

STAND. COM. REP. NO. **370**

Honolulu, Hawaii

FEB 16 2023

RE: S.B. No. 991
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirty-Second State Legislature
Regular Session of 2023
State of Hawaii

Sir:

Your Committee on Government Operations, to which was referred S.B. No. 991 entitled:

"A BILL FOR AN ACT RELATING TO PUBLIC RECORDS,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Impose a cap on costs charged to reproduce certain government records;
- (2) Waive reproduction costs charged for the first one hundred pages if disclosure serves the public interest;
- (3) Waive costs charged to duplicate certain government records in an electronic format;
- (4) Impose a cap on costs charged to search for, review, and segregate records; and
- (5) Provide for a waiver of fees when a record's disclosure serves the public interest.

Your Committee received testimony in support of this measure from the Employees' Retirement System, Civil Beat Law Center for the Public Interest, All Hawaii News, Hawaii Bulletin, League of Women Voters of Hawaii, and five individuals. Your Committee



received testimony in opposition to this measure from the Department of Land and Natural Resources. Your Committee received comments on this measure from the Office of Information Practices, Department of Accounting and General Services, Department of Budget and Finance, Department of Human Services, Department of Commerce and Consumer Affairs, Honolulu Police Department, Grassroot Institute of Hawaii, and the Hawaii Chapter of The Society of Professional Journalists.

Your Committee finds that public records laws provide a critical mechanism to maintain government accountability and transparency and support citizen involvement in government decision-making. The real-world consequences of restricting access to that information can range from serious to routine but, in all cases, result in a less informed citizenry. Fee waivers offer a simple and flexible solution. By providing public interest fee waivers uniformly, the public records request process can provide equity to access.

Your Committee notes that this measure is adopting the Freedom of Information Act standard, which allows for waivers for media if the request is likely to contribute significantly to the public's understanding of the operations or activities of the government and is not primarily in the commercial interest. Simply having a commercial interest is not a disqualifier for a fee waiver.

Your Committee has amended this measure by:

- (1) Inserting an appropriation of \$185,000 to establish two full-time equivalent permanent positions within the Office of Information Practices;
- (2) Inserting an effective date of July 1, 2050, to encourage further discussion; and
- (3) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

Your Committee has heard the testimony of the Office of Information Practices expressing concerns about the significant effect the changes proposed by this measure would potentially have on increasing the staff workload. Your Committee finds that this



issue raises concerns that merit further consideration and requests that your Committees on Judiciary and Ways and Means further examine those issues and concerns raised. Your Committee also respectfully asks the Committees on Judiciary and Ways and Means to request that the Civil Beat Law Center for the Public Interest, as promised in their testimony, provide a report of charges for government records requested in 2022.

As affirmed by the record of votes of the members of your Committee on Government Operations that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 991, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 991, S.D. 1, and be referred to your Committees on Judiciary and Ways and Means.

Respectfully submitted on
behalf of the members of the
Committee on Government
Operations,



ANGUS L.K. MCKELVEY, Chair



