

A Bill for an Act Relating to High Technology.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that, in 1989, the legislature created the Hawaii small business innovation research grant program under chapter 206M-15, Hawaii Revised Statutes. Prior to 1989, there were two Hawaii small business innovation research grant program-awarded companies, but since 1989, fifty-six Hawaii companies have won two hundred forty-five small business innovation research grant program awards. These grant program awards brought approximately \$56,500,000 in federal small business innovation research grant program Phase I and Phase II funds to Hawaii. In addition to these grants, \$57,500,000 in Phase III small business innovation research grant program commercialization contracts have been awarded to Hawaii companies. According to the United States Department of Agriculture, Hawaii companies have won the highest number of United States Department of Agriculture small business innovation research grant program awards per capita of any state.

The legislature also finds that Hawaii's cumulative state investment in the Hawaii small business innovation research grant program of \$3,700,000 has a return ratio of 15:1 in federal Phase I and II grants and 30:1 if the Phase III commercial contracts are included.

The legislature further finds that, currently, the federal small business innovation research grant program is a \$2,000,000,000 program that encourages small businesses to develop commercially viable technologies or innovations. Organized as a competition, the federal small business innovation research grant program allows small companies the opportunity to test high-risk theories and develop innovative technologies.

To compete for small business innovation research grant program dollars, ten participating federal agencies issue scheduled program solicitations seeking research and development in their respective areas of interests, disciplines, and missions. Federal departments and agencies, such as the Departments of Agriculture, Commerce, Defense, Education, Energy, Health and Human Services, Transportation, and Homeland Security, the Environmental Protection Agency, National Aeronautics and Space Administration, and the National Science Foundation, are required to reserve a portion of their research and development funds for small business innovation research grant programs.

With new infrastructure and projects dedicated to the development of Hawaii's biotechnology and life sciences industry, the high technology development corporation proposes to extend its existing small business innovation research grant program to include a small business technology transfer program to encourage small companies and researchers at nonprofit research institutions, including research universities and colleges, to work together to move laboratory-developed technologies to the marketplace and to foster technology-based economic development. The following five federal departments and agencies are required to reserve a portion of their research and development funds for the small business technology transfer program: the Departments of Defense, Energy, and Health and Human Services, the National Aeronautics and Space Administration, and the National Science Foundation. According to program requirements, a minimum of forty per cent of each small business technology transfer program project must be carried out by the small business, and a minimum of thirty per cent of the effort must be performed by the research institution.

The legislature also finds that the high technology development corporation proposes to increase the number of new Hawaii technology companies applying for small business innovation research and small business technology transfer federal grant funds by expanding its existing Hawaii small business innovation research program to include Phase 0 competition assistance grants. Phase 0 funds will be used to overcome obstacles faced by technology companies when developing competitive small business innovation research and small business technology transfer proposals. Typical obstacles may include:

- (1) Determining whether a concept or idea is truly innovative;
- (2) Determining whether laboratory research is appropriate; and
- (3) Access to distant collaborators, including faculty, researchers, and scientific writers.

These Phase 0 competition assistance grants will be available to Hawaii companies developing a small business innovation research or small business technology transfer program grant proposal. The results will facilitate more competitive proposals and assist Hawaii's growing high technology research and development niche.

The purpose of this Act is to:

- (1) Exempt the high technology innovation corporation from chapters 36 and 38, Hawaii Revised Statutes, which relate to the management of state funds, deposits of public funds, and state audit and accounting, respectively; and
- (2) Authorize the high technology innovation corporation to establish operational bank accounts in out-of-state locations, including foreign denomination accounts.

SECTION 2. Section 206M-15, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The development corporation may provide grants [~~not exceeding the lesser of:~~] as follows:

- (1) Up to the lesser of:
 - (A) Fifty per cent of the federal small business innovation research phase I award or contract; [ø]
 - (B) \$25,000 to each business in Hawaii that receives a federal small business innovation research phase I award or contract from any participating federal agency[.];
- (2)¹ Up to \$25,000 to each business in Hawaii that receives a federal small business technology transfer program award or contract from any participating federal agency; or
- (3) Up to \$3,000 to each business in Hawaii that applies for a small business innovation research federal grant or small business technology transfer program federal grant,

subject to the availability of funds.”

SECTION 3. Section 206M-53, Hawaii Revised Statutes, is amended to read as follows:

“[H]§206M-53[.] Powers of the board. The high technology innovation corporation, under the direction of its board of directors, shall have the following general powers:

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

- (2) To sell, lease, rent, hold, maintain, use, and operate any property, real, personal, or mixed, tangible or intangible, in accordance with the conditions under which it was received;
- (3) To enter into and perform contracts, leases, cooperative agreements, or other transactions with the high technology development corporation or any other agency or political subdivision of the State, any private person, firm, partnership, association, company, or corporation, only as it may be necessary in the conduct of its business and on terms as it may deem appropriate; provided that the high technology innovation corporation shall not obligate any funds of the State except funds that have been appropriated to it by the legislature or transferred or contracted to it by the high technology development corporation or other agency or department of the state government. Notwithstanding the foregoing, the high technology innovation corporation may enter into and perform contracts, leases, cooperative agreements, or other transactions with any agency or instrumentality of the United States, a foreign nation, a state, a territory or a possession, or with any political subdivision thereof, whenever the donating or granting agency or instrumentality determines that the high technology development corporation or any other agency of the State cannot as effectively and efficiently accomplish the purposes for which the contracts, leases, cooperative agreements, or other transactions are being entered into; provided that the high technology innovation corporation shall not obligate any funds of the State except funds that have been appropriated or transferred to it or contracted for it;
- (4) To receive by gifts, grants, devises, bequests, or otherwise, from private sources only, any property, real, personal, or mixed, intangible or tangible, absolutely or in trust, to be used and disposed of, either the principal or the income therefrom, in accordance with the conditions under which it was received; provided that no gift to the high technology innovation corporation shall be accepted unless approved or confirmed by its board of directors. Notwithstanding the foregoing, the high technology innovation corporation may receive gifts, grants, or awards from any agency or instrumentality of the United States, a foreign nation, a state, a territory or a possession, or from any political subdivision thereof, whenever the donating or granting agency or instrumentality determines that the high technology development corporation or any other agency of the State cannot as effectively and efficiently accomplish the purposes for which the gifts, grants, or awards are being made; provided that no gift to the high technology innovation corporation shall be accepted unless approved or confirmed by its board of directors;
- (5) To have a corporate seal;
- (6) To sue and be sued in its own name;
- (7) To serve as trustee or beneficiary under terms of any gift, indenture, or will;
- (8) To apply for, take out, receive by purchase or gift, hold, administer, and dispose of copyrights, patent rights, licenses, assignments of inventions, discoveries, processes, and other property, rights or interests therein, and the income thereof, absolutely or subject to conditions or trusts as may be attached thereto or be imposed thereon, and to obligate itself to perform and execute any and all conditions or trusts;
- (9) To conduct programs, projects, research, studies, experiments, investigations, and tests in all fields of knowledge; to promote and develop the

- scientific and commercial value of inventions, discoveries, and processes; and to make, publish, and distribute the results thereof;
- (10) To coordinate and correlate activities and projects of the high technology innovation corporation with the work of state agencies for the purpose of relating research work to the economic development of the State whenever practical or desirable;
 - (11) To stimulate and promote cooperative research projects and activities;
 - (12) To establish and maintain, or to assist in establishing and maintaining staff positions for the purpose of aiding in technology-based economic development, and to enter into agreements or contracts with other corporations, organizations, institutions, or persons for this purpose and to pay the necessary and appropriate expenses therefor;
 - (13) To prepare, print, or publish any manuscript, research article, report, study, discussion, reference, collection, or any pictorial or schematic representation or group or collection thereof, whether the same belongs to or is the work of any state agency or its employees, or the high technology innovation corporation or its employees or a contractor of the high technology innovation corporation. The printing or publication may be accomplished through whatever person, company, or agency is deemed most appropriate by the board of directors; ~~and~~
 - (14) To establish operational bank accounts as may be necessary in the conduct of its business at its out-of-state offices, including accounts of foreign denomination in out-of-state locations, without the approval of the director of budget and finance or the comptroller of accounting and general services; and
 - ~~[(14)]~~ (15) To do any or all other acts reasonably necessary to carry out the objects and purposes of the high technology innovation corporation.”

SECTION 4. Section 206M-54, Hawaii Revised Statutes, is amended to read as follows:

“~~[(1)]~~§206M-54 **Innovation corporation; exempted from certain state laws.** ~~[To carry out the purposes and objectives of this part, the]~~ The high technology innovation corporation shall be ~~[granted flexibility in hiring its personnel and in handling and disbursing moneys by being]~~ exempt from the following state laws ~~[in the Hawaii Revised Statutes:~~

- (1) ~~Sections 36-27 and 36-30, relating to special fund reimbursements to the state general fund;]~~
- ~~[(2)]~~ (1) Section 78-1, relating to public employment; ~~and]~~
- (2) Chapter 36, relating to the management of state funds;
- (3) Chapter 38, relating to deposits of public funds; and
- ~~[(3)]~~ (4) Chapter 76, relating to civil service.”

SECTION 5. There is appropriated out of the general revenues of the State of Hawaii the sum of \$200,000 or so much thereof as may be necessary for fiscal year 2006-2007 to increase funding levels necessary to meet the current needs of the Hawaii small business innovation research assistance program and the proposed Hawaii small businesses technology transfer grant program and phase 0 competition assistance program.

The sum appropriated shall be expended by the high technology development corporation for the purposes of this Act.

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

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SECTION 7. This Act shall take effect on July 1, 2006; provided that on June 30, 2011, section 3 of this Act shall be repealed and section 206M-53, Hawaii Revised Statutes, shall be reenacted in the form in which it read on the day before the effective date of this Act.

(Approved July 6, 2006.)

Note

1. Should not be underscored.