

Honolulu, Hawaii

March 23, 2012

RE: S.B. No. 2858
S.D. 1
H.D. 1

Honorable Calvin K.Y. Say
Speaker, House of Representatives
Twenty-Sixth State Legislature
Regular Session of 2012
State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred S.B. No. 2858, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO OPEN GOVERNMENT, "

begs leave to report as follows:

The purpose of this measure is to allow a state agency to seek judicial review by a circuit court of a decision rendered by the Office of Information Practices, and clarifies the standard of review the circuit court is required to apply.

Your Committee received testimony in support of this measure from the Department of Land and Natural Resources, the Department of Human Resources Development, the Office of Information Practices, the League of Women Voters of Hawaii, and one private individual. Your Committee received testimony in opposition to this measure from the City and County of Honolulu, the County Attorney of Kauai, three members of the Maui County Council, and three concerned citizens.

Your Committee has amended this measure by:

- (1) Adding a provision to the Uniform Information Practices Act, establishing that if an action to compel disclosure is brought because an agency has not made a record available as required by the Act after the Office of Information Practices has made a decision that the



agency must disclose the record and the agency has not appealed that decision within the time period provided by this measure, the decision of the Office of Information Practices shall not be subject to challenge by the agency in any subsequent action to compel disclosure;

- (2) Changing the effective date to January 1, 2013; and
- (3) Making technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2858, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2858, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Respectfully submitted on
behalf of the members of the
Committee on Judiciary,



GILBERT KEITH-AGARAN, Chair



