

STAND. COM. REP. NO.

2475

Honolulu, Hawaii

FEB 11 2020

RE: S.B. No. 2090
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirtieth State Legislature
Regular Session of 2020
State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred S.B. No. 2090 entitled:

"A BILL FOR AN ACT RELATING TO JUDICIAL ENFORCEMENT OF THE UNIFORM INFORMATION PRACTICES ACT,"

begs leave to report as follows:

The purpose and intent of this measure is to clarify and expand procedural requirements, including standards of review upon appeal, for judicial review of an agency's denial of access to a government record.

Your Committee received testimony in support of this measure from Common Cause Hawaii, Civil Beat Law Center for the Public Interest, Pono Hawai'i Initiative, and two individuals. Your Committee received testimony in opposition to this measure from the University of Hawai'i System and Hawaii Health Systems Corporation. Your Committee received comments on this measure from the Department of the Attorney General, Office of Information Practices, Board of Trustees of the Employees' Retirement System, and Board of Trustees of the Hawaii Employer-Union Health Benefits Trust Fund.

Your Committee finds that it is the established and long-standing policy of the State that in a democracy, the people are vested with the ultimate decision-making power and thus government agencies exist to aid the people in the formation and conduct of



public policy. Transparency of government processes and public participation are the only viable and reasonable methods of protecting the public's interest. Therefore, your Committee finds that the discussions, deliberations, decisions, and actions of government agencies must be conducted as openly as possible. A denial of access to government records should therefore only occur when necessary and as allowed by the Constitution of the State of Hawaii and state law. Existing law lacks sufficient judicial review procedural requirements to ensure that denial of access to government records occurs only after balancing the policy goals of the State Constitution and the Uniform Information Practices Act with the public's interest in disclosure. This measure clarifies and expands judicial review procedural requirements to further the State's policy to enhance governmental accountability through a general policy of timely access to government records.

Your Committee has amended this measure by:

- (1) Inserting language to authorize the court to extend the thirty-day deadline for an agency to file a motion for summary judgment in support of its denial of access to the government record that is presently before the court if doing so is in the interest of justice;
- (2) Deleting language that would have limited a stay of the circuit court's decision pending the supreme court's determination to no more than thirty days after the petition is filed; and
- (3) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2090, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2090, S.D. 1, and be placed on the calendar for Third Reading.



Respectfully submitted on
behalf of the members of the
Committee on Judiciary,

Karl Rhoads

KARL RHOADS, Chair



