

JAN 24 2024

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 this research and investigation to
8 the public.

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 flexibility in the
12 hiring of its personnel and handling and disbursement of moneys
13 by exempting the corporation from state laws relating to
14 reimbursement of special funds to the state general fund;
15 advertisement for bids and purchases to be made in Hawaii
16 whenever public moneys are expended; civil service;



1 compensation; and public employment. The legislature finds,
2 however, that it is a matter of statewide concern pursuant to
3 article X, section 6, of the Hawaii State Constitution, that the
4 research corporation of the university of Hawaii has gradually
5 expanded its undertakings over the years into areas beyond its
6 original eponymous purpose, and the benefits of the exemptions
7 from statutory requirements have been extended to apply beyond
8 what was originally intended by the legislature. For example,
9 the research corporation's website currently states that one of
10 its missions is to "support and enhance . . . development" in
11 Hawaii.

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

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



1 " ~~[+]§304A-112[+]~~ **Contracts for services provided by the**
2 **research corporation of the University of Hawaii.** (a)
3 Notwithstanding any law to the contrary, when the university
4 determines that neither the university nor another state agency
5 can more effectively or efficiently accomplish the purposes of
6 the sponsored research and training activities, the university
7 ~~[shall]~~ may contract with the research corporation of the
8 University of Hawaii established under section ~~[+]304A-3001[+]~~
9 to provide management and other services ~~[as described in]~~
10 pursuant to subsection (b) to support the university's research
11 and training activities. Contracts by the university with the
12 research corporation pursuant to this section shall be limited
13 to sponsored research and training projects; ~~[except]~~ provided
14 that ~~[university projects supported by]~~ funds appropriated by
15 the legislature may ~~[also]~~ be ~~[contracted]~~ expended to contract
16 with the research corporation ~~[pursuant to rules adopted by the~~
17 ~~board of regents.] for purposes of supporting or facilitating~~
18 sponsored research and training activities.

19 (b) Management and other support services provided by the
20 research corporation pursuant to this section may include:

21 (1) The procurement of goods and services;



- 1 (2) Employment of personnel; and
- 2 (3) The provision of advance funding for research and
- 3 training contracts and grants.

4 These services may be provided by the corporation to the
5 university without regard to ~~[chapter]~~ chapters 76, 78, 89, ~~[or]~~
6 and 103D.

7 (c) For each state project or program involving the
8 research corporation and each project or program involving the
9 research corporation and a state employee, the university shall
10 notify the exclusive representative of the appropriate
11 bargaining unit to review conformance of positions with
12 exceptions to collective bargaining. The corporation shall not
13 supplant non-university of Hawaii civil service employees and
14 shall obtain approval from the governor on all initial requests
15 for service projects."

16 SECTION 3. Section 304A-3001, Hawaii Revised Statutes, is
17 amended by amending subsection (b) to read as follows:

18 "(b) The purposes of the research corporation shall
19 ~~[include, but not be limited to,]~~ be the promotion of ~~[all]~~
20 educational, scientific, and literary pursuits ~~[by:]~~ through
21 the:



- 1 (1) ~~[Encouraging, initiating, aiding, developing, and~~
2 ~~conducting training,~~ Conduct of research~~[, and study]~~
3 in the physical, biological, and social sciences~~[,]~~;
4 humanities~~[,]~~; and all other branches of learning;
5 (2) Encouraging and aiding in the education ~~[and]~~ or
6 training of persons ~~[for the]~~ in the conduct of ~~[the]~~
7 training, investigations, research, and study;
8 provided that the persons being educated or trained
9 shall be engaged in the conduct of research;
10 ~~[-3-] Furnishing of means, methods, and agencies by which~~
11 ~~the training, investigation, research, and study may~~
12 ~~be conducted;~~
13 ~~[-4-]~~ (3) Assisting in the dissemination of knowledge from
14 research studies by establishing~~[, aiding, and~~
15 ~~maintaining professorships or other]~~ staff positions,
16 fellowships, scholarships, publications, and lectures;
17 and
18 ~~[-5-] Engaging in other means of making the benefits of~~
19 ~~training, investigations, research, and study~~
20 ~~available to the public; and~~



1 ~~(6) Taking any and all other actions reasonably designed~~
2 ~~to promote these purposes in the interest of promoting~~
3 ~~the general welfare of the people of the State.]~~

4 (4) Dissemination of knowledge by the publication of
5 research findings."

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

8 "~~[+]§304A-3003[+]~~ **Powers of the research corporation.** (a)

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

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

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

19 (3) To enter into and perform [~~such~~] contracts, leases,
20 cooperative agreements, or other transactions with the
21 university or any other agency or political



1 subdivision of the State, any private person, firm,
2 partnership, association, company, or corporation,
3 only ~~[as it may be]~~ when the board of directors
4 determines that doing so is necessary in the conduct
5 of [its] the research corporation's business of
6 research, training of research personnel, and
7 publication of research findings, and only on [such]
8 terms [as it may deem] that the board of directors
9 deems reasonable and appropriate; provided that the
10 research corporation shall not obligate any funds of
11 the State except those that have been appropriated to
12 it.

13 Notwithstanding the foregoing, the research
14 corporation may enter into and perform ~~[such]~~
15 contracts, leases, cooperative agreements, or other
16 transactions with any agency or instrumentality of the
17 United States, a foreign nation, a state, a territory,
18 or a possession, or with any political subdivision
19 thereof, for research, training of research personnel,
20 or publication of research findings, whenever the
21 donating or granting agency or instrumentality



1 determines and documents that the university or any
2 other agency of the State cannot [~~as effectively and~~
3 ~~efficiently~~] accomplish the purposes for which [~~such~~]
4 the contracts, leases, cooperative agreements, or
5 other transactions are being entered into; provided
6 that the research corporation shall not obligate any
7 funds of the State except those that have been
8 appropriated to it;

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



1 Notwithstanding the foregoing, the research
2 corporation may receive gifts, grants, or awards from
3 any agency or instrumentality of the United States, a
4 foreign nation, a state, a territory, or a possession,
5 or from any political subdivision thereof, whenever
6 the donating or granting agency or instrumentality
7 determines and documents that the university or any
8 other agency of the State cannot [~~as effectively and~~
9 ~~efficiently~~] accomplish the purposes for which the
10 gifts, grants, or awards are being made[~~, except~~];
11 provided that no gift to the research corporation
12 shall be accepted unless approved [~~or confirmed~~] by
13 the board of directors[~~+~~] as a gift that is beneficial
14 to the research corporation's business of research,
15 training of research personnel, and publication of
16 research findings;

17 (5) To have a corporate seal;

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

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



- 1 (8) To apply for, take out, receive by purchase or gift,
2 hold, administer, and dispose of copyrights, patent
3 rights, licenses, assignments of inventions,
4 discoveries, processes, and other property~~[7]~~ rights
5 or interests therein, and the income thereof,
6 absolutely or subject to ~~[such]~~ conditions or trusts
7 as may be attached thereto or be imposed thereon, and
8 to obligate itself to perform and execute any and all
9 ~~[such]~~ conditions or trusts;
- 10 (9) To conduct research, studies, experiments,
11 investigations, and tests ~~[in all fields of knowledge,~~
12 ~~to]~~ the physical, biological, and social sciences;
13 humanities; and all other branches of learning;
- 14 (10) To promote and develop the scientific and commercial
15 value of inventions, discoveries, and processes; and
16 to make~~[, publish, and distribute]~~ available to the
17 public the results thereof;
- 18 ~~[(10)]~~ (11) To coordinate and correlate activities and
19 projects of the research corporation with the work of
20 state agencies for the purpose of ~~[relating]~~
21 correlating research work ~~[to]~~ with the economic



1 development of the State whenever [~~practical or~~
2 ~~desirable,~~] the board of directors determines and
3 documents that doing so serves the purposes of the
4 research corporation as described in section
5 304A-3001;

6 [~~(11)~~] (12) To stimulate and promote cooperative research
7 projects and activities;

8 [~~(12)~~] (13) To [~~establish and maintain, or to assist in~~
9 ~~establishing and maintaining,~~];

10 (A) Assist the university's employment of research
11 personnel and personnel that assist with
12 researching;

13 (B) Assist in the university's establishment and
14 maintenance of research scholarships[~~7~~] and
15 research fellowships[~~7~~ and professorships, and
16 other staff positions for the purpose of aiding
17 in the acquisition and dissemination of
18 knowledge]; and [~~to~~]

19 (C) As an agent of the university, enter into
20 agreements or contracts with other corporations,
21 organizations, institutions, or persons for [~~this~~



1 ~~purpose]~~ the purpose of this paragraph and to pay
2 the necessary and appropriate expenses therefor;
3 ~~[(13)]~~ (14) To prepare~~[, print, or]~~ and publish in any
4 ~~[manuscript, research article, report, study,~~
5 ~~discussion, reference, collection, or any pictorial or~~
6 ~~schematic representation or group or collection~~
7 ~~thereof, whether it]~~ form, any researching finding
8 that belongs to or is the work of any state agency or
9 its employees, ~~[or]~~ the university or ~~[one of]~~ its
10 faculty members or employees, ~~[or]~~ the research
11 corporation or its employees, or a contractor of the
12 research corporation. The ~~[printing or]~~ preparation
13 and publication of research findings may be
14 accomplished through whatever person, company, or
15 agency is deemed most appropriate by the board of
16 directors; ~~[and]~~
17 (15) To retain contracts related to invasive species
18 control and eradication; and
19 ~~[(14)]~~ (16) To do any or all other acts reasonably necessary
20 to carry out the ~~[objects and]~~ purposes of the



1 research corporation [~~and the university~~] pursuant to
2 section 304A-3001.

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

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

10 **"§304A-3005 Research corporation excepted from certain**
11 **state laws.** (a) To carry out the purposes and objectives of
12 the research corporation [~~, including the conduct of research and~~
13 ~~training projects,~~] pursuant to section 304A-3001, the research
14 corporation shall be granted flexibility in the hiring of its
15 personnel and [~~in~~] handling and [~~disbursing~~] disbursement of
16 moneys by being excepted from the following state laws:

- 17 (1) Sections 36-27 and 36-30, relating to special fund
18 reimbursements to the state general fund;
- 19 (2) Chapter 103D, relating to advertising for bids and
20 purchases to be made in Hawaii whenever public moneys
21 are expended; provided that the exception shall not



1 apply to bids and purchases of goods and services that
2 are not used for research, training of research
3 personnel, or publication of research findings;
4 ~~[-3-] Chapter 103D with respect to construction contracts;~~
5 ~~provided that the exception shall not apply where~~
6 ~~state funds are used and compliance with chapter 103D~~
7 ~~is required by a bill enacted by the legislature;~~
8 ~~[-4-] (3) Chapter 76, relating to civil service; and~~
9 ~~[-5-] (4) Section 78-1, relating to public employment.~~

10 (b) For the purposes of this section, "research personnel"
11 means any individual who is classified by the university or the
12 hiring entity as a research worker, spends the majority of work
13 hours engaged in the conduct of research, and receives
14 compensation as a research worker."

15 SECTION 6. Section 304A-3010, Hawaii Revised Statutes, is
16 amended to read as follows:

17 " ~~[+]~~§304A-3010 ~~[+]~~ **Special account~~[-]~~; revolving accounts;**
18 **internal service orders.** (a) Notwithstanding any other law to
19 the contrary, the research corporation shall be authorized to
20 set up a special account for depositing moneys received from
21 either public or private contracts, or from private or public



1 grants, awards, or gifts[-] relating to research and training.
2 [The] Notwithstanding the provisions of section [+]304A-2003[+]
3 and other laws to the contrary [~~notwithstanding~~], this special
4 account may be used to receive, disburse, and account for funds
5 of research and training projects of the University of Hawaii,
6 other state agencies, and political subdivisions of the State.
7 All disbursements shall be drawn on the special account upon
8 checks prepared and signed, as approved by the executive
9 director and some other person authorized by the board of
10 directors.

11 (b) Any revolving accounts held by the research
12 corporation shall follow all laws governing the body and
13 policies established by the corporation. The research
14 corporation shall also follow university of Hawaii
15 administrative procedure, AP 12.204, relating to the guidelines
16 and procedures for revolving fund service orders to the research
17 corporation. Within thirty days of the adoption of any
18 amendment to administrative procedure, AP 12.204, by the
19 university of Hawaii and the research corporation, the
20 university of Hawaii shall submit a report to the legislature
21 containing the amended language and a summary of the amendment.



1 (c) All internal service orders and revolving accounts of
2 the research corporation that involve the use of university of
3 Hawaii intramural and extramural funds shall be limited to
4 projects relating directly to research and training, including
5 projects where:

6 (1) Much of the operation will lie outside the State; or

7 (2) There is a substantial amount of ship operations,

8 technical shop-type operations, computer services, or

9 involvement with other research corporation projects;

10 and shall be reported no later than June 30 and December 31 of

11 each year to the legislature for financial and mission

12 compliance according to university of Hawaii and research

13 corporation policies. The university of Hawaii and the research

14 corporation shall review and approve all revolving accounts on

15 an annual basis."

16 SECTION 7. If any provision of this Act, or the

17 application thereof to any person or circumstance, is held

18 invalid, the invalidity does not affect other provisions or

19 applications of the Act that can be given effect without the

20 invalid provision or application, and to this end the provisions

21 of this Act are severable.



S.B. NO. 3208

1 SECTION 8. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 9. This Act shall take effect on July 1, 2024;
4 provided that the amendments made to section 304A-3003, Hawaii
5 Revised Statutes, by section 4 of this Act shall apply only to
6 contracts entered into by the research corporation of the
7 university of Hawaii after June 30, 2024.

8

INTRODUCED BY:





S.B. NO. 3208

Report Title:

RCUH; UH; Purpose; Powers; Exemptions; Contracts for Services

Description:

Clarifies the purpose of the Research Corporation of the University of Hawaii and that its undertakings shall be limited to acts that are reasonably necessary to carry out its purpose. Repeals the requirement that the University of Hawaii contract with the Research Corporation when the University determines that other various agencies cannot more effectively or efficiently accomplish certain research and training activities. Grandfathers existing Research Corporation contracts and requires new contracts be subject to new limitations. Limits the scope of the special account the Research Corporation is authorized to establish. Requires revolving accounts to follow University of Hawaii Administrative Procedure 12.204. Limits internal service orders and revolving accounts of the Research Corporation that use University intramural and extramural funds to certain projects and requires biannual reports to the Legislature.

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