

# HB 2142

Measure Title: RELATING TO POST-SECONDARY EDUCATION.

Report Title: Post-Secondary Education; Authorization; Financial Integrity; University of Hawaii; Complaints

Description: Repeals the requirement that a private college or university show that it maintains profitability as a means of demonstrating financial integrity to the department of commerce and consumer affairs. Repeals section 304A-3153, HRS, relating to procedures for complaints concerning institutions of higher education in the State.

Companion:

Package: None

Current Referral: HRE, CPN

Introducer(s): ICHIYAMA, Choy



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COMMERCE AND CONSUMER AFFAIRS

TO THE SENATE COMMITTEE ON  
COMMERCE AND CONSUMER PROTECTION

TWENTY-SEVENTH STATE LEGISLATURE  
REGULAR SESSION, 2014

TUESDAY, MARCH 25, 2014  
10:30 A.M.

WRITTEN TESTIMONY  
ON  
HOUSE BILL NO. 2142  
RELATING TO POST-SECONDARY EDUCATION

TO THE HONORABLE ROSALYN H. BAKER, CHAIR,  
AND TO THE HONORABLE BRIAN T. TANIGUCHI, VICE CHAIR,  
AND MEMBERS OF THE COMMITTEE:

The Department of Commerce and Consumer Affairs ("Department") appreciates the opportunity to testify on House Bill No. 2142, Relating To Post-Secondary Education. My name is Bobbi Lum-Mew, Program Administrator for the Department's Hawaii Post-Secondary Education Authorization Program ("HPEAP"). HPEAP testifies in support of this bill which is identical to Senate Bill No. 2287. Senate Bill No. 2287 was heard by this Committee and was passed unamended on February 21, 2014.

House Bill No. 2142 deletes the requirement that a private college or university must show that it maintains profitability every year that it has been in operation as a means of demonstrating financial integrity to the Department.

As background, existing law provides for three means of demonstrating financial integrity in §305J-14, Hawaii Revised Statutes ("HRS"). The first option is applicable to those schools that have operated continuously in the State for at least ten years and maintain a composite score of at least 1.5 as required by federal law. The second option, which is amended in this bill, is applicable for schools in the State less than 10 years and requires that the school maintain the 1.5 composite score and demonstrate through audited financial statements that the school maintains both positive equity and profitability in each year of its operations. The third option is for the school to provide a surety bond in an amount determined by the director.

HPEAP supports the deletion of the term "and profitability" in the second option. HPEAP has been advised that although it is important that schools consistently maintain positive equity in their financial statements, it is not uncommon or necessarily inappropriate for a school to have financial statements that do not reflect profitability every single year that it has been in operation. Schools may incur a loss in any particular year and still maintain positive equity. The current requirement that the school's financial statements consistently reflect profitability may unrealistically inhibit the school's ability to execute business plans or expansion plans or result in the school having to use the more expensive option of securing a surety bond.

House Bill No. 2142 also repeals §304A-3153, HRS. In effect, this will repeal the authority of the state post-secondary education commission, placed within the University of Hawaii for administrative purposes, to establish and administer procedures for receiving and responding to complaints concerning institutions of higher education. This authority over complaints relating to authorized post-secondary educational institutions was given to the Department last year. Thus, it is appropriate that this section be repealed. As background, Chapter 305J, HRS, was enacted in 2013 after the passage of Act 180. HRS §305J-6(b)(3) gives the Department the power to receive, arbitrate, investigate, and process complaints.

Thank you for the opportunity to testify on House Bill No. 2142.



# UNIVERSITY OF HAWAII SYSTEM

## Legislative Testimony

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Testimony Presented Before the  
Senate Committee on Commerce and Consumer Protection  
March 25, 2014 at 10:30am  
By Dr. Jan Javinar,  
Interim Associate Vice President for Student Affairs

### HB 2142 – RELATING TO POST-SECONDARY EDUCATION

Chair Baker, Vice Chair Taniguchi, and Members of the Committee:

The University of Hawai'i offers its support on Section 2 of HB 2142 as Section 1 involves the Department of Commerce & Consumer Affairs to whom we defer for comment. Section 2 repeals section 304A-3153, HRS, which authorizes the State Post-Secondary Education Commission, administratively attached to the University of Hawai'i, to receive and respond to complaints concerning institutions of higher education authorized to operate in Hawai'i.

Last year, the Legislature approved SB46 SD2 HD3 CD1, which the Governor signed into law as Act 180. This bill appropriately identified DCCA as the state agency which would perform the regulatory function of authorizing institutions that offer education programs beyond secondary education. DCCA's role in performing this function is described in Chapter 305J of Hawai'i Revised Statutes. The State Post-Secondary Education Commission never performed this regulatory function to authorize such institutions.

In the law, section 305J-17 HRS, the DCCA is also tasked to receive and respond to complaints from consumers related to those institutions offering post-secondary programs in Hawai'i. As such, there is no need for duplicative language and function for the State Post-Secondary Education Commission in section 304A-3153, HRS. The University supports repealing this duplication.

Thank you for the opportunity to testify on HB 2142. The University welcomes this action as it seeks to minimize redundancy in the law.