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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.

10       The purpose of this Act is to bring together the  
11 administration of the open meetings law and the open records law  
12 under the office of information practices by placing  
13 responsibility for administration of the open meetings law in the  
14 office of information practices and moving the office from the  
15 department of the attorney general to the office of the  
16 lieutenant governor.

17       SECTION 2. Chapter 92, Hawaii Revised Statutes, is amended  
18 by adding two new sections to part I to be appropriately  
19 designated and to read as follows:

1       "§92-       Administration of this part. The director of the  
2 office of information practices shall administer this part. The  
3 director shall establish procedures for filing and responding to  
4 complaints filed by any person concerning the failure of any  
5 board to comply with this part. The director of the office of  
6 information practices shall submit an annual report of these  
7 complaints along with final resolution of complaints, and other  
8 statistical data to the legislature, no later than twenty days  
9 before the convening of each regular session.

10       §92-       Oversight by lieutenant governor. Complaints of  
11 board noncompliance with the provisions of this part may be  
12 submitted to the lieutenant governor. The lieutenant governor  
13 may forward unresolved complaints concerning board noncompliance  
14 with the requirements of this part to the attorney general or the  
15 prosecuting attorney for enforcement if the lieutenant governor  
16 is unable to resolve the complaint with the board in question."

17       SECTION 3. Section 92F-41, Hawaii Revised Statutes, is  
18 amended to read as follows:

19       "§92F-41 Office of information practices. (a) There shall  
20 be within the [department of the attorney general, for  
21 administrative purposes only,] office of the lieutenant governor,  
22 for administrative purposes only, an office of information  
23 practices.

1 (b) The governor shall appoint [, not subject to chapters  
2 76 and 77,] a director of the office of information practices  
3 [who is] to be its chief executive officer[.] and who shall be  
4 exempt from chapters 76 and 77.

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

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

12 SECTION 4. Section 92F-42, Hawaii Revised Statutes, is  
13 amended to read as follows:

14 "**§92F-42 Powers and duties of the office of information**  
15 **practices.** (a) The director of the office of information  
16 practices:

17 (1) Shall, upon request, review and rule on an agency  
18 denial of access to information or records, or an  
19 agency's granting of access; provided that any review  
20 by the office of information practices shall not be a  
21 contested case under chapter 91 and shall be optional  
22 and without prejudice to rights of judicial enforcement  
23 available under this chapter;

- 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 agency  
10      and investigate possible violations by any agency;
- 11      (5) May examine the records of any agency for the purpose  
12      of paragraph (4) and seek to enforce that power in the  
13      courts of this State;
- 14      (6) May recommend disciplinary action to appropriate  
15      officers of an agency;
- 16      (7) Shall report annually to the governor and the state  
17      legislature on the activities and findings of the  
18      office of information practices, including  
19      recommendations for legislative changes;
- 20      (8) Shall receive complaints from and actively solicit the  
21      comments of the public regarding the implementation of  
22      this chapter;

- 1       (9) Shall review the official acts, records, policies, and
- 2           procedures of each agency;
- 3       (10) Shall assist agencies in complying with the provisions
- 4           of this chapter;
- 5       (11) Shall inform the public of the following rights of an
- 6           individual and the procedures for exercising them:
- 7           (A) The right of access to records pertaining to the
- 8               individual;
- 9           (B) The right to obtain a copy of records pertaining
- 10               to the individual;
- 11           (C) The right to know the purposes for which records
- 12               pertaining to the individual are kept;
- 13           (D) The right to be informed of the uses and
- 14               disclosures of records pertaining to the
- 15               individual;
- 16           (E) The right to correct or amend records pertaining
- 17               to the individual; and
- 18           (F) The individual's right to place a statement in a
- 19               record pertaining to that individual;
- 20       (12) Shall adopt rules that set forth an administrative
- 21           appeals structure which provides for:
- 22           (A) [agency] Agency procedures for processing records
- 23               requests;

- 1 (B) [a] A direct appeal from the division maintaining  
2 the record; and
- 3 (C) [time] Time limits for action by agencies;
- 4 (13) Shall adopt rules that set forth the fees and other  
5 charges that may be imposed for searching, reviewing,  
6 or segregating disclosable records, as well as to  
7 provide for a waiver of [such] fees when the public  
8 interest would be served;
- 9 (14) Shall adopt rules which set forth uniform standards for  
10 the records collection practices of agencies;
- 11 (15) Shall adopt rules that set forth uniform standards for  
12 disclosure of records for research purposes;
- 13 (16) Shall have standing to appear in cases where the  
14 provisions of this chapter are called into question;  
15 [and]
- 16 (17) Shall adopt, amend, or repeal rules pursuant to chapter  
17 91 necessary for the purposes of this chapter[.]; and
- 18 (18) Shall take action to oversee compliance with part I of  
19 chapter 92 by all state and county boards including:
- 20 (A) Receiving and resolving complaints;
- 21 (B) Advising all government boards and the public  
22 about compliance with chapter 92; and
- 23 (C) Reporting each year to the legislature on all  
24 complaints received pursuant to section 92- ."



1 SECTION 5. All rights, powers, functions, and duties of the  
2 existing office of information practices are transferred to the  
3 office of the lieutenant governor; provided that no employee  
4 shall suffer any loss of salary, prior service credit, vacation,  
5 sick leave, or other employee benefit or privilege, as a  
6 consequence of the transfer.

7 All employees of the office of information practices not  
8 subject to chapters 76 and 77, Hawaii Revised Statutes, are  
9 transferred to comparable positions within the office of the  
10 lieutenant governor. All employees whose functions are  
11 transferred by this Act shall be transferred with their functions  
12 and shall continue to perform their regular duties upon their  
13 transfer, subject to the state personnel laws and this Act.

14 Any employee of the office of information practices subject  
15 to chapters 76 and 77, Hawaii Revised Statutes, may elect to  
16 transfer to the office of the lieutenant governor. If an  
17 employee elects to transfer to the office of the lieutenant  
18 governor, the employee shall not thereafter be subject to  
19 chapters 76 and 77, Hawaii Revised Statutes, but shall not suffer  
20 any loss of salary, seniority, prior service credit, vacation,  
21 sick leave, or other employee benefit or privilege as a  
22 consequence of this Act. If an employee of the office of  
23 information practices subject to chapters 76 and 77, Hawaii

1 Revised Statutes, elects not to transfer to the office of the  
2 lieutenant governor, the employee, with the same pay and  
3 classification, shall be transferred to positions within the  
4 executive branch for which the employee is eligible under the  
5 applicable personnel laws of the State without any loss of  
6 salary, seniority, prior service credit, vacation, sick leave, or  
7 other employee benefit or privilege as a consequence of this Act.

8       SECTION 6. All appropriations, records, equipment,  
9 machines, files, supplies, contracts, books, papers, documents,  
10 maps, computer software and data, authorizations, and other  
11 personal property previously made, used, acquired, or held by the  
12 office of information practices relating to the functions  
13 transferred to the office of the lieutenant governor shall be  
14 transferred with the function to which they relate.

15       SECTION 7. Rules adopted by the office of information  
16 practices on the effective date of this Act shall remain in force  
17 and effect until amended or repealed by the office of information  
18 practices following its transfer to the office of the lieutenant  
19 governor.

20       SECTION 8. Statutory material to be repealed is bracketed.  
21 New statutory material is underscored.

22       SECTION 9. 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 HD2)

