



HAWAII STATE ETHICS COMMISSION

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

Committee: Committee on Judiciary
Bill Number: H.B. 425, HD1
Hearing Date/Time: Thursday, February 23, 2017, 2:00 p.m.
Re: Testimony of the Hawaii State Ethics Commission **OPPOSING**
H.B. 425, HD1 Relating to Technology Transfer at the University
of Hawaii

Dear Chair Nishimoto and Committee Members:

The Hawaii State Ethics Commission (“Commission”) **opposes** H.B. 425, HD1, which seeks to exempt technology transfer activities from the scope of the Ethics Code, Hawaii Revised Statutes (“HRS”) chapter 84.

In short, the Ethics Commission fully supports the University’s efforts to take advantage of its employees’ outstanding research; as the saying goes, a rising tide lifts all boats, and the University and its employees ought to be encouraged to promote (and profit from) their many accomplishments. So long as the University establishes safeguards to ensure that the University’s interests are adequately protected, these activities are already permitted by the Ethics Code.¹

However, the Commission opposes any efforts to exempt University employees and/or broad categories of activities from the Ethics Code itself. These exemptions contravene Hawaii’s constitutional mandate that public officers and employees exhibit

¹ Indeed, more than twenty years ago, the Commission issued an Advisory Opinion stating:

[W]hen the State of Hawaii stood to benefit from arrangements in which an employee acquired a financial interest subject to his official action, or took official action directly affecting that interest, or assisted or represented a business on a matter in which the employee had participated or would participate, or assisted or represented that business before the agency of which he or she was an employee, the conflicts of interests law did not per se prohibit such arrangements, so long as the State’s interest was adequately protected.

See Hawaii State Ethics Commission, Advisory Opinion No. 1992-2 at 5-6, available at <http://files.hawaii.gov/ethics/advice/AO1992-2.pdf>. The Commission reviewed several technology transfer proposals and concluded that they satisfied the Ethics Code because, among other things, they were subject to “strict oversight and review by appropriate State authorities for the purpose of insuring that [University employees’] official action would be directed toward the stated goals of the proposal.” Id. at 8.

The Legislature intended that Advisory Opinions “be a source of reference for all persons concerned and contribute to a proper understanding of the code. These opinions should reflect the practical operation of the code and begin to develop a body of ‘case law’ on ethics.” Conf. Comm. Rep. No. 16, in 1967 House Journal, at 856.

the highest standards of ethical conduct.² This bill would set a dangerous precedent, as individual agencies or programs may seek to carve out exceptions to the Ethics Code (thus taking a strong regulatory framework to promote integrity in state government and weakening it through a series of exceptions).

This bill sends a message that certain state officials are too important to be bound by ethics laws. Recent national events, however, demonstrate the importance of ensuring that all government officials – at all levels of government – be held to uniform, fair, and reasonable ethical rules.

The Commission is aware of several other pending measures relating to technology transfer at the University of Hawaii, including H.B. 487, HD1 (heard by FIN on Wednesday, February 22); the Commission has offered comments on (and proposed amendments to) those measures, but the Commission does not oppose those measures.

Thank you for considering the Commission's testimony on H.B. 425, HD1.

Very truly yours,

Daniel Gluck
Executive Director and General Counsel

² Hawaii Constitution, Art. XIV.



HAWAII STATE ETHICS COMMISSION

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

Committee: Committee on Higher Education
Bill Number: H.B. 425
Hearing Date/Time: Thursday, February 2, 2017, 2:00 p.m.
Re: Testimony of the Hawaii State Ethics Commission **OPPOSING**
H.B. 425, Relating to Technology Transfer at the University of
Hawaii

Dear Chair Woodson and Committee Members:

The Hawaii State Ethics Commission (“Commission”) **opposes** H.B. 425, which seeks to exempt technology transfer activities from the scope of the Ethics Code, Hawaii Revised Statutes (“HRS”) chapter 84.

In short, the Ethics Commission fully supports the University’s efforts to take advantage of its employees’ outstanding research; as the saying goes, a rising tide lifts all boats, and the University and its employees ought to be encouraged to promote (and profit from) their many accomplishments. So long as the University establishes safeguards to ensure that the University’s interests are adequately protected, these activities are already permitted by the Ethics Code.¹

However, the Commission opposes any efforts to exempt University employees and/or broad categories of activities from the Ethics Code itself. These exemptions contravene Hawaii’s constitutional mandate that public officers and employees exhibit

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This bill sends a message that certain state officials are too important to be bound by ethics laws. Recent national events, however, demonstrate the importance of ensuring that all government officials – at all levels of government – be held to uniform, fair, and reasonable ethical rules.

The Commission is aware of several other measures relating to technology transfer at the University of Hawaii, including H.B. 166 and H.B. 1156; the Commission has offered comments on those measures to the Committee on Economic Development and Business, but the Commission does not oppose those measures.

Thank you for considering the Commission's testimony on H.B. 425.

Very truly yours,

Daniel Gluck
Executive Director and General Counsel

² Hawaii Constitution, Art. XIV.