

# 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 Legislative Management

From: Cheryl Kakazu Park, Director

Date: March 21, 2019, 3:05 p.m.  
State Capitol, Conference Room 312

Re: Testimony on H.C.R. No. 180 and H.R. No. 162  
Requesting the Department of Accounting and General Services to  
Establish a Task Force to Conduct a Study Concerning the Current  
and Future Needs of the State Archives.

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Thank you for the opportunity to submit testimony on this bill, which would request the Department of Accounting and General Services to convene a task force to conduct a study of the current and future needs of the State Archives. The Office of Information Practices (OIP) takes no position on the proposed Task Force, but **is recommending deletion of the clause stating the group is exempt from chapter 92, part I of which is the Sunshine Law. The proposed exemption is unnecessary and would in any case be ineffective.**

OIP has previously held that a group created by resolution is generally not a “board” subject to the Sunshine Law. To be a “board,” a group must be “created by constitution, statute, rule, or executive order,” and creation by nonbinding resolution does not satisfy that requirement as it is not equivalent to creation by statute. OIP Op. Ltr. No. 08-02 at 3-7. Thus, it is unlikely that the group called for by this resolution would be subject to the Sunshine Law in the first place.

Even if the group were subject to the Sunshine Law, the provision exempting it from the Sunshine Law and the rest of chapter 92, HRS, would be ineffective because a resolution, which is not legally binding, would not override statutory requirements such as those set out in the Sunshine Law.

**Thus, the proposed Sunshine Law exemption is likely unnecessary, and would be ineffective. OIP recommends that to avoid confusion, this Committee should amend the resolution by deleting the proposed exemption (at bill page 3 lines 29-30).**