



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 black ink, 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

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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

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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

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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 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)

