
A BILL FOR AN ACT

RELATING TO THE UNIVERSITY OF HAWAII.

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

1 SECTION 1. On August 29, 2012, pursuant to senate rule 20,
2 the senate president appointed a senate special committee on
3 accountability to conduct informational briefings to review the
4 oversight, accountability, and transparency of the operational
5 and financial management of the University of Hawaii system,
6 including but not limited to the University of Hawaii's athletic
7 department.

8 The committee held informational briefings on September 24,
9 2012, and October 2, 2012.

10 During the informational briefings, the committee found,
11 among other things, that the board of regents and the University
12 of Hawaii system have spent large amounts of money to contract
13 with independent attorneys rather than use the university
14 general counsel or attorney general.

15 The purpose of this Act is to:

16 (1) Charge the board of regents with direct oversight of
17 the university general counsel;



1 (2) Limit the exemption from the prohibition against state
2 departments contracting with attorneys that is
3 currently provided to the University of Hawaii so that
4 it applies only to the board of regents of the
5 University of Hawaii; and

6 (3) Require the auditor to review the contracts for legal
7 services entered into by the University of Hawaii to
8 examine their provisions, scope, justification, and
9 underlying policies, and report to the legislature
10 regarding the auditor's findings.

11 SECTION 2. Section 28-8.3, Hawaii Revised Statutes, is
12 amended by amending subsection (a) to read as follows:

13 "(a) No department of the State other than the attorney
14 general may employ or retain any attorney, by contract or
15 otherwise, for the purpose of representing the State or the
16 department in any litigation, rendering legal counsel to the
17 department, or drafting legal documents for the department;
18 provided that the foregoing provision shall not apply to the
19 employment or retention of attorneys:

20 (1) By the public utilities commission, the labor and
21 industrial relations appeals board, and the Hawaii
22 labor relations board;



- 1 (2) By any court or judicial or legislative office of the
2 State; provided that if the attorney general is
3 requested to provide representation to a court or
4 judicial office by the chief justice or the chief
5 justice's designee, or to a legislative office by the
6 speaker of the house of representatives and the
7 president of the senate jointly, and the attorney
8 general declines to provide such representation on the
9 grounds of conflict of interest, the attorney general
10 shall retain an attorney for the court, judicial, or
11 legislative office, subject to approval by the court,
12 judicial, or legislative office;
- 13 (3) By the legislative reference bureau;
- 14 (4) By any compilation commission that may be constituted
15 from time to time;
- 16 (5) By the real estate commission for any action involving
17 the real estate recovery fund;
- 18 (6) By the contractors license board for any action
19 involving the contractors recovery fund;
- 20 (7) By the office of Hawaiian affairs;



- 1 (8) By the department of commerce and consumer affairs for
- 2 the enforcement of violations of chapters 480 and
- 3 485A;
- 4 (9) As grand jury counsel;
- 5 (10) By the Hawaiian home lands trust individual claims
- 6 review panel;
- 7 (11) By the Hawaii health systems corporation, or its
- 8 regional system boards, or any of their facilities;
- 9 (12) By the auditor;
- 10 (13) By the office of ombudsman;
- 11 (14) By the insurance division;
- 12 (15) By the board of regents of the University of Hawaii;
- 13 (16) By the Kahoolawe island reserve commission;
- 14 (17) By the division of consumer advocacy;
- 15 (18) By the office of elections;
- 16 (19) By the campaign spending commission;
- 17 (20) By the Hawaii tourism authority, as provided in
- 18 section 201B-2.5;
- 19 (21) By the division of financial institutions for any
- 20 action involving the mortgage loan recovery fund; or
- 21 (22) By a department, in the event the attorney general,
- 22 for reasons deemed by the attorney general to be good



1 and sufficient, declines to employ or retain an
2 attorney for a department; provided that the governor
3 waives the provision of this section."

4 SECTION 3. Section 304A-1005, Hawaii Revised Statutes, is
5 amended by amending subsection (a) to read as follows:

6 "(a) The board of regents may appoint or retain by
7 contract one or more attorneys who are independent of the
8 attorney general, to provide legal services for the university,
9 including:

- 10 (1) Representation of the university in civil actions to
11 which the university is a party, either directly or
12 through the acts or omissions of its officers or
13 employees;
- 14 (2) Advice and assistance to ensure the lawful and
15 efficient administration and operation of the
16 university;
- 17 (3) Review and approval of documents relating to the
18 acquisition of land or interest in land by the
19 university; and
- 20 (4) Any other legal service specified by the board of
21 regents.



1 The board of regents shall have direct oversight of the
 2 university general counsel and shall not delegate this authority
 3 to the university president. The university general counsel
 4 shall report directly to the board of regents. The board of
 5 regents may fix the compensation of the attorneys appointed
 6 pursuant to this section. Attorneys appointed or retained by
 7 contract shall be exempt from chapters 76 and 89."

8 SECTION 4. The auditor shall review all contracts with
 9 attorneys to provide legal services entered into by the
 10 University of Hawaii within the past five years from the
 11 effective date of this Act to examine their justification,
 12 scope, provisions, and underlying policies.

13 The auditor shall submit a report of the examination
 14 performed to the legislature no later than twenty days prior to
 15 the convening of the regular session of 2015.

16 SECTION 5. Statutory material to be repealed is bracketed
 17 and stricken. New statutory material is underscored.

18 SECTION 6. This Act shall take effect upon its approval.

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INTRODUCED BY:

John M. ...
[Signature]
[Signature]

 JAN 17 2014



H.B. NO. 1833

Report Title:

University of Hawaii; Board of Regents; General Counsel; Audit

Description:

Charges the Board of Regents with oversight of the University General Counsel. Exempts the Board of Regents, and repeals UH's exemption, from the prohibition to contract with attorneys. Requires the Auditor to review legal contracts entered into by UH.

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