



GOV. MSG. NO. 1361

EXECUTIVE CHAMBERS
KE KE'ENA O KE KIA'ĀINA

JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA

July 9, 2024

The Honorable Ronald D. Kouchi
President of the Senate,
and Members of the Senate
Thirty-Second State Legislature
State Capitol, Room 409
Honolulu, Hawai'i 96813

The Honorable Scott K. Saiki
Speaker, and Members of the
House of Representatives
Thirty-Second State Legislature
State Capitol, Room 431
Honolulu, Hawai'i 96813

Dear President Kouchi, Speaker Saiki, and Members of the Legislature:

I am transmitting herewith SB1511, without my approval and with the statement of objections relating to the measure.

SB1511

RELATING TO THE RESEARCH CORPORATION
OF THE UNIVERSITY OF HAWAII.

Sincerely,

Josh Green, M.D.
Governor, State of Hawai'i

EXECUTIVE CHAMBERS

HONOLULU

July 9, 2024

STATEMENT OF OBJECTIONS TO SENATE BILL NO. 1511

Honorable Members
Thirty-Second Legislature
State of Hawai'i

Pursuant to Section 16 of Article III of the Constitution of the State of Hawai'i, I am returning herewith, without my approval, Senate Bill No. 1511, entitled "A Bill for an Act Relating to the Research Corporation of the University of Hawaii."

The purpose of this bill is to clarify the purpose of the Research Corporation of the University of Hawai'i (RCUH) and that its undertakings shall be limited to acts that are reasonably necessary to carry out its purpose. It repeals the requirement that the University of Hawai'i (UH) contract with RCUH when the UH determines that other various agencies cannot more effectively or efficiently accomplish certain research and training activities. In addition, it grandfathers existing RCUH contracts and requires new contracts to be subject to new limitations. Further, it limits the scope of the special account the RCUH is authorized to establish. The bill also requires revolving accounts to follow UH Administrative Procedure 12.204, which is UH's administrative procedure for establishing Special Fund Research Recharge Centers accounts in the UH system. Furthermore, the bill limits internal service orders and revolving accounts of the RCUH that use UH intramural funds for certain projects and requires biannual reports to the Legislature.

This bill is objectionable because UH and RCUH representatives have been diligently examining and making appropriate changes to the entire UH/RCUH relationship and research operation for almost four years after the intentional decision by UH and RCUH to make the UH research enterprise better and more efficient.

During the Regular Session of 2021, the Senate adopted Senate Resolution No. 148, "Requesting the University of Hawaii to Convene a Task Force to Examine and Assess Its Arrangement for Services with the Research Corporation of the

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University of Hawaii." As requested, the UH convened a "Task Force" to review UH's arrangement for services with RCUH. The Task Force produced recommendations that addressed: (1) the terms of the UH/RCUH Internal Agreement Management Fee; (2) reducing service orders to RCUH; (3) improving federal regulation compliance by integrating UH and RCUH systems relating to human resources, travel, and financial systems; and (4) RCUH's financial system infrastructure. The details of these findings were published in a December 2021 Report to the 2022 Legislature pursuant to Senate Resolution No. 148 (2021).

In addition to the above, RCUH incorporated recommendations from the Task Force into its current Strategic Plan, and the UH is currently working on updating its Administrative Policy 12.203 (Service Orders to RCUH) in consultation with UH Human Resources and the Hawai'i Government Employees Association to address legislative concerns regarding collective bargaining positions. Although the Task Force was dissolved after completion of its charge, this important work is not complete and UH and RCUH continue to work together to strengthen and support the UH research enterprise.

Finally, and most importantly, the wording in this bill creates ambiguities and uncertainty, especially with respect to defining projects and the division of work. That would cause differing interpretations throughout the UH system and State of Hawai'i, resulting in unnecessary delays and inconsistencies. If this bill were to become law, it would result in severe fiscal and operational impacts to the UH and would make Hawai'i less competitive for pursuing competitive extramural funding. This is highly concerning as it will negatively impact UH's record extramural funding that creates thousands of jobs across the State and provides millions of dollars in economic benefits.

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For the foregoing reasons, I am returning Senate Bill No. 1511 without my approval.

Respectfully,

A handwritten signature in black ink that reads "Josh Green". The signature is written in a cursive style with a large, looping initial "J".

JOSH GREEN, M.D.
Governor of Hawai'i

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;
17 compensation; and public employment. The legislature finds,



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

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

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

19 "[+]§304A-112[+] **Contracts for services provided by the**
20 **research corporation of the [University] university of Hawaii.**

21 (a) Notwithstanding any law to the contrary, when the



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

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

- 20 (1) The procurement of goods and services;
21 (2) Employment of personnel; and



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

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

6 (c) For each state project or program involving the
7 research corporation, the university shall notify the exclusive
8 representative of the appropriate bargaining unit to review
9 conformance of positions that are planned to be hired through
10 the research corporation with exceptions to collective
11 bargaining. The corporation shall not supplant civil service
12 employees, and if any programs actively employ civil service
13 employees, the corporation shall provide justification for each
14 civil service employee that will be supplanted with a list of
15 the program affected in its next report to the legislature."

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:



- 1 (1) ~~[Encouraging, initiating, aiding, developing, and~~
2 ~~conducting training,]~~ Conducting 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 pursuant
10 to a grant, contract, or other authorized funded
11 agreement;
- 12 ~~[-3-] Furnishing of means, methods, and agencies by which~~
13 ~~the training, investigation, research, and study may~~
14 ~~be conducted;~~
- 15 ~~[-4-]~~ (3) Assisting in the dissemination of knowledge from
16 research studies by establishing~~[, aiding, and~~
17 ~~maintaining professorships or other]~~ staff positions,
18 fellowships, scholarships, publications, and lectures;
- 19 ~~[-5-] Engaging in other means of making the benefits of~~
20 ~~training, investigations, research, and study~~
21 ~~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) Promoting and developing the scientific and commercial
5 value of inventions, discoveries, and processes; and

6 (5) Disseminating knowledge through the publication of
7 research findings."

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

10 "**[+]§304A-3003[+]** Powers of the research corporation. (a)

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

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

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



1 (3) To enter into and perform [~~such~~] contracts, leases,
2 cooperative agreements, or other transactions with the
3 university or any other agency or political
4 subdivision of the State, any private person, firm,
5 partnership, association, company, or corporation,
6 only [~~as it may be~~] when the board of directors
7 determines that doing so is necessary in the conduct
8 of [~~its~~] the research corporation's business as
9 described in section 304A-3001 and only on [~~such~~]
10 terms [~~as it may deem~~] that the board of directors
11 deems reasonable and appropriate; provided that the
12 research corporation shall not obligate any funds of
13 the State except those that have been appropriated to
14 it.

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



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

11 (4) To receive by gifts, grants, devises, bequests, or
12 otherwise from private sources only, any property,
13 real, personal, or mixed, intangible or tangible,
14 absolutely or in trust, to be used and disposed of,
15 either the principal or the income therefrom, in
16 accordance with the conditions under which it was
17 received; [~~except~~] provided that no gift to the
18 research corporation shall be accepted unless approved
19 [~~or confirmed~~] by the board of directors[~~-~~] as a gift
20 that is beneficial to the research corporation's
21 business as described in section 304A-3001.



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,~~] devises,
6 or bequests on behalf of the university or any other
7 agency of the State, whenever the [~~donating~~] donor or
8 [~~granting agency or instrumentality~~] grantor
9 determines and documents that the university or any
10 other agency of the State cannot [~~as effectively and~~
11 ~~efficiently~~] accomplish the purposes for which the
12 gifts, grants, [~~or awards are being~~] devises, or
13 bequests are made [~~, except~~]; provided that no gift to
14 the research corporation shall be accepted unless
15 approved [~~or confirmed~~] by the board of directors[~~+~~]
16 as a gift that is beneficial to the research
17 corporation's business as described in section 304A-
18 3001;

19 (5) To have a corporate seal;

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



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



1 state agencies for the purpose of [~~relating~~]
2 correlating research work [~~to~~] with the economic
3 development of the State whenever [~~practical or~~
4 ~~desirable;~~] the board of directors determines and
5 documents that doing so serves the purposes of the
6 research corporation as described in section
7 304A-3001;

8 [~~(11)~~] (12) To stimulate and promote cooperative research
9 projects and activities;

10 [~~(12)~~] (13) To [~~establish and maintain, or to assist in~~
11 ~~establishing and maintaining,~~]:

12 (A) Assist in the university's employment of research
13 personnel;

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

20 (C) As an agent of the university, enter into
21 agreements or contracts with other corporations,



1 organizations, institutions, or persons for [~~this~~
2 ~~purpose~~] the purposes of this paragraph and to
3 pay the necessary and appropriate expenses
4 therefor;

5 [~~(13)~~] (14) To prepare [~~, print, or~~] and publish in any
6 [~~manuscript, research article, report, study,~~
7 ~~discussion, reference, collection, or any pictorial or~~
8 ~~schematic representation or group or collection~~
9 ~~thereof, whether it~~] form, any research finding that
10 belongs to or is the work of any state agency or its
11 employees, [~~or~~] the university or [~~one of~~] its faculty
12 members or employees, [~~or~~] the research corporation or
13 its employees, or a contractor of the research
14 corporation. The [~~printing or~~] preparation and
15 publication of research findings may be accomplished
16 through whatever person, company, or agency is deemed
17 most appropriate by the board of directors; [~~and~~]

18 (15) To retain contracts related to invasive species
19 control and eradication; and

20 [~~(14)~~] (16) To do any or all other acts reasonably necessary
21 to carry out the [~~objects and~~] purposes of the



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

3 (b) As used in this section, "research personnel" means
4 any individual who is classified by the university or the hiring
5 entity as a research worker, spends the majority of work hours
6 engaged in the conduct of research, and receives compensation as
7 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,~~] described in section 304A-3001, the research
14 corporation shall be granted flexibility in the hiring of its
15 personnel and [~~in~~] the 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) As used in this section, "research personnel" means
11 any individual who is classified by the university or the hiring
12 entity as a research worker, spends the majority of work hours
13 engaged in the conduct of research, and receives compensation as
14 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, training, or
2 the promotion or development of the scientific and commercial
3 value of inventions, discoveries, and processes. The provisions
4 of section [+]304A-2003[+] and other laws to the contrary
5 notwithstanding, this special account may be used to receive,
6 disburse, and account for funds of research and training
7 projects of the [University] university of Hawaii, other state
8 agencies, and political subdivisions of the State. All
9 disbursements shall be drawn on the special account upon checks
10 prepared and signed, as approved by the executive director and
11 some other person authorized by the board of directors.

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



1 the legislature containing the amended language and a summary of
2 the amendment.

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

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

8 (2) There is a substantial amount of ship operations,
9 technical shop-type operations, computer services, or
10 involvement with other research corporation projects;

11 and shall be reported no later than June 30 and December 31 of
12 each year to the legislature for financial and mission
13 compliance according to university of Hawaii and research
14 corporation policies. The university of Hawaii and the research
15 corporation shall review and approve all revolving accounts on
16 an annual basis."

17 SECTION 7. If any provision of this Act, or the
18 application thereof to any person or circumstance, is held
19 invalid, the invalidity does not affect other provisions or
20 applications of the Act that can be given effect without the



1 invalid provision or application, and to this end the provisions
2 of this Act are severable.

3 SECTION 8. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

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



S.B. NO. 1511
S.D. 2
H.D. 2
C.D. 2

APPROVED this day of , 2024

GOVERNOR OF THE STATE OF HAWAII

THE SENATE OF THE STATE OF HAWAI'I

Date: May 3, 2024
Honolulu, Hawai'i 96813

We hereby certify that the foregoing Bill this day passed Final Reading in the Senate of the Thirty-Second Legislature of the State of Hawai'i, Regular Session of 2024.


President of the Senate


Clerk of the Senate

SB No. 1511, SD 2, HD 2, CD 2

THE HOUSE OF REPRESENTATIVES OF THE STATE OF HAWAII

Date: May 3, 2024
Honolulu, Hawaii

We hereby certify that the above-referenced Bill on this day passed Final Reading in the House of Representatives of the Thirty-Second Legislature of the State of Hawaii, Regular Session of 2024.



Scott K. Saiki
Speaker
House of Representatives



Brian L. Takeshita
Chief Clerk
House of Representatives