

DAVID Y. IGE
GOVERNOR



LATE TESTIMONY

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STATE OF HAWAII
DEPARTMENT OF HUMAN RESOURCES DEVELOPMENT
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March 13, 2015

TESTIMONY TO THE
SENATE COMMITTEE ON JUDICIARY AND LABOR
For Hearing on Monday, March 16, 2015
9:30 a.m., Conference Room 016

By

JAMES K. NISHIMOTO
DIRECTOR

House Bill No. 461
Relating to the Office of Information Practices

CHAIRPERSON KEITH-AGARAN, VICE CHAIR SHIMABUKURO AND MEMBERS OF
THE COMMITTEE:

Thank you for the opportunity to provide comments on House Bill No. 461 (H.B.
461).

The Department of Human Resources Development has **comments** on the
proposed transfer of the Office of Information Practice from the Lieutenant Governor's
Office to the Department of Accounting and General Services. To protect the rights and
benefits of the employees to be transferred, the language in the second paragraph of
Section 6 is for civil service employees only, therefore it should read:

"All employees who occupy civil service positions and whose
functions are transferred to the department of accounting and
general services by this Act shall retain their civil service status,
whether permanent or temporary. Employees shall be transferred
without loss of salary, seniority (except as prescribed by applicable
collective bargaining agreement), retention points, prior service
credit, any vacation and sick leave credits previously earned, and

other rights, benefits, and privileges, in accordance with state personnel laws and this Act, provided that the employees possess the minimum qualifications and public employment requirements for the class or position to which transferred or appointed, as applicable, provided further that subsequent changes in status may be made pursuant to applicable civil service and compensation laws.”

Thank you for the opportunity to offer comments on this measure.

OFFICE OF INFORMATION PRACTICES

STATE OF HAWAII
NO. 1 CAPITOL DISTRICT BUILDING
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HONOLULU, HAWAII 96813
TELEPHONE: 808-586-1400 FAX: 808-586-1412
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To: Senate Committee on Judiciary and Labor

From: Cheryl Kakazu Park, Director

Date: March 16, 2015, 9:30 a.m.
State Capitol, Conference Room 016

Re: Testimony on H.B. No. 461
Relating to the Office of Information Practices

Thank you for the opportunity to submit testimony on this bill. The Office of Information Practices ("OIP") supports this bill, which would transfer OIP to the Department of Accounting and General Services ("DAGS") in 2016, clarify the independence of OIP as an administratively attached agency, clarify the employment status of OIP attorneys and the civil service exception for OIP personnel, and appropriate funds to DAGS for positions to provide administrative support to OIP and its other administratively attached agencies. However, OIP would prefer to use the substantive language from the Senate companion, S.B. 472, S.D. 2, which includes various technical fixes, with the effective date changed to July 1, 2016.

The Legislative Reference Bureau's recently completed report on the feasibility of transferring OIP to DAGS ("LRB Report") is now online at <http://lrbhawaii.info/reports/legrpts/lrb/2014/oipdags.pdf>. As the LRB Report noted, OIP is currently administratively attached to the office of the Lieutenant Governor as a "temporary office . . . for a special purpose," because permanent offices must be housed in one of the principal executive branch departments. OIP, however, is not

in fact a temporary office, as it has now been in existence for over 25 years, so the transfer to DAGS would better comply with the constitutional requirement for permanent offices to be housed in a suitable department.

OIP further supports the provisions in the S.D. 2 version of S.B. 472 making clear that OIP will retain its independence as a good government agency, and is transferring to DAGS for administrative purposes only. Consequently, OIP's Director will continue to communicate directly with the Governor and the Legislature, to make hiring and purchase decisions for the office, and to maintain the current exempt status for OIP's Director and its employees. While OIP follows the State's personnel, purchasing, and budget rules and procedures, its personnel, purchasing, and budget decisions or requests should not be subject to prior approval by the DAGS Director.

OIP has also attached suggested language for a housekeeping amendment to section 92F-24, HRS, which sets out OIP's duties and powers. OIP would prefer an effective date of July 1, 2016, for the transfer provisions, to allow time for the transition, and an effective date "upon approval" for the housekeeping provision.

Thank you again for favorably considering this bill.

Section 92F-42 is amended to read as follows:

"The director of the office of information practices:

- (1) Shall, upon request, review and rule on an agency denial of access to information or records, or an agency's granting of access; provided that any review by the office of information practices shall not be a contested case under chapter 91 and shall be optional and without prejudice to rights of judicial enforcement available under this chapter;
- (2) Upon request by an agency, shall provide and make public advisory guidelines, opinions, or other information concerning that agency's functions and responsibilities;
- (3) Upon request by any person, may provide advisory opinions or other information regarding that person's rights and the functions and responsibilities of agencies under this chapter;
- (4) May conduct inquiries regarding compliance by an agency and investigate possible violations by any agency;
- (5) May examine the records of any agency for the purpose of ~~[paragraph]~~ paragraphs (4) and 18 and seek to enforce that power in the courts of this State;
- (6) May recommend disciplinary action to appropriate officers of an agency;
- (7) Shall report annually to the governor and the state legislature on the activities and findings of the office of information practices, including recommendations for legislative changes;
- (8) Shall receive complaints from and actively solicit the comments of the public regarding the implementation of this chapter;
- (9) Shall review the official acts, records, policies, and procedures of each agency;
- (10) Shall assist agencies in complying with the provisions of this chapter;
- (11) Shall inform the public of the following rights of an individual and the procedures for exercising them:
 - (A) The right of access to records pertaining to the individual;
 - (B) The right to obtain a copy of records pertaining to the individual;
 - (C) The right to know the purposes for which records pertaining to the individual are kept;
 - (D) The right to be informed of the uses and disclosures of records pertaining to the individual;
 - (E) The right to correct or amend records pertaining to the individual; and

- (F) The individual's right to place a statement in a record pertaining to that individual;
- (12) Shall adopt rules that set forth an administrative appeals structure which provides for:
 - (A) Agency procedures for processing records requests;
 - (B) A direct appeal from the division maintaining the record; and
 - (C) Time limits for action by agencies;
- (13) Shall adopt rules that set forth the fees and other charges that may be imposed for searching, reviewing, or segregating disclosable records, as well as to provide for a waiver of such fees when the public interest would be served;
- (14) Shall adopt rules which set forth uniform standards for the records collection practices of agencies;
- (15) Shall adopt rules that set forth uniform standards for disclosure of records for research purposes;
- (16) Shall have standing to appear in cases where the provisions of this chapter or part I of chapter 92 are called into question;
- (17) Shall adopt, amend, or repeal rules pursuant to chapter 91 necessary for the purposes of this chapter; and
- (18) Shall take action to oversee compliance with Part I of chapter 92 by all state and county boards including:
 - (A) Receiving and resolving complaints;
 - (B) Advising all government boards and the public about compliance with chapter 92; and
 - (C) Reporting each year to the legislature on all complaints received pursuant to section 92-1.5.



LATE TESTIMONY

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SENATE COMMITTEE ON JUDICIARY AND LABOR
Hearing Scheduled 9:30 am, Monday, March 16, 2015, Conference Room 016
HB 461 RELATING TO THE OFFICE OF INFORMATION PRACTICES
TESTIMONY
Douglas Meller, Legislative Committee, League of Women Voters of Hawaii

Chair Keith-Agaran, Vice-Chair Shimabukuro, and Committee Members:

The League of Women Voters of Hawaii supports HB 461 to transfer the Office of Information Practices (OIP) to the Department of Accounting and General Services (DAGS). Hawaii's Constitution does not allow OIP to be permanently administratively attached to the Office of the Lieutenant Governor. Provided that OIP's autonomy is preserved, as proposed in HB 461, administrative attachment to DAGS seems reasonable.

Thank you for the opportunity to submit testimony.

From: mailinglist@capitol.hawaii.gov
To: [JDL Testimony](#)
Cc:
Subject: *Submitted testimony for HB461 on Mar 16, 2015 09:30AM*
Date: Sunday, March 15, 2015 3:01:19 PM

HB461

Submitted on: 3/15/2015

Testimony for JDL on Mar 16, 2015 09:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Nancy Davlantes	Individual	Support	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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