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# A BILL FOR AN ACT

RELATING TO THE RESEARCH CORPORATION OF THE UNIVERSITY OF  
HAWAII.

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

1           SECTION 1. The legislature finds that concerns have been  
2 raised as to whether the research corporation of the University  
3 of Hawaii and its board of directors have been given a broader  
4 range of authority and flexibility than originally intended.

5           The purpose of this Act is to clarify the role of the  
6 research corporation of the University of Hawaii and its board  
7 of directors, as well as the relationship between the board of  
8 directors and the University of Hawaii system.

9           SECTION 2. Section 304A-3002, Hawaii Revised Statutes, is  
10 amended to read as follows:

11           "~~[f]~~§304A-3002~~[+]~~ **Board of directors; composition.** The  
12 affairs of the research corporation shall be under the general  
13 management and control of the board of directors. The board of  
14 directors shall consist of ~~[ten]~~ eight members. ~~[Five]~~ Two  
15 members of the board of regents of the University of Hawaii,  
16 selected by the board of regents, shall be members of the board  
17 of directors for terms to be determined by the board of regents;



1 provided that no term shall extend beyond the term as a member  
2 of the board of regents. [~~The remaining five~~] Five members  
3 shall be appointed by the governor pursuant to section 26-34 [~~+~~];  
4 provided that:

- 5 (1) One member shall be a University of Hawaii system  
6 research faculty member;
- 7 (2) One member shall be from the business sector;
- 8 (3) One member shall be a representative of a non-  
9 University of Hawaii research organization; and
- 10 (4) Two members shall be from the general public.

11 The vice president for research of the University of Hawaii  
12 system shall be a nonvoting ex officio member of the board of  
13 directors. All the members appointed by the governor shall  
14 serve for a term of four years, except that the governor may  
15 reduce the terms of those initially appointed [~~so as~~] to  
16 provide, as nearly as can be, for the expiration of an equal  
17 number of terms at intervals of one year, each term commencing  
18 on July 1 and expiring on June 30. All members of the board of  
19 directors shall serve without pay, but shall be entitled to  
20 reimbursement for necessary expenses while attending meetings  
21 and while in the discharge of duties and responsibilities.



1           The members of the board of directors shall elect the  
2 chairperson of the board."

3           SECTION 3. Section 304A-3005, Hawaii Revised Statutes, is  
4 amended to read as follows:

5           "~~§304A-3005~~ **Research corporation excepted from**  
6 **certain state laws.** To carry out the purposes and objectives of  
7 the research corporation, including the conduct of research and  
8 training projects, the research corporation shall be granted  
9 flexibility in hiring its personnel and in handling and  
10 disbursing moneys by being excepted from the following state  
11 laws:

12           (1) Sections 36-27 and 36-30, relating to special fund  
13 reimbursements to the state general fund;

14           (2) Chapter 103D, relating to advertising for bids and  
15 purchases to be made in Hawaii whenever public moneys  
16 are expended; provided that the exception shall not  
17 apply to construction contracts for which the total  
18 estimated value of state funds to be used is  
19 \$ \_\_\_\_\_ or more;

20           (3) Chapter 76, relating to civil service; and

21           (4) Section 78-1, relating to public employment."



1 SECTION 4. Section 304A-3006, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "[+]§304A-3006[+] **Officers and employees of the research**  
4 **corporation.** [~~The president of the university shall be the~~  
5 ~~president of the research corporation.~~] The board of directors  
6 shall employ an executive director of the research corporation  
7 who shall serve at the pleasure of the board of directors. The  
8 executive director's salary shall not be more than two times  
9 greater than the salary of the highest paid head of a department  
10 within the executive branch. The board of directors may also  
11 appoint [such] other officers and employees as may be necessary  
12 in administering the affairs of the research corporation. The  
13 board of directors shall set the employees' duties,  
14 responsibilities, salaries, holidays, vacations, leaves, hours  
15 of work, and working conditions. The board of directors may  
16 grant [such] other benefits to its employees as it deems  
17 necessary. Employees of the research corporation shall not be  
18 entitled to any benefits conferred under chapter 76 relating to  
19 civil service, chapter 78 relating to public service, chapter 88  
20 relating to pension and retirement systems, and the appropriate  
21 collective bargaining agreement, executive order, executive  
22 directive, or rule."



1 SECTION 5. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3 SECTION 6. This Act shall take effect on July 1, 2050.



**Report Title:**

UH; Research Corporation; Board of Regents; Procurement; Board of Directors

**Description:**

Reduces the membership of the board of directors of the UH research corporation from 10 to 8 members. Reduces the number of members of the board of regents who must be members of the board of directors from 5 to 2. Specifies the qualifications of the 5 members to be selected by the governor. Adds the UH vice president for research as an ex officio member of the board of directors. Provides that the research corporation's exemption from the procurement requirements shall not apply to certain construction contracts. Removes the university president's authority to serve as the president of the research corporation. Authorizes the board of directors to employ an executive director of the research corporation. Caps the executive director's salary at twice the salary of the highest paid head of a department within the executive branch. Effective 7/1/2050. (SD2)

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





EXECUTIVE CHAMBERS  
HONOLULU

NEIL ABERCROMBIE  
GOVERNOR

Tuesday, March 12, 2013, 2:10 PM  
State Capitol Room 309

Testimony of  
Policy Office of the Governor, State of Hawaii

To the House Committee on Higher Education  
Representative Isaac Choy, Chair, Higher Education Committee  
Representative Linda Ichiyama, Vice Chair, Higher Education Committee

SB 1388\_SD2 - Relating to the Research Corporation of the University of Hawaii

Chair Choy, Vice Chair Ichiyama, and Committee Members:

The Policy Office of the Governor supports Senate Bill 1388, Senate Draft 2 (SB 1388\_SD2), Relating to the Research Corporation of the University of Hawaii (RCUH). The bill provides governance changes at RCUH addressing concerns raised about operations at the University of Hawaii.

SB1388\_SD2 changes the composition of the RCUH board of directors. The measure reduces the number of board members and establishes the following make up: two members of the Board of Regents and individuals appointed by the Governor who represent UH system research faculty members, non-UH research organizations, business sector, and general public (two members). The UH Vice President for Research will serve as an ex-officio board member. We note that the two Regents and five gubernatorial appointees constitute a board of seven voting members with the UH VP for Research as an eighth and an ex-officio member. These changes ensure a diversity of perspectives on the board.

SB1388\_SD2 allows the board of directors to employ an executive director and caps the executive director's salary. Furthermore, the bill caps the value of construction contracts exempted from Chapter 103D at an estimated, yet unspecified, value.

The Governor supports efforts to improve the UH and its affiliated operations in order to advance the educational, research and community mission of the state's only public higher education system.

Thank you for the opportunity to testify.



# UNIVERSITY OF HAWAII SYSTEM

## Legislative Testimony

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Testimony Presented Before the  
House Committee on Higher Education  
March 12, 2013 at 2:10pm

by  
James R. Gaines  
Vice President for Research, University of Hawai'i

### SB 1388 SD2 – RELATING TO THE RESEARCH CORPORATION OF THE UNIVERSITY OF HAWAII

Chair Choy, Vice Chair Ichiyama, and members of the Committee:

The University of Hawai'i opposes SB 1388 SD2 in its current form.

The Legislature wisely recognized the unique requirements of the research industry in Hawai'i when it created RCUH in 1965 to support the UH research and training enterprise and afforded RCUH exemptions from constraining practices more appropriate for State operations than the kind of nimble enterprise that can compete for federal and other research and training funding. The flexibility the Legislature provided when it created RCUH has been absolutely essential to UH's research and training enterprise today. And this flexibility will be absolutely essential to supporting our plans to build a one billion dollar research industry in Hawai'i that addresses the problems facing our communities and expands our economy both directly and indirectly.

RCUH's current governance structure, which facilitates close collaboration and mission alignment, contributes directly to this success. UH therefore opposes reducing the number of Regents on the RCUH Board and reducing the UH President's role in RCUH. Limiting RCUH's ability to pay a competitive salary to its Executive Director would also adversely affect its governance and ability to support UH research.

UH also opposes imposing a dollar limit on RCUH's exemption from HRS Chapter 103D. RCUH's procurement flexibility is critical to UH's ability to efficiently administer Federal and other grant funds, including large amounts.

Thank you for the opportunity to testify on this matter.



## The Research Corporation of the University of Hawaii

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Testimony  
House Committees on Higher Education  
House Committee on Economic Development & Business  
March 12, 2013  
2:10 p.m. - Conference Room 309  
by Michael P. Hamnett, Executive Director

Re: Senate Bill 1388, SD2 – Relating to the Research Corporation of the University of Hawaii

Chairs Choy and Tsuji and Members of the Committees, thank you for the opportunity to submit testimony on SB 1388, SD2. My name is Michael Hamnett and I am the Executive Director of the Research Corporation of the University of Hawaii.

**RCUH's position is that SB 1388, SD2, is not necessary.** It is important for RCUH to have a close, collaborative relationship with the University since approximately 85% of RCUH's business is University-related.

Thank you for the opportunity to provide testimony on SB 1388, SD2.



**STATE OF HAWAII  
STATE PROCUREMENT OFFICE**

P.O. Box 119  
Honolulu, Hawaii 96810-0119  
Telephone: (808) 587-4700  
e-mail: [state.procurement.office@hawaii.gov](mailto:state.procurement.office@hawaii.gov)  
<http://hawaii.gov/spo>

TESTIMONY  
OF  
AARON S. FUJIOKA  
ADMINISTRATOR  
STATE PROCUREMENT OFFICE

TO THE  
HOUSE COMMITTEE  
ON  
HIGHER EDUCATION

March 12, 2013

2:10 p.m.

SB 1388, SD2

RELATING TO THE RESEARCH CORPORATION OF THE UNIVERSITY OF HAWAII.

Chair Choy, Vice-Chair Ichiyama, and committee members, thank you for the opportunity to testify on SB 1388, SD2.

There is no compelling reason to continue a statutory exemption for the Research Corporation of the University of Hawaii (RCUH) from the requirements of the Hawaii Public Procurement Code (Code). To continue a practice that any one entity should be exempt from compliance with HRS chapters 103D conveys a sense of disproportionate equality to the law's application.

Since the inception of the Code in 1994, state and county departments and agencies have procured and awarded contracts totaling billions of dollars. Whether an expenditure was for construction of capitol improvement projects (CIP), or for goods and services to provide needed services to the public, billions of dollars have been awarded pursuant to the Code.

Today, state and county departments and agencies continue to adhere to the Code requirements in conducting their procurements to award contracts. For example, the City & County of Honolulu's rail construction project has and continues to procure and award contracts expending millions of dollars in accordance with the Code. The State Business and IT/IRM Transformation Plan under the management of the Chief Information Officer (CIO), Office of Information Management and Technology (OIMT), has identified areas needing IT services and new systems. The OIMT is currently in various stages of procurements for numerous solicitations and contracts amounting to millions of dollars in contract awards. All of these solicitations and resulting contract awards were and are conducted in accordance with the Code.

Governmental bodies following the Code which provides oversight and accountability, have a responsibility to maintain the confidence of the vendor/contractor community and the public in the procurement system, by conducting procurement in an accountable, ethical and transparent manner, which are vital to good government.

The Code is the single source of public procurement policy to be applied equally and uniformly, while providing fairness, open competition, a level playing field, in the procurement and contracting process. Public procurement's primary objective is to give everyone equal opportunity to compete for government contracts; to prevent favoritism, collusion or fraud in awarding of contracts. The Code should not be viewed as an obstacle to RCUH's mission, but rather as the single source of public procurement policy to be applied equally and uniformly.

If the legislature's intent and policy is to continue to allow RCUH to be exempt from the Code, then the SPO favors the original language in SB1388 which limits the exemption to only those contracts directly related to research, as oppose to SB 1388 SD 2 language, to exempt all contracts except for construction projects. Limiting the exemption to contracts directly related to research is a significant improvement to the existing exemption language.

Thank you.

# ***SAH - Subcontractors Association of Hawaii***

***1188 Bishop St., Ste. 1003\*\*Honolulu, Hawaii 96813-2938***

***Phone: (808) 537-5619 ✦ Fax: (808) 533-2739***

March 12, 2013

Testimony To: House Committee on Higher Education  
Representative Isaac W. Choy, Chair

Presented By: Tim Lyons  
President

Subject: S.B. 1388, SD 2 - RELATING TO THE RESEARCH CORPORATION OF THE  
UNIVERSITY OF HAWAII.

Chair Choy and Members of the Committee:

I am Tim Lyons, President of the Subcontractors Association of Hawaii and we are here to oppose one specific section. That is the section that provides for an exemption from the Procurement Code for contracts under a unspecified amount.

We continue to believe that the Procurement Code, as it is written now or as it may be written in the future, is the best way to provide guidance to businesses that wish to do business with the government. It also provides guidance to government officials doing business with private industries. We believe that this must be a uniform system across all levels of government and across every branch of government. The Code has sufficient flexibility that if there needs to be deviations, those can be handled within the current code and there does not appear to be any reason to provide any

agency with an exemption from the Procurement Code. Once an exemption is applied there are a number of protections that are lost by businesses that they would otherwise have.

Based on the above, we would respectfully request that your Committee consider not including that proviso in S.B. 1388.

Thank you.