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# A BILL FOR AN ACT

RELATING TO THE OFFICE OF INFORMATION PRACTICES.

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

1           SECTION 1. Section 26-1, Hawaii Revised Statutes, is  
2 amended to read as follows:

3           "§26-1 Office of the lieutenant governor. (a) Except as  
4 otherwise provided by law, the lieutenant governor is designated  
5 the secretary of state for intergovernmental relations and shall  
6 perform the duties and functions heretofore exercised by the  
7 secretary of Hawaii. The duties and functions shall include [7]  
8 but not be limited to [7] recordation of all legislative and  
9 gubernatorial acts, certification of state documents, and  
10 maintenance of an official file of rules adopted by state  
11 departments as provided in chapter 91. The lieutenant governor  
12 may employ staff as necessary without regard to chapter 76.

13           (b) The lieutenant governor, with the approval of the  
14 governor, may designate some other officer of the government of  
15 the State to authenticate documents on behalf of the lieutenant  
16 governor during the lieutenant governor's temporary absence  
17 outside the State or during the lieutenant governor's illness  
18 whenever the documents require the signature of the lieutenant



1 governor. The person shall affix the person's own signature to  
2 the document with the words, "for the lieutenant governor"  
3 following and the signature shall be deemed to satisfy the  
4 requirement of the lieutenant governor's signature on the  
5 document. The designation and approval shall be in writing and  
6 shall be filed in the office of the governor and a copy thereof,  
7 certified by the governor, shall be filed with the public  
8 archives. The person [sø] designated shall serve without  
9 additional compensation and the lieutenant governor shall be  
10 responsible and liable on the lieutenant governor's official  
11 bond for all acts done by the person [sø] designated in the  
12 performance of the duties on behalf of the lieutenant governor.

13 (c) Nothing in this section shall be construed to  
14 authorize the person to exercise and discharge the powers and  
15 duties of the office of the governor as provided by the first  
16 paragraph of [~~Article~~] article V, section 4, of the Constitution  
17 of the State[~~-~~] of Hawaii. The person shall not be authorized  
18 to exercise any powers whenever a successor to the lieutenant  
19 governor assumes the duties of the lieutenant governor pursuant  
20 to [~~Article~~] article V, section 4, of the Constitution[~~-~~] of the  
21 State of Hawaii.



1       ~~[(d) In addition to the functions and duties provided by~~  
2 ~~law, the lieutenant governor shall assume administrative~~  
3 ~~responsibility for the office of information practices.~~

4       ~~+(e)]~~ (d) The governor shall identify and direct other  
5 duties as necessary to the lieutenant governor.

6       ~~+(f)]~~ (e) A lieutenant governor whose legal residence is  
7 on an island other than Oahu and who is required to remain away  
8 from the island of the lieutenant governor's legal residence but  
9 within the State overnight or longer while on official business  
10 shall receive an allowance to cover personal expenses such as  
11 board, lodging, and incidental expenses. The allowance  
12 authorized under this subsection shall be set at a daily single  
13 rate to be determined by a joint agreement between the senate  
14 president and speaker of the house of representatives. This  
15 rate shall:

16       (1) Not exceed the greater of the maximum allowance for  
17           such expenses payable to any public officer or  
18           employee of the State; and

19       (2) Be reasonably calculated to cover the expenses  
20           specified in this subsection.



1        [~~g~~] (f) The allowance authorized under subsection [~~f~~]  
2 (e) shall be in addition to and shall not supplant any portion  
3 of the salary of the lieutenant governor determined pursuant to  
4 section 26-51. The allowance shall be paid out of any available  
5 appropriation made by the legislature for expenses, other than  
6 the salary, of the lieutenant governor."

7        SECTION 2. Section 26-6, Hawaii Revised Statutes, is  
8 amended by amending subsection (b) to read as follows:

9        "(b) The department shall:

- 10        (1) Preaudit and conduct after-the-fact audits of the  
11                financial accounts of all state departments to  
12                determine the legality of expenditures and the  
13                accuracy of accounts;
- 14        (2) Report to the governor and to each regular session of  
15                the legislature as to the finances of each department  
16                of the State;
- 17        (3) Administer the state risk management program;
- 18        (4) Establish and manage motor pools;
- 19        (5) Manage the preservation and disposal of all records of  
20                the State;



- 1           (6) Undertake the program of centralized engineering and  
2           office leasing services, including operation and  
3           maintenance of public buildings, for departments of  
4           the State;
- 5           (7) Undertake the functions of the state surveyor;
- 6           (8) Establish accounting and internal control systems;
- 7           (9) Provide centralized computer information management  
8           and processing services, coordination in the use of  
9           all information processing equipment, software,  
10          facilities, and services in the executive branch of  
11          the State, and consultation and support services in  
12          the use of information processing and management  
13          technologies to improve the efficiency, effectiveness,  
14          and productivity of state government programs; [~~and~~]
- 15          (10) Establish, coordinate, and manage a program to provide  
16          a means for public access to public information and  
17          develop and operate an information network in  
18          conjunction with its overall plans for establishing a  
19          communication backbone for state government [~~-~~]; and
- 20          (11) Assume administrative responsibility for the office of  
21          information practices."



1 SECTION 3. Section 28-8.3, Hawaii Revised Statutes, is  
2 amended as follows:

3 1. By amending subsection (a) to read:

4 "(a) No department of the State other than the attorney  
5 general may employ or retain any attorney, by contract or  
6 otherwise, for the purpose of representing the State or the  
7 department in any litigation, rendering legal counsel to the  
8 department, or drafting legal documents for the department;  
9 provided that the foregoing provision shall not apply to the  
10 employment or retention of attorneys:

11 (1) By the public utilities commission, the labor and  
12 industrial relations appeals board, and the Hawaii  
13 labor relations board;

14 (2) By any court or judicial or legislative office of the  
15 State; provided that if the attorney general is  
16 requested to provide representation to a court or  
17 judicial office by the chief justice or the chief  
18 justice's designee, or to a legislative office by the  
19 speaker of the house of representatives and the  
20 president of the senate jointly, and the attorney  
21 general declines to provide such representation on the



- 1 grounds of conflict of interest, the attorney general  
2 shall retain an attorney for the court, judicial, or  
3 legislative office, subject to approval by the court,  
4 judicial, or legislative office;
- 5 (3) By the legislative reference bureau;
- 6 (4) By any compilation commission that may be constituted  
7 from time to time;
- 8 (5) By the real estate commission for any action involving  
9 the real estate recovery fund;
- 10 (6) By the contractors license board for any action  
11 involving the contractors recovery fund;
- 12 (7) By the office of Hawaiian affairs;
- 13 (8) By the department of commerce and consumer affairs for  
14 the enforcement of violations of chapters 480 and  
15 485A;
- 16 (9) As grand jury counsel;
- 17 [~~(10)~~ By the Hawaiian home lands trust individual claims  
18 review panel;
- 19 ~~(11)~~ (10) By the Hawaii health systems corporation, or its  
20 regional system boards, or any of their facilities;
- 21 [~~(12)~~ (11) By the auditor;



- 1        [~~(13)~~] (12) By the office of ombudsman;
- 2        [~~(14)~~] (13) By the insurance division;
- 3        [~~(15)~~] (14) By the University of Hawaii;
- 4        [~~(16)~~] (15) By the Kahoolawe island reserve commission;
- 5        [~~(17)~~] (16) By the division of consumer advocacy;
- 6        [~~(18)~~] (17) By the office of elections;
- 7        [~~(19)~~] (18) By the campaign spending commission;
- 8        [~~(20)~~] (19) By the Hawaii tourism authority, as provided in
- 9                    section 201B-2.5;
- 10       [~~(21)~~] (20) By the division of financial institutions for
- 11                    any action involving the mortgage loan recovery fund;
- 12                    [~~or~~]
- 13        (21) By the office of information practices; or
- 14        (22) By a department, [~~in the event~~] if the attorney
- 15                    general, for reasons deemed by the attorney general to
- 16                    be good and sufficient, declines to employ or retain
- 17                    an attorney for a department; provided that the
- 18                    governor waives the provision of this section."
- 19        2. By amending subsection (c) to read:
- 20                    "(c) Every attorney employed by any department on a full-
- 21                    time basis, except an attorney employed by the public utilities





1 commission, the labor and industrial relations appeals board,  
2 the Hawaii labor relations board, the office of Hawaiian  
3 affairs, the Hawaii health systems corporation or its regional  
4 system boards, the department of commerce and consumer affairs  
5 in prosecution of consumer complaints, insurance division, the  
6 division of consumer advocacy, the University of Hawaii, the  
7 Hawaii tourism authority as provided in section 201B-2.5, the  
8 [~~Hawaiian home lands trust individual claims review panel,~~]  
9 office of information practices, or as grand jury counsel, shall  
10 be a deputy attorney general."

11 SECTION 4. Section 92F-41, Hawaii Revised Statutes, is  
12 amended to read as follows:

13 **"§92F-41 Office of information practices; established.**

14 (a) There is established [~~a temporary~~] an office of information  
15 practices [~~for a special purpose~~] within the [~~office of the~~  
16 ~~lieutenant governor~~] department of accounting and general  
17 services for administrative purposes[-]; provided that:

18 (1) Any quasi-judicial functions of the office of  
19 information practices shall not be subject to the  
20 approval, review, or control of the comptroller; and



1       (2) The comptroller shall not have the power to supervise  
2       or control the office of information practices in the  
3       exercise of its functions, duties, and powers under  
4       section 92F-42.

5       (b) The governor shall appoint a director of the office of  
6 information practices to be its chief executive officer and who  
7 shall be exempt from chapter 76.

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

11       (d) The director may employ any other personnel that are  
12 necessary, including [~~but not limited to~~] attorneys and clerical  
13 staff. The office of information practices shall follow and be  
14 subject to all applicable personnel laws. All personnel of the  
15 office of information practices shall be employed without regard  
16 to chapter 76.

17       (e) The office of information practices shall make direct  
18 communications with the governor and legislature."

19       SECTION 5. Section 92F-42, Hawaii Revised Statutes, is  
20 amended to read as follows:



- 1       "§92F-42 Powers and duties of the office of information  
2 practices. The director of the office of information practices:
- 3       (1) Shall, upon request, review and rule on an agency  
4 denial of access to information or records, or an  
5 agency's granting of access; provided that any review  
6 by the office of information practices shall not be a  
7 contested case under chapter 91 and shall be optional  
8 and without prejudice to rights of judicial  
9 enforcement available under this chapter;
- 10       (2) Upon request by an agency, shall provide and make  
11 public advisory guidelines, opinions, or other  
12 information concerning that agency's functions and  
13 responsibilities;
- 14       (3) Upon request by any person, may provide advisory  
15 opinions or other information regarding that person's  
16 rights and the functions and responsibilities of  
17 agencies under this chapter;
- 18       (4) May conduct inquiries regarding compliance by an  
19 agency and investigate possible violations by any  
20 agency;



- 1           (5) May examine the records of any agency for the purpose
- 2           of ~~[paragraph]~~ paragraphs (4) and (18) and seek to
- 3           enforce that power in the courts of this State;
- 4           (6) May recommend disciplinary action to appropriate
- 5           officers of an agency;
- 6           (7) Shall report annually to the governor and the state
- 7           legislature on the activities and findings of the
- 8           office of information practices, including
- 9           recommendations for legislative changes;
- 10          (8) Shall receive complaints from and actively solicit the
- 11          comments of the public regarding the implementation of
- 12          this chapter;
- 13          (9) Shall review the official acts, records, policies, and
- 14          procedures of each agency;
- 15          (10) Shall assist agencies in complying with the provisions
- 16          of this chapter;
- 17          (11) Shall inform the public of the following rights of an
- 18          individual and the procedures for exercising them:
- 19                (A) The right of access to records pertaining to the
- 20                individual;



- 1 (B) The right to obtain a copy of records pertaining  
2 to the individual;
- 3 (C) The right to know the purposes for which records  
4 pertaining to the individual are kept;
- 5 (D) The right to be informed of the uses and  
6 disclosures of records pertaining to the  
7 individual;
- 8 (E) The right to correct or amend records pertaining  
9 to the individual; and
- 10 (F) The individual's right to place a statement in a  
11 record pertaining to that individual;
- 12 (12) Shall adopt rules that set forth an administrative  
13 appeals structure which provides for:
- 14 (A) Agency procedures for processing records  
15 requests;
- 16 (B) A direct appeal from the division maintaining the  
17 record; and
- 18 (C) Time limits for action by agencies;
- 19 (13) Shall adopt rules that set forth the fees and other  
20 charges that may be imposed for searching, reviewing,  
21 or segregating disclosable records, as well as to



1 provide for a waiver of fees when the public interest  
2 would be served;

3 (14) Shall adopt rules which set forth uniform standards  
4 for the records collection practices of agencies;

5 (15) Shall adopt rules that set forth uniform standards for  
6 disclosure of records for research purposes;

7 (16) Shall have standing to appear in cases where the  
8 provisions of this chapter or part I of chapter 92 are  
9 called into question;

10 (17) Shall adopt, amend, or repeal rules pursuant to  
11 chapter 91 necessary for the purposes of this chapter;  
12 and

13 (18) Shall take action to oversee compliance with part I of  
14 chapter 92 by all state and county boards including:

15 (A) Receiving and resolving complaints;

16 (B) Advising all government boards and the public  
17 about compliance with chapter 92; and

18 (C) Reporting each year to the legislature on all  
19 complaints received pursuant to section 92-1.5."

20 SECTION 6. All rights, powers, functions, and duties of  
21 the office of the lieutenant governor relating to the office of



1 information practices are transferred to the department of  
2 accounting and general services.

3 Employees shall be transferred without loss of salary,  
4 seniority (except as prescribed by applicable collective  
5 bargaining agreements), retention points, prior service credit,  
6 any vacation and sick leave credits previously earned, and other  
7 rights, benefits, and privileges, in accordance with state  
8 personnel laws and this Act; provided that the employees possess  
9 the minimum qualifications and public employment requirements  
10 for the class or position to which transferred or appointed, as  
11 applicable; provided further that subsequent changes in status  
12 may be made pursuant to applicable civil service and  
13 compensation laws.

14 Any employee who, prior to this Act, is exempt from civil  
15 service and is transferred as a consequence of this Act may  
16 retain the employee's exempt status, but shall not be appointed  
17 to a civil service position as a consequence of this Act. An  
18 exempt employee who is transferred by this Act shall not suffer  
19 any loss of prior service credit, vacation or sick leave credits  
20 previously earned, or other employee benefits or privileges as a  
21 consequence of this Act; provided that the employees possess



1 legal and public employment requirements for the position to  
 2 which transferred or appointed, as applicable; provided further  
 3 that subsequent changes in status may be made pursuant to  
 4 applicable employment and compensation laws. The director of  
 5 the office of information practices may prescribe the duties and  
 6 qualifications of these employees and fix their salaries without  
 7 regard to chapter 76, Hawaii Revised Statutes.

8 SECTION 7. All appropriations, records, equipment,  
 9 machines, files, supplies, contracts, books, papers, documents,  
 10 maps, and other personal property heretofore made, used,  
 11 acquired, or held by the office of the lieutenant governor  
 12 relating to the functions transferred to the department of  
 13 accounting and general services shall be transferred with the  
 14 functions to which they relate.

15 SECTION 8. All rules, policies, procedures, guidelines,  
 16 and other material adopted or developed by the office of  
 17 information practices to implement provisions of the Hawaii  
 18 Revised Statutes which are reenacted or made applicable to the  
 19 department of accounting and general services by this Act, shall  
 20 remain in full force and effect until amended or repealed by the  
 21 office of information practices pursuant to chapter 91, Hawaii





1 Revised Statutes. In the interim, every reference to the office  
2 of the lieutenant governor or the lieutenant governor in those  
3 rules, policies, procedures, guidelines, and other material is  
4 amended to refer to the department of accounting and general  
5 services or the comptroller as appropriate.

6 SECTION 9. All deeds, leases, contracts, loans,  
7 agreements, permits, or other documents executed or entered into  
8 by or on behalf of the office of information practices pursuant  
9 to the provisions of the Hawaii Revised Statutes, which are  
10 reenacted or made applicable to the department of accounting and  
11 general services by this Act, shall remain in full force and  
12 effect. Upon the effective date of this Act, every reference to  
13 the office of the lieutenant governor or the lieutenant governor  
14 therein shall be construed as a reference to the department of  
15 accounting and general services or the comptroller as  
16 appropriate.

17 SECTION 10. Statutory material to be repealed is bracketed  
18 and stricken. New statutory material is underscored.

19 SECTION 11. This Act shall take effect on July 1, 2050;  
20 provided that section 5 shall take effect upon approval.



**Report Title:**

OIP; LG; DAGS; Transfer; Administrative Attachment; Attorneys;  
Civil Service

**Description:**

Transfers OIP from LG to DAGS. Clarifies the independence of OIP as an administratively attached agency. Clarifies the employment status of OIP attorneys and the civil service exemption for OIP personnel. Effective 7/1/2050. (SD2)

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