



**WRITTEN TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
THIRTY-FIRST LEGISLATURE, 2021**

ON THE FOLLOWING MEASURE:

S.B. NO. 1394, RELATING TO THE UNIVERSITY OF HAWAII.

BEFORE THE:

SENATE COMMITTEE ON HIGHER EDUCATION

DATE: Tuesday, February 16, 2021 **TIME:** 3:05 p.m.

LOCATION: State Capitol, Room 229, Via Videoconference

TESTIFIER(S): **WRITTEN TESTIMONY ONLY.**
(For more information, contact Lori N. Tanigawa,
Deputy Attorney General, at 586-0618)

Chair Kim and Members of the Committee:

The Department of the Attorney General (Department) provides the following comments.

The purposes of the bill are to: (1) require that twenty-five per cent of a University of Hawaii research faculty's salary be paid out of the extramural funds and research and training revolving fund generated by the unit at which the faculty works or holds tenure; (2) require grants, contracts, and agreements applied for or entered into beginning on July 1, 2021, that provide for extramural funds for use by a research faculty to include express provision allowing such funds to be used to pay for the research faculty's salary; and (3) define research faculty.

Section 6 of article X of the Hawai'i State Constitution, gives the Board of Regents of the University of Hawai'i "exclusive jurisdiction over the internal structure, management, and operation of the university." Section 6 further provides: "This section shall not limit the power of the legislature to enact laws of statewide concern. The legislature shall have the exclusive jurisdiction to identify laws of statewide concern." If the Committee decides to pass this bill, the Department recommends an amendment that adds a statement identifying this bill as a law of statewide concern.

Thank you for the opportunity to provide these comments.

SB-1394

Submitted on: 2/12/2021 2:02:06 PM

Testimony for HRE on 2/16/2021 3:05:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Monica McLaren	Testifying for Friends of the UH Cancer Center	Oppose	No

Comments:

While this might appear to make sense in the larger context of budgetary restrictions, if passed, it would be restrictive and limiting in an economic environment that flexibility and creativity are warranted. As a research university, UH's mission is met by researchers, who also collaborate and contribute to a world-class education in specific departments. Effective education requires research, curriculum development and delivery (teaching) in balance, complementary to each other. To effectively education, one cannot exist without the others, so limiting research will ultimately have negative effects on the others. Provide a budget, and let the informed, responsible and involved stakeholders manage reductions as they see fit. This bill micromanages the institution from afar and could do more damage than good.



The Committee on Higher Education
February 16, 2021
3:05 pm, Video Conference, Room 229

RE: **SB 1394 Relating to the University of Hawaii**

Attention: Chair Donna Mercado Kim, Vice Chair Michelle Kidani and Members of the
Committee

The University of Hawaii Professional Assembly (UHPA) **respectfully acknowledges and agrees with the committee's consideration to defer SB 1394 Relating to the University of Hawaii to provide the stakeholders time to address the concerns raised by the Legislature.**

SB 1394 Relating to the University of Hawaii attempts to add a new section to Chapter 304A in part III, subpart A, as well as, amend §304A-2253 to require that 25% of a Research Faculty's salary be paid out of extramural funds and RTRF funds generated by the unit at which the Faculty works or holds tenure. UHPA has been working collaboratively with the UH Administration to ascertain the accurate data raised in SB 1394 and has determined that the aggregate data indicates that the University of Hawai'i currently exceeds the 25% outlined in SB 1394. While we acknowledge the concerns of the Legislature, UHPA believes that such legislation may not be needed.

As discussions are now taking place, UHPA believes it would be beneficial to all stakeholders involved as we review the best practices and approaches in these areas of concern. **We therefore request the time to continue moving forward in this collaborative effort to examine this matter and to report back to this committee next session with its findings and recommendations.**

Respectfully submitted

Christian L. Fern
Executive Director
University of Hawaii
Professional Assembly

SB-1394

Submitted on: 2/10/2021 7:33:32 PM

Testimony for HRE on 2/16/2021 3:05:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Lynne Wilkens	Individual	Oppose	No

Comments:

I oppose this bill as it represents micromanagement of UH by the legislature.

SB-1394

Submitted on: 2/11/2021 3:09:01 PM

Testimony for HRE on 2/16/2021 3:05:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Brian Powell	Individual	Oppose	No

Comments:

Similar to SB1328, this bill seems punitive in nature against individuals who were hired into a designation they do not choose. If the legislature were to compare three random S, I, and R faculty from UH Manoa, they would be hard pressed to identify which was the S, the I, or the R. The point is that they are all performing very similar duties with a heavier expectation on certain elements. All three regularly perform instruction, research, and service to the UH, community, and world.

Countless governors in HI have declared a desire to make HI a technology hub as a means to ween ourselves from a reliance upon tourism. Communities around the United States aim to be the "next Silicon Valley." What HI fails to grasp is that Silicon Valley did not just occur where it did. It was anchored by two R1 Research Universities (Stanford and Berkeley) with a robust number of defense contractors (Lockheed, Martin Marietta, etc.). As defense gave way to semiconductors, the R1 universities provided the bulk of labor and talent that allowed the spark to ignite into a conflagration. With San Francisco's role as the banking center of the Pacific, capital was plenty to sustain the fire.

We lack most of the features to build a "new Silicon Valley", but thanks to the dedication of the great Sen. Daniel Inouye, we have a robust R1 university that is capable of providing the bulk of talent to ignite a spark. We lack the source of a spark (either governmental or private investment in a desired field) and we lack significant capital; however, those are issues that this legislative body can address. Destroying independent research at our R1 university will ensure that any of these efforts will fail spectacularly.

LATE

Sen. Donna Mercado Kim, Chair
Senator Michelle N. Kidani, Vice Chair
COMMITTEE ON HIGHER EDUCATION

Testimony in OPPOSITION to SB1394
RELATING TO THE UNIVERSITY OF HAWAII

Submitted by:
Donald Thomas

This bill fails to recognize the many different roles that research faculty perform at the University of Hawaii. Further, it imposes on research faculty a requirement that they incorporate language and budgeting in their research proposals that may be inconsistent with the goals and requirements of a funding agency or with a particular call for proposals from a funding agency and, thereby, make their proposals less competitive than proposals made by their peers at other institutions – regardless of the magnitude of the funding or the direct benefits of that specific proposal to Hawaii.

The blanket imposition of special requirements on researchers who are pursuing research funding for the benefit of the University of Hawaii will, in my opinion, only serve to reduce the success rate of the University's research enterprise.

Thank you for this opportunity to offer testimony.