

OFFICE OF INFORMATION PRACTICES

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To: House Committee on Legislative Management

From: Cheryl Kakazu Park, Director

Date: February 1, 2013, 2:00 p.m.
State Capitol, Conference Room 423

Re: Testimony on H.B. No. 361
Relating to State Government

Thank you for the opportunity to submit testimony on this bill. The Office of Information Practices (“OIP”) takes no position on the substance of this bill, which would authorize a Fair Access Commission and generally provide for improved public access to government information and proceedings for neighbor island residents. OIP is testifying to request clarification and amendment of a provision referring to HRS chapter 92F, the Uniform Information Practices Act (UIPA), which is administered by OIP.

The provision in question, in proposed section 27-___(d) on bill page 3, provides that “the judiciary shall determine which records are not subject to disclosure under the provisions of chapter 92F.” Chapter 92F provides a right of public access to government records, which includes the Judiciary’s administrative records (i.e., not actual case files, but instead records dealing with budgeting or personnel or similar matters), subject to exceptions to disclosure that may apply. OIP assumes that the intent of the bill’s provision was to clarify that the Judiciary would determine which of its records are administrative records and thus subject to the UIPA in the first place, but as written, the language suggests that when there is

a dispute over whether a clearly administrative record can be withheld under one of the UIPA's exceptions, it will now be the Judiciary rather than OIP that will make that determination. This would conflict with OIP's responsibility under the UIPA to receive complaints and resolve disputes regarding whether records subject to the UIPA must be disclosed. **To avoid inadvertently shifting the responsibility to the Judiciary to resolve all disputes involving access to Judiciary records under the UIPA, OIP suggests clarifying the provision to state that "the judiciary shall determine which records are nonadministrative records of the judiciary and thus are not subject to disclosure under the provisions of chapter 92F."**

Thank you for the opportunity to testify.

Submitted testimony for HB361 on Feb 1, 2013 14:00PM

mailinglist@capitol.hawaii.gov [mailinglist@capitol.hawaii.gov]

Sent: Wednesday, January 30, 2013 12:57 PM

To: LMGtestimony

Cc: ndavlantes@aol.com

HB361

Submitted on: 1/30/2013

Testimony for LMG on Feb 1, 2013 14:00PM in Conference Room 423

Submitted By	Organization	Testifier Position	Present at Hearing
Nancy Davlantes	Individual	Support	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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Legislative Management Committee

Dear Committee Members:

I would like you to give strong consideration to supporting HB 361 for creating the Fair Access Commission. My concerns are similar to what I expressed in my testimony in support of HB 358. Any efforts that can be made to allow residents of the outer islands to more actively interact with the state government will strengthen democracy in our state. In a state with one of the lowest voter turnouts at election time there is obviously a great need to get all citizens of the state much more involved in their government. HB 361 will be a step in that direction. Thank you for your consideration.

Phil Barnes
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