
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 it is a matter of
2 statewide concern to support the contributions by the University
3 of Hawaii to the economic health and diversification of the
4 State. The legislature further finds that the timely and
5 efficient commercialization of intellectual property created by
6 basic and applied research at the university greatly benefits
7 the public and the State.

8 Through prior legislation, the legislature has authorized
9 and provided funding to support efforts by state agencies to
10 promote entrepreneurial development, research commercialization,
11 and access to startup investment capital. These efforts
12 include, for example, the HI Growth Initiative, the venture
13 accelerator funding program, and other projects sponsored by the
14 Hawaii strategic development corporation. The University of
15 Hawaii can play a vital and complementary role in this
16 initiative.

17 The legislature finds that the board of regents of the
18 University of Hawaii has established a regulatory framework and

1 compliance program to balance the unique benefits and ethical
2 issues specific to university research and technology transfer
3 and to assure compliance with applicable external regulations.
4 The university framework and compliance program incorporates
5 long-standing ethical research principles and technology
6 transfer regulations currently used by the United States federal
7 government.

8 The board periodically reviews and updates its policies and
9 procedures to reflect the best practices currently in place at
10 several of the university's peer institutions. In this manner,
11 the university strives to remain compliant with federal
12 regulation and be competitive for external research funding
13 opportunities. By updating its research and commercialization
14 policies and guidelines, the university is able to attract
15 innovative faculty.

16 The purposes of this Act are to clarify and modernize the
17 application of state ethics principles set forth in the state
18 ethics code to technology transfer activities sponsored by the
19 University of Hawaii, and thereby facilitate the university's
20 contribution to research commercialization and economic
21 development for the State.

H.B. NO. 2411

1 SECTION 2. Chapter 84, Hawaii Revised Statutes, is amended
2 by adding a new section to be appropriately designated and to
3 read as follows:

4 "§84- University of Hawaii technology transfer
5 activities. (a) Sections 84-12, 84-13, 84-14 through 84-16,
6 inclusive, and section 84-18 of this chapter shall not apply to
7 technology transfer activities sponsored by the University, so
8 long as such technology transfer activities comply with the
9 regulatory framework and research compliance program and
10 policies approved by the University of Hawaii board of regents.

11 (b) The board of regents of the University of Hawaii shall
12 submit a written report to the legislature no later than twenty
13 days prior to the convening of each regular session during an
14 odd-numbered year regarding:

15 (1) The development and implementation of its regulatory
16 framework and compliance program that reflect ethical
17 research principles and technology transfer
18 regulations used by the United States federal
19 government; and

20 (2) The technology transfer activities of the University
21 of Hawaii and their status.

22 (c) As used in this section, "technology transfer
23 activities" means the process of transferring scientific

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1 findings from the public sector to the private sector for the
2 purpose of commercial development and application for personal
3 or financial gain. Technology transfer activities may include
4 creating joint ventures, limited partnerships, or other
5 corporate forms, allocating equity shares, partnership
6 interests, or other forms of participation, identifying new
7 technologies, protecting technologies through patents and
8 copyrights, forming development and commercialization
9 strategies, arrangements or projects, and other related
10 activities."

11 SECTION 3. New statutory material is underscored.

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

13

14

INTRODUCED BY: _____

15

BY REQUEST

JAN 25 2016

H.B. NO. 2411

Report Title:

State Ethics Code; University of Hawaii; Technology Transfer Activities

Description:

Clarifies that certain sections of the State Ethics Code shall not apply to technology transfer activities. Requires such activities to comply with the regulatory framework and research compliance program approved by the Board of Regents. Requires written status report to the Legislature every two years.

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

JUSTIFICATION SHEET

DEPARTMENT: University of Hawaii

TITLE: A BILL FOR AN ACT RELATING TO TECHNOLOGY TRANSFER AT THE UNIVERSITY OF HAWAII.

PURPOSE: Facilitates technology transfer activities sponsored by the University of Hawaii by exempting such activities from certain sections of the State Ethics Code; provided that such activities comport with a regulatory framework and compliance program and policies used by the United States federal government.

MEANS: Add a new section to chapter 84, Hawaii Revised Statutes.

JUSTIFICATION: The University of Hawaii is the sole public institution of higher education in the State. With its wide array of graduate programs and professional schools, the University is also the primary public institution in the State conducting sponsored research and, where appropriate, commercializing research products through licensing of patents, providing administrative support to faculty, and entering into business transactions with private entities.

This commercialization (often called "technology transfer") is designed to strengthen economies by getting new ideas, inventions, and processes developed in universities--most often with federal funding support--to the private sector as quickly as possible. This technology transfer occurs throughout the nation at other universities.

Many states have conflict of interest laws that hinder timely and efficient

commercialization. These laws, for example, may forbid equity participation in startup companies by state institutions, or they may limit direct involvement by faculty in new business ventures, or may broadly prohibit use of public property--such as university equipment, facilities or support personnel--for business purposes. In order to remain competitive for research funding and to strengthen their local economy, several other states have enacted specific exemptions to their ethics laws, or have created some form of "safe harbor" from specific sections of their respective ethics code, or have established parallel, but exempt institutions for their university researchers.

The purposes of this Act are to clarify and modernize the application of state ethics principles set forth in the state ethics code to technology transfer activities sponsored by the University of Hawaii, and thereby facilitate the university's contribution to research commercialization and economic development for the State.

The proposed amendment would facilitate technology transfer activities where specific benefits to the State, the University, or the public are likely to result by exempting the activities from certain limiting provisions of the State Ethics Code. Of particular concern are the current provisions in the Ethics Code that prohibit the use of state resources for private business purposes, or restrict the use of confidential information, or limit employment. In a collaborative "public/private" partnership for technology transfer, the use of state resources or non-public information may simultaneously create public benefits to the State, commercial benefits to the private company, and institutional and other economic benefits to the University.

Impact on the public: The public would benefit if the University could more effectively and efficiently transfer the results of its research to the economy through collaborative arrangements with commercial entities.

Impact on the department and other agencies: The University would be better able to collaborate in other research commercialization or venture funding programs sponsored by other state agencies such as the Department of Business, Economic Development and Tourism. The State Ethics Commission would be examining technology transfer activities under contemporary standards.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: UOH-900, UOH-800, UOH-700, UOH-210, UOH-100.

OTHER AFFECTED
AGENCIES: State Ethics Commission.

EFFECTIVE DATE: Upon approval.



UNIVERSITY OF HAWAII SYSTEM

Legislative Testimony

Testimony Presented Before the
House Committee on Higher Education
February 2, 2016 at 2:00 p.m.

by
Vassilis L. Syrmos
Vice President for Research and Innovation
University of Hawai'i

HB 2411 – RELATING TO TECHNOLOGY TRANSFER AT THE UNIVERSITY OF HAWAII

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

Thank you for this opportunity to testify in support of this measure.

One of the University of Hawai'i's (UH) strategic directions is to grow the portfolio of sponsored research done at the University and to promote innovation and workforce diversification in the state's economy. One critical phase of innovation is the ability to commercialize research ideas generated on campus. The phase is often known as "technology transfer" and is designed to strengthen economies by getting new ideas, inventions and processes developed in universities to the private sector as quickly as possible. Technology transfer occurs throughout the nation at other universities and it is vital for UH to be able to support its faculty and student researchers in these activities.

The purpose of this bill is to adapt the application of the Hawai'i State Ethics Code to reflect current day realities of technology transfer activities and UH's unique mission as the state's largest research enterprise. If too stringently applied, certain requirements of the state ethics code will inhibit the efficient and effective commercialization of research generated at UH.

For example, current requirements may forbid equity participation in startup companies by state institutions, may limit direct involvement by faculty in new business ventures, or may broadly prohibit use of public property--such as university equipment, facilities or support personnel—to foster commercial products. As a result, benefits to the public created by new and useful commercial products are lost, employment opportunities for the state workforce will narrow, and the competitive stature of UH to attract research funding and research talent will be diminished.

To address these inhibitions, other states have enacted specific exemptions to their ethics laws, have created some form of "safe harbor" from specific sections of their respective ethics code or have established parallel institutions for their university researchers to be exempt from the jurisdiction of their ethics code.

The amendments proposed in this bill would facilitate technology transfer at UH by exempting such activity from certain sections of the ethics code. The University of Hawai'i believes these exemptions are proper and justified due to its unique mission and the countervailing benefit to the well-being of the state of Hawai'i and its citizens.



Chamber of Commerce HAWAII
The Voice of Business

**Testimony to the House Committee on Higher Education
Tuesday, February 2, 2016 at 2:00 P.M.
Conference Room 309, State Capitol**

**RE: HOUSE BILL 2411 RELATING TO TECHNOLOGY TRANSFER AT THE
UNIVERSITY OF HAWAII**

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

The Chamber of Commerce Hawaii ("The Chamber") **supports** HB 2411, which clarifies that certain sections of the State Ethics Code shall not apply to technology transfer activities and requires such activities to comply with the regulatory framework and research compliance program approved by the Board of Regents. Also requires a written status report to the Legislature every two years.

The Chamber is Hawaii's leading statewide business advocacy organization, representing about 1,000 businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of members and the entire business community to improve the state's economic climate and to foster positive action on issues of common concern.

The Chamber supports HB 2411 as it would help expedite the commercialization of research from the University of Hawaii to provide information that would strengthen the local economy. This bill helps remedy many obstacles that currently exist from broad conflict of interest, fair treatment, and employment restrictions. Clarifying the State Ethics Code would prevent the deterrence of an efficient technology transfer.

Thank you for the opportunity to testify.



Testimony to the House Committee on Higher Education

February 2, 2016

2:00 p.m.

Conference Room 309

**RE: RELATING TO TECHNOLOGY TRANSFER AT THE UNIVERSITY OF HAWAII –
HOUSE BILL 2411**

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

My name is Gary Kai and I am the Executive Director of the Hawaii Business Roundtable. The Hawaii Business Roundtable fully supports House Bill 2411, relating to Technology Transfer at the University of Hawaii. The bill clarifies that certain sections of the State Ethics Code shall not apply to technology transfer arrangements supported by the University of Hawaii.

The Hawaii Business Roundtable strongly believes that a strong research and innovation sector led by the University of Hawaii can be a large and important magnet for new money and new fields of job growth in Hawai`i. The ability to transfer research into commercial opportunities is a key to that growth. It is a vital component of the creation of jobs in the local economies of many universities across the country and we believe it could be done here in Hawaii.

We realize that there must be a well-articulated policy to insure the balance between the partnership arrangements and the benefits to the public. We are confident that the University of Hawaii's Board of Regents will be able to develop a compliance program that will comply with applicable regulations.

This legislation is one very good example of growing our Research and Innovation Economy which is critical for the future of our young people. It provides them with the choice to live and work in their island home -- and the opportunity to come home after gaining experience on the mainland or abroad. Furthermore, it helps to improve the quality of their lives and the lives of all who live here.

Thank you very much for the opportunity to testify.

Gary K. Kai, Executive Director
Hawaii Business Roundtable



Written Statement of
Robbie Melton
Executive Director & CEO
High Technology Development Corporation
before the
House Committee on Higher Education
Tuesday, February 2, 2016
2:00 p.m.
State Capitol, Conference Room 309

In consideration of
HB2411
RELATING TO TECHNOLOGY TRANSFER AT THE UNIVERSITY OF HAWAII.

Chair Choy, Vice Chair Ichiyama, and Members of the Committee on Higher Education.

The High Technology Development Corporation (HTDC) **supports** HB2411 which clarifies that certain sections of the State ethics code shall not apply to technology transfer activities and requires such activities to comply with the regulatory framework and research compliance program approved by the Board of Regents.

As part of HTDC's vision to create 80,000 new innovation jobs in Hawaii earning \$80,000 or more by 2030, HTDC supports initiatives aimed at increasing technology transfer out of the University of Hawaii. HTDC defers to UH on the implementation of the bill.

Thank you for the opportunity to offer these comments.



LATE

UNIVERSITY OF HAWAII
PROFESSIONAL ASSEMBLY

The House Committee on Higher Education
Tuesday, February 2, 2016
2:00 p.m.
Room 309

RE: HB2411, Relating to Technology Transfer at the University of Hawai'i

Attention: Chair Isaac Choy, Vice Chair Linda Ichiyama and
Members of the Committee

The University of Hawaii Professional Assembly (UHPA) urges the committee to **support the passage of HB2411** clarifying sections of the State Ethics Code in order to assist the timely technology transfer activities at the University of Hawai'i.

The proposed amendment would be in line with other Universities who have enacted exemptions from specific statutes in order to support their respective Universities. This benefits both the State and the University by removing current road blocks and creating an effective and efficient transfer of the results of research in a collaborative manner.

UHPA supports the passage of HB2411.

Respectfully submitted

A handwritten signature in black ink, appearing to read "Kristeen Hanselman".

Kristeen Hanselman
Executive Director



HAWAII STATE ETHICS COMMISSION

State of Hawaii • Bishop Square, 1001 Bishop Street, ASB Tower 970 • Honolulu, Hawaii 96813

LATE

HOUSE COMMITTEE ON HIGHER EDUCATION
The Honorable Isaac W. Choy, Chair
The Honorable Linda Ichiyama, Vice Chair

H.B. No. 2411, Relating to Technology Transfer at the University of Hawaii

Hearing: Tuesday, February 2, 2016, 2:00 p.m.

The Hawaii State Ethics Commission (“Commission”) **opposes** H.B. No. 2411 in its current form, but has been working with the University of Hawaii (“University”) to suggest language that will address the Commission’s concerns about this bill. The purpose of H.B. No. 2411 is to create an exemption from sections of the State Ethics Code, Hawaii Revised Statutes (“HRS”) chapter 84, for University-sponsored technology transfer activities that comply with the regulatory framework and research compliance program and policies approved by the Board of Regents.

Under H.B. No. 2411, University-sponsored technology transfer activities would be exempt from ethics laws relating to: (1) the disclosure or use of confidential information acquired in the course of an employee’s official duties for personal gain or benefit (HRS section 84-12); (2) the prohibited use of an employee’s official position to secure unwarranted advantages for oneself or others (HRS section 84-13); (3) conflicts of interests (HRS section 84-14); (4) the award of state contracts to state employees or businesses that are assisted or represented by state employees (HRS section 84-15); (5) the State’s ability to void state contracts entered into in violation of the ethics code (HRS section 84-16); and (6) post-employment restrictions for state employees (HRS section 84-18).

The Commission has a number of concerns about H.B. No. 2411 as it is currently worded:

First, the bill’s definition of “technology transfer activities” is very broad and the bill does not identify the University employees whose activities will be exempt from the ethics laws. It is the Commission’s understanding that the bill is intended to apply principally to University research faculty and other professional and technical staff while they are engaged in technology transfer activities. As written, however, the bill appears to apply to a broad array of activities by any and all University employees.

Second, the bill provides that the ethics laws shall not apply to the University’s technology transfer activities “so long as such technology transfer activities comply with

the regulatory framework and research compliance program and policies approved by the University of Hawaii board of regents.” The bill does not specify whether the Commission, the University, or some other entity is responsible for determining whether or not technology transfer activities comply with the University’s regulatory framework and research compliance policies. The Commission lacks the requisite expertise to make this determination. The bill should be amended to make clear that this responsibility rests with the University or some other authorized entity.

Third, the bill requires the Board of Regents to submit a written report to the Legislature prior to each regular session regarding (1) the development and implementation of its regulatory framework and compliance program; and (2) the technology transfer activities of the University and their status. The Commission supports the purpose of this reporting requirement, but does not believe it should be placed in HRS chapter 84. The Commission believes the reporting requirement should be placed in HRS chapter 304A.

The Commission understands that the University believes its research and technology transfer activities provide “unique benefits” to the State. If the Legislature agrees that an exemption from the ethics laws for University-sponsored technology transfer activities is needed, the Commission believes the exemption must be clearly stated and limited in scope. While the Commission is not opposed in theory to such an exemption, the Commission does not support H.B. No. 2411 as currently worded. The Commission is continuing to work with the University to resolve the aforementioned areas of concerns and to suggest alternate statutory language. The Commission recently proposed the following language for discussion purposes to the University:

“University of Hawaii employees who are directly involved in the research or development of technology sponsored and approved by the University shall be exempt from this chapter, including section 84-18, when performing these activities and in the transfer and commercialization of the technology.”

The Commission will continue its discussions with the University about H.B. No. 2411 and the Commission’s proposed language to achieve the purpose of this bill.

Thank you for considering the Commission’s testimony on H.B. No. 2411, Relating to Technology Transfer at the University of Hawaii.