

STAND. COM. REP. NO. 1883

Honolulu, Hawaii

APR 06 2023

RE: H.B. No. 719
H.D. 1
S.D. 2

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

Sir:

Your Committees on Ways and Means and Judiciary, to which was referred H.B. No. 719, H.D. 1, S.D. 1, entitled:

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

beg leave to report as follows:

The purpose and intent of this measure is to facilitate more equitable access to government records.

More specifically, the measure:

- (1) Imposes a cap on charges for the reproduction of certain government records;
- (2) Provides that copies of the first one hundred pages of government records shall be provided to the requester at no charge if the record's disclosure serves the public interest, will likely contribute significantly to the public understanding of the government's operations or activities, and is not primarily in the commercial interest;
- (3) Waives the cost of duplication of government records provided to requestors in an electronic format, provided that the agency maintains those documents in an electronic format;



- (4) Imposes a cap on charges for searching for, reviewing, and segregating records; and
- (5) Appropriates funds for two permanent full-time staff positions within the Office of Information Practices.

Your Committees received written comments in support of this measure from Animal Rights Hawaii, League of Women Voters of Hawaii, Civil Beat Law Center for the Public Interest, Community Alliance on Prisons, Holomua Collaborative, Hawaii Bulletin, and five individuals.

Your Committees received written comments in opposition to this measure from two individuals.

Your Committees received written comments on this measure from the Department of Human Services, Department of the Attorney General, Department of Land and Natural Resources, Department of Design and Construction of the City and County of Honolulu, Grassroot Institute of Hawaii, and ACLU of Hawaii.

Your Committees find that public records laws are a critical mechanism to maintain government accountability and transparency, and that fee waivers and caps on charges for records requests will lessen the burden of the search and reproduction costs associated with records requests and thus support citizen involvement in government decision-making.

Your Committees have amended this measure by:

- (1) Inserting the following language into the measure's purpose section, which had been deleted from the prior draft:
 - (A) A legislative finding of the importance of public records laws as a critical mechanism to maintain government accountability and transparency and support citizen involvement in government decision-making; and
 - (B) A legislative finding that this measure adopts the federal Freedom of Information Act standard to



define waivers of fees for the search, review, or segregation of disclosable records when in the public interest;

- (2) Amending the definition of "government record" to exclude truly preliminary records, such as personal notes and rough drafts of memoranda, that have not been circulated;
- (3) Requiring that the cost of reproducing physical records be in accordance with rules adopted by the agency having control of the record, rather than rules adopted by the Office of Information Practices;
- (4) Deleting language that would have waived fees for the first one hundred pages of requested government records if the disclosure served the public interest and met other conditions;
- (5) Amending section 92F-13, Hawaii Revised Statutes (HRS), which sets out exceptions to the general rule requiring disclosure, to not require disclosure of inter-agency or intra-agency deliberative and pre-decisional government records concerning an agency decision about a government action that occurs prior to a final decision or abandonment of deliberation, other than purely factual information that is readily segregable;
- (6) Specifies factors to be considered when determining whether a disclosure would serve the public interest and thus qualify for a waiver of fees in certain circumstances;
- (7) Inserting a savings clause and a non-severability clause;
- (8) Specifying that the amendments made to section 92F-13, HRS, shall be repealed on June 30, 2028; and
- (9) Changing the effective date to July 1, 2050, to facilitate further discussion on the measure.

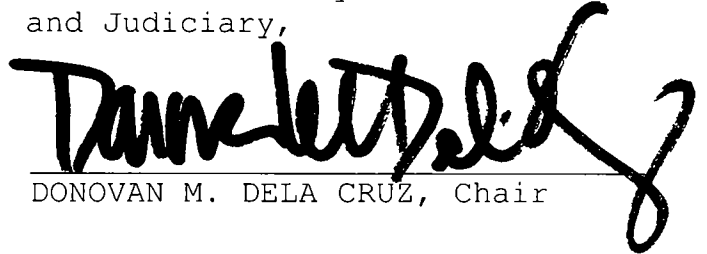


As affirmed by the records of votes of the members of your Committees on Ways and Means and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 719, H.D. 1, S.D. 1, as amended herein, and recommend that it pass Third Reading in the form attached hereto as H.B. No. 719, H.D. 1, S.D. 2.

Respectfully submitted on behalf of the members of the Committees on Ways and Means and Judiciary,



KARL RHOADS, Chair

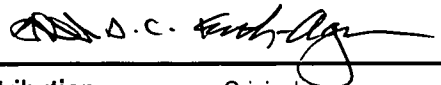


DONOVAN M. DELA CRUZ, Chair



The Senate
 Thirty-Second Legislature
 State of Hawai'i


Record of Votes
Committee on Ways and Means
WAM

Bill / Resolution No.:* HB 719 HD1 SD1	Committee Referral: GVO, WAM/JDC	Date: 4/6/23		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
DELA CRUZ, Donovan M. (C)	X			
KEITH-AGARAN, Gilbert S.C. (VC)	X			
AQUINO, Henry J.C.	X			
DECOITE, Lynn	X			
INOUYE, Lorraine R.	X			
KANUHA, Dru Mamo	X			
KIDANI, Michelle N.	X			
KIM, Donna Mercado	X			
LEE, Chris	X			
MORIWAKI, Sharon Y.	X			
SHIMABUKURO, Maile S.L.	X			
WAKAI, Glenn				X
FEVELLA, Kurt				X
TOTAL	//			2
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes

The Senate
 Thirty-Second Legislature
 State of Hawai'i

Record of Votes
Committee on Judiciary
JDC

Bill / Resolution No.:*	Committee Referral:	Date:		
HB 719; HD1, SD1	GVO, WAM/JDC	04/06/2023		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is:				
<input type="checkbox"/> Pass, unamended 2312	<input checked="" type="checkbox"/> Pass, with amendments 2311	<input type="checkbox"/> Hold 2310		
<input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
RHOADS, Karl (C)	✓			
GABBARD, Mike (VC)				✓
ELEFANTE, Brandon J.C.	✓			
SAN BUENAVENTURA, Joy A.	✓			
AWA, Brenton				✓
TOTAL	3	0	0	2
Recommendation:				
<input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
				
Distribution:				
Original File with Committee Report	Yellow Clerk's Office	Pink Drafting Agency	Goldenrod Committee File Copy	

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