



GOV. MSG. NO. 875

EXECUTIVE CHAMBERS  
HONOLULU

LINDA LINGLE  
GOVERNOR

July 8, 2008

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 SB2263 SD2 HD1, without my approval, and with the statement of objections relating to the measure.

SB2263 SD2 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

July 8, 2008

STATEMENT OF OBJECTIONS TO SENATE BILL NO. 2263

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. 2263, entitled "A Bill for an Act Relating to the University of Hawaii."

This bill amends sections 89C-4 and 304A-105, Hawaii Revised Statutes, to provide that proposed compensation or changes in compensation for executive or managerial positions excluded from chapter 89C, Hawaii Revised Statutes, in the University of Hawaii system shall be disclosed in open meetings for purposes of public comment, to provide all documents regarding expenditures and changes to expenditures made by the Board of Regents shall be disclosed in open meetings, and to provide that all expenditure requests, proposals, and any other budgetary documents used by the Board of Regents at an open meeting shall be made available to the public at least six calendar days before the meeting.

This bill is objectionable for three reasons. First, disclosure would hinder the University's ability to negotiate terms, including salaries, of employment contracts favorable to the University and taxpayers. Allowing proposed compensation to be publicly disclosed, before a contract is negotiated or executed, could damage the University's bargaining stance. This frustrates a legitimate government purpose for which existing law provides protections.

Second, under the public records law, the Uniform Information Practices Act (Modified), chapter 92F, Hawaii

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SENATE BILL NO. 2263  
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Revised Statutes, the University of Hawaii is required to disclose the actual salaries of exempt employees. Disclosure of proposed salaries of executive or managerial employees of the University of Hawaii is not of sufficient public interest to warrant the invasion of privacy of these public servants. Because this bill would single out a certain class of employees, removing their privacy protections, this bill also raises equal protection issues in the treatment of State personnel.

Third, transparency is already provided. The Sunshine Law, part I of chapter 92, Hawaii Revised Statutes, currently gives the public the opportunity to testify on matters listed on a Board's agenda. While the exact salary the Board of Regents proposes to pay a specific employee is not included on the agenda, the Board is already required by the Sunshine Law to provide sufficient information to inform the public that it is considering a compensation matter for a prospective or current employee. Salary ranges are publicly disclosed and give the public an opportunity to know the parameters of the proposed personnel action.

Finally, this bill oversteps the protection provided in Article X of the State Constitution which grants to the Board of Regents exclusive jurisdiction over the internal organization and management of the University.

For the foregoing reasons, I am returning Senate Bill No. 2263 without my approval.

Respectfully,



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 legislature finds that the University of  
2 Hawaii system is the only public postsecondary educational  
3 institution in the state and, as such, maintains a tremendous  
4 responsibility in not only providing quality higher education to  
5 its students, but also in being held accountable to the public.  
6 The legislature further finds that, recently, much of the  
7 university's management and operations has been called into  
8 question, including its current practice of preventing public  
9 access to information on the potential salaries of new faculty  
10 and executive/managerial positions and expenditures of the board  
11 of regents. Over the past few years, salaries of university  
12 faculty and administrators have dramatically increased. They  
13 have escalated to the point that approximately 473 faculty and  
14 executive/managerial positions are currently paid salaries that  
15 exceed the salary of the governor of Hawaii, which makes the  
16 matter one of statewide importance and concern.

17           The purpose of this Act is to require the disclosure of:



- 1 (1) Information regarding compensation offered to newly
- 2 hired employees;
- 3 (2) Changes in compensation offered to existing employees
- 4 for executive/managerial positions in the University
- 5 of Hawaii system filled by excluded employees; and
- 6 (3) All budgetary expenditures made by the board of
- 7 regents.

8 SECTION 2. Section 89C-4, Hawaii Revised Statutes, is  
 9 amended to read as follows:

10 **"§89C-4 Adjustments for excluded employees exempt from**  
 11 **civil service.** Each appropriate authority shall determine the  
 12 adjustments that are relevant for their respective excluded  
 13 employees who are exempt from civil service in consideration of  
 14 the compensation and benefit packages provided for other  
 15 employees in comparable agencies. For executive/managerial  
 16 positions in the University of Hawaii system filled by excluded  
 17 employees, proposed compensation or change in compensation shall  
 18 be disclosed in open meeting for purposes of public comment."

19 SECTION 3. Section 304A-105, Hawaii Revised Statutes, is  
 20 amended by amending subsection (a) to read as follows:

21 "(a) The board of regents shall have management and  
 22 control of the general affairs, and exclusive jurisdiction over



1 the internal structure, management, and operation of the  
2 university. The board may ~~[appoint]~~:

3 (1) Appoint a treasurer and other officers as it deems  
4 necessary~~[-The board may authorize]~~;

5 (2) Authorize any officer, elected or appointed by it, to  
6 approve and sign on its behalf any voucher or other  
7 document that the board may approve and sign~~[-The~~  
8 ~~board may delegate]~~;

9 (3) Delegate to the president or the president's designee  
10 the authority to render the final decision in  
11 contested case proceedings subject to chapter 91, as  
12 it deems appropriate~~[-The board may purchase]~~;

13 (4) Purchase or otherwise acquire lands, buildings,  
14 appliances, and other property for the purposes of the  
15 university ~~[and expend such]~~; and

16 (5) Expend any sums of money as, from time to time, may be  
17 placed at the disposal of the university from whatever  
18 source~~[-]~~; provided that notwithstanding any other law  
19 to the contrary, all documents regarding expenditures  
20 and changes thereto, made by the board shall be  
21 disclosed in open meetings for the purpose of public  
22 comment; provided further that all expenditure



1           requests, proposals, and any other budgetary documents  
2           used by the board at an open meeting shall be made  
3           available to the public at least six calendar days  
4           before the meeting.

5           All lands, buildings, appliances, and other property so  
6 purchased or acquired shall be and remain the property of the  
7 university to be used in perpetuity for the benefit of the  
8 university. The board, in accordance with this section and  
9 other law, shall manage the inventory, equipment, surplus  
10 property, and expenditures of the university and, subject to  
11 chapter 91, may adopt rules, further controlling and regulating  
12 the same."

13           SECTION 4. Statutory material to be repealed is bracketed  
14 and stricken. New statutory material is underscored.

15           SECTION 5. This Act shall take effect upon its approval.

