

JAN 23 2015

A BILL FOR AN ACT

RELATING TO TECHNOLOGY TRANSFER AT THE UNIVERSITY OF HAWAII.

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

1 SECTION 1. The legislature finds that the University of
2 Hawaii is the only public institution of higher education in the
3 State. With its array of graduate programs and professional
4 schools, the university engages in research that is often
5 supported by federal grants or cooperative agreements.
6 University research activities often take place in state-
7 supported public facilities, such as university research
8 laboratories, centers, and classrooms. These public facilities
9 are often constructed with proceeds from state or university
10 public financing bonds.

11 The legislature also finds that the university
12 significantly contributes to the economic diversification and
13 health of the State by "transferring" the fruits of its research
14 activities to the private sector through activities such as
15 obtaining patents on inventions by university faculty, licensing
16 the use of innovations, creating new business ventures,



1 incubating startup companies, and providing administrative
2 support to research faculty.

3 The legislature further finds that the board of regents of
4 the University of Hawaii has established a regulatory framework
5 and compliance program to balance the unique benefits and
6 ethical issues specific to university research and technology
7 transfer and to ensure compliance with applicable external
8 regulations. The university framework and compliance program
9 incorporates long-standing ethical research principles and
10 technology transfer regulations currently used by the federal
11 government. The board periodically updates its policies and
12 procedures to reflect best practices. In this manner, the
13 university strives to remain competitive for external research
14 funding and to continue to attract innovative faculty.

15 The legislature further finds that supporting the
16 contributions by the University of Hawaii to the economic health
17 and diversification of the State is a matter of statewide
18 concern under the legislature's purview pursuant to article X,
19 section 6, of the Hawaii State Constitution. The legislature
20 also finds that the timely and efficient commercialization of
21 intellectual property created by basic and applied research at



1 the university benefits the public. Efficient and effective
2 technology transfer, however, may be hampered by an overly broad
3 interpretation of the state ethics code regarding conflicts of
4 interest, fair treatment, and employment.

5 The legislature further finds that because the university
6 has subject matter expertise in the areas of technology
7 transfer, sponsored research, and regulatory compliance, it is
8 appropriate that the state ethics commission consider unique
9 aspects of technology transfer when applying the ethics code to
10 university-supported technology transfer activities and
11 arrangements.

12 The legislature further finds that the state ethics code
13 should be interpreted to permit the expenditure of public
14 resources to promote economic development, diversify the State
15 economy, and benefit the public, including the expenditure of
16 funds for technology transfer activities that benefit
17 collaborating commercial organizations and create personal
18 benefits to individuals employed by the university. However,
19 the state ethics code should limit these expenditures of public
20 resources to instances where the State and the public receive
21 specific and significant benefits that would not otherwise be



1 created and when the university has established an internal
2 regulatory compliance program and policies to ensure compliance
3 with applicable federal regulations or public financing
4 covenants.

5 The purpose of this Act is to clarify the application of
6 the state ethics code to allow technology transfer activities
7 sponsored by the University of Hawaii provided that the
8 activities are likely to create specific benefits to the State
9 or the public, notwithstanding the simultaneous creation of
10 commercial benefit or individual personal benefit.

11 SECTION 2. Section 84-31, Hawaii Revised Statutes, is
12 amended by amending subsection (a) to read as follows:

13 "(a) The ethics commission shall have the following powers
14 and duties:

15 (1) It shall prescribe forms for the disclosures required
16 by article XIV of the Hawaii constitution and section
17 84-17 and the gifts disclosure statements required by
18 section 84-11.5 and shall establish orderly procedures
19 for implementing the requirements of those provisions;

20 (2) It shall render advisory opinions upon the request of
21 any legislator, employee, or delegate to the



1 constitutional convention, or person formerly holding
2 such office or employment as to whether the facts and
3 circumstances of a particular case constitute or will
4 constitute a violation of the code of ethics. In
5 rendering advisory opinions concerning technology
6 transfer activities conducted by the University of
7 Hawaii, the ethics commission shall consider the
8 research compliance program of the University of
9 Hawaii and may permit technology transfer arrangements
10 if the technology transfer arrangements are likely to
11 create specific benefits to the State or the public.

12 If no advisory opinion is rendered within thirty days
13 after the request is filed with the commission, it
14 shall be deemed that an advisory opinion was rendered
15 and that the facts and circumstances of that
16 particular case do not constitute a violation of the
17 code of ethics. The opinion rendered or deemed
18 rendered, until amended or revoked, shall be binding
19 on the commission in any subsequent charges concerning
20 the legislator, employee, or delegate to the
21 constitutional convention, or person formerly holding



1 such office or employment, who sought the opinion and
2 acted in reliance on it in good faith, unless material
3 facts were omitted or misstated by such persons in the
4 request for an advisory opinion;

5 (3) It shall initiate, receive, and consider charges
6 concerning alleged violation of this chapter, initiate
7 or make investigation, and hold hearings;

8 (4) It may subpoena witnesses, administer oaths, and take
9 testimony relating to matters before the commission
10 and require the production for examination of any
11 books or papers relative to any matter under
12 investigation or in question before the commission.

13 Before the commission shall exercise any of the powers
14 authorized in this section with respect to any
15 investigation or hearings it shall by formal
16 resolution, supported by a vote of three or more
17 members of the commission, define the nature and scope
18 of its inquiry;

19 (5) It may, from time to time adopt, amend, and repeal any
20 rules, not inconsistent with this chapter, that in the
21 judgment of the commission seem appropriate for the



1 carrying out of this chapter and for the efficient
2 administration thereof, including every matter or
3 thing required to be done or which may be done with
4 the approval or consent or by order or under the
5 direction or supervision of or as prescribed by the
6 commission. The rules, when adopted as provided in
7 chapter 91, shall have the force and effect of law;

8 (6) It shall have jurisdiction for purposes of
9 investigation and taking appropriate action on alleged
10 violations of this chapter in all proceedings
11 commenced within six years of an alleged violation of
12 this chapter by a legislator or employee or former
13 legislator or employee. A proceeding shall be deemed
14 commenced by the filing of a charge with the
15 commission or by the signing of a charge by three or
16 more members of the commission. Nothing herein shall
17 bar proceedings against a person who by fraud or other
18 device, prevents discovery of a violation of this
19 chapter;

20 (7) It shall distribute its publications without cost to
21 the public and shall initiate and maintain programs



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1 with the purpose of educating the citizenry and all
 2 legislators, delegates to the constitutional
 3 convention, and employees on matters of ethics in
 4 government employment; and

5 (8) It shall administer any code of ethics adopted by a
 6 state constitutional convention, subject to the
 7 procedural requirements of this part and any rules
 8 adopted thereunder."

9 SECTION 3. New statutory material is underscored.

10 SECTION 4. This Act shall take effect upon its approval.

11

INTRODUCED BY: *[Handwritten Signature]*
by request



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Report Title:

State Ethics Code; University of Hawaii

Description:

Clarifies application of the state ethics code regarding technology transfer arrangements supported by the University of Hawaii.

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