



# HAWAII STATE ETHICS COMMISSION

State of Hawaii • Bishop Square, 1001 Bishop Street, ASB Tower 970 • Honolulu, Hawaii 96813

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HOUSE COMMITTEE ON HIGHER EDUCATION  
The Honorable Isaac W. Choy, Chair  
The Honorable Linda Ichiyama, Vice Chair

## **H.B. No. 2411, Relating to Technology Transfer at the University of Hawaii**

Hearing: Tuesday, February 2, 2016, 2:00 p.m.

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The Hawaii State Ethics Commission (“Commission”) **opposes** H.B. No. 2411 in its current form, but has been working with the University of Hawaii (“University”) to suggest language that will address the Commission’s concerns about this bill. The purpose of H.B. No. 2411 is to create an exemption from sections of the State Ethics Code, Hawaii Revised Statutes (“HRS”) chapter 84, for University-sponsored technology transfer activities that comply with the regulatory framework and research compliance program and policies approved by the Board of Regents.

Under H.B. No. 2411, University-sponsored technology transfer activities would be exempt from ethics laws relating to: (1) the disclosure or use of confidential information acquired in the course of an employee’s official duties for personal gain or benefit (HRS section 84-12); (2) the prohibited use of an employee’s official position to secure unwarranted advantages for oneself or others (HRS section 84-13); (3) conflicts of interests (HRS section 84-14); (4) the award of state contracts to state employees or businesses that are assisted or represented by state employees (HRS section 84-15); (5) the State’s ability to void state contracts entered into in violation of the ethics code (HRS section 84-16); and (6) post-employment restrictions for state employees (HRS section 84-18).

The Commission has a number of concerns about H.B. No. 2411 as it is currently worded:

First, the bill’s definition of “technology transfer activities” is very broad and the bill does not identify the University employees whose activities will be exempt from the ethics laws. It is the Commission’s understanding that the bill is intended to apply principally to University research faculty and other professional and technical staff while they are engaged in technology transfer activities. As written, however, the bill appears to apply to a broad array of activities by any and all University employees.

Second, the bill provides that the ethics laws shall not apply to the University’s technology transfer activities “so long as such technology transfer activities comply with

the regulatory framework and research compliance program and policies approved by the University of Hawaii board of regents.” The bill does not specify whether the Commission, the University, or some other entity is responsible for determining whether or not technology transfer activities comply with the University’s regulatory framework and research compliance policies. The Commission lacks the requisite expertise to make this determination. The bill should be amended to make clear that this responsibility rests with the University or some other authorized entity.

Third, the bill requires the Board of Regents to submit a written report to the Legislature prior to each regular session regarding (1) the development and implementation of its regulatory framework and compliance program; and (2) the technology transfer activities of the University and their status. The Commission supports the purpose of this reporting requirement, but does not believe it should be placed in HRS chapter 84. The Commission believes the reporting requirement should be placed in HRS chapter 304A.

The Commission understands that the University believes its research and technology transfer activities provide “unique benefits” to the State. If the Legislature agrees that an exemption from the ethics laws for University-sponsored technology transfer activities is needed, the Commission believes the exemption must be clearly stated and limited in scope. While the Commission is not opposed in theory to such an exemption, the Commission does not support H.B. No. 2411 as currently worded. The Commission is continuing to work with the University to resolve the aforementioned areas of concerns and to suggest alternate statutory language. The Commission recently proposed the following language for discussion purposes to the University:

“University of Hawaii employees who are directly involved in the research or development of technology sponsored and approved by the University shall be exempt from this chapter, including section 84-18, when performing these activities and in the transfer and commercialization of the technology.”

The Commission will continue its discussions with the University about H.B. No. 2411 and the Commission’s proposed language to achieve the purpose of this bill.

Thank you for considering the Commission’s testimony on H.B. No. 2411, Relating to Technology Transfer at the University of Hawaii.