from May 1, 2007;  
13 provided that, if thirty days after May 1, 2007, all the members  
14 to which the regents candidate advisory council is entitled have  
15 not yet been appointed, the regents candidate advisory council  
16 shall convene its first meeting upon the appointment of a  
17 majority of its members. The members of the regents candidate  
18 advisory council shall choose a chairperson from among  
19 themselves. A majority of all the members to which the regents  
20 candidate advisory council is entitled shall constitute a quorum  
21 to conduct business. The concurrence of a majority of all the  
22 members to which the regents candidate advisory council is



1 entitled shall be necessary to make any action of the regents  
2 candidate advisory council valid. The regents candidate  
3 advisory council shall meet annually and at other times as  
4 necessary. The regents candidate advisory council shall be  
5 exempt from part I of chapter 92.

6 (k) Members of the regents candidate advisory council  
7 shall serve without compensation but shall be reimbursed for  
8 expenses, including travel, board, and lodging expenses,  
9 necessary for the performance of their duties.

10 (l) Notwithstanding chapter 92F or any other law to the  
11 contrary, all information required by the regents candidate  
12 advisory council shall be confidential, including, without  
13 limitation, all council information obtained, reviewed, or  
14 considered before and after council decisionmaking.  
15 Confidential regents candidate advisory council information  
16 shall include documents, data, or other information that are not  
17 of public record, including, without limitation, personal  
18 financial information; the names of applicants; applications and  
19 the personal, financial, and other information contained therein  
20 submitted by the applicants to the regents candidate advisory  
21 council; interviews; schedules; reports; studies; background  
22 checks; credit reports; surveys and reports prepared for or on



1 the regents candidate advisory council's behalf; the results of  
 2 any evaluations or assessments conducted by the regents  
 3 candidate advisory council; the substance and details of any  
 4 discussions with regents candidate advisory council members; and  
 5 the substance and details of discussions and deliberations of  
 6 the regents candidate advisory council and any of its committees  
 7 during meetings."

8 SECTION 5. There is appropriated out of the general  
 9 revenues of the State of Hawaii the sum of \$152,000 or so much  
 10 thereof as may be necessary for fiscal year 2008-2009 to  
 11 establish a permanent administrative position for the regents  
 12 candidate advisory council.

13 The sum appropriated shall be expended by the University of  
 14 Hawaii for the purposes of this Act.

15 SECTION 6. Statutory material to be repealed is bracketed  
 16 and stricken. New statutory material is underscored.

17 SECTION 7. This Act shall take effect upon its approval;  
 18 provided that section 5 shall be effective on July 1, 2008.

19

INTRODUCED BY: Norman Solomon



**Report Title:**

UH; Regents Candidate Advisory Council; Appropriation

**Description:**

Requires the submission of candidates' names for the regents candidate advisory council within sixty days following the notification of a vacancy. Clarifies the requirement of the submission of the names of the candidates to the governor. Makes confidential all information received or maintained by the regents candidate advisory council. Requires candidates to reside in the geographic area which the candidate represents. Appropriates funds for an administrative position to support regents candidate advisory council operations. Requires the governor to notify the regents candidate advisory council of vacancies on the board of regents in a timely manner.

