

JAN 21 2022

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 the research
2 corporation of the University of Hawaii, a public
3 instrumentality of the State that is administratively attached
4 to the University of Hawaii, was established in 1965 for the
5 purposes of promoting, encouraging, initiating, developing, and
6 conducting scientific research and investigation in all branches
7 of learning, and disseminating to the public, the benefits of
8 such research and investigation.

9 To promote cooperative research projects with private firms
10 and persons, the legislature at the time granted the research
11 corporation of the University of Hawaii with flexibility in the
12 hiring of its personnel and the handling and disbursement of
13 moneys by exempting it from state laws relating to reimbursement
14 of special funds to the state general funds; advertisement for
15 bids and purchases to be made in Hawaii whenever public moneys
16 are expended; civil service; compensation; and public



1 employment. The legislature finds, however, that over the
2 years, the research corporation of the University of Hawaii has
3 gradually expanded its undertakings into areas beyond its
4 original eponymous purpose, and the benefits of the exemptions
5 from statutory requirements have been extended to apply beyond
6 what was originally intended by the legislature. For example,
7 the research corporation's current website provides that one of
8 its missions is to "support and enhance . . . development" in
9 Hawaii.

10 The purpose of this Act is to clarify that the purpose of
11 the research corporation of the University of Hawaii is to
12 promote educational, scientific, and literary pursuits through
13 research, training of research personnel, and dissemination of
14 knowledge by publication of research findings, and its
15 undertakings shall be limited to acts that are reasonably
16 necessary to carry out this purpose.

17 SECTION 2. Section 304A-112, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "[+]§304A-112[+] Contracts for services for sponsored
20 research activities provided by the research corporation of the
21 University of Hawaii. (a) Notwithstanding any law to the



1 contrary, when the university determines and documents that
2 neither the university nor another state agency can ~~[more~~
3 ~~effectively or efficiently]~~ accomplish the purposes of the
4 university's sponsored research project and training activities,
5 the university shall contract with the research corporation of
6 the University of Hawaii established under section ~~[+]~~304A-
7 3001~~[+]~~ to provide management and other services as described in
8 subsection (b) to support the university's sponsored research
9 projects and training ~~[activities.]~~ of research personnel who
10 are assigned to the projects. ~~[Contracts]~~

11 Services rendered by the research corporation under
12 contracts entered into by the university ~~[with]~~ and the research
13 corporation pursuant to this section shall be limited to
14 providing support services to the university's sponsored
15 research [and] projects, as specified in the contract, including
16 support services for the training ~~[projects; except that~~
17 ~~university projects supported by funds appropriated by the~~
18 ~~legislature may also be contracted to the research corporation~~
19 ~~pursuant to rules adopted by the board of regents.]~~ of research
20 personnel assigned to the project, as specified in the contract.



1 (b) Management and other support services that may be
2 provided by the research corporation to the university pursuant
3 to this section [may include+] shall be limited to the:

4 (1) [~~The procurement~~] Procurement of goods and services[+]
5 for the university's sponsored research project, as
6 specified in the contract;

7 (2) [~~Employment~~] Provision of assistance to the
8 university's employment of personnel[+] to be assigned
9 to the university's sponsored research project, as
10 specified in the contract; and

11 (3) [~~The provision~~] Provision of advance funding for
12 [research and training.] contracts and grants for the
13 university's sponsored research projects, as specified
14 in the contract.

15 These services may be provided by the research corporation
16 to the university without regard to chapter 76, 78, 89, or 103D.

17 (c) For the purposes of this section:

18 "Research personnel" means any individual who is classified
19 by the university as a research worker, spends the majority of
20 work hours engaged in the conduct of research, and receives
21 compensation as a research worker.



1 "Sponsored research project" means a research project that
2 is sponsored or funded by an external organization, such as a
3 federal, state, or private organization or agency."

4 SECTION 3. Section 304A-3001, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "[~~§~~§304A-3001~~§~~] Establishment of the research
7 corporation; purpose. (a) There is established as a body
8 corporate, the research corporation of the University of Hawaii.
9 The research corporation shall be a public instrumentality and
10 shall be a part of the University of Hawaii for administrative
11 purposes pursuant to section 26-35.

12 (b) The purposes of the research corporation shall
13 ~~[include, but not be limited to,]~~ be the promotion of ~~[all]~~
14 educational, scientific, and literary pursuits ~~[by:]~~ through
15 the:

16 (1) ~~[Encouraging, initiating, aiding, developing, and~~
17 ~~conducting training,~~] Conduct of research~~[, and study]~~
18 in the physical, biological, and social sciences~~[,]~~;
19 humanities~~[,]~~; and all other branches of learning;

20 (2) ~~[Encouraging and aiding in the education and]~~
21 Provision of training ~~[of persons for the conduct of]~~



- 1 ~~the training, investigations, research, and study,] to~~
2 ~~individuals engaged in the conduct of research; and~~
3 ~~[(3) Furnishing of means, methods, and agencies by which~~
4 ~~the training, investigation, research, and study may~~
5 ~~be conducted;~~
6 ~~(4) Assisting in the dissemination of knowledge by~~
7 ~~establishing, aiding, and maintaining professorships~~
8 ~~or other staff positions, fellowships, scholarships,~~
9 ~~publications, and lectures;~~
10 ~~(5) Engaging in other means of making the benefits of~~
11 ~~training, investigations, research, and study~~
12 ~~available to the public; and~~
13 ~~(6) Taking any and all other actions reasonably designed~~
14 ~~to promote these purposes in the interest of promoting~~
15 ~~the general welfare of the people of the State.]~~
16 (3) Dissemination of knowledge by the publication of
17 research findings."

18 SECTION 4. Section 304A-3003, Hawaii Revised Statutes, is
19 amended to read as follows:



1 " [{} §304A-3003 {}] Powers of the research corporation. (a)

2 The research corporation, under the direction of the board of
3 directors, shall have the following general powers:

4 (1) To adopt, amend, and repeal bylaws governing the
5 conduct of its business and the exercise of the powers
6 and performance of duties granted to or imposed upon
7 it by law;

8 (2) To sell, lease, rent, hold, maintain, use, and operate
9 any property, real, personal, or mixed, tangible or
10 intangible, in accordance with the conditions under
11 which it was received;

12 (3) To enter into and perform such contracts, leases,
13 cooperative agreements, or other transactions with the
14 university or any other agency or political
15 subdivision of the State, any private person, firm,
16 partnership, association, company, or corporation,
17 only ~~[as it may be]~~ when the board of directors
18 determines that doing so is necessary in the conduct
19 of [its] the research corporation's business of
20 research, training of research personnel, and
21 publication of research findings, and only on such



1 terms ~~[as it may deem]~~ that the board of directors
2 deems reasonable and appropriate; provided that the
3 research corporation shall not obligate any funds of
4 the State except those that have been appropriated to
5 it.

6 Notwithstanding the foregoing, the research
7 corporation may enter into and perform such contracts,
8 leases, cooperative agreements, or other transactions
9 with any agency or instrumentality of the United
10 States, a foreign nation, a state, a territory, or a
11 possession, or with any political subdivision thereof,
12 for research, training of research personnel, or
13 publication of research findings, whenever the
14 donating or granting agency or instrumentality
15 determines and documents that the university or any
16 other agency of the State cannot ~~[as effectively and~~
17 ~~efficiently]~~ accomplish the purposes for which such
18 contracts, leases, cooperative agreements, or other
19 transactions are being entered into; provided that the
20 research corporation shall not obligate any funds of



1 the State except those that have been appropriated to
2 it;

- 3 (4) To receive by gifts, grants, devises, bequests, or
4 otherwise from private sources only, any property,
5 real, personal, or mixed, intangible or tangible,
6 absolutely or in trust, to be used and disposed of,
7 either the principal or the income therefrom, in
8 accordance with the conditions under which it was
9 received; except that no gift to the research
10 corporation shall be accepted unless approved [~~or~~
11 ~~confirmed~~] by the board of directors[-] as a gift that
12 is beneficial to the research corporation's business
13 of research, training of research personnel, and
14 publication of research findings.

15 Notwithstanding the foregoing, the research
16 corporation may receive gifts, grants, or awards from
17 any agency or instrumentality of the United States, a
18 foreign nation, a state, a territory, or a possession,
19 or from any political subdivision thereof, whenever
20 the donating or granting agency or instrumentality
21 determines and documents that the university or any



1 other agency of the State cannot [~~as effectively and~~
2 ~~efficiently~~] accomplish the purposes for which the
3 gifts, grants, or awards are being made, except that
4 no gift to the research corporation shall be accepted
5 unless approved [~~or confirmed~~] by the board of
6 directors[+] as a gift that is beneficial to the
7 research corporation's business of research, training
8 of research personnel, and publication of research
9 findings;

10 (5) To have a corporate seal;

11 (6) To sue and be sued in its own name;

12 (7) To serve as trustee or beneficiary under terms of any
13 gift, indenture, or will;

14 (8) To apply for, take out, receive by purchase or gift,
15 hold, administer, and dispose of copyrights, patent
16 rights, licenses, assignments of inventions,
17 discoveries, processes, and other property, rights or
18 interests therein, and the income thereof, absolutely
19 or subject to such conditions or trusts as may be
20 attached thereto or be imposed thereon, and to



1 obligate itself to perform and execute any and all
2 such conditions or trusts;

3 (9) To conduct research, studies, experiments,
4 investigations, and tests in ~~[all fields of~~
5 ~~knowledge,]~~ the physical, biological, and social
6 sciences; humanities; and all other branches of
7 learning;

8 (10) ~~[to]~~ To promote and develop the scientific and
9 commercial value of inventions, discoveries, and
10 processes; and to make ~~[, publish, and distribute]~~
11 available to the public the results thereof;

12 ~~[(+10)]~~ (11) To coordinate and correlate activities and
13 projects of the research corporation with the work of
14 state agencies for the purpose of ~~[relating]~~
15 correlating research work ~~[to]~~ with the economic
16 development of the State whenever ~~[practical or~~
17 ~~desirable,]~~ the board of directors determines and
18 documents that doing so serves the purposes of the
19 research corporation as set forth in section
20 304A-3001;



1 ~~[(+11+)]~~ (12) To stimulate and promote cooperative research
2 projects and activities;

3 ~~[(+12+)]~~ (13) To ~~[establish and maintain, or to assist in~~
4 ~~establishing and maintaining,]~~ :

5 (A) Assist the university's employment of research
6 personnel;

7 (B) Assist in the university's establishment and
8 maintenance of research scholarships ~~[,]~~ and
9 research fellowships ~~[, and professorships, and~~
10 ~~other staff positions for the purpose of aiding~~
11 ~~in the acquisition and dissemination of~~
12 knowledge] and ~~[to]~~

13 (C) As an agent of the university, enter into
14 agreements or contracts with other corporations,
15 organizations, institutions, or persons for ~~[this~~
16 purpose] the purposes of this paragraph and to
17 pay the necessary and appropriate expenses
18 therefor;

19 ~~[(+13+)]~~ (14) To prepare ~~[, print, or]~~ and publish in any
20 ~~[manuscript, research article, report, study,~~
21 ~~discussion, reference, collection, or any pictorial or~~



1 ~~schematic representation or group or collection~~
2 ~~thereof, whether it]~~ form, any research finding that
3 belongs to or is the work of any state agency or its
4 employees, ~~[or]~~ the university or ~~[one of]~~ its faculty
5 members or employees, ~~[or]~~ the research corporation or
6 its employees, or a contractor of the research
7 corporation. The ~~[printing or]~~ preparation and
8 publication of research findings may be accomplished
9 through whatever person, company, or agency is deemed
10 most appropriate by the board of directors; and

11 ~~[-(14)]~~ (15) To do any or all other acts reasonably necessary
12 to carry out the ~~[objects and]~~ purposes of the
13 research corporation ~~[and the university.]~~ set forth
14 in section 304A-3001.

15 (b) For the purposes of this section, "research personnel"
16 means any individual who is classified by the university or the
17 hiring entity as a research worker, spends the majority of work
18 hours engaged in the conduct of research, and receives
19 compensation as a research worker."

20 SECTION 5. Section 304A-3005, Hawaii Revised Statutes, is
21 amended to read as follows:



1 "§304A-3005 Research corporation excepted from certain
2 state laws. (a) To carry out the purposes [and objectives] of
3 the research corporation[, ~~including the conduct of research and~~
4 ~~training projects,~~] set forth in section 304A-3001, the research
5 corporation shall be granted flexibility in the hiring of its
6 personnel and [in] the handling and [disbursing] disbursement of
7 moneys by being excepted from the following state laws:

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

10 (2) Chapter 103D, relating to advertising for bids and
11 purchases to be made in Hawaii whenever public moneys
12 are expended; provided that the exception shall not
13 apply to bids and purchases of goods and services that
14 are not used for research, training of research
15 personnel, or publication of research findings;

16 ~~[(3) Chapter 103D with respect to construction contracts,~~
17 ~~provided that the exception shall not apply where~~
18 ~~state funds are used and compliance with chapter 103D~~
19 ~~is required by a bill enacted by the legislature;~~

20 ~~-(4)]~~ (3) Chapter 76, relating to civil service; and

21 ~~[(5)]~~ (4) Section 78-1, relating to public employment.



1 (b) For the purposes of this section, "research personnel"
2 means any individual who is classified by the university or the
3 hiring entity as a research worker, spends the majority of work
4 hours engaged in the conduct of research, and receives
5 compensation as a research worker."

6 SECTION 6. Statutory material to be repealed is bracketed
7 and stricken. New statutory material is underscored.

8 SECTION 7. If any provision of this Act, or the
9 application thereof to any person or circumstance, is held
10 invalid, the invalidity does not affect other provisions or
11 applications of the Act that can be given effect without the
12 invalid provision or application, and to this end the provisions
13 of this Act are severable.

14 SECTION 8. This Act shall take effect upon its approval.

15
INTRODUCED BY:



S.B. NO. 2304

Report Title:

Research Corporation of the University of Hawaii; Purpose;
Powers; Exemptions; Contract for Service

Description:

Clarifies that the purpose of the Research Corporation of the University of Hawaii is to promote educational, scientific, and literary pursuits through research, training of research personnel, and dissemination of knowledge by publication of research findings; and its undertakings shall be limited to acts that are reasonably necessary to carry out this purpose.

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