

H.B. NO. 1064

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 timely and efficient commercialization of
2 intellectual property created by basic and applied research at
3 the University of Hawaii greatly benefits the public and the
4 State.

5 Act 38, Session Laws of Hawaii 2017, facilitated the
6 University of Hawaii's contribution to research
7 commercialization and economic development for the State by
8 clarifying and updating the application of ethics principles set
9 forth in the state code of ethics to technology transfer
10 activities sponsored by the University. Act 38 included a
11 sunset date of June 30, 2022.

12 The purpose of this Act is to allow the university to
13 continue its contribution to research commercialization and
14 economic development by removing the sunset provision in Act 38,
15 Session Laws of Hawaii 2017.

16 SECTION 2. Act 38, Session Laws of Hawaii 2017, is amended
17 by amending section 5 to read as follows:

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1 "SECTION 5. This Act shall take effect upon its approval[~~+~~
2 ~~provided that this Act shall be repealed on June 30, 2022]."~~

3 SECTION 3. Statutory material to be repealed is bracketed
4 and stricken.

5 SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY: 

8

BY REQUEST

JAN 25 2021

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Report Title:

University of Hawaii

Description:

Removes the sunset provision in Act 38, Session Laws of Hawaii 2017.

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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: Remove the sunset date of June 30, 2022, in Act 38, Session Laws of Hawaii (SLH) 2017, to allow the University of Hawaii (University) to continue to regulate conflicts of interests and other ethical issues for technology transfer activities it sponsors.

MEANS: Amend section 5 of Act 38, SLH 2017.

JUSTIFICATION: The University is the primary public institution in the state conducting basic, academic, or sponsored research. Through various internal disclosure requirements, the University identifies invention or discoveries created by its faculty or professional staff that could have potential to be transformed into commercially viable products. 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 conflicts of interest issue is the extent to which a public university-- such as the UH--may use its public resources (including funds and administrative support staff) 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 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.

Act 38 provides similar relief for the University so that it may remain competitive with its peer institutions to promote commercial technology generated at the University. Act 38 requires that in return for exemptions from certain sections of the State Ethics Code, the University must create and implement its own set of policies, procedures and guidelines to apply to the technology transfer activities it sponsors.

The UH Board of Regents adopted a Regents Policy (RP 12.211) at its August 2020 meeting to fulfill part of this oversight responsibility. On October 16, 2020, the University President approved an executive policy to implement the Regents' Policy. Implementing Administrative Procedures are being drafted, along with template forms for conflict of interest management plans. The University also prepared a handbook titled *Addressing Ethical Conflicts Arising During Technology Transfer Activities*, that

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identifies the six specific areas of the Ethics Code subject to Act 38 and explains how these six areas should be adapted and applied by the University to address conflicts.

Impact on the public: None.

Impact on the department and other agencies:
None.

GENERAL FUND: None.

OTHER FUNDS: None.

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

OTHER AFFECTED
AGENCIES: State Ethics Commission.

EFFECTIVE DATE: Upon approval.