



# UNIVERSITY OF HAWAII SYSTEM

## Legislative Testimony

---

Testimony Presented Before the  
Senate Committees on Higher Education  
and Economic Development, Tourism and Technology  
Wednesday, February 15, 2017 at 1:20 p.m.

by

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

### SB 138 – RELATING TO TECHNOLOGY TRANSFER AT THE UNIVERSITY OF HAWAII

Chairs Kahele and Wakai, Vice Chairs Kidani and Taniguchi, and members of the 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 transform 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; and may permit less invasive and more reliable medical diagnosis. The potential public benefits for new technology are far-reaching and exciting.

The faculty and research support staff at UH are eager to step up to this challenge. Their efforts may be deterred, however, by the possible unanticipated application of the State Ethics Code in a manner that restricts or prohibits the use of public university resources or university personnel to create these new commercial products. Most often, technology transfer must allow potential private economic gain to the private entrepreneurs who shoulder the risk of bringing the publicly-funded ideas to private market. The UH inventors themselves may also have the potential for "private benefit" through opportunities for equity participation in the new start-up company, or through an allocation of patent royalties. The sharing of potential economic benefits among the several participants -- the individual faculty who conceives and develops the theoretical underpinnings of the invention, the university where the ideas are incubated and the concepts are proven, and the private partner who contributes skills, experience, resources and capital -- is inherent to the nature of a collaborative public private partnership.

There is uncertainty in the application of the Ethics Code to UH-sponsored technology transfer activities because the same text of the Ethics Code must also apply to a wide range of circumstances -- from permissible uses of state facilities for non-profit fundraising, to self-dealing in approving contracts with one's state agency. Compounding this uncertainty in applying the Ethics Code to 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. Moreover, the kinds of activities constituting “technology transfer” are as dynamic as the underlying technology. The Ethics Commission and its staff must currently interpret and apply Ethics Code to the ever-changing “public-private” collaborations without the benefit of express statutory guidance of the Code.

The University of Hawai'i has an excellent working relationship and open communication with the Ethics Commission and its staff. However, UH believes that with so much at stake, it is better to provide clarity, certainty, and uniformity in statutory language rather than rely on the interpretation of individuals -- either at UH or at the Commission -- who at any point of time hold the offices.

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.

Thank you for the opportunity to testify.