

JAN 23 2015

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# A BILL FOR AN ACT

RELATING TO THE OFFICE OF INFORMATION PRACTICES.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. Chapter 92F, part IV, Hawaii Revised Statutes,  
2 is amended by adding a new section to be appropriately  
3 designated and to read as follows:

4           "§92F-       Exemptions. (a) The office of information  
5 practices shall be exempt from section 26-35(a)(1), (4), and (5)  
6 and shall:

7           (1) Make direct communications with the governor and  
8 legislature;

9           (2) Make all decisions regarding employment, appointment,  
10 promotion, transfer, demotion, discharge, and job  
11 descriptions of all officers and employees of or under  
12 the jurisdiction of the office of information  
13 practices without the approval of the comptroller; and

14           (3) Purchase all supplies, equipment, or furniture without  
15 the approval of the comptroller.

16           (b) The office of information practices shall follow and  
17 be subject to all applicable personnel laws."



1 SECTION 2. Section 26-1, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "§26-1 Office of the lieutenant governor. (a) Except as  
4 otherwise provided by law, the lieutenant governor is designated  
5 the secretary of state for intergovernmental relations and shall  
6 perform the duties and functions heretofore exercised by the  
7 secretary of Hawaii. The duties and functions shall include,  
8 but not be limited to, recordation of all legislative and  
9 gubernatorial acts, certification of state documents, and  
10 maintenance of an official file of rules adopted by state  
11 departments as provided in chapter 91. The lieutenant governor  
12 may employ staff as necessary without regard to chapter 76.

13 (b) The lieutenant governor, with the approval of the  
14 governor, may designate some other officer of the government of  
15 the State to authenticate documents on behalf of the lieutenant  
16 governor during the lieutenant governor's temporary absence  
17 outside the State or during the lieutenant governor's illness  
18 whenever the documents require the signature of the lieutenant  
19 governor. The person shall affix the person's own signature to  
20 the document with the words, "for the lieutenant governor"  
21 following and the signature shall be deemed to satisfy the



1 requirement of the lieutenant governor's signature on the  
2 document. The designation and approval shall be in writing and  
3 shall be filed in the office of the governor and a copy thereof,  
4 certified by the governor, shall be filed with the public  
5 archives. The person so designated shall serve without  
6 additional compensation and the lieutenant governor shall be  
7 responsible and liable on the lieutenant governor's official  
8 bond for all acts done by the person so designated in the  
9 performance of the duties on behalf of the lieutenant governor.

10 (c) Nothing in this section shall be construed to  
11 authorize the person to exercise and discharge the powers and  
12 duties of the office of the governor as provided by the first  
13 paragraph of Article V, section 4, of the Constitution of the  
14 State. The person shall not be authorized to exercise any  
15 powers whenever a successor to the lieutenant governor assumes  
16 the duties of the lieutenant governor pursuant to Article V,  
17 section 4, of the Constitution.

18 ~~[(d) In addition to the functions and duties provided by~~  
19 ~~law, the lieutenant governor shall assume administrative~~  
20 ~~responsibility for the office of information practices.~~



1       ~~(e)~~ (d) The governor shall identify and direct other  
2 duties as necessary to the lieutenant governor.

3       ~~(f)~~ (e) A lieutenant governor whose legal residence is  
4 on an island other than Oahu and who is required to remain away  
5 from the island of the lieutenant governor's legal residence but  
6 within the State overnight or longer while on official business  
7 shall receive an allowance to cover personal expenses such as  
8 board, lodging, and incidental expenses. The allowance  
9 authorized under this subsection shall be set at a daily single  
10 rate to be determined by a joint agreement between the senate  
11 president and speaker of the house of representatives. This  
12 rate shall:

13       (1) Not exceed the greater of the maximum allowance for  
14 such expenses payable to any public officer or  
15 employee of the State; and

16       (2) Be reasonably calculated to cover the expenses  
17 specified in this subsection.

18       ~~(g)~~ (f) The allowance authorized under subsection ~~(f)~~  
19 (e) shall be in addition to and shall not supplant any portion  
20 of the salary of the lieutenant governor determined pursuant to  
21 section 26-51. The allowance shall be paid out of any available



1 appropriation made by the legislature for expenses, other than  
2 the salary, of the lieutenant governor."

3 SECTION 3. Section 26-6, Hawaii Revised Statutes, is  
4 amended by amending subsection (b) to read as follows:

5 "(b) The department shall:

- 6 (1) Preaudit and conduct after-the-fact audits of the  
7 financial accounts of all state departments to  
8 determine the legality of expenditures and the  
9 accuracy of accounts;
- 10 (2) Report to the governor and to each regular session of  
11 the legislature as to the finances of each department  
12 of the State;
- 13 (3) Administer the state risk management program;
- 14 (4) Establish and manage motor pools;
- 15 (5) Manage the preservation and disposal of all records of  
16 the State;
- 17 (6) Undertake the program of centralized engineering and  
18 office leasing services, including operation and  
19 maintenance of public buildings, for departments of  
20 the State;
- 21 (7) Undertake the functions of the state surveyor;



- 1 (8) Establish accounting and internal control systems;
- 2 (9) Provide centralized computer information management
- 3 and processing services, coordination in the use of
- 4 all information processing equipment, software,
- 5 facilities, and services in the executive branch of
- 6 the State, and consultation and support services in
- 7 the use of information processing and management
- 8 technologies to improve the efficiency, effectiveness,
- 9 and productivity of state government programs; [and]
- 10 (10) Establish, coordinate, and manage a program to provide
- 11 a means for public access to public information and
- 12 develop and operate an information network in
- 13 conjunction with its overall plans for establishing a
- 14 communication backbone for state government [-]; and
- 15 (11) Assume administrative responsibility for the office of
- 16 information practices."

17 SECTION 4. Section 28-8.3, Hawaii Revised Statutes, is

18 amended as follows:

19 1. By amending subsection (a) to read:

20 "(a) No department of the State other than the attorney

21 general may employ or retain any attorney, by contract or



1 otherwise, for the purpose of representing the State or the  
2 department in any litigation, rendering legal counsel to the  
3 department, or drafting legal documents for the department;  
4 provided that the foregoing provision shall not apply to the  
5 employment or retention of attorneys:

6 (1) By the public utilities commission, the labor and  
7 industrial relations appeals board, and the Hawaii  
8 labor relations board;

9 (2) By any court or judicial or legislative office of the  
10 State; provided that if the attorney general is  
11 requested to provide representation to a court or  
12 judicial office by the chief justice or the chief  
13 justice's designee, or to a legislative office by the  
14 speaker of the house of representatives and the  
15 president of the senate jointly, and the attorney  
16 general declines to provide such representation on the  
17 grounds of conflict of interest, the attorney general  
18 shall retain an attorney for the court, judicial, or  
19 legislative office, subject to approval by the court,  
20 judicial, or legislative office;

21 (3) By the legislative reference bureau;



- 1 (4) By any compilation commission that may be constituted
- 2 from time to time;
- 3 (5) By the real estate commission for any action involving
- 4 the real estate recovery fund;
- 5 (6) By the contractors license board for any action
- 6 involving the contractors recovery fund;
- 7 (7) By the office of Hawaiian affairs;
- 8 (8) By the department of commerce and consumer affairs for
- 9 the enforcement of violations of chapters 480 and
- 10 485A;
- 11 (9) As grand jury counsel;
- 12 (10) By the Hawaiian home lands trust individual claims
- 13 review panel;
- 14 (11) By the Hawaii health systems corporation, or its
- 15 regional system boards, or any of their facilities;
- 16 (12) By the auditor;
- 17 (13) By the office of ombudsman;
- 18 (14) By the insurance division;
- 19 (15) By the University of Hawaii;
- 20 (16) By the Kahoolawe island reserve commission;
- 21 (17) By the division of consumer advocacy;





- 1 (18) By the office of elections;
- 2 (19) By the campaign spending commission;
- 3 (20) By the Hawaii tourism authority, as provided in
- 4 section 201B-2.5;
- 5 (21) By the division of financial institutions for any
- 6 action involving the mortgage loan recovery fund; [øx]
- 7 (22) By the office of information practices; or
- 8 [~~22~~] (23) By a department, [~~in the event~~] if the attorney
- 9 general, for reasons deemed by the attorney general to
- 10 be good and sufficient, declines to employ or retain
- 11 an attorney for a department; provided that the
- 12 governor waives the provision of this section."

13 2. By amending subsection (c) to read:

14 "(c) Every attorney employed by any department on a full-

15 time basis, except an attorney employed by the public utilities

16 commission, the labor and industrial relations appeals board,

17 the Hawaii labor relations board, the office of Hawaiian

18 affairs, the Hawaii health systems corporation or its regional

19 system boards, the department of commerce and consumer affairs

20 in prosecution of consumer complaints, insurance division, the

21 division of consumer advocacy, the University of Hawaii, the



1 Hawaii tourism authority as provided in section 201B-2.5, the  
2 [~~Hawaiian home lands trust individual claims review panel,~~  
3 office of information practices, or as grand jury counsel, shall  
4 be a deputy attorney general."

5 SECTION 5. Section 92F-41, Hawaii Revised Statutes, is  
6 amended as follows:

7 1. By amending subsection (a) to read:

8 "(a) There is established [~~a temporary~~] an office of  
9 information practices [~~for a special purpose~~] within the [~~office~~  
10 ~~of the lieutenant governor~~] department of accounting and general  
11 services for administrative purposes."

12 2. By amending subsection (d) to read:

13 "(d) The director may employ any other personnel that are  
14 necessary, including [~~but not limited to~~] attorneys and clerical  
15 staff. All personnel of the office of information practices  
16 shall be employed without regard to chapter 76."

17 SECTION 6. All rights, powers, functions, and duties of  
18 the office of the lieutenant governor relating to the office of  
19 information practices are transferred to the department of  
20 accounting and general services.



1 Employees shall be transferred without loss of salary,  
2 seniority (except as prescribed by applicable collective  
3 bargaining agreements), retention points, prior service credit,  
4 any vacation and sick leave credits previously earned, and other  
5 rights, benefits, and privileges, in accordance with state  
6 personnel laws and this Act; provided that the employees possess  
7 the minimum qualifications and public employment requirements  
8 for the class or position to which transferred or appointed, as  
9 applicable; provided further that subsequent changes in status  
10 may be made pursuant to applicable civil service and  
11 compensation laws.

12 Any employee who, prior to this Act, is exempt from civil  
13 service and is transferred as a consequence of this Act may  
14 retain the employee's exempt status, but shall not be appointed  
15 to a civil service position as a consequence of this Act. An  
16 exempt employee who is transferred by this Act shall not suffer  
17 any loss of prior service credit, vacation or sick leave credits  
18 previously earned, or other employee benefits or privileges as a  
19 consequence of this Act; provided that the employees possess  
20 legal and public employment requirements for the position to  
21 which transferred or appointed, as applicable; provided further



1 that subsequent changes in status may be made pursuant to  
2 applicable employment and compensation laws. The director of  
3 the office of information practices may prescribe the duties and  
4 qualifications of these employees and fix their salaries without  
5 regard to chapter 76, Hawaii Revised Statutes.

6 SECTION 7. All appropriations, records, equipment,  
7 machines, files, supplies, contracts, books, papers, documents,  
8 maps, and other personal property heretofore made, used,  
9 acquired, or held by the office of the lieutenant governor  
10 relating to the functions transferred to the department of  
11 accounting and general services shall be transferred with the  
12 functions to which they relate.

13 SECTION 8. All rules, policies, procedures, guidelines,  
14 and other material adopted or developed by the office of  
15 information practices to implement provisions of the Hawaii  
16 Revised Statutes which are reenacted or made applicable to the  
17 department of accounting and general services by this Act, shall  
18 remain in full force and effect until amended or repealed by the  
19 office of information practices pursuant to chapter 91, Hawaii  
20 Revised Statutes. In the interim, every reference to the office  
21 of the lieutenant governor or the lieutenant governor in those



1 rules, policies, procedures, guidelines, and other material is  
2 amended to refer to the department of accounting and general  
3 services or the comptroller as appropriate.

4 SECTION 9. All deeds, leases, contracts, loans,  
5 agreements, permits, or other documents executed or entered into  
6 by or on behalf of the office of information practices pursuant  
7 to the provisions of the Hawaii Revised Statutes, which are  
8 reenacted or made applicable to the department of accounting and  
9 general services by this Act, shall remain in full force and  
10 effect. Upon the effective date of this Act, every reference to  
11 the office of the lieutenant governor or the lieutenant governor  
12 therein shall be construed as a reference to the department of  
13 accounting and general services or the comptroller as  
14 appropriate.

15 SECTION 10. There is appropriated out of the general  
16 revenues of the State of Hawaii the sum of \$ or so  
17 much thereof as may be necessary for fiscal year 2015-2016 and  
18 the same sum or so much thereof as may be necessary for fiscal  
19 year 2016-2017 to fund one full-time equivalent account clerk V  
20 position (1.0 FTE) and one full-time equivalent personnel clerk  
21 V position (1.0 FTE) to provide administrative support for the



1 office of information practices and the other administratively  
2 attached agencies.

3 The sums appropriated shall be expended by the department  
4 of accounting and general services for the purposes of this Act.

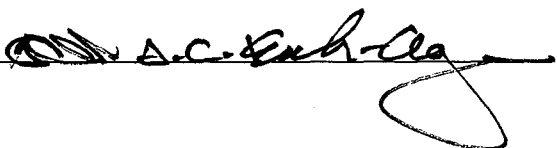
5 SECTION 11. Statutory material to be repealed is bracketed  
6 and stricken. New statutory material is underscored.

7 SECTION 12. This Act shall take effect upon its approval;  
8 provided that:

9 (1) Sections 1, 2, 3, 5, 6, 7, 8, and 9 shall take effect  
10 on July 1, 2016; and

11 (2) Section 10 shall take effect on July 1, 2015.

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INTRODUCED BY: 



# S.B. NO. 472

**Report Title:**

OIP; LG; DAGS; Transfer; Administrative Attachment; Attorneys;  
Civil Service; Appropriation

**Description:**

Transfers OIP from LG to DAGS. Increases the independence of OIP as an administratively attached agency. Clarifies the employment status of OIP attorneys and the civil service exemption for OIP personnel. Appropriates funds to DAGS for administrative support.

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