



UNIVERSITY OF HAWAII SYSTEM

Legislative Testimony

Testimony Presented Before the
House Committee on Judiciary
February 23, 2017 at 2:00 p.m.

by

Carrie K. S. Okinaga
Vice President for Legal Affairs and University General Counsel
University of Hawai'i

HB 426 HD1 – RELATING TO UNIVERSITY OF HAWAII RULEMAKING

Chair Nishimoto, Vice Chair San Buenaventura and members of the House Committee on Judiciary:

Thank you for this opportunity to testify in support of this measure.

This bill seeks to streamline the processes by which the University regulates the internal structure, management, and operation of its campuses. Under sections of current law, the University is required to adopt rules pursuant to HRS Chapter 91 for selected University programs or operations, such as managing its equipment and inventory, administering the higher education loan programs, or assessing campus parking fees. In addition to following the HRS Chapter 91 public rulemaking procedures, the University is a state agency headed by a governing Board of Regents, which is required to comply with the Sunshine Law procedures of HRS Chapter 92. These Sunshine Law procedures mirror similar opportunities for public comment and public decision to issue administrative rules under Chapter 91, and all University Board policies are discussed and adopted at Chapter 92 open meetings. Specifically, the Sunshine Law outlines the requirements for advance notice of an agenda of the items to be discussed, conducting a public meeting, and the opportunity to testify and comment on matters listed on the agenda prior to the board's decision making. This bill would eliminate the duplicative Chapter 91 process and retain the Sunshine Law "open meeting" process for certain University programs and operations listed in this measure.

We believe this measure strikes a proper balance between the need for transparency and accountability, on the one hand, with the need for "business process" efficiency on the other hand. This bill reflects a balance that is appropriate to the University and appropriate to the specific University programs and operations enumerated in the bill, particularly in light of Article X, Section 6 of the Hawai'i Constitution affording the Board of Regents the "power to formulate policy, and to exercise control over the university" and the "exclusive jurisdiction over the internal structure, management, and operation of the university."

Please note that this measure does not effect a wholesale elimination of the Chapter 91 process for all matters under the University's jurisdiction. In fact, the University is in the process of reviewing and updating Hawai'i Administrative Rules, Title 20 governing the University of Hawai'i. This bill targets those University operations or educational programs that have a primary impact within campus boundaries.