THE SENATE TWENTY-FOURTH LEGISLATURE, 2008 STATE OF HAWAII



## A BILL FOR AN ACT **VETO OVERRIDE** ACT No.\_ 9 Approved: July 8, 2008 Dated:\_

RELATING TO THE UNIVERSITY OF HAWAII.

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

1	SECT	ION 1. The purpose of this Act is to amend the law
2	relating	to the candidate advisory council for the board of
3	regents o	f the University of Hawaii in conformity with the
4	amendment to article X, section 6 of the Hawaii Constitution,	
5	ratified by the voters on November 7, 2006. Specifically, this	
6	Act:	
7	(1)	Requires at least 12 members of the board of regents
8		to reside in the geographic areas that they represent;
9	(2)	Requires the governor to notify the candidate advisory
10		council of vacancies on the board of regents in a
11		timely manner;
12	(3)	Requires the candidate advisory council to submit to
13		the governor names of candidates for a seat on the
14		board of regents within 60 days following a vacancy;
15	(4)	Clarifies the requirement for the candidate advisory
16		council's submission of names of board of regents
17		candidates to the governor; and





(5) Makes confidential all information required by the 1 candidate advisory council regarding board of regents 2 candidates. 3 SECTION 2. Section 26-11, Hawaii Revised Statutes, is 4 amended by amending subsection (a) to read as follows: 5 The University of Hawaii shall be headed by an 6 "(a) executive board to be known as the board of regents. 7 The board shall consist of fifteen members. At least one 8 member shall be a University of Hawaii student at the time of 9 the initial appointment. This member may be reappointed for one 10 additional term even though the member may no longer be a 11 student at the time of reappointment. The governor shall reduce 12 the terms of those initially appointed to each seat on the board 13 of regents to provide, as far as practicable, for the expiration 14 of three terms each year; provided that the term of the student 15 member shall not be reduced. 16 At least twelve members, except for the student member, 17 shall represent and reside in the specified geographic areas as 18 19 follows: (1) Two members from the county of Hawaii; 20 (2) Two members from the county of Maui; 21 One member from the county of Kauai; and 22 (3)

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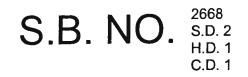


(4) Seven members from the city and county of Honolulu.
 The board shall have the power, in accordance with the
 <u>Hawaii</u> Constitution [of the State] and with law, to formulate
 policy and to exercise control over the university through its
 executive officer, the president of the university. The board
 shall have exclusive jurisdiction over the internal organization
 and management of the university."

8 SECTION 3. Section 304A-104, Hawaii Revised Statutes, is
9 amended to read as follows:

"§304A-104 Regents; appointment; tenure; qualifications; 10 meetings. (a) The affairs of the university shall be under the 11 general management and control of the board of regents 12 consisting of fifteen members who shall be appointed and may be 13 removed by the governor. Except as otherwise provided by law, 14 state officers shall be eligible for appointment and membership. 15 The term of each member shall be five years, except as provided 16 for the initial appointment in section 26-11; provided that the 17 term of the student member shall be two years. Every member may 18 serve beyond the expiration date of the member's term of 19 appointment until the member's successor has been appointed by 20 the governor and confirmed by the senate in accordance with 21 article X, section 6 of the [state constitution.] Hawaii 22

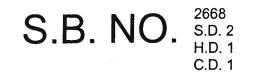




Constitution. Members shall serve no more than two consecutive 1 five-year terms; provided that the members who are initially 2 appointed to terms of two years or less pursuant to section 3 26-11(a) may be reappointed to two ensuing five-year terms. If 4 a member is to be appointed to a second term of five years, the 5 senate shall consider the question of whether to reconfirm the 6 member at least one hundred twenty days prior to the conclusion 7 of a member's first five-year term; provided that if the senate 8 is not in session within one hundred twenty days prior to the 9 conclusion of the member's first five-year term, the member 10 shall continue to serve until the senate convenes for the next 11 regular session or the next special session for which the senate 12 is authorized to consider the question of reconfirmation. 13 At its first meeting after June 30, the board of 14 (b) regents shall elect a chairperson and vice-chairperson, who 15 shall serve until adjournment of its first meeting after June 30 16 of the next year or thereafter until their successors are 17 appointed. The board shall appoint a secretary, who shall not 18

19 be a member of the board. The president of the university shall 20 act as executive officer of the board. From May 1, 2007 and 21 until such time that the board of regents has at least fourteen 22 members, seven members of the board of regents shall constitute





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a quorum to conduct business, and the concurrence of at least 1 seven members of the board of regents shall be necessary to make 2 any action of the board of regents valid; provided that upon 3 filling at least fourteen of the fifteen board of regents seats 4 required under subsection (a), a majority of the board of 5 regents shall constitute a quorum to conduct business, and the 6 concurrence of a majority of all the members to which the board 7 of regents is entitled shall be necessary to make any action of 8 the board of regents valid. The board shall meet at least ten 9 times annually and, from time to time, may meet in each of the 10 counties of Hawaii, Maui, and Kauai. 11

12 (c) The governor shall notify the regents candidate

13 advisory council in writing within ten days of receiving

14 notification that a member of the board of regents is resigning,

15 has died, or is being removed by the governor.

16 [(c)] (d) The members of the board of regents shall serve 17 without pay but shall be entitled to their travel expenses 18 within the [State] state when attending meetings of the board or 19 when actually engaged in business relating to the work of the 20 board."

21 SECTION 4. Section 304A-104.5, Hawaii Revised Statutes, is
22 amended to read as follows:



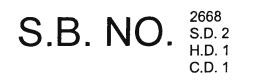
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"[+]§304A-104.5[] Candidate] Regents candidate advisory 1 council for the board of regents of the University of Hawaii. 2 There is established the regents candidate advisory council 3 (a) for the board of regents of the University of Hawaii to present 4 to the governor pools of qualified candidates from which the 5 members of the board of regents shall be nominated and, by and 6 with the consent of the senate, appointed by the governor. The 7 regents candidate advisory council shall establish the criteria 8 for qualifying, screening, and presenting to the governor 9 candidates for membership on the board of regents. The regents 10 candidate advisory council shall be attached to the University 11 of Hawaii for administrative purposes. 12

Except as provided in subsection (c), within sixty 13 (b) days of convening its first meeting, the regents candidate 14 advisory council shall present no fewer than two and no more 15 than four qualified candidates to the governor for each vacant 16 seat on the board of regents that has arisen due to resignation, 17 death, or removal by the governor; provided that for all 18 subsequent presentations to the governor, the regents candidate 19 advisory council shall present no fewer than two and no more 20 than four candidates for each seat on the board of regents to 21 22 the governor within:



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1	(1)	[Thirty] Sixty days of a vacancy that arises by
2		resignation, death, or removal by the governor; or
3	(2)	One hundred twenty days prior to the expiration of a
4		term.
5	The regen	ts candidate advisory council shall be deemed to have
6	fulfilled	lits obligation under this section upon presentation of
7	the names	of the minimum number of candidates required to be
8	presented	for each seat or seats on the board of regents.
9	(c)	When there are multiple seats vacant within the same
10	county or	within the at-large membership, the regents candidate
11	advisory	council shall present candidates for seats on the board
12	of regent	s to the governor as follows:
13	(1)	For two seats from the same county or two at-large
14		seats, no fewer than four and no more than six
15		candidates;
16	(2)	For three seats from the same county, no fewer than
17		five and no more than eight candidates; and
18	(3)	For more than three seats, the regents candidate
19		advisory council shall determine appropriate minimum
20		numbers of candidates, which shall provide for at
21		least three candidates for the final seat, and maximum
22		numbers of candidates.

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1	(d)	In making its presentations, the <u>regents</u> candidate
2	advisory	council shall:
3	(1)	Develop a statement that includes the selection
4		criteria to be applied and a description of the
5		responsibilities and duties of a member of the board
6		of regents and distribute this statement to potential
7		candidates;
8	(2)	Screen and qualify candidates for each position on the
9		board of regents based on their background,
10		experience, and potential for discharging the
11		responsibilities of a member of the board of regents;
12	(3)	Publicly advertise pending vacancies and actively
13		solicit and accept applications from potential
14		candidates;
15	(4)	Develop and implement a fair, independent, and
16		nonpartisan procedure for selecting candidates to
17		serve on the board of regents; and
18	(5)	Require each candidate to disclose any existing or
19		anticipated contracts with the University of Hawaii or
20		any existing or anticipated financial transactions
21		with the University of Hawaii.

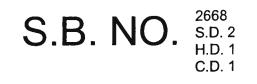




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1	Upon subn	nission of the names of candidates to the governor,
2	[ <del>presenta</del>	tions of] the regents candidate advisory council shall
3	[ <del>be_made</del> ]	make available the names of candidates to the public
4	[ <del>by</del> ] <u>thro</u>	ough the University of Hawaii.
5	(e)	For each board seat to be filled, the governor shall
6	select on	e nominee from among the candidates submitted by the
7	<u>regents</u> c	andidate advisory [council's presentations.] council.
8	(f)	The regents candidate advisory council shall consist
9	of seven	members to be appointed without regard to section 26-34
10	as follow	7S :
11	(1)	One member shall be appointed by the president of the
12		senate;
13	(2)	One member shall be appointed by the speaker of the
14		house of representatives;
15	(3)	One member shall be appointed by the governor;
16	(4)	One member shall be appointed by one of the co-chairs
17		of the All Campus Council of Faculty Senate Chairs of
18		the University of Hawaii;
19	(5)	One member shall be appointed by the chairperson of
20		the Executive Council of the University of Hawaii
21		Student Caucus;





One member shall be appointed by the chairperson of (6)1 the Association of Emeritus Regents; and 2 (7) One member shall be appointed by the president of the 3 University of Hawaii Alumni Association; 4 provided that members appointed under paragraphs (4) to (7) 5 shall be selected from the general public and may include 6 members of the constituencies represented; provided further that 7 each appointee satisfies the requirements for appointment 8 provided in this subsection, except that individuals who are or 9 have served as members of the executive councils or boards for 10 the organizations under paragraphs (4) [and] or (5) within the 11 last five years immediately preceding the establishment or a 12 vacancy on the regents candidate advisory council for which the 13 persons may be qualified to fill shall not be eligible to serve 14 as members of the regents candidate advisory council. 15 The regents candidate advisory council shall be selected in 16 a wholly nonpartisan manner. If any member has not been 17 appointed within one hundred eighty days of [the] May 1, 2007, 18 the sitting members on the regents candidate advisory council 19 shall make an interim appointment to fill the vacant seat.

interim appointee shall satisfy the requirements for appointment 21

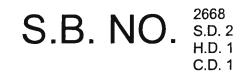
provided in this subsection and shall serve until the time when 22



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the appropriate appointing authority makes an appointment for 1 the vacant seat as provided in this subsection. Appointees to 2 the regents candidate advisory council shall have a general 3 understanding of the purposes of higher education, the mission 4 of the University of Hawaii system, and the responsibilities of 5 the board of regents. Appointees shall be individuals who are 6 widely viewed as having placed the broad public interest ahead 7 of special interests, having achieved a high level of prominence 8 in their respective professions, and being respected members of 9 10 the community.

Members of the regents candidate advisory council 11 (q) shall serve four-year terms; provided that the three members 12 initially appointed by the governor, the president of the 13 senate, and the speaker of the house of representatives shall 14 serve for terms of two years; provided further that terms for 15 appointments of the initial members of the regents candidate 16 advisory council shall be deemed to begin on July 1, 2007, 17 regardless of the actual date of appointment. 18

(h) If a vacancy occurs, a successor shall be appointed in
the same manner and subject to the same qualifications as the
person's predecessor. The person appointed to fill a vacancy



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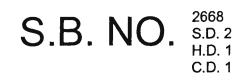


shall serve for the remainder of the term of the person's
 predecessor.

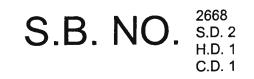
3 (i) The <u>regents</u> candidate advisory council shall operate
4 in a wholly nonpartisan manner. No individual, while a member
5 of the <u>regents</u> candidate advisory council, shall run for or hold
6 any elected office under the United States or the State or any
7 of its political subdivisions.

The regents candidate advisory council shall convene 8 (j) its first meeting on or after thirty-one days from May 1, 2007; 9 provided that, if thirty days after May 1, 2007, all the members 10 to which the regents candidate advisory council is entitled have 11 not yet been appointed, the regents candidate advisory council 12 shall convene its first meeting upon the appointment of a 13 majority of its members. The members of the regents candidate 14 advisory council shall choose a chairperson from among 15 themselves. A majority of all the members to which the regents 16 candidate advisory council is entitled shall constitute a quorum 17 to conduct business. The concurrence of a majority of all the 18 members to which the regents candidate advisory council is 19 entitled shall be necessary to make any action of the regents 20 candidate advisory council valid. The regents candidate 21 advisory council shall meet annually and at other times as 22 2008-2487 SB2668 CD1 SMA-1.doc 12

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1	necessary. The regents candidate advisory council shall be		
2	exempt from part I of chapter 92.		
3	(k) Members of the regents candidate advisory council		
4	shall serve without compensation but shall be reimbursed for		
5	expenses, including travel, board, and lodging expenses,		
6	necessary for the performance of their duties.		
7	(1) Notwithstanding chapter 92F or any other law to the		
8	contrary, all information required by the regents candidate		
9	advisory council shall be confidential, including without		
10	limitation, all council information obtained, reviewed, or		
11	considered before and after council decisionmaking.		
12	Confidential regents candidate advisory council information		
13	shall include documents, data, or other information that are not		
14	of public record, including without limitation, personal		
15	financial information; the names of applicants; applications and		
16	the personal, financial, and other information contained therein		
17	submitted by the applicants to the regents candidate advisory		
18	council; interviews; schedules; reports; studies; background		
19	checks; credit reports; surveys and reports prepared for or on		
20	the regents candidate advisory council's behalf; the results of		
21	any evaluations or assessments conducted by the regents		
22	candidate advisory council; the substance and details of any		
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1	discussions with regents candidate advisory council members; and
	the substance and details of discussions and deliberations of
	the regents candidate advisory council and any of its committees
	during meetings."
<del>4</del> 5	SECTION 5. Statutory material to be repealed is bracketed
-	and stricken. New statutory material is underscored.
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7	SECTION 6. This Act shall take effect upon its approval.

