

**HB 1768**

**RELATING TO  
INFORMATION  
PRACTICES**

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## A BILL FOR AN ACT

RELATING TO INFORMATION PRACTICES.

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

1           SECTION 1. Section 92F-12, Hawaii Revised Statutes, is  
2 amended by amending subsection (a) to read as follows:

3           "(a) Any other provision in this chapter to the contrary  
4 notwithstanding, each agency shall make available for public  
5 inspection and duplication during regular business hours:

6           (1) Rules of procedure, substantive rules of general  
7 applicability, statements of general policy, and  
8 interpretations of general applicability adopted by  
9 the agency;

10          (2) Final opinions, including concurring and dissenting  
11 opinions, as well as orders made in the adjudication  
12 of cases, except to the extent protected by section  
13 92F-13(1);

14          (3) Government purchasing information, including all bid  
15 results, except to the extent prohibited by section  
16 92F-13;



- 1           (4) Pardons and commutations, as well as directory  
2           information concerning an individual's presence at any  
3           correctional facility;
- 4           (5) Land ownership, transfer, and lien records, including  
5           real property tax information and leases of state  
6           land;
- 7           (6) Results of environmental tests;
- 8           (7) Minutes of all agency meetings required by law to be  
9           public;
- 10          (8) Name, address, and occupation of any person borrowing  
11          funds from a state or county loan program; and the  
12          amount, purpose, and current status of the loan;
- 13          (9) Certified payroll records on public works contracts  
14          except social security numbers and home addresses;
- 15          (10) Regarding contract hires and consultants employed by  
16          agencies:
- 17                (A) The contract itself, the amount of compensation;
- 18                (B) The duration of the contract; and
- 19                (C) The objectives of the contract,  
20          except social security numbers and home addresses;



- 1       (11) Building permit information within the control of the  
2           agency;
- 3       (12) Water service consumption data maintained by the  
4           boards of water supply;
- 5       (13) Rosters of persons holding licenses or permits granted  
6           by an agency that may include name, business address,  
7           type of license held, and status of the license;
- 8       (14) The name, compensation (but only the salary range for  
9           legislative employees and employees covered by or  
10          included in chapter 76, and sections 302A-602 to 302A-  
11          639, and 302A-701, or bargaining unit (8)), job title,  
12          business address, business telephone number, job  
13          description, education and training background,  
14          previous work experience, dates of first and last  
15          employment, position number, type of appointment,  
16          service computation date, occupational group or class  
17          code, bargaining unit code, employing agency name and  
18          code, department, division, branch, office, section,  
19          unit, and island of employment, of present or former  
20          officers or employees of the agency; provided that  
21          this paragraph shall not [~~require~~]:



1           (A) Require the creation of a roster of employees;  
2                           and [~~provided further that this paragraph shall~~  
3                           ~~not apply~~]

4           (B) Apply to information regarding present or former  
5                           employees involved in an undercover capacity in a  
6                           law enforcement agency[+].

7           As used in this paragraph, "legislative employees"  
8           includes legislative officers as defined by section  
9           88-21, staff of the legislative branch of the State,  
10           legislative service agency directors as defined by  
11           section 21E-1, and officers and employees of  
12           legislative service agencies as defined by section  
13           21E-1;

14           (15) Information collected and maintained for the purpose  
15                           of making information available to the general public;  
16                           and

17           (16) Information contained in or compiled from a  
18                           transcript, minutes, report, or summary of a  
19                           proceeding open to the public."

20           SECTION 2. Statutory material to be repealed is bracketed  
21           and stricken. New statutory material is underscored.



# H.B. NO. 1768

1 SECTION 3. This Act shall take effect upon its approval.

2

INTRODUCED BY:           *scm*          

          *scm*          

          *scm a reletti*          

          *scm Kolyni*          

          *scm*          

JAN 16 2018



# H.B. NO. 1768

**Report Title:**

Information Practices

**Description:**

Permits public inspection and duplication of salary ranges, rather than exact compensation, for legislative employees.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

HB HMS 2017-4002



**HB 1768**

**TESTIMONY**



# OFFICE OF INFORMATION PRACTICES

STATE OF HAWAII  
NO. 1 CAPITOL DISTRICT BUILDING  
250 SOUTH HOTEL STREET, SUITE 107  
HONOLULU, HAWAII 96813  
TELEPHONE: 808-586-1400 FAX: 808-586-1412  
EMAIL: oip@hawaii.gov

To: House Committee on Labor

From: Cheryl Kakazu Park, Director

Date: January 30, 2018, 9:30 a.m.  
State Capitol, Conference Room 309

Re: Testimony on H.B. No. 1768  
Relating to Information Practices

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Thank you for the opportunity to submit testimony on this bill, which would amend the Uniform Information Practices Act (“UIPA”) to provide that for all legislative employees, only their salary range would be disclosable, as is the case for union or civil service employees, and not the exact salary, as for exempt employees. The Office of Information Practices (“OIP”) takes no position on the question of whether the category of employees for whom only salary range is disclosable should be expanded. However, OIP is concerned that making such a change only for legislative employees would lead to differential treatment of salary information for legislative employees versus government employees in general.

The substance and the legislative history of the UIPA’s salary disclosure provision suggest that the Legislature adopted the recommendations of the Governor’s Committee on Public Records and Privacy regarding how best to balance employee privacy with the public interest in government employee salaries, as discussed at length in OIP Opinion Letter Number 93-10, a copy of which is attached to this testimony. The Governor’s Committee intended the focus for exact salary disclosure to be on “the salaries of appointed or high level positions.” Vol. I

Report of the Governor's Committee on Public Records and Privacy (1987), 106, 109, quoted in OIP Op. Ltr. No. 93-10 at 4. More specifically, the intent was that “providing the actual salaries of all ‘exempt and/or excluded employees’ would mean that the salaries of all appointed positions and all managerial positions would be public,” with only salary ranges disclosed for other employees. Id.

OIP recognizes that in the decades since that report was written, the number of exempt and excluded employees has grown to include many employees who are not managerial or high level, or are not appointed (except in the sense of being appointed by the head of the office or agency), and thus are not the type of employee the Governor’s Committee and the Legislature originally envisioned as appropriate for disclosure of exact salaries. For this reason, OIP is not conceptually opposed to amending the UIPA’s mandatory disclosure provision to bring the category of government employees for whom exact salary must be disclosed more into line with the Legislature’s original intent. However, this issue is not limited to legislative staff and legislative agencies. OIP is concerned that this bill as written would increase the differential treatment of government employee salary information under the UIPA, by providing that all legislative staff (including directors of legislative agencies whose salaries are set by statute) would have only salary ranges disclosed, while clerical and other lower level exempt employees in the executive branch and elsewhere would continue to have exact salaries disclosed.

If this Committee is inclined to return to the original intent of the UIPA to provide only salary ranges for positions that are non-managerial and not appointed by the Governor or Legislature, then OIP recommends that it make such an amendment applicable to all government employees and not just those in the legislative branch. While OIP itself takes no position on this issue, OIP would be

House Committee on Labor  
January 30, 2018  
Page 3 of 3

happy to work with this Committee to develop appropriate statutory language once the Committee's intent is clear.

Thank you for the opportunity to testify.

BRIAN L. TAKESHITA  
Chief Clerk

RUPERT JUAREZ  
Assistant Chief Clerk



Phone: (808) 586-6400

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## HOUSE OF REPRESENTATIVES

STATE OF HAWAII  
STATE CAPITOL, ROOM 027  
415 SOUTH BERETANIA STREET  
HONOLULU, HAWAII 96813

### House Bill No. 1768

Tuesday, January 30, 2018  
9:30 a.m., Conference Room 309

TO: Chair Aaron Ling Johanson  
Vice-Chair Daniel Holt  
Members of the House Committee on Labor & Public Employment

FROM: Brian L. Takeshita  
Chief Clerk, Hawaii State House of Representatives

As the Chief Clerk of the Hawaii State House of Representatives, I **SUPPORT** House Bill No. 1768 with a suggested amendment.

Hawaii Revised Statutes Chapter 92F-12(a)(14) requires disclosure of the names and compensation (among other information) of most state and county employees. However, while civil service employees and educators may only have a salary range disclosed, other employees, including those of the Legislature, must have their exact salaries disclosed. This inconsistency must be addressed for a number of reasons.

First, this discrepancy puts legislative employees at a disadvantage relative to their civil service counterparts by requiring the release of more detailed information about one group over another. Where all are public servants, it is unreasonable to discriminate amongst the groups.

Second, the requirement to automatically disclose the exact salaries of specific individuals serves no reasonable purpose that couldn't be achieved by disclosing a salary range instead. Additionally, salary is in certain cases considered personally identifiable information, and disclosable only when a requesting entity has a legitimate reason for doing so. Employees in the private sector have a reasonable expectation that their salary is not given out upon just any request, and there is no reason public sector employees such as those employed by the Legislature should not have the same expectation.

Third, a local news organization has made a regular feature of obtaining the names and salaries of state and county employees and publishing this information on their website for all to access. Without even needing to submit a request to the House

or Senate, anyone from marketers to creditors to curious neighbors may access the exact salary of our legislative employees for whatever purposes they desire. Additionally, the easy availability of salary information can cause great disruption within an office when employees look up each other's pay levels, driving ill feelings among coworkers and causing difficulties for management.

While H.B. 1768 provides much-needed equity to our legislative employees, it does not address cases where a given position does not have a salary range, which is common among non-civil service jobs. In those situations, an employee would still have his or her exact salary disclosed. I therefore propose that the bill be amended to require any salary disclosure under HRS §92F-12(a)(14) conform to the same disclosure categories required by HRS §84-17(g) under the State Ethics Code.

I acknowledge the public expects transparency from their government, and disclosure of a reasonable amount of information regarding government employees is necessary. However, the disclosure of the names and exact salaries of legislative employees is both unreasonable and unnecessary, which is why I support H.B. 1768. This measure will address the discrepancy between disclosure requirements for civil service and legislative employees, and with the proposed amendment provide a sensible level of disclosure.

Thank you very much for the opportunity to provide this testimony.

**HB 1768**

**LATE  
TESTIMONY**



**HAWAII GOVERNMENT EMPLOYEES ASSOCIATION**  
AFSCME Local 152, AFL-CIO

RANDY PERREIRA, Executive Director • Tel: 808.543.0011 • Fax: 808.528.0922

The Twenty-Ninth Legislature, State of Hawaii  
House of Representatives  
Committee on Labor and Public Employment

**LATE**

Testimony by  
Hawaii Government Employees Association

January 30, 2018

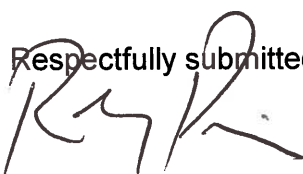
H.B. 1768 – RELATING  
TO INFORMATION PRACTICES

The Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO conceptually supports the intent of H.B. 1768 which amends a section of the Uniform Information Practices Act by allowing the disclosure of a legislative employee's salary range rather than the exact compensation, with a proposed amendment.

Under the current Uniform Information Practices Act, each agency must allow the members of the public access to employee information, including an employee's name, bargaining unit, job title, business address and telephone number, education and training background, and previous work experience, in addition to an agency's present and former officers. While we understand and agree with the need for government accountability and transparency, and acknowledge that tax payers want to know how and where their money is being spent, publishing any employee's dollar amount salary does not adequately capture the State's expenses. All employees are entitled to a measure of privacy, and should be afforded basic dignity and respect in doing their jobs. Being a government employee does not necessitate one to be subject to the degradation, embarrassment and anxiety that a full disclosure may cause.

Therefore, while we support the intent of H.B. 1768 to amend statute specific to legislative officers, we respectfully request an amendment to equally extend the same provisions for all employees, including those who are exempt from civil service.

Thank you for the opportunity to testify in support of H.B. 1768 with a proposed amendment.

Respectfully submitted,  


Randy Perreira  
Executive Director



House Committee on Labor & Public Employment  
Chair Aaron Johanson, Vice Chair Daniel Holt

01/30/2018 9:30 AM Room 309  
HB1768 – Relating to Information Practices

TESTIMONY / OPPOSE  
Corie Tanida, Executive Director, Common Cause Hawaii

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Dear Chair Johanson, Vice Chair Holt, and members of the committee:

**Common Cause Hawaii opposes HB1768** which would exempt all legislative employees from mandatory disclosure of exact salaries, and instead require the disclosure of salary ranges.

As currently written this bill is too broad and would decrease public access to information, which we do not believe is the Legislature's intent.<sup>1</sup>

If your intention is to protect employees' privacy while still providing useful information to the public, we suggest you exempt only "legislative employees" who are not in top-level, managerial positions from exact salary disclosure, as it's typically managerial positions which attract the most public attention and scrutiny. We also suggest defining the salary ranges, so that the increments are small enough, perhaps in the \$15,000-\$20,000 range, so that the information remains useful and meaningful to the public.

Thank you for the opportunity to testify in **opposition to HB1768**.

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<sup>1</sup> <http://oip.hawaii.gov/formal-opinions/93-10/>





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HOUSE COMMITTEE ON LABOR & PUBLIC EMPLOYMENT

Tuesday, January 30, 2018, 9:30 AM, Conference Room 309  
HB 1768, Relating to Information Practices

**TESTIMONY**

Douglas Meller, Legislative Committee, League of Women Voters of Hawaii

Chair Johanson and Committee Members:

**The League of Women Voters opposes HB 1768.** The bill substitutes disclosure of a broad salary range to replace disclosure of the exact salary paid to legislative officers and employees.

Legislative officers and employees include “political hires” whose selection and compensation primarily are based on political considerations. Several decades ago, some elected officials used to adjust the salaries of their “political hires” to encourage campaign contributions. The League opposes HB1768 because this bill would:

- preclude the public and news media from monitoring the adjustment of salaries paid to “political hires” and
- preclude the public and news media from evaluating whether “political hires” are appropriately compensated.

Thank you for the opportunity to submit testimony.

THE CIVIL BEAT  
LAW CENTER FOR THE PUBLIC INTEREST

700 Bishop Street, Suite 1701  
Honolulu, HI 96813

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House Committee on Labor & Public Employment  
Honorable Aaron Ling Johanson, Chair  
Honorable Daniel Holt, Vice Chair

**RE: Testimony Opposing H.B. 1768, Relating to Information Practices**  
Hearing: January 30, 2018 at 9:30 a.m.

Dear Chair and Members of the Committee:

My name is Brian Black. I am the Executive Director of the Civil Beat Law Center for the Public Interest, a nonprofit organization whose primary mission concerns solutions that promote governmental transparency. Thank you for the opportunity to submit testimony **opposing H.B. 1768 as currently drafted**.

As drafted, H.B. 1768 sweeps far too broadly. The salary/salary range distinction originated with the Governor's Committee on Public Records and Privacy. That Committee explained:

[T]he public has a right to know what public employees are making, at least in part, to judge whether it is worth the expense. . . . If the focus is the salaries of appointed or *high level positions*, and that appeared to be the case from much of the testimony and comment, then perhaps the formula should allow the specific salaries of most employees to be confidential while providing the information which is more important. For example, providing the actual salaries of all "exempt and/or excluded employees" would mean that the salaries of all appointed positions and *all managerial positions would be public*. That could be supplemented by providing the "salary ranges" for all other employees. For example, a Clerk-Typist II is in Salary Range 8 and, therefore, has under the current contract a salary of \$13,260 to \$20,040 a year depending upon seniority. (emphasis added)

H.B. 1768 deviates from that original intent, exempting all legislative employees from the mandatory disclosure requirement regardless whether that person has managerial duties. For example, the bill improperly exempts individuals who are more equivalent to Executive Branch directors and deputy directors. The public interest in high-level staff (*e.g.*, chief clerks, sergeants-at-arms, legislative service agency directors, and others in senior positions) is much greater, and they should not be exempt.<sup>1</sup>

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<sup>1</sup> Withholding the auditor, LRB director, and ombudsman salaries also does not make sense because their salaries are tied to the DOH director's salary, which is public record.

A further complication is the lack of publicly defined salary ranges for non-managerial legislative positions. Because legislative employees are appointed and not subject to the civil service system, salaries are discretionary. To take examples, the current spectrum of salaries for House legislative attorneys goes from \$62,568 to \$116,004; the spectrum for Senate office managers is from \$39,600 to \$71,436. Those huge differences in pay are not appropriate “salary ranges” and make any resulting disclosure meaningless for the public.

The Law Center respectfully requests that this Committee **amend H.B. 1768** as follows and **provide clarification in the committee report that disclosed “salary ranges” for legislative employees cannot exceed a \$15,000 range.**

As used in this paragraph, “legislative employees” means staff of the legislative branch of the State and non-managerial employees of legislative service agencies as defined by section 21E-1.

Thank you again for the opportunity to testify.



Jan. 30, 2018

Rep. Aaron Ling Johanson  
House Committee on Labor & Public Employment  
State Capitol  
Honolulu, HI, 96813

Re: House Bill 1768, Relating to Information Practices

Chairman Johanson and Committee Members:

We are opposed to this measure.

It would block public views of important salary information and tells the public how its tax money is being spent.

What appears to be bothersome is that salary ranges would be released for legislative agency heads, for whom salary figures have been set by statute. For example, the ombudsman's pay is pegged to the salary of the state department of health. Would this mean that the ombudsman's pay would no longer be pegged to that of the state health director? Or would this mean that the state would start hiding the salary of state department heads?

This bill is troublesome and we ask that you file this bill.

Thank you,

Stirling Morita  
President, Hawaii Chapter of the Society of Professional Journalists

**LATE**

**HB-1768**

Submitted on: 1/30/2018 5:42:29 AM  
Testimony for LAB on 1/30/2018 9:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Teresa Parsons		Oppose	No

Comments:

While this may seem like a good idea, the "salary range" is too vague. If the range is \$65,000 to \$125,000...very little can be evaluated as to appropriate transparency to the public. Therefore, without more clarity on the definition of salary ranges, I oppose this measure.

**LATE**

**HB-1768**

Submitted on: 1/30/2018 9:32:10 AM  
Testimony for LAB on 1/30/2018 9:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
lynne matusow		Oppose	No

Comments:

The public has a right to know. This bill should die now. Transparency, not opaqueness. If people want to work for government then the public has a right to know the salaries. If the employee doesn't like it they can get another job. We are the ones who pay the salary, not legislators, etc. Everyone's salary should show, not vague ranges. And you wonder why populism is taking off!

Lynne Matusow