

FEB 28 2013

SENATE CONCURRENT RESOLUTION

REQUESTING THE LEGISLATIVE REFERENCE BUREAU TO CONVENE A TASK
FORCE TO STUDY THE STATE ADMINISTRATIVE RULEMAKING PROCESS
AND PROPOSE IMPROVEMENTS FOR EFFICIENCY.

1 WHEREAS, over one half of the states, including Hawaii,
2 adopted, all or in large parts, the revised 1961 Model State
3 Administrative Procedure Act, which followed a "model" approach
4 to accommodate the varying needs from state to state; and

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6 WHEREAS, since then, the core provisions of the Hawaii
7 Administrative Procedure Act have remained substantially
8 unchanged, while the Model State Administrative Procedure Act
9 has been revised twice, in 1981 and 2010; and

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11 WHEREAS, the 2010 Model State Administrative Procedure Act
12 is designed especially for adoption by states that currently
13 have the 1961 Act, but would like to replace that act with a
14 more modern and updated administrative procedure act; and

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16 WHEREAS, the revised 2010 Model State Administrative
17 Procedure Act is divided into eight substantive articles:

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19 (1) Article I contains extensive definitions of key terms
20 used throughout the act which are supplemented in
21 individual articles by terms used only in those
22 articles;

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24 (2) Article II contains provisions ensuring public access
25 to agency law and policy and modernizes and codifies
26 publishing responsibilities for agencies that have
27 primary responsibility for rules publishing and for
28 agencies that adopt rules;

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30 (3) Article III contains provisions governing rulemaking
31 by agencies, including new provisions relating to



1 negotiated rulemaking, regulatory analysis, direct
2 final rulemaking, and guidance documents;

3
4 (4) Article IV contains provisions governing adjudication
5 by agencies;

6
7 (5) Article V contains provisions governing judicial
8 review of final agency action, including the right to
9 judicial review and finality of agency, relation to
10 other judicial review law, time for seeking judicial
11 review, stays pending appeal, standing, exhaustion of
12 administrative remedies, and the scope of review;

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14 (6) Article VI contains the essential provisions of law
15 that a state legislature would need to create a
16 central panel agency;

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18 (7) Article VII contains provisions related to legislative
19 review of agency rules, including legislative rules
20 review; and

21
22 (8) Article VIII contains provisions governing
23 applicability of the 2010 Model State Administrative
24 Procedure Act, relation to other Acts, repeals, and
25 effective date; and

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27 WHEREAS, the 2010 Model State Administrative Procedure Act
28 is also designed to ensure fairness in administrative
29 proceedings, increase public access to the law administered by
30 agencies, and promote efficiency in agency proceedings by
31 providing an extensive use of electronic technology by state
32 governments; and

33
34 WHEREAS, to help insure that the State is using the most
35 efficient and streamlined rulemaking procedures, a task force
36 can review and evaluate the 2010 Model State Administrative
37 Procedure Act and provide recommendations for any adoptions that
38 might improve the current state rulemaking procedures; now,
39 therefore,

40
41 BE IT RESOLVED by the Senate of the Twenty-seventh
42 Legislature of the State of Hawaii, Regular Session of 2013, the
43 House of Representatives concurring, that the Legislative
44 Reference Bureau is requested to establish a task force on



1 rulemaking to review the 2010 Model State Administrative
2 Procedure Act and present, if any, recommendations to improve
3 the State's administrative rulemaking procedures; and

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5 BE IT FURTHER RESOLVED that the Lieutenant Governor, or the
6 Lieutenant Governor's designee, is requested to serve as
7 Chairperson of the task force; and

8
9 BE IT FURTHER RESOLVED that the task force is requested to
10 include the following members:

- 11 (1) Director of the Office of Information Practices;
12
13 (2) Attorney General or Attorney General's designee;
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15 (3) Director of the Legislative Reference Bureau;
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17 (4) One representative from the Commission to Promote
18 Uniform Legislation other than a representative of the
19 Legislative Reference Bureau, to be appointed by the
20 Governor; and
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22 (5) Others, as deemed appropriate by the Chairperson of
23 the task force; and
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26 BE IT FURTHER RESOLVED that the task force is requested to
27 evaluate the current state administrative rulemaking procedures,
28 review the 2010 Model State Administrative Procedure Act, and
29 suggest improvements, if any, for the current state rulemaking
30 procedures adopted from the 2010 Model State Administrative
31 Procedure Act; and

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33 BE IT FURTHER RESOLVED that the task force is requested to
34 report to the Legislature on its findings and recommendations,
35 including any proposed legislation, no later than twenty days
36 prior to the convening of the Regular Session of 2014; and

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38 BE IT FURTHER RESOLVED that the Legislative Reference
39 Bureau is requested to assist the task force in drafting
40 legislation to implement the task force's recommendations;
41 provided that the task force submits its recommendations and
42 proposed legislation, if any, to the Bureau no later than
43 November 1, 2013; and
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1 BE IT FURTHER RESOLVED that the task force be dissolved on
2 June 30, 2014; and

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4 BE IT FURTHER RESOLVED that certified copies of this
5 Concurrent Resolution be transmitted to the Governor, Lieutenant
6 Governor, Director of the Office of Information Practices,
7 Attorney General, Commission to Promote Uniform Legislation, and
8 Director of the Legislative Reference Bureau.
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OFFERED BY: Theranne Crum Oakland

Arvid J. Lye

Rosely H. Baker

[Signature]

Anna Thun

Michael W. [Signature]

Will Lye

