

JAN 26 2022

A BILL FOR AN ACT

RELATING TO HIGHER EDUCATION.

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

1 PART I

2 SECTION 1. The legislature finds that the goals and
3 missions of the University of Hawaii at Manoa, University of
4 Hawaii at West Oahu, and University of Hawaii at Hilo, as
5 four-year universities, are different from the goals and
6 missions of the seven campuses of the University of Hawaii
7 community colleges. The legislature further finds that the
8 establishment of a separate Hawaii community college system will
9 lead to higher quality community colleges and better management
10 of the state higher education system overall.

11 The legislature also finds that an efficient organizational
12 structure of the State's higher education system and its
13 finances are matters of statewide concern.

14 The purpose of this Act is to establish a Hawaii community
15 college system.



PART II

SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter to title 18 be appropriately designated and to read as follows:

"CHAPTER

HAWAII COMMUNITY COLLEGE SYSTEM

§ -1 **Establishment.** There is established a Hawaii community college system, which shall consist of all community colleges in the State, including Hawaii community college, Honolulu community college, Kapiolani community college, Kauai community college, Leeward community college, Maui college, and Windward community college.

No person shall be deprived of the privileges of the community colleges because of race, color, religion, sex, national origin, or physical disability. As used in this section, "physical disability" means a physical impairment that substantially limits one or more of a person's major life activities.

§ -2 **Definitions.** As used in this chapter, unless the context otherwise requires:



"Board of regents" means the board of regents of the Hawaii community college system established in section -4.

"President" means the president of the Hawaii community college system.

"System" means the Hawaii community college system.

§ -3 **Established as a corporation; general powers.** The Hawaii Community College system is established and is constituted as a body corporate. The system, under the direction of the board of regents, shall have the following general powers:

(1) To adopt, amend, and repeal bylaws governing the conduct of its business and the performance of the powers and duties granted to or imposed upon it by law;

(2) To acquire in any lawful manner any property, real, personal, or mixed, tangible or intangible, or any interest therein; to hold, maintain, use, and operate that property; and to sell, lease, or otherwise dispose of that property at any time, in any manner, and to the extent deemed necessary or appropriate to carry out its purposes;



1 (3) To enter into and perform contracts, leases,
2 cooperative agreements, or other transactions as may
3 be necessary in the conduct of its business and on
4 terms it may deem appropriate, with any agency or
5 instrumentality of the United States, with any state,
6 territory, or possession, or with any political
7 subdivision thereof, or with any person, firm,
8 association, or corporation;

9 (4) To determine the character of and the necessity for
10 its obligations and expenditures and the manner in
11 which they shall be incurred, allowed, and paid,
12 subject to provisions of law specifically applicable
13 to the system;

14 (5) To execute, in accordance with its bylaws, all
15 instruments necessary or appropriate in the exercise
16 of any of its powers; and

17 (6) To take actions as may be necessary or appropriate to
18 carry out the powers conferred upon it by law.

19 § -4 **Regents; community colleges; appointment; tenure;**
20 **qualifications; meetings.** (a) The affairs of the system shall
21 be under the general management and control of the board of



1 regents for community colleges, which shall be a separate body
2 from the board of regents of the University of Hawaii
3 established by section 304A-104.

4 (b) The board of regents for community colleges shall
5 consist of eleven members who shall be appointed by the governor
6 from lists of qualified candidates presented to the governor by
7 the candidate advisory council, pursuant to section 304A-104.6,
8 and shall be confirmed by the senate; provided that if the list
9 of qualified candidates includes fewer than three candidates at
10 any time during the nomination and confirmation process, the
11 governor may request that the candidate advisory council reopen
12 recruitment for qualified candidates. Members may be removed by
13 the governor. Except as otherwise provided by law, state
14 officers shall be eligible for appointment and membership.

15 (c) The term of each member shall be five years, except as
16 provided for the initial appointment in section 26- ; provided
17 that the term of the student member shall be two years. Every
18 member may serve beyond the expiration date of the member's term
19 of appointment as a holdover member until the member's successor
20 has been appointed by the governor and confirmed by the senate
21 in accordance with article X, section of the Hawaii State



1 Constitution; provided that, notwithstanding any law to the
2 contrary, a holdover member shall not serve as a member of the
3 board beyond the end of the first regular session of the
4 legislature following the expiration of the member's term.
5 Members shall serve no more than two consecutive five-year
6 terms; provided that the members who are initially appointed to
7 terms of two years or less pursuant to section 26- (a) may be
8 reappointed to two ensuing five-year terms. If a member is to
9 be appointed to a second term of five years, the senate shall
10 consider the question of whether to reconfirm the member at
11 least one hundred twenty days prior to the conclusion of a
12 member's first five-year term; provided that if the senate is
13 not in session within one hundred twenty days prior to the
14 conclusion of the member's first five-year term, the member
15 shall continue to serve until the senate convenes for the next
16 regular session or the next special session for which the senate
17 is authorized to consider the question of reconfirmation.

18 (d) In determining whether to confirm the governor's
19 nominee to the board of regents, the senate shall consider the
20 combination of abilities, breadth of experiences, and
21 characteristics of the board of regents, as a whole, that will



1 best serve the diverse interests and needs of the students of
2 the system and assist the system in achieving its strategic
3 goals and performance indicators. The senate shall consider
4 whether the board reflects the diversity of the student
5 population, the various counties of the State, and a broad
6 representation of higher education-related stakeholders.

7 (e) At its first meeting after June 30 of each year, the
8 board of regents shall elect a chairperson and one or more
9 vice-chairpersons who shall serve until the adjournment of the
10 first meeting of the board of regents after June 30 of the next
11 year, or thereafter until their successors are elected; provided
12 that the chairperson and vice chairpersons shall not be elected
13 prior to the taking of office of regents whose terms shall begin
14 on July 1 of that year. The board shall appoint a secretary,
15 who shall not be a member of the board. The president of the
16 Hawaii community college system shall act as executive officer
17 of the board. A majority of the board of regents shall
18 constitute a quorum to conduct business, and the concurrence of
19 a majority of all the members to which the board of regents is
20 entitled shall be necessary to make any action of the board of
21 regents valid. The board shall meet at least ten times annually



1 and, from time to time, may meet in each of the counties of
2 Hawaii, Maui, and Kauai.

3 (f) The governor shall notify the candidate advisory
4 council in writing within ten days of receiving notification
5 that a member of the board of regents is resigning or has died,
6 or is being removed by the governor.

7 (g) The members of the board of regents shall serve
8 without pay but shall be entitled to their travel expenses
9 within the State when attending meetings of the board or when
10 actually engaged in business relating to the work of the board.

11 § -5 Powers of regents; official name. (a) The board
12 of regents for community colleges shall have management and
13 control of the general affairs and exclusive jurisdiction over
14 the internal structure, management, and operation of the system.
15 The board may:

16 (1) Appoint a treasurer and other officers as it deems
17 necessary;

18 (2) Authorize any officer, elected or appointed by it, to
19 approve and sign on its behalf any voucher or other
20 document that the board may approve and sign;



1 (3) Delegate to the president or the president's designee
2 the authority to render the final decision in
3 contested case proceedings subject to chapter 91, as
4 it deems appropriate;

5 (4) Purchase or otherwise acquire lands, buildings,
6 appliances, and other property for the purposes of the
7 system; and

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

19 All lands, buildings, appliances, and other property so
20 purchased or acquired shall be and remain the property of the
21 system to be used in perpetuity for the benefit of the system.



1 The board, in accordance with this section and other law, shall
2 manage the inventory, equipment, surplus property, and
3 expenditures of the system and, subject to chapter 91, may adopt
4 rules to control and regulate the system.

5 (b) The board of regents shall develop internal policies
6 and procedures for the procurement of goods, services, and
7 construction, consistent with the powers of the board set forth
8 by this chapter, and the goals of public accountability and
9 public procurement practices set forth by chapter 103D.

10 (c) The board of regents may enter into concession
11 agreements without regard to chapter 102.

12 (d) The official name of the board shall be the board of
13 regents, Hawaii community college system. The board shall adopt
14 and use a common seal by which all official acts shall be
15 authenticated.

16 § -6 **System of community colleges; purpose.** (a) The
17 board of regents shall develop and administer a system of
18 community colleges.

19 (b) The purposes of community colleges shall be to
20 provide:



- 1 (1) Two-year college transfer and general education
2 programs;
- 3 (2) Two- and four-year career and technical education
4 programs;
- 5 (3) Semiprofessional, career and technical, and continuing
6 education programs; and
- 7 (4) Other educational programs and services as may be
8 appropriate to the institutions.
- 9 (c) The board may confer a corresponding degree or

10 certificate upon the successful completion of any educational
11 program described in subsection (b) to all students who are
12 entitled thereto."

13 PART III

14 SECTION 3. Chapter 26, Hawaii Revised Statutes, is amended
15 by adding a new section to part I to be appropriately designated
16 and to read as follows:

17 "§26- Hawaii community college system. (a) The Hawaii
18 community college system shall be headed by an executive board
19 to be known as the board of regents, Hawaii community college
20 system.



1 The board of regents shall consist of eleven members. At
2 least one member shall be a Hawaii community college system
3 student at the time of the initial appointment. The governor
4 shall reduce the terms of those initially appointed to each seat
5 on the board of regents to provide, as far as practicable, for
6 the expiration of three terms each year; provided that the term
7 of the student member shall not be reduced.

8 The members, except for the student member, shall represent
9 and reside in the specified geographic areas as follows:

- 10 (1) Two members from the county of Hawaii;
11 (2) Two members from the county of Maui;
12 (3) One member from the county of Kauai; and
13 (4) Five members from the city and county of Honolulu.

14 The board of regents shall have the power, in accordance
15 with the Hawaii constitution and with law, to formulate policy
16 and to exercise control over the Hawaii community college system
17 through its executive officer, the president of the Hawaii
18 community college system. The board of regents shall have
19 exclusive jurisdiction over the internal organization and
20 management of the Hawaii community college system.



1 (b) The board of regents shall appoint and may remove an
2 executive officer to be known as the president of the Hawaii
3 community college system."

4 SECTION 4. Section 26-4, Hawaii Revised Statutes, is
5 amended to read as follows:

6 **"§26-4 Structure of government.** Under the supervision of
7 the governor, all executive and administrative offices,
8 departments, and instrumentalities of the state government and
9 their respective functions, powers, and duties shall be
10 allocated among and within the following principal departments
11 that are hereby established:

12 (1) Department of human resources development

13 (Section 26-5)

14 (2) Department of accounting and general services

15 (Section 26-6)

16 (3) Department of the attorney general (Section 26-7)

17 (4) Department of budget and finance (Section 26-8)

18 (5) Department of commerce and consumer affairs

19 (Section 26-9)

20 (6) Department of taxation (Section 26-10)

21 (7) University of Hawaii (Section 26-11)



- 1 (8) Department of education (Section 26-12)
- 2 (9) Department of health (Section 26-13)
- 3 (10) Department of human services (Section 26-14)
- 4 (11) Department of land and natural resources
- 5 (Section 26-15)
- 6 (12) Department of agriculture (Section 26-16)
- 7 (13) Department of Hawaiian home lands (Section 26-17)
- 8 (14) Department of business, economic development, and
- 9 tourism (Section 26-18)
- 10 (15) Department of transportation (Section 26-19)
- 11 (16) Department of labor and industrial relations
- 12 (Section 26-20)
- 13 (17) Department of defense (Section 26-21)
- 14 (18) Department of public safety (Section 26-14.6) [-]
- 15 (19) Hawaii community college system (Section 26-)."

16 SECTION 5. Section 304A-101, Hawaii Revised Statutes, is

17 amended to read as follows:

18 "[+]§304A-101[+] **Establishment; available to all.** There

19 shall be a University of Hawaii that shall consist of [~~such~~]

20 colleges and departments as may from time to time be

21 established[-]; except for the State's community colleges. As



1 used in this chapter, "university" refers to the University of
2 Hawaii, unless otherwise required by the context.

3 No person, because of race, color, religion, sex, national
4 origin, or physical disability, shall be deprived of the
5 privileges of the university. As used in this section,
6 "physical disability" means a physical impairment that
7 substantially limits one or more of a person's major life
8 activities."

9 SECTION 6. Section 304A-104.6, Hawaii Revised Statutes, is
10 amended by amending its title and subsections (a) through (g) to
11 read as follows:

12 "[+]§304A-104.6[+] **Candidate advisory council [~~for the~~**
13 **board]; boards of regents [~~of the~~]; University of Hawaii[-];**
14 **community college system.** (a) The candidate advisory council
15 for the [~~board~~] boards of regents of the University of Hawaii
16 and Hawaii community college system shall recruit, evaluate, and
17 present to the governor qualified candidates for nomination to a
18 vacant seat on the board of regents[-] of the University of
19 Hawaii and the board of regents of the Hawaii community college
20 system. The candidate advisory council shall be attached to the
21 University of Hawaii for administrative purposes.



1 (b) The candidate advisory council shall:

2 (1) Develop and implement a fair and independent procedure
3 for evaluating candidates to serve on the [~~board~~]
4 boards of regents;

5 (2) Require candidates and members of their immediate
6 families to disclose any existing or anticipated
7 contracts or financial transactions with the
8 University of Hawaii[+] and Hawaii community college
9 system;

10 (3) Actively solicit and accept applications from
11 potential candidates;

12 (4) Evaluate candidates for the [~~board~~] boards of regents
13 on their background, experience, and potential for
14 discharging the responsibilities of a member of the
15 board of regents[+] of the University of Hawaii or the
16 board of regents of the Hawaii community college
17 system, based upon the qualifications imposed by the
18 Hawaii State Constitution; and

19 (5) Present a list of at least three candidates to the
20 governor for nomination and appointment for each
21 vacant seat on the board of regents of the University



1 of Hawaii[-] or the board of regents of the Hawaii
2 community college system.

3 (c) The candidate advisory council shall initiate the
4 recruitment and evaluation of candidates for each vacancy on
5 [~~the~~] a board of regents within:

6 (1) Sixty days of a vacancy; or

7 (2) At least one hundred twenty days prior to the
8 expiration of a regent's term.

9 (d) To provide continuity for the [~~board~~] boards of
10 regents, the governor may recommend to the candidate advisory
11 council the reappointment of a member of [~~the~~] a board of
12 regents, subject to the advice and consent of the senate.

13 (e) The candidate advisory council shall consist of seven
14 voting members to be appointed without regard to section 26-34
15 as follows:

16 (1) One member who shall be appointed by the president of
17 the senate;

18 (2) One member who shall be appointed by the speaker of
19 the house of representatives; and

20 (3) Five members who shall be appointed by the governor.



1 A member of the Association of Emeritus Regents of the
2 University of Hawaii, appointed by the chair of the Association
3 of Emeritus Regents of the University of Hawaii, shall serve as
4 an ex officio, nonvoting member of the candidate advisory
5 council, for a term not to exceed two years; provided that the
6 appointment shall run concurrently with the term of the
7 appointing chair.

8 The president of the senate, speaker of the house of
9 representatives, and governor are encouraged to appoint
10 full-time students of the university, full-time students of the
11 Hawaii community college system, university faculty, Hawaii
12 community college system faculty, university staff, [~~or~~] Hawaii
13 community college system staff, university alumni, or Hawaii
14 community college system alumni to the candidate advisory
15 council; provided that if a full-time University of Hawaii
16 student is appointed to the candidate advisory council, the
17 student shall have been enrolled as a full-time student for at
18 least three consecutive semesters and shall serve for a term of
19 two years.

20 (f) Voting members of the candidate advisory council shall
21 serve for the following terms:



1 (1) Those appointed by the president of the senate and
2 speaker of the house of representatives shall serve
3 for a term of four years; and

4 (2) Those appointed by the governor shall serve for a term
5 of four years; provided that ~~[such]~~ the appointments
6 shall run concurrently with the term of the appointing
7 governor.

8 (g) Appointees to the candidate advisory council shall
9 have a general understanding of the purposes of higher
10 education, the mission and strategic goals of the University of
11 Hawaii system~~[7]~~ and the Hawaii community college system, and
12 the role and responsibilities of the ~~[board]~~ boards of regents.
13 Appointees shall be individuals who are widely viewed as having
14 placed the broad public interest ahead of special interests, are
15 respected by the community, and are highly qualified to recruit
16 and evaluate candidates for the governor's consideration."

17 PART IV

18 SECTION 7. (a) If a constitutional amendment providing
19 for the establishment of a Hawaii community college system is
20 ratified:



1 (1) Notwithstanding section 304A-104.6, Hawaii Revised
2 Statutes, to the contrary, the board of regents
3 candidate advisory council shall initiate recruitment
4 and evaluation of candidates for the board of regents
5 of the Hawaii community college system no later than
6 thirty days after the ratification and submit a list
7 of candidates no later than ninety days after the
8 ratification;

9 (2) The governor shall nominate candidates for the board
10 of regents of the Hawaii community college system for
11 senate advice and consent no later than thirty days
12 after the governor receives the list of candidates
13 from the board of regents candidate advisory council;
14 and

15 (3) The governor, in consultation with the board of
16 regents of the University of Hawaii and the board of
17 regents of the Hawaii community college system, shall
18 submit proposed legislation necessary to effectuate
19 the transfer of the community college system from the
20 University of Hawaii system to the Hawaii community



colleges system no later than twenty days prior to the
convening of the regular session of 2024.

(b) If a constitutional amendment providing for the
establishment of a Hawaii community college system is ratified,
the board of regents of the University of Hawaii shall continue
to administer the state community colleges through June 30,
2023. Beginning July 1, 2023, and until the enactment of
legislation effectuating the transfer of the community colleges
to the Hawaii community college system, the board of regents of
the Hawaii community college system shall have the sole
authority to formulate policy for and provide for the
administration of the Hawaii community college system; provided
that the board of regents of the Hawaii community college system
shall administer the community colleges in compliance with:

(1) Chapter , Hawaii Revised Statutes, enacted pursuant
to part II of this Act; and

(2) Chapter 304A, Hawaii Revised Statutes, and other
relevant laws;

provided further that if there is a conflict between
chapters and 304A, Hawaii Revised Statutes, the provisions
of chapter , Hawaii Revised Statutes, shall control.



1 (c) Beginning July 1, 2023, the budget of the University
2 of Hawaii community colleges shall be transferred from the
3 University of Hawaii to the Hawaii community college system.

4 PART V

5 SECTION 8. All rights, powers, functions, and duties of
6 the University of Hawaii as they relate to the community
7 colleges are transferred to the Hawaii community college system
8 as of July 1, 2023.

9 All officers and employees whose functions are transferred
10 by this Act shall be transferred with their functions and shall
11 continue to perform their regular duties upon their transfer,
12 subject to the state personnel laws and this Act.

13 No officer or employee of the State having tenure shall
14 suffer any loss of salary, seniority, prior service credit,
15 vacation, sick leave, or other employee benefit or privilege as
16 a consequence of this Act, and such officer or employee may be
17 transferred or appointed to a civil service position without the
18 necessity of examination; provided that the officer or employee
19 possesses the minimum qualifications for the position to which
20 transferred or appointed; and provided that subsequent changes



1 in status may be made pursuant to applicable civil service and
2 compensation laws.

3 An officer or employee of the State who does not have
4 tenure and who may be transferred or appointed to a civil
5 service position as a consequence of this Act shall become a
6 civil service employee without the loss of salary, seniority,
7 prior service credit, vacation, sick leave, or other employee
8 benefits or privileges and without the necessity of examination;
9 provided that such officer or employee possesses the minimum
10 qualifications for the position to which transferred or
11 appointed.

12 If an office or position held by an officer or employee
13 having tenure is abolished, the officer or employee shall not
14 thereby be separated from public employment, but shall remain in
15 the employment of the State with the same pay and classification
16 and shall be transferred to some other office or position for
17 which the officer or employee is eligible under the personnel
18 laws of the State as determined by the head of the department or
19 the governor.

20 SECTION 9. All rules, policies, procedures, guidelines,
21 and other material adopted or developed by the University of



1 Hawaii to implement provisions of the Hawaii Revised Statutes
2 that are reenacted or made applicable to the Hawaii community
3 college system by this Act shall remain in full force and effect
4 until amended or repealed by the Hawaii community college system
5 pursuant to chapter 91, Hawaii Revised Statutes.

6 In the interim, every reference to the University of
7 Hawaii, board of regents of the University of Hawaii, or
8 president of the University of Hawaii in those rules, policies,
9 procedures, guidelines, and other material is amended to refer
10 to the Hawaii community college system, board of regents of the
11 Hawaii community college system, or president of the Hawaii
12 community college system, as appropriate.

13 SECTION 10. All deeds, leases, contracts, loans,
14 agreements, permits, or other documents executed or entered into
15 by or on behalf of the University of Hawaii, pursuant to the
16 provisions of the Hawaii Revised Statutes, that are reenacted or
17 made applicable to the Hawaii community college system by this
18 Act shall remain in full force and effect. Beginning July 1,
19 2023, every reference to the University of Hawaii, board of
20 regents of the University of Hawaii, or the president of the
21 University of Hawaii therein shall be construed as a reference



1 pto the Hawaii community college system, the board of regents of
2 the Hawaii community college system, or the president of the
3 Hawaii community college system, as appropriate.

4 SECTION 11. All appropriations, records, equipment,
5 machines, files, supplies, contracts, books, papers, documents,
6 maps, and other personal property heretofore made, used,
7 acquired, or held by the University of Hawaii relating to the
8 functions transferred to the Hawaii community college system
9 shall be transferred with the functions to which they relate.

10 PART VI

11 SECTION 12. Statutory material to be repealed is bracketed
12 and stricken. New statutory material is underscored.

13 SECTION 13. This Act shall take effect upon its approval
14 and upon ratification of a constitutional amendment providing
15 for the establishment of a Hawaii community college system.

16 INTRODUCED BY: 



S.B. NO. 3366

Report Title:

Community Colleges; UH; Hawaii Community College System;
Separate Governance Structure

Description:

Establishes a Hawaii Community College System, to be governed independently from the University of Hawaii. Transfers jurisdiction over the State's community colleges from the University of Hawaii to the Hawaii Community College System. Effective upon ratification of a constitutional amendment providing for the establishment of a Hawaii Community College System.

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

