

S.B. NO. 1023

JAN 25 2017

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 federal government.

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

15 The purpose of this Act is to facilitate the university's
16 contribution to research commercialization and economic
17 development for the State by clarifying and modernizing the
18 application of state ethics principles set forth in the state
19 ethics code to technology transfer activities sponsored by the
20 University of Hawaii.

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

1 "§84- University of Hawaii; technology transfer
2 activities; exemption. (a) Sections 84-12, 84-13, 84-14 to 84-
3 16, and 84-18 shall not apply to technology transfer activities
4 sponsored by the University of Hawaii, so long as such
5 technology transfer activities comply with the regulatory
6 framework and research compliance program and policies approved
7 by the University of Hawaii.

8 (b) As used in this section, "technology transfer
9 activities" means the process of transferring scientific
10 findings from the public sector to the private sector for the
11 purpose of commercial development and application for personal
12 or financial gain. Technology transfer activities may include
13 creating joint ventures, limited partnerships, or other
14 corporate forms; allocating equity shares, partnership
15 interests, or other forms of participation; identifying new
16 technologies; protecting technologies through patents and
17 copyrights; forming development and commercialization
18 strategies, arrangements, or projects; and other related
19 activities."

20 SECTION 3. Chapter 304A, Hawaii Revised Statutes, is
21 amended by adding a new section to be appropriately designated
22 and to read as follows:

23 "§304A- Technology transfer; reporting. The board of
24 regents of the University of Hawaii shall submit a written

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1 report to the legislature no later than twenty days prior to the
2 convening of each regular session during odd-numbered years
3 regarding:

- 4 (1) The development and implementation of its regulatory
5 framework and compliance program that reflect ethical
6 research principles and technology transfer
7 regulations used by the federal government; and
8 (2) The technology transfer activities of the University
9 of Hawaii as defined in section 84- and their
10 status."

11 SECTION 4. New statutory material is underscored.

12 SECTION 5. This Act shall take effect upon its approval.

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INTRODUCED BY: *M. N. M.*

15

BY REQUEST

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Report Title:

State Ethics Code; University of Hawaii; Technology Transfer Activities; Reporting

Description:

Clarifies that certain sections of the State Ethics Code shall not apply to technology transfer activities; provided that the activities comply with the regulatory framework and research compliance program approved by the board of regents. Requires the board of regents to submit a 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.

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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 adopted by the University of Hawaii and modeled after federal rules or regulations.

MEANS: Add new sections to chapter 84 and chapter 304A, 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 the primary public institution in the State conducting basic, academic, or sponsored research. Where appropriate, the University commercializes its 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.

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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. This Act would further require the University to submit a report to the legislature on the development and implementation of its regulatory framework and compliance and technology transfer activities.

Of particular concern are the current provisions in the Ethics Code that might be interpreted to prohibit per se 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

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institutional and other economic benefits to the University. A per se interpretation would automatically prevent a public-private partnership.

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.