

JAN 25 2023

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 to the public the benefits of
8 this research and investigation.

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 over the years, the research corporation of the
3 University of Hawaii has gradually expanded its undertakings
4 into areas beyond its original eponymous purpose, and the
5 benefits of the exemptions from statutory requirements have been
6 extended to apply beyond what was originally intended by the
7 legislature. For example, the research corporation's current
8 website provides that one of its missions is to "support and
9 enhance . . . development" in 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 of Hawaii. (a)

21 Notwithstanding any law to the contrary, when the university



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

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

- 18 (1) The procurement of goods and services;
- 19 (2) Employment of personnel; and
- 20 (3) The provision of advance funding for research and
21 training contracts and grants.



1 These services may be provided by the corporation to the
2 university without regard to chapter 76, 78, 89, or 103D.

3 (c) For each state project or program involving the
4 research corporation and each project or program involving the
5 research corporation and a state employee, the university shall
6 consult with the exclusive representative of the appropriate
7 bargaining unit to review conformance of positions with
8 exceptions to collective bargaining. The corporation shall not
9 supplant civil service employees, and if any civil service
10 employees or programs actively employ civil service employees,
11 the corporation shall provide justification to the governor for
12 each civil service position accepted, list the program affected
13 in its next report to the legislature, and obtain approval from
14 the governor prior to hiring."

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

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



- 1 (1) ~~[Encouraging, initiating, aiding, developing, and~~
2 ~~conducting training,]~~ Conduct of research~~[, and study]~~
3 in the physical, biological, and social sciences~~[,]~~ i
4 humanities~~[,]~~ i and all other branches of learning;
- 5 (2) ~~[Encouraging and aiding in the education and]~~
6 Provision of training ~~[of persons for the conduct of~~
7 ~~the training, investigations, research, and study,]~~ to
8 individuals engaged in the conduct of research; and
- 9 ~~[-(3) Furnishing of means, methods, and agencies by which~~
10 ~~the training, investigation, research, and study may~~
11 ~~be conducted;~~
- 12 ~~-(4) Assisting in the dissemination of knowledge by~~
13 ~~establishing, aiding, and maintaining professorships~~
14 ~~or other staff positions, fellowships, scholarships,~~
15 ~~publications, and lectures;~~
- 16 ~~-(5) Engaging in other means of making the benefits of~~
17 ~~training, investigations, research, and study~~
18 ~~available to the public; and~~
- 19 ~~-(6) Taking any and all other actions reasonably designed~~
20 ~~to promote these purposes in the interest of promoting~~
21 ~~the general welfare of the people of the State.]~~



1 (3) Dissemination of knowledge by the publication of
2 research findings."

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

5 "[+]§304A-3003[+] Powers of the research corporation. (a)

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

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

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

16 (3) To enter into and perform [~~such~~] contracts, leases,
17 cooperative agreements, or other transactions with the
18 university or any other agency or political
19 subdivision of the State, any private person, firm,
20 partnership, association, company, or corporation,
21 only [~~as it may be~~] when the board of directors



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

10 Notwithstanding the foregoing, the research
11 corporation may enter into and perform [such]
12 contracts, leases, cooperative agreements, or other
13 transactions with any agency or instrumentality of the
14 United States, a foreign nation, a state, a territory,
15 or a possession, or with any political subdivision
16 thereof, for research, training of research personnel,
17 or publication of research findings, whenever the
18 donating or granting agency or instrumentality
19 determines and documents that the university or any
20 other agency of the State cannot [~~as effectively and~~
21 ~~efficiently~~] accomplish the purposes for which [such]



1 the contracts, leases, cooperative agreements, or
2 other transactions are being entered into; provided
3 that the research corporation shall not obligate any
4 funds of the State except those that have been
5 appropriated to it;

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

18 Notwithstanding the foregoing, the research
19 corporation may receive gifts, grants, or awards from
20 any agency or instrumentality of the United States, a
21 foreign nation, a state, a territory, or a possession,



1 or from any political subdivision thereof, whenever
2 the 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 the
6 gifts, grants, or awards are being made, except that
7 no gift to the research corporation shall be accepted
8 unless approved [~~or confirmed~~] by the board of
9 directors[+] as a gift that is beneficial to the
10 research corporation's business of research, training
11 of research personnel, and publication of research
12 findings;

- 13 (5) To have a corporate seal;
- 14 (6) To sue and be sued in its own name;
- 15 (7) To serve as trustee or beneficiary under terms of any
16 gift, indenture, or will;
- 17 (8) To apply for, take out, receive by purchase or gift,
18 hold, administer, and dispose of copyrights, patent
19 rights, licenses, assignments of inventions,
20 discoveries, processes, and other property, rights or
21 interests therein, and the income thereof, absolutely



1 or subject to ~~[such]~~ conditions or trusts as may be
2 attached thereto or be imposed thereon, and to
3 obligate itself to perform and execute any and all
4 ~~[such]~~ conditions or trusts;

5 (9) To conduct research, studies, experiments,
6 investigations, and tests in ~~[all fields of knowledge,~~
7 ~~to]~~ the physical, biological, and social sciences;
8 humanities; and all other branches of learning;

9 (10) To promote and develop the scientific and commercial
10 value of inventions, discoveries, and processes; and
11 to make~~[, publish, and distribute]~~ available to the
12 public the results thereof;

13 ~~[(10)]~~ (11) To coordinate and correlate activities and
14 projects of the research corporation with the work of
15 state agencies for the purpose of ~~[relating]~~
16 correlating research work ~~[to]~~ with the economic
17 development of the State whenever ~~[practical or~~
18 ~~desirable;]~~ the board of directors determines and
19 documents that doing so serves the purposes of the
20 research corporation as described in section
21 304A-3001;



1 ~~[(11)]~~ (12) To stimulate and promote cooperative research
2 projects and activities;

3 ~~[(12)]~~ (13) To ~~[establish and maintain, or to assist in~~
4 ~~establishing and maintaining,~~]:

5 (A) Assist the university's employment of research
6 personnel;

7 (B) Assist in the university's establishment and
8 maintenance of research scholarships ~~[,]~~ and
9 research fellowships ~~[, and professorships, and~~
10 ~~other staff positions for the purpose of aiding~~
11 ~~in the acquisition and dissemination of~~
12 ~~knowledge]; and~~ ~~[to]~~

13 (C) As an agent of the university, enter into
14 agreements or contracts with other corporations,
15 organizations, institutions, or persons for ~~[this~~
16 ~~purpose]~~ the purposes of this paragraph and to
17 pay the necessary and appropriate expenses
18 therefor;

19 ~~[(13)]~~ (14) To prepare ~~[, print, or]~~ and publish in any
20 ~~[manuscript, research article, report, study,~~
21 ~~discussion, reference, collection, or any pictorial or~~



1 ~~schematic representation or group or collection~~
 2 ~~thereof, whether it]~~ form, any research finding that
 3 belongs to or is the work of any state agency or its
 4 employees, ~~[or]~~ the university or ~~[one of]~~ its faculty
 5 members or employees, ~~[or]~~ the research corporation or
 6 its employees, or a contractor of the research
 7 corporation. The ~~[printing or]~~ preparation and
 8 publication of research findings may be accomplished
 9 through whatever person, company, or agency is deemed
 10 most appropriate by the board of directors; ~~[and]~~

11 (15) To retain contracts related to invasive species
 12 control and eradication;

13 (16) To allow minor renovation projects in support of
 14 research and training; provided that minor projects
 15 shall not exceed \$2,000,000 in cost; and

16 ~~[(14)]~~ (17) To do any or all other acts reasonably necessary
 17 to carry out the ~~[objects and]~~ purposes of the
 18 research corporation ~~[and the university.]~~ described
 19 in section 304A-3001.

20 (b) For the purposes of this section, "research personnel"
 21 means any individual who is classified by the university or the



1 hiring entity as a research worker, spends the majority of work
2 hours engaged in the conduct of research, and receives
3 compensation as a research worker."

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

6 "§304A-3005 Research corporation excepted from certain
7 state laws. (a) To carry out the purposes [~~and objectives~~] of
8 the research corporation [~~, including the conduct of research and~~
9 ~~training projects,~~] described in section 304A-3001, the research
10 corporation shall be granted flexibility in the hiring of its
11 personnel and [in] handling and [disbursing] disbursement of
12 moneys by being excepted from the following state laws:

13 (1) Sections 36-27 and 36-30, relating to special fund
14 reimbursements to the state general fund;

15 (2) Chapter 103D, relating to advertising for bids and
16 purchases to be made in Hawaii whenever public moneys
17 are expended; provided that the exception shall not
18 apply to bids and purchases of goods and services that
19 are not used for research, training of research
20 personnel, or publication of research findings;



1 ~~[(3) Chapter 103D with respect to construction contracts,~~
2 ~~provided that the exception shall not apply where~~
3 ~~state funds are used and compliance with chapter 103D~~
4 ~~is required by a bill enacted by the legislature;~~
5 ~~(4)]~~ (3) Chapter 76, relating to civil service; and
6 ~~[(5)]~~ (4) Section 78-1, relating to public employment.

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

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

14 "~~[+]§304A-3010[+]~~ Special account[-]; revolving accounts;
15 internal service orders. (a) Notwithstanding any other law to
16 the contrary, the research corporation shall be authorized to
17 set up a special account for depositing moneys received from
18 either public or private contracts, or from private or public
19 grants, awards, or gifts. The provisions of section ~~[+]304A-~~
20 2003 ~~[+]~~ and other laws to the contrary notwithstanding, this
21 special account may be used to receive, disburse, and account



1 for funds of research and training projects of the University of
2 Hawaii, other state agencies, and political subdivisions of the
3 State. All disbursements shall be drawn on the special account
4 upon checks prepared and signed, as approved by the executive
5 director and some other person authorized by the board of
6 directors.

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

18 (c) All internal service orders and revolving accounts of
19 the research corporation that involve the use of University of
20 Hawaii intramural funds shall be reported to the legislature for
21 financial and mission compliance according to University of



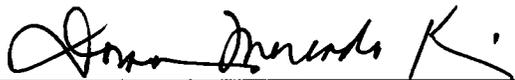
1 Hawaii and research corporation policies on a biannual basis.
 2 The University of Hawaii and the research corporation shall
 3 review and approve all revolving accounts on an annual basis."

4 SECTION 7. If any provision of this Act, or the
 5 application thereof to any person or circumstance, is held
 6 invalid, the invalidity does not affect other provisions or
 7 applications of the Act that can be given effect without the
 8 invalid provision or application, and to this end the provisions
 9 of this Act are severable.

10 SECTION 8. Statutory material to be repealed is bracketed
 11 and stricken. New statutory material is underscored.

12 SECTION 9. This Act shall take effect on July 1, 2023;
 13 provided that the amendments made to section 304A-3003, Hawaii
 14 Revised Statutes, by section 4 of this Act shall apply only to
 15 contracts entered into by the research corporation of the
 16 University of Hawaii after June 30, 2023.

17

INTRODUCED BY: 



S.B. NO. 1511

Report Title:

Research Corporation of the University of Hawaii; 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. Authorizes the Research Corporation to conduct certain minor renovation projects at costs of \$2,000,000 or less. Requires revolving accounts to follow Corporation policies. Requires biannual reports to the Legislature regarding internal service orders and revolving accounts of the Research Corporation that utilize University of Hawaii intramural funds.

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