
SENATE CONCURRENT RESOLUTION

REQUESTING THE UNIVERSITY OF HAWAII TO CONVENE A TASK FORCE TO
EXAMINE AND ASSESS ITS ARRANGEMENT FOR SERVICES WITH THE
RESEARCH CORPORATION OF THE UNIVERSITY OF HAWAII.

1 WHEREAS, the University of Hawaii (University) is
2 established as the state university and a body corporate
3 pursuant to the Constitution of the State of Hawaii (Hawaii
4 State Constitution) and state law, and is currently the sole
5 provider of public higher education for the State; and
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7 WHEREAS, the Research Corporation of the University of
8 Hawaii (RCUH) is a body corporate established pursuant to
9 section 304A-3001, Hawaii Revised Statutes, as a public
10 instrumentality of the State that is a part of the University
11 for administrative purposes; and
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13 WHEREAS, the mission of the RCUH is to support and enhance
14 research, development, and training in Hawaii, with a focus on
15 the University of Hawaii; and
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17 WHEREAS, to carry out its purposes and objectives, the RCUH
18 is granted flexibility in the hiring of its personnel and in the
19 handling and disbursement of monies, by being excepted from
20 certain state laws, including:
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- 22 (1) Obligations to reimburse the state general fund for
23 central service and administrative expenses under
24 sections 36-27 and 36-30, Hawaii Revised Statutes;
25
- 26 (2) Chapter 103D, Hawaii Revised Statutes, the Hawaii
27 Public Procurement Code, relating to the advertisement
28 for bids and purchases to be made in Hawaii whenever
29 public moneys are expended;
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- 1 (3) The Hawaii Public Procurement Code with respect to
- 2 construction contracts, provided that the exception
- 3 does not apply where state funds are used and
- 4 compliance with the code is required by a bill enacted
- 5 by the Legislature;
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- 7 (4) Chapter 76, Hawaii Revised Statutes, the Civil Service
- 8 Law;
- 9
- 10 (5) Section 78-1, Hawaii Revised Statutes, relating to
- 11 public employment; and
- 12
- 13 (6) Laws relating to collective bargaining in public
- 14 employment under chapter 89, Hawaii Revised Statutes,
- 15 with regard to services provided to the University
- 16 pursuant to section 304A-112, Hawaii Revised Statutes;
- 17 and
- 18

19 WHEREAS, the RCUH has utilized its exemptions from the
 20 Hawaii Public Procurement Code as a pass-through for various
 21 projects, including the construction of the University's West
 22 Oahu campus; and

23
 24 WHEREAS, under section 304A-112, Hawaii Revised Statutes,
 25 when the University determines that neither the University nor
 26 another state agency can more effectively or efficiently
 27 accomplish the purposes of sponsored research and training
 28 activities, the University must contract with the RCUH to
 29 receive management and other services to support such research
 30 and training activities; and

31
 32 WHEREAS, the support services provided by the RCUH to the
 33 University pursuant to section 304A-112, Hawaii Revised
 34 Statutes, may include procurement of goods and services,
 35 employment of personnel, and provision of advance funding for
 36 research and training contracts and grants; and

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 38 WHEREAS, when the University contracts out sponsored
 39 research and training activities to the RCUH, the University
 40 retains portions of the extramural funds and grants it receives,
 41 as internal costs computed by using internal cost rates;

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1 WHEREAS, the terms and conditions of the services provided
2 by the RCUH to the University, including the factors and method
3 by which fees charged by the RCUH are computed, are set forth in
4 an agreement (Service Agreement) between the two parties; and
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6 WHEREAS, concerns have been raised over the transparency of
7 the RCUH's operations and its handling of expenses, as well as
8 the increasing amount of fees it charges and collects from the
9 University; and
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11 WHEREAS, the University and RCUH are public corporations,
12 and therefore, their board members and officers occupy fiduciary
13 positions under which they owe duties of care and loyalty to the
14 respective entities; and
15

16 WHEREAS, Section 6 of article X of the Hawaii State
17 Constitution, which grants the Board of Regents of the
18 University exclusive jurisdiction over the internal structure,
19 management, and operation of the University, specifically
20 provides that the power of the Legislature to enact laws of
21 statewide concern shall not be limited and that the Legislature
22 shall have the exclusive jurisdiction to identify laws of
23 statewide concern; and
24

25 WHEREAS, the Legislature deems that it is a matter of
26 statewide concern to assure that the fees committed and paid by
27 the University to the RCUH for its support services are
28 reasonable and commensurate with and balanced against the needs,
29 priorities, and other demands placed on the University's limited
30 resources; and
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32 WHEREAS, it would benefit the State to have the terms and
33 conditions of the Service Agreement between the University and
34 RCUH examined and assessed, considering the University's
35 existing research needs, research priorities, limited resources,
36 anticipated opportunities for extramural sponsored research, the
37 State's current economic and financial situation due to the
38 disruptions caused by the coronavirus disease 2019 (COVID-19)
39 pandemic, and predicted increase in fees charged by the RCUH;
40 now, therefore,
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1 BE IT RESOLVED by the Senate of the Thirty-first
2 Legislature of the State of Hawaii, Regular Session of 2021, the
3 House of Representatives concurring, that the University is
4 requested to convene a task force to examine and assess the
5 terms and conditions of the Service Agreement and determine
6 whether amendments are warranted; and

7
8 BE IT FURTHER RESOLVED that the task force is requested to
9 include the following as members:

- 10
11 (1) Vice President for Research and Innovation of the
12 University, who is requested to serve as the
13 chairperson of the task force;
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15 (2) Executive Director of the RCUH;
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17 (3) Director of Finance of the RCUH;
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19 (3) Chairperson of the Board of Regents of the University
20 or the Chairperson's designee; and
21
22 (4) Three members representing the University to be
23 appointed by the President of the University; and
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25 BE IT FURTHER RESOLVED that the Office of the Vice
26 President for Research and Innovation is requested to provide
27 the task force with administrative support as the office's
28 resources may permit; and
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30 BE IT FURTHER RESOLVED that the task force is requested to
31 submit a report of its findings and recommendations, including
32 the following and any proposed legislation, to the Legislature
33 no later than twenty days prior to the convening of the Regular
34 Session of 2022:

- 35
36 (1) The history of the relationship between the University
37 and the RCUH and itemization of the services the
38 University received or is receiving from the RCUH,
39 including:
40
41 (A) Descriptions of the projects;
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- 1 (B) Types of services received or being received from
2 the RCUH;
- 3
- 4 (C) Duration of RCUH's services;
- 5
- 6 (D) Breakdowns of the fees paid or being paid by the
7 University to the RCUH; and
- 8
- 9 (E) Breakdown of the extramural funds and grants
10 received by the University, including:
11
 - 12 (i) Total amount of extramural funds and grants
13 received by the University;
 - 14
 - 15 (ii) Amount of extramural funds retained by the
16 University as internal costs, the formulae
17 and rates used to compute the amount of
18 internal costs, and an explanation of the
19 basis for the formulae and rates;
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 - 21 (iii) Amount of extramural funds and grants
22 contracted out to the RCUH; and
 - 23
 - 24 (iv) Accounting items for which the internal
25 costs retained by the University were spent;
 - 26
- 27 (2) An assessment of the terms and conditions of the
28 Service Agreement, including but not limited to:
29
 - 30 (A) A summary of the terms and conditions;
 - 31
 - 32 (B) The reasonableness, necessity, and feasibility of
33 each of the terms and conditions from the
34 University's standpoint, in consideration of the
35 University's existing research needs, research
36 priorities, limited resources, anticipated
37 opportunities for extramural sponsored research,
38 the State's current economic and financial
39 situation due to the disruptions caused by the
40 COVID-2019 pandemic, and predicted increase in
41 fees charged by the RCUH; and
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- 1 (3) A determination of whether amendments to the terms and
- 2 conditions of the Service Agreement are suggested; and
- 3
- 4 (4) Any proposed amendments to the terms and conditions
- 5 the Service Agreement with an explanation of the basis
- 6 of the amendments for terms including but not limited
- 7 to the:
- 8
- 9 (A) Term (duration) of the agreement and whether
- 10 there should be a provision requiring the parties
- 11 to periodically review and revise its terms and
- 12 conditions;
- 13
- 14 (B) Scope of the RCUH's services, including an
- 15 exclusion of projects supported by funds
- 16 appropriated by the Legislature;
- 17
- 18 (C) Fees paid by the University to the RCUH and its
- 19 structure, including but not limited to the:
- 20
- 21 (i) Method and factors used to compute the
- 22 amount of fees;
- 23
- 24 (ii) Means to index;
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- 26 (iii) Maximum amount of fees, if placing one is
- 27 deemed appropriate by the task force; and
- 28
- 29 (iv) Predicted increases of fees in the future;
- 30 and
- 31
- 32 (D) The University's means to fund its payment of
- 33 fees to the RCUH; and
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35 BE IT FURTHER RESOLVED that the task force is requested to
36 dissolve on July 1, 2022; and

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38 BE IT FURTHER RESOLVED that certified copies of this
39 Concurrent Resolution be transmitted to the Chairperson of the
40 Board of Regents of the University and President of the
41 University.

