

SB2870

Measure Title: RELATING TO INFORMATION PRACTICES.
Report Title: Information Practices
Description: Permits public inspection and duplication of salary ranges, rather than exact compensation, for legislative employees.
Companion: [HB1768](#)
Package: None
Current Referral: LBR, JDC
Introducer(s): KEITH-AGARAN, Espero, Taniguchi

<u>Sort by</u> <u>Date</u>	Status Text
1/24/2018	S Introduced.
1/24/2018	S Passed First Reading.
1/24/2018	S Referred to LBR, JDC.
2/9/2018	S The committee(s) on LBR has scheduled a public hearing on 02-13-18 3:00PM in conference room 229.

S = Senate | **H** = House | **D** = Data Systems | **\$** = Appropriation measure | **ConAm** = Constitutional Amendment

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SB2870

OFFICE OF INFORMATION PRACTICES

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To: Senate Committee on Labor

From: Cheryl Kakazu Park, Director

Date: February 13, 2018, 3:00 p.m.
State Capitol, Conference Room 229

Re: Testimony on H.B. No. 2870
Relating to Information Practices

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. While such an amendment could be amended to more accurately reflect the original legislative history of the UIPA, **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, with reasonably narrow bands for the salary ranges, 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 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.



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
The Senate
Committee on Labor

Testimony by
Hawaii Government Employees Association

February 13, 2018

S.B. 2870 – RELATING
TO INFORMATION PRACTICES

The Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO conceptually supports the intent of S.B. 2870 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 S.B. 2870 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 S.B. 2870 with a proposed amendment.

Respectfully submitted,

Randy Perreira
Executive Director



Sen. Jill Tokuda
Senate Labor Committee
State Capitol
Honolulu, HI, 96813

Re: Senate Bill 2870

Chairwoman Tokuda 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.

This bill doesn't go far enough in separating disclosure of salaries of managerial and appointed employees from all legislative employees and would block public view of salaries of high-ranking officials that should be available to the public. The bill also does not establish a pay range that would be used.

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

THE CIVIL BEAT
LAW CENTER FOR THE PUBLIC INTEREST

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Senate Committee on Labor
Honorable Jill N. Tokuda, Chair
Honorable J. Kalani English, Vice Chair

RE: Testimony Opposing S.B. 2870, Relating to Information Practices
Hearing: February 13, 2018 at 3:00 p.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 S.B. 2870 as currently drafted**.

As drafted, S.B. 2870 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)

S.B. 2870 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.¹

¹ 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 S.B. 2870** 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.



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SENATE COMMITTEE ON LABOR

Tuesday, February 13, 2018, 3 PM, Conference Room 229
SB 2870, Relating to Information Practices

TESTIMONY

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

Chair Tokuda and Committee Members:

The League of Women Voters opposes SB 2870. 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 SB 2870 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.