



HAWAII STATE ETHICS COMMISSION

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

Committee: Committee on Economic Development and Business
Committee on Labor and Public Employment
Bill Number: H.B. 1157
Hearing Date/Time: Wednesday, February 1, 2017, 9:00 a.m.
Re: Testimony of the Hawaii State Ethics Commission **OPPOSING**
H.B. 1157, Relating to Technology Transfer at the
University of Hawaii

Dear Chair Nakashima, Chair Johanson, and Committee Members:

The Hawaii State Ethics Commission (“Commission”) **opposes** H.B. 1157, 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

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.

contravene Hawaii's constitutional mandate that public officers and employees exhibit 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.

As such, while the Commission offers comments on two related measures on today's agenda (H.B. 166 and H.B. 1156), the Commission opposes H.B. 1157.

Thank you for considering the Commission's testimony on H.B. 1157.

Very truly yours,

Daniel Gluck
Executive Director and General Counsel

² Hawaii Constitution, Art. XIV.



UNIVERSITY OF HAWAII SYSTEM

Legislative Testimony

Testimony Presented Before the
House Committees on Economic Development & Business
and Labor & Public Employment
Wednesday, February 1, 2017 at 9:00 a.m.

by
Vassilis L. Syrmos, Vice President for Research and Innovation
University of Hawai'i System

HB 1157 – RELATING TO TECHNOLOGY TRANSFER AT THE UNIVERSITY OF HAWAII

Chairs Nakashima and Johanson, Vice Chairs Keohokalole and Holt and members of both committees:

The University of Hawai'i (UH) supports this measure.

The University of Hawai'i is increasingly called upon to create intellectual property and to develop discoveries that show commercial potential into useful and viable products. These products may include better and more efficient ways to cool and store food; may allow quicker and more accurate means to assess and respond to natural disasters; may permit less invasive and more reliable medical diagnosis. The potential public benefits for new technology are far reaching.

The faculty and administrative support staff at UH are eager to step up to this challenge. Their efforts are deterred, however, by the possible “wooden application” of the State Ethics Code to restrict or prohibit the use of public university resources or university personnel to create these new commercial products, because such technology transfer simultaneously allows potential private economic gain to the private entrepreneurs. The inventors, themselves, may also have “private benefit” though opportunities for equity participation or an allocation of patent royalties. Multi-sector benefits is the inherent nature of a collaborative project among the individual inventor, UH and the private “partner”

There is uncertainty in the application of the Ethics Code to university-sponsored technology transfer activities because the same text of the Ethics Code must also be uniformly applied to cover a wide range of circumstances--from school teachers chaperoning mainland excursions for their students, to permissible uses of state facilities for non-profit fundraising, to self-dealing in approving contracts with one's agency. Compounding this uncertainty in applying the Ethics Code for UH technology transfer activities is that at one time, the Ethics Commission may have been liberal in permitting these technology transfer activities. At other periods of time, the Ethics Commission may have been more cautious. The Ethics Commission and its staff must

interpret and apply Ethics Code to such “public-private” collaborations that are not expressly set forth by the words of the Code.

The purpose of this measure is to provide clear guidance to UH and its individual and private sector collaborators by exempting technology transfer activities from selected provisions of the State Ethics Code.

The University of Hawai'i requests the support and advancement of this measure by both committees.

Thank you for the opportunity to testify.



The House Committee on Economic Development & Business
and
The House Committee on Labor & Public Employment
Wednesday, February 1, 2017
9:00 am, Conf. Rm. 309

**RE: HB 1157, Relating to Technology Transfer at the University of Hawai'i
Research**

Attention: Chairs Mark Nakashima and Aaron Johanson, Vice Chairs
Jarrett Keohokalole and Daniel Holt, and members of the
Respective Committees

The University of Hawaii Professional Assembly (UHPA) urges the committee to **support the passage of HB 1157**. This proposed bill clarifies sections of Hawaii Revised Statute 84, Standards of Conduct pertaining to the Code of Ethics. Such a waiver allows faculty members to advance technology transfer activities at the University of Hawai'i without penalties for commercializing their work which financially benefits the University.

The ability of faculty to work closely with students provides unique opportunities for mentoring, guiding and developing innovative and creative property that have the potential for commercialization. Revisions to the Code of Ethics enhances this potential.

HB 1157 would support the long-standing ethical research principles and technology transfer regulations currently used by the federal government. This also supports the ability of the University to be competitive for external research funding and attracting and retaining innovative faculty.

This benefits both the State and the University by removing current roadblocks and creating an effective and efficient transfer of the results of research in a collaborative manner.

UHPA supports the passage of HB 1157.

Respectfully submitted

Kristeen Hanselman
Executive Director



High Technology Development Corporation
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Honolulu, Hawaii 96822 | www.htdc.org

Written Statement of
Robbie Melton
Executive Director & CEO
High Technology Development Corporation
before the
**House Committees on Economic Development & Business
and Labor & Public Employment**
Wednesday, February 1, 2017
9:00 a.m.
State Capitol, Conference Room 309

In consideration of
HB1157
RELATING TO TECHNOLOGY TRANSFER AT THE UNIVERSITY OF HAWAII.

Chairs Nakashima and Johanson, Vice Chairs Keohokalole and Holt, and Members of the Committees on Economic Development & Business and Labor & Public Employment.

The High Technology Development Corporation (HTDC) **supports HB1157** that clarifies that certain sections of the State Ethics Code shall not apply to technology transfer activities; provided that the activities comply with the regulatory framework and research compliance program approved by the board of regents. Requires the board of regents to submit a written status report to the legislature every two years.

As part of HTDC's vision to create 80,000 new innovation jobs in Hawaii earning \$80,000 or more by 2030, HTDC supports initiatives aimed at increasing technology transfer out of the University of Hawaii. HTDC defers to UH on the implementation of the bill and the policies required to ensure the tech transfer program is both fair and productive.

Thank you for the opportunity to offer these comments.



Chamber of Commerce HAWAII
The Voice of Business

**Testimony to the House Committee on Economic Development & Business
and Committee on Labor & Public Employment
Wednesday, February 1, 2017 at 9:00 A.M.
Conference Room 309, State Capitol**

**RE: HOUSE BILL 1157 RELATING TO TECHNOLOGY TRANSFER AT THE
UNIVERSITY OF HAWAII**

Chairs Nakashima and Johanson, Vice Chairs Keohokalole and Holt, and Members of the Committees:

The Chamber of Commerce Hawaii ("The Chamber") **supports** HB 1157, which clarifies that certain sections of the State Ethics Code shall not apply to technology transfer activities; provided that the activities comply with the regulatory framework and research compliance program approved by the board of regents; requires the board of regents to submit a written status report to the legislature every two years.

The Chamber is Hawaii's leading statewide business advocacy organization, representing about 1,600+ businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of members and the entire business community to improve the state's economic climate and to foster positive action on issues of common concern.

The Chamber supports HB 1157 as it would help expedite the commercialization of research from the University of Hawaii to provide information that would strengthen the local economy. This bill helps remedy many obstacles that currently exist from broad conflict of interest, fair treatment, and employment restrictions. Clarifying the State Ethics Code would prevent the deterrence of an efficient technology transfer.

Thank you for the opportunity to testify.



**Testimony to the House Committee on Economic Development & Business and the
House Committee on Labor & Public Employment**

February 1, 2017

9:00 a.m.

Conference Room 309

**RE: RELATING TO TECHNOLOGY TRANSFER AT THE UNIVERSITY OF HAWAII –
HOUSE BILL 1157**

Chairs Nakashima and Johanson, Vice Chairs Keohokalole and Holt and Members of the Committees:

My name is Gary Kai and I am the Executive Director of the Hawaii Business Roundtable. The Hawaii Business Roundtable fully supports House Bill 1157, relating to Technology Transfer at the University of Hawaii. The bill clarifies that certain sections of the State Ethics Code shall not apply to technology transfer arrangements supported by the University of Hawaii.

The Hawaii Business Roundtable strongly believes that a strong research and innovation sector led by the University of Hawaii can be a large and important magnet for new money and new fields of job growth in Hawai'i. The ability to transfer research into commercial opportunities is a key to that growth. It is a vital component of the creation of jobs in the local economies of many universities across the country and we believe it can be done here in Hawaii. We continue to support our innovation sector and its role in the growth of our economy.

We realize that there must be a well-articulated policy to insure the balance between the partnership arrangements and the benefits to the public. We are confident that the University of Hawaii's Board of Regents will be able to develop a compliance program that will comply with applicable regulations.

This legislation is one very good example of growing our Research and Innovation Economy which is critical for the future of our young people. It provides them with the choice to live and work in their island home -- and the opportunity to come home after gaining experience on the mainland or abroad. Furthermore, it helps to improve the quality of their lives and the lives of all who live here.

Thank you very much for the opportunity to testify.

Gary K. Kai, Executive Director
Hawaii Business Roundtable

keohokalole2 - Anthony

From: mailinglist@capitol.hawaii.gov
Sent: Monday, January 30, 2017 4:41 PM
To: edbtestimony
Cc: mendezj@hawaii.edu
Subject: *Submitted testimony for HB1157 on Feb 1, 2017 09:00AM*

HB1157

Submitted on: 1/30/2017

Testimony for EDB/LAB on Feb 1, 2017 09:00AM in Conference Room 309

| Submitted By | Organization | Testifier Position | Present at Hearing |
|-----------------------|---------------------|---------------------------|---------------------------|
| Javier Mendez-Alvarez | Individual | Oppose | No |

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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