



GOV. MSG. NO. 768

EXECUTIVE CHAMBERS
HONOLULU

LINDA LINGLE
GOVERNOR

April 18, 2007

The Honorable Colleen Hanabusa, President
and Members of the Senate
Twenty-Fourth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

I am transmitting herewith SB14 SD1 HD1, without my approval, and with the statement of objections relating to the measure.

SB14 SD1 HD1

A BILL FOR AN ACT RELATING TO THE
UNIVERSITY OF HAWAII.

Sincerely,

A handwritten signature in cursive script, appearing to read "Linda Lingle".

LINDA LINGLE

EXECUTIVE CHAMBERS

HONOLULU

April 18, 2007

STATEMENT OF OBJECTIONS TO SENATE BILL NO. 14

Honorable Members
Twenty-Fourth Legislature
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, Senate Bill No. 14, entitled "A Bill for an Act Relating to the University of Hawaii."

This bill attempts to implement the provisions of Article X, Section 6 of the State Constitution, approved in 2006. It establishes a seven-member Candidate Advisory Council, exempts this Council from the open meeting provisions of Chapter 92, Hawaii Revised Statutes, increases from twelve to fifteen the number of University of Hawaii Regents, and establishes geographic criteria for 12 of the Regent positions.

This bill is objectionable because it contradicts what public citizen trusteeship should be--that is, citizens who are independent in their individual and collective judgment and who serve the people of Hawaii, not special interest groups. Instead, Senate Bill No. 14 establishes a narrowly focused constituency-based selection council with each member appointed by seven separate interests, including the All Campus Council of Faculty Senate Chairs, the Executive Council of the University of Hawaii Student Caucus, the Association of Regents Emeritus, and the President of the Alumni Association.

These individuals can recommend as few as only two names to fill a vacancy on the Board of Regents, further contributing to the partisan and narrow focus of potential Regent candidates.

Three nationally recognized and well-respected organizations have expressed serious concerns about the selection

STATEMENT OF OBJECTIONS
SENATE BILL NO.14
Page 2

process proposed in Senate Bill No. 14--the Association of Governing Boards of Universities and Colleges (AGB), the Western Association of Schools and Colleges (WASC), and the Accrediting Commission of Community and Junior Colleges (ACCJC). They have, on several occasions, pointed out that the process contained in this bill runs counter to national best practices in university governance.

I do not believe any governor, regardless of party, would agree to a process that is opposed by the President of the University of Hawaii and those very organizations that judge whether to accredit the State's premier institution of higher learning.

I am also troubled by the exemption of the selection council from Part 1, Chapter 92, of the Hawaii Revised Statutes covering open meetings, also known as the Sunshine Law. This blanket exemption would allow this council to conduct its proceedings behind closed doors away from public scrutiny. This increases the possibility of political or partisan overtones in the selection process being hidden from public view. Further, it makes it difficult for the selection council members to be held accountable for the recommendations they make since the public will be unable to observe how certain persons were selected, what qualifications were applied, and what screening process was used.

I affirmatively state that I respect the decision of the electorate in amending the State Constitution to change the method for selecting the Board of Regents. I have demonstrated my commitment to implement this Constitutional change by recommending legislation (House Bill No. 1431/Senate Bill No. 1517) to establish an advisory council to screen and propose candidates for appointment to the Board of Regents. This Administration bill does not create the kind of narrow, constituent approach that

STATEMENT OF OBJECTIONS
SENATE BILL NO.14
Page 3

Senate Bill No. 14 creates and respects the importance of an open selection process.

Should the Legislature send me a bill that incorporates the unbiased and open approach embodied in House Bill No. 1431/Senate Bill No. 1517, then I would be able to sign that measure without hesitation.

For the foregoing reasons, I am returning Senate Bill No. 14 in its present form without my approval.

Respectfully,

A handwritten signature in black ink, appearing to read "L. Lingle", written in a cursive style.

LINDA LINGLE

Governor of Hawaii

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 establish a
2 candidate advisory council for the board of regents of the
3 University of Hawaii in conformity with the amendment to article
4 X, section 6 of the Hawaii State Constitution, ratified by the
5 voters on November 7, 2006. This Act also:

- 6 (1) Increases the membership of the board of regents of
7 the University of Hawaii with a specified number of
8 members representing different geographic areas;
- 9 (2) Prohibits a board of regents member from serving more
10 than two consecutive five-year terms; and
- 11 (3) Requires the senate to consider the reconfirmation of
12 an incumbent board member for a second term at least
13 one hundred twenty days prior to the conclusion of the
14 member's first term.

15 Additionally, the legislature renews its previously stated
16 intent, as provided in Senate Bill No. 1256 (2005), that "the
17 existing members of the board of regents of the University of



1 Hawaii serve their full terms of office. As each term expires,
2 the regent will be replaced by an appointed member screened and
3 proposed by the candidate advisory council . . ." as provided in
4 this Act.

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

8 "§304A- Candidate advisory council for the board of
9 regents of the University of Hawaii. (a) There is established
10 the candidate advisory council for the board of regents of the
11 University of Hawaii to present to the governor pools of
12 qualified candidates from which the members of the board of
13 regents shall be nominated and, by and with the consent of the
14 senate, appointed by the governor. The candidate advisory
15 council shall establish the criteria for qualifying, screening,
16 and presenting to the governor candidates for membership on the
17 board of regents. The candidate advisory council shall be
18 attached to the University of Hawaii for administrative
19 purposes.

20 (b) Except as provided in subsection (c), within sixty
21 days of convening its first meeting, the candidate advisory
22 council shall present no fewer than two and no more than four



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

7 (1) Thirty days of a vacancy that arises by resignation,
8 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 candidate advisory
13 council shall present candidates for seats on the board of
14 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 candidate advisory
21 council shall determine appropriate minimum numbers of
22 candidates, which shall provide for at least three



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

3 (d) In making its presentations, the candidate advisory
4 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 to the governor, presentations of the candidate
4 advisory council shall be made available to the public by the
5 University of Hawaii.

6 (e) For each board seat to be filled, the governor shall
7 select one nominee from among the candidate advisory council's
8 presentations.

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

12 (1) One member shall be appointed by the president of the
13 senate;

14 (2) One member shall be appointed by the speaker of the
15 house of representatives;

16 (3) One member shall be appointed by the governor;

17 (4) One member shall be appointed by one of the co-chairs
18 of the All Campus Council of Faculty Senate Chairs of
19 the University of Hawaii;

20 (5) One member shall be appointed by the chairperson of
21 the Executive Council of the University of Hawaii
22 Student Caucus;



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

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

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

16 The candidate advisory council shall be selected in a
17 wholly nonpartisan manner. If any member has not been appointed
18 within one hundred eighty days of the effective date of this
19 Act, the sitting members on the candidate advisory council shall
20 make an interim appointment to fill the vacant seat. The
21 interim appointee shall satisfy the requirements for appointment
22 provided in this subsection and shall serve until the time when



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

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

19 (h) If a vacancy occurs, a successor shall be appointed in
20 the same manner and subject to the same qualifications as the
21 person's predecessor. The person appointed to fill a vacancy



1 shall serve for the remainder of the term of the person's
2 predecessor.

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

8 (j) The candidate advisory council shall convene its first
9 meeting on or after thirty-one days from the effective date of
10 this Act; provided that, if thirty days after the effective date
11 of this Act, all the members to which the candidate advisory
12 council is entitled have not yet been appointed, the candidate
13 advisory council shall convene its first meeting upon the
14 appointment of a majority of its members. The members of the
15 candidate advisory council shall choose a chairperson from among
16 themselves. A majority of all the members to which the
17 candidate advisory council is entitled shall constitute a quorum
18 to conduct business. The concurrence of a majority of all the
19 members to which the candidate advisory council is entitled
20 shall be necessary to make any action of the candidate advisory
21 council valid. The candidate advisory council shall meet



1 annually and at other times as necessary. The candidate
2 advisory council shall be exempt from part I of chapter 92.

3 (k) Members of the candidate advisory council shall serve
4 without compensation but shall be reimbursed for expenses,
5 including travel, board, and lodging expenses, necessary for the
6 performance of their duties."

7 SECTION 3. Section 26-11, Hawaii Revised Statutes, is
8 amended by amending subsection (a) to read as follows:

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

11 The board shall consist of [~~twelve~~] fifteen members. [~~No~~
12 ~~more than six of the members shall be members of the same~~
13 ~~political party and at least part of the membership of the board~~
14 ~~shall represent geographic subdivisions of the State.] At least
15 one member shall be a University of Hawaii student at the time
16 of the initial appointment. This member may be reappointed for
17 one additional term even though the member may no longer be a
18 student at the time of reappointment. The governor shall reduce
19 the terms of those initially appointed to each seat on the board
20 of regents to provide, as far as practicable, for the expiration
21 of three terms each year; provided that the term of the student
22 member shall not be reduced.~~



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

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

7 The board shall have the power, in accordance with the
8 Constitution of the State and with law, to formulate policy[7]
9 and to exercise control over the university through its
10 executive officer, the president of the university. The board
11 shall have exclusive jurisdiction over the internal organization
12 and management of the university."

13 SECTION 4. Section 304A-104, Hawaii Revised Statutes, is
14 amended by amending subsections (a) and (b) to read as follows:

15 "(a) The affairs of the university shall be under the
16 general management and control of the board of regents
17 consisting of [~~twelve~~] fifteen members who shall be appointed
18 and may be removed by the governor. Except as otherwise
19 provided by law, state officers shall be eligible for
20 appointment and membership. The term of each member shall be
21 [~~for four years,~~] five years, except as provided for the initial
22 appointment in section 26-11; provided that the term of the



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

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



1 shall serve until adjournment of its first meeting after June 30
2 of the next year or thereafter until their successors are
3 appointed. The board shall appoint a secretary, who shall not
4 be a member of the board. The president of the university shall
5 act as executive officer of the board. From the effective date
6 of this Act and until such time that the board of regents has at
7 least fourteen members, seven members of the board of regents
8 shall constitute a quorum to conduct business, and the
9 concurrence of at least seven members of the board of regents
10 shall be necessary to make any action of the board of regents
11 valid; provided that upon filling at least fourteen of the
12 fifteen board of regents seats required under subsection (a), a
13 majority of the board of regents shall constitute a quorum to
14 conduct business, and the concurrence of a majority of all the
15 members to which the board of regents is entitled shall be
16 necessary to make any action of the board of regents valid. The
17 board shall meet [~~not less often than~~] at least ten times
18 annually and, from time to time, may meet in each of the
19 counties of Hawaii, Maui, and Kauai."

20 SECTION 5. Notwithstanding the requirements of section
21 304A-104, Hawaii Revised Statutes, as it read prior to the
22 effective date of this Act, the terms of those members of the



1 board of regents of the University of Hawaii that are to expire
2 on or before June 30, 2007, shall be extended until the earlier
3 of June 30, 2008, or until such time as new members of the board
4 of regents have been appointed pursuant to the appointment
5 process established pursuant to this Act, at which time their
6 terms shall expire; provided that the current members shall
7 serve their full terms.

8 SECTION 6. Statutory material to be repealed is bracketed
9 and stricken. New statutory material is underscored.

10 SECTION 7. This Act shall take effect upon its approval.



Report Title:

UH; Board of Regents; Candidate Advisory Council

Description:

Establishes the candidate advisory council to qualify, screen, and present to the Governor pools of qualified candidates for appointment to the UH Board of Regents. Increases BOR membership to 15 members, with a specified number of members representing different geographic areas. Allows state officers to be eligible for BOR membership. Prohibits a BOR member from serving more than two consecutive five-year terms. Requires the Senate to consider the question of whether to reconfirm an incumbent member's position on BOR at least 120 days prior to the expiration of the member's first term. Allows a BOR member to continue to serve until the member's successor has been appointed and confirmed by the Senate. (SB14 HD1)

