

S.B. NO. 3191

JAN 24 2024

A BILL FOR AN ACT

RELATING TO TECHNOLOGY TRANSFER AT THE UNIVERSITY OF HAWAII.

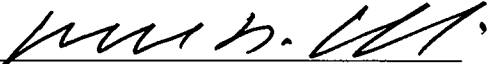
BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Act 38, Session Laws of Hawaii 2017, as amended
2 by Act 8, Special Session Laws of Hawaii 2021, is amended by
3 amending section 5 to read as follows:

4 "SECTION 5. This Act shall take effect upon its approval [~~7~~
5 ~~provided that this Act shall be repealed on June 30, 2024~~]."

6 SECTION 2. Statutory material to be repealed is bracketed
7 and stricken.

8 SECTION 3. This Act, upon its approval, shall take effect
9 on June 29, 2024.

10 INTRODUCED BY: 

11 BY REQUEST

S.B. NO. 3191

Report Title:

UH; Technology Transfer

Description:

Repeals the sunset provision in Act 38, Session Laws of Hawaii 2017, as amended by Act 8, Special Session Laws of Hawaii 2021, to allow the University of Hawaii to continue to regulate conflicts of interests and other ethical issues for technology transfer activities it sponsors.

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

SB. NO. 3191

DEPARTMENT: University of Hawaii

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

PURPOSE: Repeal the sunset date of June 30, 2024, in Act 8, Special Session Laws of Hawaii (SSLH) 2021, to allow the University of Hawaii (University) to continue to regulate conflicts of interests and other ethical issues for technology transfer activities its sponsors, as provided by section 84-10, Hawaii Revised Statutes (HRS).

MEANS: Amend section 5 of Act 38, Session Laws of Hawaii 2017, as amended by Act 8, SSLH 2021.

JUSTIFICATION: The University is the sole public institution for higher education in the State conducting basic, academic, or sponsored research. Through various internal disclosure requirements, the University identifies inventions or discoveries created by its faculty or professional staff that could have potential to be transformed into commercially viable new technologies. This commercialization process (often called "technology transfer") is designed to strengthen economies by getting new ideas, inventions, and processes developed in universities to the private sector as quickly as possible. This technology transfer occurs throughout the nation at other universities.

A fundamental conflict of interest issue is the extent to which a public university, such as the University of Hawaii, may use its public resources (including funds and infrastructure) to identify, incubate, and actively promote and market these commercial products, particularly where the faculty or staff that discovered or invented the product assumes entrepreneurial responsibilities and stands to receive

economic returns from the anticipated commercialization.

Many states have general conflict of interest laws that could potentially 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 they may broadly and strictly prohibit use of public property, such as university equipment, facilities, or support personnel, for private business purposes.

Some of these 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 to commercialize their research activities.

Section 84-10, HRS, currently allows the University to undertake commercialization activity with greater legal certainty and clarity. These activities include vetting or "proving" commercial concepts based on University research, providing mentorship and entrepreneurial guidance to faculty or research staff, transferring University-owned intellectual property via patents or licenses, or actively participating in public/private joint development and partnerships. Third parties, similarly, are more willing to contribute their resources and shoulder some of the risks on forward-looking joint ventures or collaborative technology transfer activities, if the legal parameters are clearly established.

This Act, by repealing the sunset date of Act 38, and thus, keeping section 84-10, HRS, in effect, will continue to provide the University of Hawaii clear statutory authority to frame and support its various activities and initiatives to develop and

commercialize the intellectual property created by University faculty, staff or alumni. This commercialization, in turn, will contribute to a more diverse workforce in the State and promotes a robust and dynamic economy.

Impact on the public: None.

Impact on the department and other agencies:
It provides the university the ability to create revenue from royalties, licenses, and investments through these university start-ups. It further creates job opportunities for our students upon graduation.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: UOH-100, UOH-110, UOH-115, UOH-210, UOH-700,
UOH-800, UOH-900.

OTHER AFFECTED
AGENCIES: State Ethics Commission.

EFFECTIVE DATE: June 29, 2024.