

JAN 19 2024

A BILL FOR AN ACT

RELATING TO PUBLIC AGENCY MEETINGS.

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

1 SECTION 1. The purpose of this Act is to better align the
2 enforcement mechanisms for the Uniform Information Practices Act
3 and the Sunshine Law by:

4 (1) Recognizing that any person may sue a board after
5 receiving an adverse office of information practices
6 decision, which shall be reviewed by the circuit court
7 de novo;

8 (2) Clarifying that an action concerning a Sunshine Law
9 violation is brought against the board, and not the
10 office of information practices;

11 (3) Establishing a two-year statute of limitations the
12 person may bring the lawsuit, but without prejudice to
13 the person's right to appeal to the circuit court;

14 (4) Prohibiting a board from challenging an opinion or
15 ruling of the office of information practices about
16 the board with exceptions;



1 (5) Requiring that persons suing for Sunshine Law
2 violations must notify the office of information
3 practices about the lawsuit in order for the office of
4 information practices to decide whether or not to
5 intervene; and

6 (6) Providing that the Sunshine Law lawsuits would be
7 prioritized by the courts, but only when the person
8 seeks to void a board's final action.

9 SECTION 2. Section 92-12, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "**§92-12 Enforcement.** (a) The attorney general and the
12 prosecuting attorney shall enforce this part.

13 (b) The circuit courts of the State shall have
14 jurisdiction to enforce the provisions of this part by
15 injunction or other appropriate remedy.

16 (c) Any person may commence a suit against a board or
17 alleged board in the circuit court of the circuit in which a
18 prohibited act occurs for the purpose of requiring compliance
19 with or preventing violations of this part [~~or to determine~~]
20 determining the applicability of this part to discussions or
21 decisions of the public body[~~—The~~], or challenging an opinion



1 or ruling of the office of information practices concerning a
2 complaint by that person. The person may bring the action
3 within two years of a prohibited act; provided that a decision
4 to appeal to the office of information practices for review
5 shall not prejudice the person's right to appeal to the circuit
6 court after a decision is made by the office of information
7 practices. If the person prevails, the court may order payment
8 of reasonable attorney's fees and costs to the prevailing party
9 by the board in a suit brought under this section.

10 (d) In an action under this section, the circuit court
11 shall hear the matter de novo. Opinions and rulings of the
12 office of information practices shall be admissible in an action
13 brought under this part and shall be considered as precedent
14 unless found to be palpably erroneous[-]; provided that in an
15 action under this section challenging an opinion or ruling of
16 the office of information practices concerning a complaint by
17 the plaintiff, the circuit court shall hear the challenge
18 adverse determination de novo. Except as provided in section
19 92F-43, a board or alleged board shall not challenge an opinion
20 or ruling of the office of information practices about the board
21 or alleged board.



1 (e) The proceedings for review shall not stay the
2 enforcement of any agency decisions; but the reviewing court may
3 order a stay if the following criteria have been met:

4 (1) There is likelihood that the party bringing the action
5 will prevail on the merits;

6 (2) Irreparable damage will result if a stay is not
7 ordered;

8 (3) No irreparable damage to the public will result from
9 the stay order; and

10 (4) Public interest will be served by the stay order.

11 (f) When filing a suit that is under, related to, or is
12 affected by this section, a person shall notify the office of
13 information practices in writing at the time of the filing. The
14 office of information practices may intervene in the action.

15 (g) Except as to cases the circuit court considers of
16 greater importance, proceedings before the court, as authorized
17 by this section, and appeals therefrom, take precedence on the
18 docket over all cases and shall be assigned for hearing and
19 trial or for argument at the earliest practicable date and
20 expedited in every way when the suit seeks to void any final
21 action pursuant to section 92-11."



1 SECTION 3. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY: *John D. ...*



S.B. NO. 2639

Report Title:

OIP; UIPA; Sunshine Law; Public Appeal

Description:

Updates the enforcement mechanisms for the Uniform Information Practices Act and the Sunshine Law.

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

