

SB 1449

RELATING TO GOVERNMENT.

Establishes the Hawaii Sunset Advisory Commission, comprised of members of the legislature and general public, tasked with regularly assessing governmental agency structures, functions, performance, and making recommendations and analyses on potential alterations for possible legislative action. Operates in conjunction with the legislature and auditor to perform assessment of governmental agencies according to prescribed schedule to ensure regularity and consistency. Sets forth duties and responsibilities. Exempts certain agencies from scope of commission.

TESTIMONY BY KALBERT K. YOUNG
INTERIM DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE SENATE COMMITTEE ON PUBLIC SAFETY, GOVERNMENT
OPERATIONS, AND MILITARY AFFAIRS
ON
SENATE BILL NO. 1449

February 12, 2011

RELATING TO GOVERNMENT

Senate Bill No. 1449 proposes to create the Sunset Advisory Commission, which would be comprised of eight members from the Legislature and four members from the general public. The Commission would be responsible for the regular assessment of the structures, functions and performance of State agencies and must provide recommendations and analyses on potential alterations for possible legislative actions for those agencies.

Although we support the concept of conducting periodic reviews of State agencies and their programs, we do not believe that establishing a commission to perform such reviews would be the most cost effective method. This bill seemingly adds an unnecessary layer by duplicating much of what is already done by Executive Branch agencies and the Legislature. The Commission could also employ an executive director and staff and recommend program alterations which could have ongoing fiscal impact.

Through the budget process, Executive Branch agencies have undergone many program reviews in the past few years in order to reduce costs and improve efficiency. Unnecessary programs have been eliminated and significant reductions

have been made to operating resources. Reviews conducted by the Commission will divert staff from their day-to-day program responsibilities and will tax our already limited resources.

Budget constraints and programs needs are constantly evolving. It is unclear how much flexibility State agencies would have to propose program changes under this bill and it may, in fact, interfere with the ability of State agencies to respond in a timely manner to changes needed to effectively service their clientele or to improve their operations.

NEIL ABERCROMBIE
GOVERNOR



SUNSHINE P.W. TOPPING
INTERIM DIRECTOR

STATE OF HAWAII
DEPARTMENT OF HUMAN RESOURCES DEVELOPMENT
235 S. BERETANIA STREET
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February 11, 2011

TESTIMONY TO THE
COMMITTEE ON PUBLIC SAFETY, GOVERNMENT OPERATIONS AND
MILITARY AFFAIRS

For Hearing on Saturday, February 12, 2011
10:00 a.m., Conference Room 229

BY

SUNSHINE P.W. TOPPING
INTERIM DIRECTOR

Senate Bill No. 1449
Relating to Government

WRITTEN TESTIMONY ONLY

TO CHAIRPERSON WILL ESPERO AND COMMITTEE MEMBERS:

The purpose of S.B. 1449 is to establish the Sunset Advisory Commission, comprised of members of the legislature and general public, to regularly assess governmental agency structures, functions, performance, and making recommendations and analyses on potential alterations for possible legislative action.

The Department of Human Resources Development has **comments** on the proposed transfer. To protect the rights and benefits of the employees to be transferred, we prefer the following proposed transfer language be used in place

of the second and third paragraphs of Section 2 of the bill:

"All employees who occupy civil service positions and whose functions are transferred to the sunset advisory commission by this Act shall retain their civil service status (permanent or temporary). Employees shall be transferred without loss of salary, seniority, retention points, prior service credit, any vacation and sick leave credits previously earned, and other rights, benefits, and privileges, in accordance with state personnel laws and this Act, provided that the employees possess the minimum qualifications and public employment requirements for the class and/or position to which transferred or appointed, as applicable, provided further that subsequent changes in status may be made pursuant to applicable civil service and compensation laws.

Any employee who, prior to this Act, is exempt from civil service and is transferred as a consequence of this Act, may continue to retain the employee's exempt status, but shall not be appointed to a civil service position because of this Act. An exempt employee who is transferred by this Act shall not suffer any loss of prior service credit, any vacation and sick leave credits previously earned, or other employee benefits or privileges as a consequence of this Act, provided that the employees possess legal and public employment requirements for the position to which transferred or appointed, as applicable; provided that subsequent changes in status may be made pursuant to applicable employment and compensation laws. The director of the department of _____ may prescribe the duties and qualifications of such employees and fix their

salaries without regard to chapter 76, Hawaii Revised Statutes.”

Thank you for the opportunity to offer comments on this measure.

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To: Senate Committee on Public Safety, Government Operations
and Military Affairs

From: Cathy L. Takase, Acting Director

Date: February 12, 2011, 10:00 a.m.
State Capitol, Room 229

Re: Testimony on S.B. No. 1449
Relating to Public Safety

Thank you for the opportunity to submit testimony on S.B. No. 1449.

OIP has no position on the substance of this bill, which would create a Hawaii Sunset Advisory Commission. Rather, OIP is testifying about two provisions related to records at bill page 13, lines 1-11.

These provisions state that working papers of the commission and confidential records provided to the commission by another agency are exempt from chapter 92F, HRS, the Uniform Information Practices Act.

OIP believes these provisions are unnecessary because the UIPA would not require disclosure of such records in any case. The working papers of the commission, as described in the provision, would fall within the UIPA's exception for information whose disclosure would frustrate a legitimate government function, section 92F-13(3), HRS, which OIP has interpreted to recognize a 'deliberative process privilege' for an agency's predecisional and deliberative internal communications. The UIPA also provides that confidential records do not lose their confidential status when shared with another government agency: confidential

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records provided to the commission by another agency would be confidential in the commission's hands to the same extent as in the originating agency. § 92F-19(b), HRS.

Because the provisions at page 13, lines 1-11 are duplicative of existing UIPA provisions, and their inclusion could be confusing, OIP recommends that the provisions be deleted.

Thank you for the opportunity to testify.