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# A BILL FOR AN ACT

RELATING TO UNIVERSITY OF HAWAII RULEMAKING.

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

1           SECTION 1. The legislature finds that under the framework  
2 established by chapter 91, Hawaii Revised Statutes, a state  
3 agency is allowed to issue policy concerning its internal  
4 management without having to follow various requirements for  
5 adopting administrative rules, such as public notice, public  
6 hearing, and gubernatorial approval. However, the board of  
7 regents for the University of Hawaii is required to conduct its  
8 business at an open public meeting under the framework  
9 established by chapter 92, Hawaii Revised Statutes. Thus, there  
10 is a lack of consistency between the procedures required by  
11 chapters 91 and 92 with respect to matters internal to the  
12 University of Hawaii.

13           The legislature believes that the public should have the  
14 opportunity to observe the board of regents and comment on  
15 proposed changes to policies through open public meetings  
16 pursuant to chapter 92, Hawaii Revised Statutes.



1           The purpose of this Act is to allow the board of regents  
2 for the University of Hawaii to use the "open meeting" process  
3 under chapter 92, Hawaii Revised Statutes, instead of the "rule  
4 making" process under chapter 91, Hawaii Revised Statutes, for  
5 matters internal to the university.

6           SECTION 2. Section 304A-105, Hawaii Revised Statutes, is  
7 amended by amending subsection (a) to read as follows:

8           "(a) The board of regents shall have management and  
9 control of the general affairs, and exclusive jurisdiction over  
10 the internal structure, management, and operation of the  
11 university. The board may:

- 12           (1) Appoint a treasurer and other officers as it deems  
13                necessary;
- 14           (2) Authorize any officer, elected or appointed by it, to  
15                approve and sign on its behalf any voucher or other  
16                document that the board may approve and sign;
- 17           (3) Delegate to the president or the president's designee  
18                the authority to render the final decision in  
19                contested case proceedings subject to chapter 91, as  
20                it deems appropriate;



1 (4) Purchase or otherwise acquire lands, buildings,  
2 appliances, and other property for the purposes of the  
3 university; and

4 (5) Expend any sums of money as, from time to time, may be  
5 placed at the disposal of the university from whatever  
6 source; provided that notwithstanding any other law to  
7 the contrary, all documents regarding expenditures and  
8 changes thereto, made by the board shall be disclosed  
9 in open meetings for the purpose of public comment;  
10 provided further that all expenditure requests,  
11 proposals, and any other budgetary documents used by  
12 the board at an open meeting shall be made available  
13 to the public at least six calendar days before the  
14 meeting.

15 All lands, buildings, appliances, and other property so  
16 purchased or acquired shall be and remain the property of the  
17 university to be used in perpetuity for the benefit of the  
18 university. The board, in accordance with this section and  
19 other law, shall manage the inventory, equipment, surplus  
20 property, and expenditures of the university and, [~~subject to~~  
21 ~~chapter 91, may adopt rules, further~~] at an open public meeting



1 subject to chapter 92, may adopt policies controlling and  
2 regulating the same."

3 SECTION 3. Section 304A-402, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 "[~~+~~]§304A-402[~~+~~] Residence for tuition purposes [~~+~~~~basic~~  
6 ~~rule~~]. The board of regents shall adopt the [~~necessary rules~~]  
7 policies defining residence for tuition purposes [~~herein~~] at an  
8 open meeting subject to chapter 92; provided that the basic  
9 [~~rule~~] principle shall be that a student shall qualify for the  
10 resident tuition fee at the university only if the following  
11 criteria are met:

12 (1) The adult student, or in the case of a minor student,  
13 the student's parents or guardians, has or have been a  
14 bona fide resident of this State for at least twelve  
15 consecutive months next preceding the student's first  
16 day of officially scheduled instruction for any  
17 semester or term in which the student is enrolling at  
18 the particular college or campus; and

19 (2) The adult or minor student has not been claimed as a  
20 dependent for tax purposes for at least twelve months  
21 next preceding the student's first day of officially



1           scheduled instruction for any semester or term in  
 2           which the student is enrolling at the particular  
 3           college or campus by the student's parents or  
 4           guardians who are nonresidents of the State; provided  
 5           that this provision shall not apply in cases where the  
 6           parent claiming the student as a dependent is entitled  
 7           to do so under a child support order or agreement  
 8           issued or entered into in conjunction with a divorce  
 9           proceeding or legal separation agreement and the other  
 10          parent and the student meet the criteria set forth in  
 11          paragraph (1)."

12          SECTION 4. Section 304A-604, Hawaii Revised Statutes, is  
 13          amended to read as follows:

14          " ~~[§304A-604]~~ [Rules] Policies governing state higher  
 15          education loan fund. The board of regents shall ~~[have the~~  
 16          ~~power, in accordance with chapter 91, to]~~ adopt [rules] policies  
 17          necessary for the administration of the state higher education  
 18          loan fund~~[-]~~ at an open meeting subject to chapter 92. The  
 19          state higher education loan fund is limited to students at the  
 20          University of Hawaii or the community colleges who have met the  
 21          eligibility requirements under section 304A-601."



1 SECTION 5. Section 304A-2160, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "[+]§304A-2160[+] State higher education loan fund. There  
4 is established a special fund to be known as the state higher  
5 education loan fund. The fund shall be a revolving fund and all  
6 interest and payments received on account of principal shall be  
7 credited to the fund. The fund shall be administered by the  
8 board of regents and shall be disbursed to needy students that  
9 meet eligibility requirements under section [+]304A-601[+]  
10 pursuant to [~~rules~~] policies adopted by the board[~~-~~] at an open  
11 public meeting subject to the requirements of chapter 92."

12 SECTION 6. Section 304A-2601, Hawaii Revised Statutes, is  
13 amended to read as follows:

14 "[+]§304A-2601[+] Parking; control by board of regents.

15 (a) The board of regents may make [~~rules~~] policies governing  
16 the traffic and parking conditions on the roadways and other  
17 areas under the jurisdiction of the university.

18 (b) The board may:

19 (1) Assess fees for parking, including parking on roadways  
20 and in the parking areas under the jurisdiction of the



1 university; provided that the fees shall be adopted at  
2 an open public meeting subject to chapter 92; and

3 (2) Install parking meters on roadways and in parking  
4 areas [~~;~~ and

5 ~~(3) Make rules relating to the assessments of fees for~~  
6 ~~parking and the installation of parking meters. The~~  
7 ~~rules shall be adopted pursuant to chapter 91].~~

8 The fees shall be deposited in the university parking  
9 revolving fund established under section [~~+~~]304A-2275 [~~+~~].

10 (c) For the purposes of this subpart, parking facilities  
11 shall be considered university projects, and the board shall  
12 possess all powers conferred by [~~+~~]subpart D [~~+~~]."

13 SECTION 7. Statutory material to be repealed is bracketed  
14 and stricken. New statutory material is underscored.

15 SECTION 8. This Act shall take effect upon its approval;  
16 provided that any rules adopted pursuant to sections 304A-  
17 105(a), 304A-402, 304A-604, 304A-2160, and 304A-2601, Hawaii  
18 Revised Statutes, and adopted prior to the effective date of  
19 this Act shall remain in force and effect until the University  
20 of Hawaii board of regents repeals or replaces those rules with  
21 policies adopted in accordance with this Act.



**Report Title:**

University of Hawaii; Rulemaking; Open Public Meetings; Adoption of Policy

**Description:**

Substitutes the rulemaking requirements of Chapter 91, HRS, for the adoption of certain University of Hawaii policies with the open public meeting requirements of chapter 92, HRS. (HD1)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

