
A BILL FOR AN ACT

RELATING TO THE OFFICE OF INFORMATION PRACTICES.

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

1 SECTION 1. The legislature finds that the office of
2 information practices has been given more responsibilities over
3 the years and needs additional personnel to meet its increasing
4 workload. The legislature further finds that the office of
5 information practices would be able to more efficiently and
6 effectively resolve disputes concerning the State's Uniform
7 Information Practices Act and sunshine law if it had the
8 discretion to provide written guidance in lieu of opinions when
9 appropriate. While a formal opinion is sometimes necessary to
10 obtain an agency's or a board's compliance, or to hold it to the
11 "palpably erroneous" standard of review upon appeal to a court,
12 there are other times when the office of information practices
13 need not undergo the time-consuming process for an opinion and
14 can instead provide more timely written guidance to explain its
15 reasons why it is inclined to conclude that an agency's or a
16 board's actions did not violate the State's Uniform Information
17 Practices Act or sunshine law.



1 The purpose of this Act is to:

- 2 (1) Allow the office of information practices to issue
3 written guidance to resolve disputes under the State's
4 Uniform Information Practices Act and sunshine law;
5 and
6 (2) Appropriate funds for two new permanent positions in
7 the office of information practices.

8 SECTION 2. Section 92F-3, Hawaii Revised Statutes, is
9 amended by adding two new definitions to be appropriately
10 inserted and to read as follows:

11 "Opinion" means a written discussion of legal and factual
12 issues raised by an inquiry, including the findings and
13 conclusions reached by the director of the office of information
14 practices regarding those issues, regardless of whether the
15 inquiry alleges violations of this chapter or part I of chapter
16 92 or otherwise raises disputed issues of law or fact, or the
17 inquiry seeks an advisory legal interpretation of this chapter
18 or part I of chapter 92.

19 "Ruling" means an opinion providing firm and final legal
20 determination of all disputed issues raised by an inquiry
21 alleging violations of this chapter or part I of chapter 92."



1 SECTION 3. Section 92F-15.5, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "(a) When an agency denies a person access to a government
4 record, the person may appeal the denial to the office of
5 information practices in accordance with rules adopted pursuant
6 to section [~~92F-42(12)-~~] 92F-42(a)(12)(A). A decision to appeal
7 to the office of information practices for review of the agency
8 denial shall not prejudice the person's right to appeal to the
9 circuit court after a decision is made by the office of
10 information practices."

11 SECTION 4. Section 92F-27.5, Hawaii Revised Statutes, is
12 amended by amending subsection (a) to read as follows:

13 "(a) When an agency denies an individual access to that
14 individual's personal record, the individual may appeal the
15 denial to the office of information practices in accordance with
16 rules adopted pursuant to section [~~92F-42(12)-~~]
17 92F-42(a)(12)(A). A decision to appeal to the office of
18 information practices for review of the agency denial shall not
19 prejudice the individual's right to appeal to the circuit court
20 after a decision is made by the office of information
21 practices."



1 SECTION 5. Section 92F-42, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"§92F-42 Powers and duties of the office of information**
4 **practices.** (a) The director of the office of information
5 practices:

6 (1) Shall, upon request, review and [~~rule~~] issue a ruling
7 on an agency denial of access to information or
8 records, or an agency's granting of access; provided
9 that any review by the office of information practices
10 shall not be a contested case under chapter 91 and
11 shall be optional and without prejudice to rights of
12 judicial enforcement available under this chapter;
13 provided further that if the office of information
14 practices issues written guidance to a complainant
15 concluding that an agency denial of access most likely
16 will be upheld, including reasons for that decision,
17 and informing the complainant of the right to bring a
18 judicial action under section 92F-15(a), then no
19 further action is required by the office of
20 information practices;



- 1 (2) Upon request by an agency, shall provide and make
2 public advisory guidelines, opinions, or other
3 information concerning that agency's functions and
4 responsibilities;
- 5 (3) Upon request by any person, may provide advisory
6 opinions or other information regarding that person's
7 rights and the functions and responsibilities of
8 agencies under this chapter;
- 9 (4) May conduct inquiries regarding compliance by an
10 agency and investigate possible violations by any
11 agency;
- 12 (5) May examine the records of any agency for the purpose
13 of paragraphs (4) and [~~18~~] (15) and seek to enforce
14 that power in the courts of this State;
- 15 (6) May recommend disciplinary action to appropriate
16 officers of an agency;
- 17 (7) Shall report annually to the governor and [~~the state~~]
18 legislature on the activities and findings of the
19 office of information practices, including
20 recommendations for legislative changes;



- 1 (8) Shall receive complaints from and actively solicit the
- 2 comments of the public regarding the implementation of
- 3 this chapter;
- 4 (9) Shall review the official acts, records, policies, and
- 5 procedures of each agency;
- 6 (10) Shall assist agencies in complying with the provisions
- 7 of this chapter;
- 8 (11) Shall inform the public of the following rights of an
- 9 individual and the procedures for exercising them:
- 10 (A) The right of access to records pertaining to the
- 11 individual;
- 12 (B) The right to obtain a copy of records pertaining
- 13 to the individual;
- 14 (C) The right to know the purposes for which records
- 15 pertaining to the individual are kept;
- 16 (D) The right to be informed of the uses and
- 17 disclosures of records pertaining to the
- 18 individual;
- 19 (E) The right to correct or amend records pertaining
- 20 to the individual; and



1 (F) The individual's right to place a statement in a
2 record pertaining to that individual;

3 (12) Shall adopt rules that set forth ~~[an]~~:

4 (A) An administrative appeals structure ~~[which]~~ that
5 provides for:

6 ~~[-(A)]~~ (i) Agency procedures for processing
7 records requests;

8 ~~[-(B)]~~ (ii) A direct appeal from the division
9 maintaining the record; and

10 ~~[-(C)]~~ (iii) Time limits for action by agencies;

11 ~~[-(13)]~~ ~~Shall adopt rules that set forth the]~~

12 (B) The fees and other charges that may be imposed
13 for searching, reviewing, or segregating
14 disclosable records, as well as to provide for a
15 waiver of fees when the public interest would be
16 served; and

17 ~~[-(14)]~~ ~~Shall adopt rules which set forth uniform]~~

18 (C) Uniform standards for ~~[the]~~:

19 (i) The records collection practices of
20 agencies; and

1 action is required by the office of information
2 practices;

3 (B) Advising all government boards and the public
4 about compliance with chapter 92; and

5 (C) Reporting each year to the legislature on all
6 complaints received pursuant to section 92-1.5.

7 (b) For the purposes of this section, "guidance" means a
8 written discussion of the major legal and factual issues raised
9 by an inquiry, including the most likely resolution of a
10 complaint made in the inquiry, if applicable, but does not rise
11 to the level of an opinion."

12 SECTION 6. There is appropriated out of the general
13 revenues of the State of Hawaii the sum of \$185,000 or so much
14 thereof as may be necessary for fiscal year 2023-2024 and the
15 same sum or so much thereof as may be necessary for fiscal year
16 2024-2025 for two full-time equivalent (2.0 FTE) permanent
17 positions to be placed within the office of information
18 practices.

19 The sums appropriated shall be expended by the office of
20 information practices for the purposes of this section.



H.B. NO. 1157

Report Title:

OIP; Opinions; Written Guidance; Appropriation

Description:

Allows the office of information practices to issue written guidance to resolve disputes under the State's Uniform Information Practices Act and sunshine law. Appropriates funds for two new permanent positions in the office of information practices.

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

