

JAN 19 2007

A BILL FOR AN ACT

RELATING TO THE HAWAII INGENUITY CORPORATION.

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

1 SECTION 1. The Hawaii Revised Statutes is amended by
2 adding a new chapter to be appropriately designated and to read
3 as follows:

4 "CHAPTER

5 HAWAII INGENUITY CORPORATION CHARTER

6 § -1 The legislature finds and declares that:

- 7 (1) It is an essential function of government to enhance
8 and protect the quality of public education for Hawaii
9 residents;
- 10 (2) Inventors and other creators of intellectual property
11 are an important engine of economic growth;
- 12 (3) Intellectual property is one of the only remaining
13 sources of competitive advantage in the global
14 economy;
- 15 (4) Teaching innovation techniques in our schools is a
16 wise investment in the State's future prosperity;



- 1 (5) Hawaii needs to attract inventors to protect and
2 develop its economy. Protecting labor and
3 environmental standards in Hawaii depends upon
4 increasing or at least maintaining labor and
5 environmental standards nationally and globally;
- 6 (6) Whether working independently or employed by
7 corporations, the vast majority of inventors do not
8 have the collective representation, institutional
9 strength, or financial resources necessary to exercise
10 and enforce their property rights; and
- 11 (7) Hawaii has the opportunity to become a center for
12 protecting the fruits of American ingenuity so that
13 inventors can fully exercise their constitutional
14 intellectual property rights and, in turn, these
15 rights can be used to forge an anchor for good jobs in
16 a manner that enhances labor and environmental
17 practices nationally and internationally.

18 § -2 **Definitions.** As used in this chapter, unless it
19 otherwise clearly appears from the context:

20 "Board" means the board of directors of the corporation.

21 "Corporation" means the Hawaii ingenuity corporation.



1 § -3 **Establishment; purpose.** (a) There is established
2 the Hawaii ingenuity corporation, which shall be a private, for
3 profit, non-stock, membership corporation created by the State
4 to:

- 5 (1) Hold and use intellectual and other property;
- 6 (2) Create benefits for inventors nationally, labor unions
7 nationally, and public education in Hawaii to promote
8 the teaching of innovation and its application for the
9 common good;
- 10 (3) Create and maintain businesses operating with
11 International Labor Organization work standards and
12 United Nations environmental standards, providing
13 innovation education, employment opportunities, and
14 economic development for Hawaii;
- 15 (4) Raise global labor and environmental standards and
16 build Hawaii's role as an inventor-friendly state;
- 17 (5) Engage in any lawful business that operates with
18 International Labor Organization labor and United
19 Nations environmental standards and sell, lease, or
20 license goods and services only to business entities
21 meeting International Labor Organization labor
22 standards and United Nations environmental standards;



1 (6) Enable inventors, labor unions, the American Ingenuity
2 Alliance, and public educators to create a business
3 entity that owns and licenses intellectual and other
4 property;

5 (7) Attract inventors to Hawaii;

6 (8) Enable the corporation to negotiate with other
7 corporations on behalf of all the constituency groups
8 on issues of licensing intellectual property, labor,
9 and environmental standards; and

10 (9) Permit the corporation to collectively bargain and
11 declare that exercising such power on behalf of
12 inventors and labor organizations is an exception to
13 all state anti-trust and anti-competitive practice
14 rules.

15 (b) Contribution, allocation, or distribution by the
16 corporation of its property or assets to any nonprofit
17 institution shall be deductible from the corporation's income to
18 the same extent as it would from the income of any other for
19 profit company.

20 § -4 **General powers of the corporation.** The corporation
21 may do any lawful acts or things reasonably necessary or
22 desirable for carrying out the purposes in section -3 and for



1 protecting the lawful rights and interests of its members in
2 connection therewith.

3 **§ -5 Disposition of assets.** Upon its dissolution,
4 assets may be allocated amongst the members pro rata, with
5 one-third going to inventor members as a group; one-third to
6 union members as a group, and the remaining one-third to be
7 divided equally between the Hawaii State Teachers' Association
8 and the University of Hawaii Professional Assembly for
9 allocation by them to programs teaching innovation.

10 **§ -6 Duration.** This corporate charter is perpetual
11 unless rescinded by a two-thirds vote of both houses of the
12 legislature.

13 **§ -7 Membership classes and qualifications.** (a) There
14 shall be five classes of corporation members:

- 15 (1) Educator members;
16 (2) Inventor members;
17 (3) Labor union members;
18 (4) Investor members; and
19 (5) A managing member.

20 (b) Qualifications for class membership are as follows:

- 21 (1) There shall be two educator members representing:
22 (A) The Hawaii State Teachers' Association; and



- 1 (B) The University of Hawaii Professional Assembly;
- 2 (2) An inventor member is any person who licenses to the
- 3 corporation any intellectual property on which the
- 4 person holds a patent, trademark, trade name, or
- 5 copyright;
- 6 (3) A labor union member is a member of any labor
- 7 organization (as defined by United States or Hawaii
- 8 law) that enters into a contract with the corporation
- 9 and one or more inventor members for their mutual
- 10 benefit, including any local, state, regional,
- 11 national, or amalgamated body;
- 12 (4) An investor member is any person or entity that
- 13 invests real, tangible, or intangible assets in the
- 14 corporation, other than intellectual property, by
- 15 contracting with the corporation; and
- 16 (5) A managing member is a Hawaii nonprofit corporation,
- 17 determined by the legislature to have the ability and
- 18 resources to bring together all the corporation member
- 19 classes to carry out the purposes of this chapter.
- 20 The initial managing member shall be the American
- 21 Ingenuity Alliance. The legislature determines that
- 22 the American Ingenuity Alliance has the ability and



1 resources to bring together all the corporation member
2 classes to carry out the purposes of the corporation.

3 **§ -8 Rights and obligations of member classes.** (a) The
4 two educator members shall:

5 (1) Each appoint one member of the board. The appointment
6 process for each position shall be determined by each
7 respective organization;

8 (2) Be entitled to a one-third share of the profits
9 derived from inventor or labor union contracts managed
10 by the corporation after expenses incurred by the
11 corporation, including managing member and corporation
12 management fees, costs, and investor return payments,
13 which share shall be divided equally between the two
14 educator members;

15 (3) Have the fiduciary obligation to oversee the
16 disbursement of the one-third share of the
17 corporation's profits allocated to the educator
18 members, which funds shall be used to promote teaching
19 and learning innovation for the common good; and

20 (4) Have memberships that shall only expire by act of the
21 legislature.

22 (b) Inventor members shall:



- 1 (1) Have no voting rights in the corporation, other than
2 those granted by the Professional Inventors Alliance
3 or the Living Inventors Hall of Fame;
- 4 (2) Be represented on the board by three inventor members.
5 The Professional Inventors Alliance and the Living
6 Inventors Hall of Fame shall each appoint one member
7 to serve a term as a director of the board. The
8 American Ingenuity Alliance shall appoint one member.
9 The appointment process for each position shall be
10 determined by each organization, respectively;
- 11 (3) Not include the Professional Inventors Alliance or the
12 Living Inventors Hall of Fame;
- 13 (4) Enter into one or more contracts with and managed by
14 the corporation;
- 15 (5) Be entitled to a one-third share of the profits
16 derived from contracts after expenses incurred by the
17 corporation, including managing member and corporation
18 management fees, costs, and investor return payments;
19 and
- 20 (6) Have membership that shall expire at the termination
21 of a member's contract. If a member is engaged in



1 several contracts, the membership shall expire at the
2 end of the last contract.

3 (c) Labor union members shall:

4 (1) Have no voting rights in the corporation, other than
5 those granted by the American Federation of Labor
6 Congress of Industrial Organizations or the Change to
7 Win Coalition;

8 (2) Be represented on the board by three labor union
9 members. The American Federation of Labor Congress of
10 Industrial Organizations and the Change to Win
11 Coalition shall each appoint one member to serve on
12 the board. The American Ingenuity Alliance shall
13 appoint one member;

14 (3) Not include the American Federation of Labor Congress
15 of Industrial Organizations or the Change to Win
16 Coalition;

17 (4) Enter into one or more contracts with and managed by
18 the corporation;

19 (5) Be entitled to a one-third share of the profits
20 derived from contracts after expenses incurred by the
21 corporation, including managing member and corporation



1 management fees, costs, and investor return payments;
2 and

3 (6) Have membership that shall expire at the termination
4 of a member's contract. If a member is engaged in
5 several contracts, membership shall expire at the end
6 of the last member contract.

7 (d) Investor members shall:

8 (1) Have no voting rights in the corporation;

9 (2) Enter into one or more contracts with and managed by
10 the corporation to provide capital for the corporation
11 or any of its members;

12 (3) Be entitled to investor return payments enumerated in
13 a member contract in exchange for investing capital in
14 the corporation or any of its members' contracts.

15 Investor return payments shall be paid out of contract
16 returns after management fees and costs and before
17 calculating profits to be allocated to the inventor,
18 labor union, and educator members; and

19 (4) Have membership that shall expire at the termination
20 of a member's contract. If a member is engaged in
21 several contracts, the membership shall expire at the
22 end of the last member contract.



- 1 (e) The managing member shall:
 - 2 (1) Appoint three members to the board of directors:
 - 3 (A) A representative of a labor organization;
 - 4 (B) An inventor or representative of an inventor's
 - 5 organization; and
 - 6 (C) A representative of the managing member, who
 - 7 shall serve as the board chair;
 - 8 (2) Be removed and replaced by a majority vote of both
 - 9 houses of the legislature;
 - 10 (3) Identify and solicit members within the various
 - 11 membership classes and facilitate opportunities for
 - 12 members to contract with one another to further the
 - 13 purposes of the corporation; and
 - 14 (4) Interpret the meaning of the corporation contracts
 - 15 when there is any dispute between members who are
 - 16 engaged in a member contract. Appeal from any
 - 17 interpretation may be made to the entire board of
 - 18 directors. The directors may overturn the managing
 - 19 member's decision by a majority of the votes of the
 - 20 board of directors.
- 21 § -9 **Membership meetings.** (a) There shall be an annual
- 22 membership meeting held on the second Wednesday in March, or at



1 any other time determined by the board of directors, so long as
2 one is held approximately every twelve months.

3 (b) Members shall receive notice not less than ten, nor
4 more than ninety, days in advance of the meeting by any means
5 that provides a written record.

6 (c) The board of directors shall create the means to
7 permit members to participate from a distance by electronic or
8 other means.

9 (d) The chair of the board of directors and the chief
10 executive officer shall present an annual report to the members
11 on the corporation's affairs, including a financial report and
12 description of the number and nature of the board's member
13 contracts, including a description of how the contracts meet the
14 board's purposes.

15 (e) Special meetings of the members may be called by the
16 chair of the board of directors or three directors at any time
17 or shall be called by the chair of the board of directors upon a
18 petition signed by at least fifty per cent of any class of
19 members or twenty five per cent of all members.

20 § -10 Member's right to sue. Members may sue the board
21 of directors for failure to conduct the business for charter
22 purposes or in the best interests of the members. The right to



1 sue, however, shall only be available after the member has first
2 exhausted an internal appeal process created by the board of
3 directors and overseen by a neutral outside party; provided that
4 the board of directors has created this process. The Hawaii
5 courts shall give the deference to this internal process that
6 they would give any state agency administrative tribunal.

7 **§ -11 Board of directors.** There shall be nine board of
8 director members chosen by various constituencies pursuant to
9 this chapter. The directors shall be appointed in the following
10 numbers by the following organizations:

- 11 (1) One member by the Hawaii State Teachers' Association;
- 12 (2) One member by the University of Hawaii Professional
13 Assembly;
- 14 (3) One member by the American Federation of Labor
15 Congress of Industrial Organizations;
- 16 (4) One member by the Change to Win Coalition;
- 17 (5) One member by the Professional Inventors Alliance;
- 18 (6) One member by the members of the Living Inventors Hall
19 of Fame; and
- 20 (7) Three members by the managing member, of which:
21 (A) One member shall represent a labor organization;



1 (B) One member shall be an inventor or represent an
2 inventor's organization; and

3 (C) One member shall represent the managing members,
4 who shall serve as the chair of the board of
5 directors.

6 § -12 Terms of office. (a) Each member of the board of
7 directors shall be appointed for a term of five years by the
8 director's constituency as provided in this chapter. To stagger
9 the board terms, the initial terms shall be as follows:

10 (1) For two-year terms: the directors appointed
11 respectively by the Hawaii State Teacher's Association
12 and the Change to Win Coalition;

13 (2) For three-year terms: the directors appointed
14 respectively by the Professional Inventors Alliance,
15 American Federation of Labor Congress of Industrial
16 Organizations, and the University of Hawaii
17 Professional Assembly;

18 (3) For four-year terms: the director appointed by the
19 Living Inventors Hall of Fame; and

20 (4) For five-year terms: the directors appointed by the
21 managing members.



1 (b) A director of the board may be recalled at any time
2 without cause by formal action by the body appointing the
3 director and replaced by another director to serve out the
4 remainder of the former director's term. A director may serve
5 any number of terms and may be removed from office for cause by
6 a vote of a majority of the remaining directors then in office.

7 § -13 Duties of the board of directors. The board of
8 directors shall:

- 9 (1) Elect all other officers, including a president and
10 chief executive officer, a secretary, a treasurer, and
11 one or more vice-presidents. These officers may but
12 need not be directors. Staff officers shall be
13 elected each year at the board of director's annual
14 meeting;
- 15 (2) Hire, fire, evaluate, and determine compensation for
16 the chief executive officer;
- 17 (3) Determine policy for the corporation;
- 18 (4) Review corporation member contracts to ensure that
19 they comply with the corporation's purpose, which may
20 include creating criteria for contract evaluation and
21 delegation of the contract review function to staff;
- 22 (5) Hold an annual membership meeting;



1 (6) Operate the corporation to fulfill the purposes of
2 this charter and serve as fiduciaries in the best
3 interests of all the members; and

4 (7) Create and amend the corporation's bylaws to further
5 the purposes of this charter.

6 § -14 **Board meetings.** (a) The board shall meet
7 monthly, on the second Tuesday of the month, unless rescheduled
8 by the chair of the board.

9 (b) Meetings may be held in any location convenient to the
10 board of directors or in multiple locations. Directors may
11 participate in the meeting by any electronic or other method
12 that allows each director to speak, hear, and be heard by all
13 the others.

14 (c) Notice of regular board of directors meetings shall be
15 sent no less than seventy-two hours and no more than thirty days
16 before a meeting. Notice of meetings may be given by any medium
17 that produces a written record.

18 (d) Notice of any meeting may be waived by directors if a
19 waiver is signed before, at, or after a meeting.

20 (e) Unanimous board of directors action may be taken
21 without a meeting; provided that all directors sign the
22 resolution noting their agreement.



1 (f) Notice of special board of directors meetings shall be
2 sent no less than twenty-four hours and no more than thirty days
3 before a meeting. Notice of meetings may be given by any medium
4 that produces a written record.

5 (g) Special meetings of the board of directors may be
6 called at any time by the chair, or by a notice signed by three
7 directors.

8 (h) Special meetings of the board of directors or
9 corporation members shall be called by the chair upon a petition
10 signed by at least twenty per cent of any class of members or
11 ten per cent of all members.

12 § -15 **Board member compensation.** The board of directors
13 shall not be paid more than the average annual compensation for
14 the members of University of Hawaii Professional Assembly, plus
15 actual expenses incurred in carrying out the member's duties.

16 § -16 **Executive committee.** The board of directors may
17 delegate its duties to an executive committee made up of its
18 officers. The executive committee may also act on behalf of the
19 board of directors when action is needed between meetings,
20 subject to authorization or rescission at the following board of
21 directors meeting.



1 **§ -17 Officers.** (a) The officers of the board shall be
2 elected by the board at its annual meeting. The chief executive
3 officer may be hired on a contract exceeding one year if the
4 board of directors so chooses.

5 (b) The chief executive officer shall ensure that the
6 corporation's management shall charge no more than reasonable
7 fees and costs to the corporation and member contracts. The
8 fees and costs shall be disclosed timely to contracting members.
9 The chief executive officer shall provide the monthly reports to
10 the board of directors and annual reports to the members and may
11 hire staff and consultants as necessary to carry out the purpose
12 and business of the corporation.

13 The chief executive officer shall organize transactions in
14 which one or more members contract with outside parties for the
15 mutual benefit of the contracting members and manage the
16 business and assets of the corporation in the interest of all
17 members. The chief executive officer shall negotiate and
18 administer contracts on behalf of members.

19 The chief executive officer shall also prepare an annual
20 report on the corporation to the legislature. The board of
21 directors and the treasurer shall review the report. The chief
22 executive officer and the treasurer shall sign a statement



1 taking fiduciary responsibility for the veracity of the
2 statements in the annual report to the legislature.

3 (c) The board shall designate a first vice-president to
4 take over the duties of the president whenever the president is
5 unavailable to chair a meeting or is otherwise incapacitated or
6 unreachable. The board may designate other vice-presidents with
7 whatever duties the board chooses to assign.

8 (d) The secretary shall maintain all books and records of
9 the corporation and shall be responsible for all required legal
10 filings. The secretary or the president may sign contracts on
11 behalf of the corporation. The secretary shall maintain
12 accurate records of the current membership status of all current
13 and past members. The secretary shall maintain records of the
14 board members' staggered terms of office and provide notice to
15 the board of directors ninety days before each annual meeting of
16 the board member terms that shall expire at that annual meeting.

17 (e) The treasurer shall maintain and oversee the financial
18 records of the corporation. The treasurer shall make a
19 financial report at every regular meeting of the board of
20 directors and at the membership annual meeting. The treasurer
21 shall prepare the financial report included in the annual report
22 to the legislature.



1 **§ -18 Amendments.** Amendments to this charter shall only
 2 be made by an Act of the legislature. However, the board of
 3 directors may create and amend bylaws to further elaborate the
 4 corporation's corporate structure and processes, so long as the
 5 bylaws do not conflict with the charter's purposes.

6 **§ -19 Conflict of laws.** If there is a conflict between
 7 this chapter and chapter 414, this chapter shall control. If
 8 this chapter is silent as to a matter addressed by chapter 414,
 9 chapter 414 shall control.

10 This chapter shall not supersede any existing labor laws of
 11 the State. If there is any conflict between the two, the labor
 12 law shall prevail."

13 SECTION 2. This Act shall take effect upon its approval.

14

INTRODUCED BY: _____

[Signature]

J. Cali Ghil

[Signature]

Rosalyn H. Baker

[Signature]

Ray L. Haun

Report Title:

Hawaii Ingenuity Corporation Charter

Description:

Establishes the Hawaii ingenuity corporation charter, a private, for profit, non-stock, membership corporation.

