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# A BILL FOR AN ACT

RELATING TO OFFICE OF INFORMATION PRACTICES.

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

1       SECTION 1. The legislature finds that chapter 92, Hawaii  
2 Revised Statutes, popularly known as the "Sunshine Law" is not  
3 administered by any particular agency. While the law is enforced  
4 by the attorney general, there is no one agency in government  
5 which is responsible for overseeing compliance of open meeting  
6 requirements in a manner similar to the law requiring open  
7 government records. Similarly, there is no single agency that  
8 collects, investigates, responds to inquiries, or reports to the  
9 legislature about all open meeting violations. The purpose of  
10 this Act is to bring together the administration of the open  
11 meetings law and the open records law under the office of  
12 information practices by placing responsibility for  
13 administration of the open meetings law in the office of  
14 information practices and moving the office from the department  
15 of the attorney general to the office of the lieutenant governor.

16       SECTION 2. Chapter 92, Hawaii Revised Statutes, is amended  
17 by adding a new section to be appropriately designated and to  
18 read as follows:

19       "§92-     Administration of this chapter. The director of  
20 the office of information practices shall administer this

1 chapter. The director shall establish procedures for filing,  
2 investigating, and responding to complaints filed by any person  
3 concerning the failure of any board to comply with this chapter.  
4 The director of the office of information practices shall submit  
5 an annual report of these complaints along with final resolution  
6 of complaints, and other statistical data to the legislature, no  
7 later than twenty days before the convening of each regular  
8 session."

9 SECTION 3. Section 92-12, Hawaii Revised Statutes, is  
10 amended by amending subsection (a) to read as follows:

11 "(a) The attorney general and the prosecuting attorney  
12 shall enforce this part. Complaints of board non-compliance with  
13 the provisions of this chapter shall be submitted to the office  
14 of information practices. The director of the office of  
15 information practices may forward unresolved complaints to the  
16 attorney general or the prosecuting attorney for enforcement, if  
17 the director is unable to resolve the complaint with the board in  
18 question."

19 SECTION 4. Section 92-17, Hawaii Revised Statutes, is  
20 amended by amending subsection (a) to read as follows:

21 "(a) All boards as defined by section 92-2(1) established  
22 to license or regulate any profession, occupation, industry, or  
23 service, shall receive complaints from consumers and other

1 persons claiming to be aggrieved by business practices related to  
2 their respective jurisdictions[.]; provided that any complaint  
3 concerning any of those boards with respect to this chapter shall  
4 be submitted to the office of information practices."

5 SECTION 5. Section 92F-41, Hawaii Revised Statutes, is  
6 amended to read as follows:

7 "§92F-41 Office of information practices. (a) There shall  
8 be within the [department of the attorney general, for  
9 administrative purposes only,] office of the lieutenant governor,  
10 for administrative purposes only, an office of information  
11 practices.

12 (b) The governor shall appoint [, not subject to chapters  
13 76 and 77,] a director of the office of information practices  
14 [who is] to be its chief executive officer[.] and who shall be  
15 exempt from chapters 76 and 77.

16 (c) All powers and duties of the office of information  
17 practices are vested in the director and may be delegated to any  
18 other officer or employee of the office.

19 (d) The director may employ [such] any other personnel [as]  
20 that are necessary, including but not limited to attorneys and  
21 clerical staff. None of the employees shall be subject to  
22 chapter 76 or 77."

23 SECTION 6. Section 92F-42, Hawaii Revised Statutes, is

1 amended to read as follows:

2       "§92F-42 Powers and duties of the office of information  
3 practices. (a) The director of the office of information  
4 practices:

- 5       (1) Shall, upon request, review and rule on an agency  
6       denial of access to information or records, or an  
7       agency's granting of access; provided that any review  
8       by the office of information practices shall not be a  
9       contested case under chapter 91 and shall be optional  
10      and without prejudice to rights of judicial enforcement  
11      available under this chapter;
- 12      (2) Upon request by an agency, shall provide and make  
13      public advisory guidelines, opinions, or other  
14      information concerning that agency's functions and  
15      responsibilities;
- 16      (3) Upon request by any person, may provide advisory  
17      opinions or other information regarding that person's  
18      rights and the functions and responsibilities of  
19      agencies under this chapter;
- 20      (4) May conduct inquiries regarding compliance by an agency  
21      and investigate possible violations by any agency;
- 22      (5) May examine the records of any agency for the purpose  
23      of paragraph (4) and seek to enforce that power in the

1 courts of this State;

2 (6) May recommend disciplinary action to appropriate  
3 officers of an agency;

4 (7) Shall report annually to the governor and the state  
5 legislature on the activities and findings of the  
6 office of information practices, including  
7 recommendations for legislative changes;

8 (8) Shall receive complaints from and actively solicit the  
9 comments of the public regarding the implementation of  
10 this chapter;

11 (9) Shall review the official acts, records, policies, and  
12 procedures of each agency;

13 (10) Shall assist agencies in complying with the provisions  
14 of this chapter;

15 (11) Shall inform the public of the following rights of an  
16 individual and the procedures for exercising them:

17 (A) The right of access to records pertaining to the  
18 individual;

19 (B) The right to obtain a copy of records pertaining  
20 to the individual;

21 (C) The right to know the purposes for which records  
22 pertaining to the individual are kept;

23 (D) The right to be informed of the uses and

- 1 disclosures of records pertaining to the  
2 individual;
- 3 (E) The right to correct or amend records pertaining  
4 to the individual; and
- 5 (F) The individual's right to place a statement in a  
6 record pertaining to that individual;
- 7 (12) Shall adopt rules that set forth an administrative  
8 appeals structure which provides for (A) agency  
9 procedures for processing records requests; (B) a  
10 direct appeal from the division maintaining the record;  
11 and (C) time limits for action by agencies;
- 12 (13) Shall adopt rules that set forth the fees and other  
13 charges that may be imposed for searching, reviewing,  
14 or segregating disclosable records, as well as to  
15 provide for a waiver of [such] fees when the public  
16 interest would be served;
- 17 (14) Shall adopt rules which set forth uniform standards for  
18 the records collection practices of agencies;
- 19 (15) Shall adopt rules that set forth uniform standards for  
20 disclosure of records for research purposes;
- 21 (16) Shall have standing to appear in cases where the  
22 provisions of this chapter are called into question;  
23 [and]



- 1 (17) Shall adopt, amend, or repeal rules pursuant to chapter  
2 91 necessary for the purposes of this chapter[.]; and  
3 (18) Shall take action to oversee compliance with chapter 92  
4 by all state and county boards including:  
5 (A) Receiving, investigating, and resolving  
6 complaints;  
7 (B) Advising all government boards and the public  
8 about compliance with chapter 92; and  
9 (C) Reporting each year to the legislature on all  
10 complaints received pursuant to section 92- ."

11 SECTION 7. All rights, powers, functions, and duties of the  
12 existing office of information practices are transferred to the  
13 office of the lieutenant governor; provided that no employee  
14 shall suffer any loss of salary, prior service credit, vacation,  
15 sick leave, or other employee benefit or privilege, as  
16 consequence of the transfer.

17 All employees of the office of information practices not  
18 subject to chapters 76 and 77, Hawaii Revised Statutes, are  
19 transferred to comparable positions within the office of the  
20 lieutenant governor. All employees whose functions are  
21 transferred by this Act shall be transferred with their functions  
22 and shall continue to perform their regular duties upon their  
23 transfer, subject to the state personnel laws and this Act.

1 Any employee of the office of information practices subject  
2 to chapters 76 and 77, Hawaii Revised Statutes, may elect to  
3 transfer to the office of the lieutenant governor. If an  
4 employee elects to transfer to the office of the lieutenant  
5 governor, the employee shall not thereafter be subject to  
6 chapters 76 and 77, Hawaii Revised Statutes, but shall not suffer  
7 any loss of salary, seniority, prior service credit, vacation,  
8 sick leave, or other employee benefit or privilege as a  
9 consequence of this Act. If an employee of the office of  
10 information practices subject to chapters 76 and 77, Hawaii  
11 Revised Statutes, elects not to transfer to the office of the  
12 lieutenant governor, the employee, with the same pay and  
13 classification, shall be transferred to positions within the  
14 executive branch for which the employee is eligible under the  
15 applicable personnel laws of the State without any loss of  
16 salary, seniority, prior service credit, vacation, sick leave, or  
17 other employee benefit or privilege as a consequence of this Act.

18 SECTION 8. All appropriations, records, equipment,  
19 machines, files, supplies, contracts, books, papers, documents,  
20 maps, computer software and data, authorizations, and other  
21 personal property previously made, used, acquired, or held by the  
22 office of information practices relating to the functions  
23 transferred to the office of the lieutenant governor shall be



1 transferred with the function to which they relate.

2       SECTION 9. Rules adopted by the office of information  
3 practices on the effective date of this Act shall remain in force  
4 and effect until amended or repealed by the office of information  
5 practices following its transfer to the office of the lieutenant  
6 governor.

7       SECTION 10. Statutory material to be repealed is bracketed.  
8 New statutory material is underscored.

9       SECTION 11. This Act shall take effect upon its approval.

**REPORT TITLE:**

Office Of Info. Practices

**DESCRIPTION:**

Requires open meetings law to be administered by the office of information practices (OIP). Moves OIP from the department of the attorney general to the office of the lieutenant governor for administrative purposes. (SB2983 HD1)