

JAN 25 2017

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. The legislature further
7 finds that the board of regents for the University of Hawaii
8 must conduct its business at an open meeting under the framework
9 established by chapter 92, Hawaii Revised Statutes. Currently,
10 there is a lack of consistency between the use of chapter 91
11 procedures and chapter 92 procedures for matters internal to the
12 University of Hawaii.

13 The purpose of this Act is to allow the board of regents
14 for the University of Hawaii to use the "open meeting" process
15 under chapter 92 rather than the "rule making" process under
16 chapter 91 for matters internal to the university. The public
17 will have opportunities to observe the board of regents and

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1 comment on proposed changes to policy through the open meeting
2 requirement of chapter 92.

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

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

- 9 (1) Appoint a treasurer and other officers as it deems
10 necessary;
- 11 (2) Authorize any officer, elected or appointed by it, to
12 approve and sign on its behalf any voucher or other
13 document that the board may approve and sign;
- 14 (3) Delegate to the president or the president's designee
15 the authority to render the final decision in
16 contested case proceedings subject to chapter 91, as
17 it deems appropriate;
- 18 (4) Purchase or otherwise acquire lands, buildings,
19 appliances, and other property for the purposes of the
20 university; and
- 21 (5) Expend any sums of money as, from time to time, may be
22 placed at the disposal of the university from whatever
23 source; provided that notwithstanding any other law to

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1 the contrary, all documents regarding expenditures and
2 changes thereto, made by the board shall be disclosed
3 in open meetings for the purpose of public comment;
4 provided further that all expenditure requests,
5 proposals, and any other budgetary documents used by
6 the board at an open meeting shall be made available
7 to the public at least six calendar days before the
8 meeting.

9 All lands, buildings, appliances, and other property so
10 purchased or acquired shall be and remain the property of the
11 university to be used in perpetuity for the benefit of the
12 university. The board, in accordance with this section and
13 other law, shall manage the inventory, equipment, surplus
14 property, and expenditures of the university and ~~[, subject to~~
15 ~~chapter 91, may adopt rules, further]~~ at an open public meeting
16 subject to the requirements of chapter 92 may adopt policy
17 controlling and regulating the same."

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

20 "[+] §304A-402 [+] Residence for tuition purposes ~~[, basic~~
21 ~~rule]~~. The board of regents shall adopt the necessary ~~[rules]~~
22 policy at an open public meeting subject to the requirements of
23 chapter 92 defining residence for tuition purposes ~~[herein];~~

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1 provided that the basic [~~rule~~] principle shall be that a student
2 shall qualify for the resident tuition fee at the university
3 only if the following criteria are met:

4 (1) The adult student, or in the case of a minor student,
5 the student's parents or guardians, has or have been a
6 bona fide resident of this State for at least twelve
7 consecutive months next preceding the student's first
8 day of officially scheduled instruction for any
9 semester or term in which the student is enrolling at
10 the particular college or campus; and

11 (2) The adult or minor student has not been claimed as a
12 dependent for tax purposes for at least twelve months
13 next preceding the student's first day of officially
14 scheduled instruction for any semester or term in
15 which the student is enrolling at the particular
16 college or campus by the student's parents or
17 guardians who are nonresidents of the State; provided
18 that this provision shall not apply in cases where the
19 parent claiming the student as a dependent is entitled
20 to do so under a child support order or agreement
21 issued or entered into in conjunction with a divorce
22 proceeding or legal separation agreement and the other

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1 parent and the student meet the criteria set forth in
2 paragraph (1)."

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

5 " ~~[+] §304A-604 [+~~ ~~[Rules]~~ Policy governing state higher
6 education loan fund. The board of regents shall ~~[have the~~
7 ~~power, in accordance with chapter 91, to]~~ at an open public
8 meeting subject to the requirements of chapter 92 adopt [rules]
9 policy necessary for the administration of the state higher
10 education loan fund. The state higher education loan fund is
11 limited to students at the University of Hawaii or the community
12 colleges who have been residents of the State pursuant to
13 section 304A-601."

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

16 " ~~[+] §304A-2160 [+~~ State higher education loan fund. There
17 is established a special fund to be known as the state higher
18 education loan fund. The fund shall be a revolving fund and all
19 interest and payments received on account of principal shall be
20 credited to the fund. The fund shall be administered by the
21 board of regents and shall be disbursed to needy students that
22 meet eligibility requirements under section ~~[+] 304A-601 [+~~
23 pursuant to ~~[rules]~~ policy adopted by the board."

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

3 "[+]§304A-2601[+] **Parking; control by board of regents.**

4 (a) The board of regents may make [~~rules~~] policy governing the
5 traffic and parking conditions on the roadways and other areas
6 under the jurisdiction of the university.

7 (b) The board may:

8 (1) Assess fees for parking, including parking on roadways
9 and in the parking areas under the jurisdiction of the
10 university; and

11 (2) Install parking meters on roadways and in parking
12 areas [~~and~~].

13 [~~(3) Make rules relating to the assessments of fees for~~
14 ~~parking and the installation of parking meters. The~~
15 ~~rules shall be adopted pursuant to chapter 91.]~~

16 The fees shall be adopted at an open public meeting subject
17 to the requirements of chapter 92.

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

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

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1 SECTION 7. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 8. This Act shall take effect upon its approval.

4

5

INTRODUCED BY: _____

A handwritten signature in dark ink, appearing to be "M. N. M.", written over a horizontal line.

6

BY REQUEST

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Report Title:

University of Hawaii; Rulemaking; Adoption of Policy

Description:

Exempt certain adoption of regulations by the University of Hawaii from chapter 91, Hawaii Revised Statutes; require certain adoption of policy by the University of Hawaii be subject to chapter 92, Hawaii Revised Statutes.

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

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JUSTIFICATION SHEET

DEPARTMENT: University of Hawaii

TITLE: A BILL FOR AN ACT RELATING TO UNIVERSITY OF HAWAII RULEMAKING.

PURPOSE: Allow the Board of Regents ("Board") for the University of Hawaii to regulate its internal operations under the "open meeting" process under the Sunshine Law under chapter 92, Hawaii Revised Statutes (HRS), rather than by the "rule making" process under chapter 91, HRS.

MEANS: Amend sections 304A-105(a), 304A-402, 304A-604, 304A-2160, and 304A-2601, HRS.

JUSTIFICATION: Under the framework established by chapter 91 concerning public "rules", a state agency is allowed to issue policies concerning its internal management without having to follow various requirements for adopting public rules, such as public notice, public hearing, and gubernatorial approval. Currently, there is a lack of consistency between the use of chapter 91 procedures and chapter 92 procedures in some sections of chapter 304A, HRS. This proposal continues to maintain the public's opportunity to observe and comment in an open meeting while meeting the chapter 92 open meeting requirement.

For example, chapter 92 requires that the public be given advance notice when the Board intends to meet, that the public be given the opportunity to submit written or oral testimony on any item on the meeting agenda, that the Board deliberate and decide issues in an open meeting for public observation (except for those circumstances where an executive session closed to the public is permitted) and that the Board

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maintain public written minutes of its meetings. Through chapter 92, the public is given ample opportunity to comment on proposed policies.

Impact on the public: None.

Impact on the department and other agencies:
Authorizing the University to adopt policies pursuant to part I of chapter 92 will allow the University to create and update its internal management policies in a more timely and responsive manner while maintaining public transparency.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: UOH-900, UOH-800, UOH-700, UOH-210, UOH-100.

OTHER AFFECTED
AGENCIES: None.

EFFECTIVE DATE: Upon approval.