

JAN 22 2007

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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. (a) The legislature finds that government  
2 agency compliance with the Uniform Information Practices Act,  
3 chapter 92F (open records law) and chapter 92 (public agency  
4 meetings and records), Hawaii Revised Statutes, is not  
5 consistent and is too often viewed as a source of frustration by  
6 the public. It appears that agency personnel who receive  
7 inquiries on these statutes may not be fully aware or understand  
8 provisions in these laws, which together are known as Hawaii's  
9 freedom of information laws.

10           Thus the legislature believes that requiring state and  
11 county departments to appoint a contact person to serve as a  
12 point of contact for freedom of information inquiries will:

13           (1) Increase departmental understanding of the Uniform  
14 Informational Practices Act, chapter 92F, and chapter  
15 92, Hawaii Revised Statutes, on public agency meetings  
16 and records, which will aid the departments in



1           responding to public inquiries regarding these laws;  
2           and

3           (2) Reduce the number of freedom of information inquiries  
4           directed to the office of information practices.

5   The point of contact for the department is meant to assist the  
6   department employees with freedom of information inquiries. The  
7   contact for the department is not meant to be the sole contact  
8   person for public access to the department records.

9           The legislature further finds that disclosure of government  
10 records would be enhanced by making all executive orders  
11 available for public inspection, and by allowing a waiver of  
12 fees to access government documents if the public interest is  
13 served by a waiver

14           (b) The purpose of this Act is to:

15           (1) Require state and county departments to designate a  
16           contact person for freedom of information inquiries,  
17           and require the office of information practices to  
18           provide training to the departmental contacts; and

19           (2) Allow the office of information practices to waive  
20           fees to access government documents if the public  
21           interest is served by a waiver.



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

4 **"§92F- State and county department contact person. Each**  
5 state and county department shall designate a person to be the  
6 department's contact for freedom of information inquiries  
7 including the Uniform Information Practices Act, chapter 92F,  
8 and chapter 92, public agency meetings and records. These  
9 persons shall attend office of information practices training  
10 classes pursuant to section 92F-42(19). Requests for  
11 information may be made directly to other personnel within the  
12 agency or department."

13 SECTION 3. Section 92F-42, Hawaii Revised Statutes, is  
14 amended to read as follows:

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

17 (1) [~~Shall, upon~~] Upon request, shall review and rule on  
18 an agency denial of access to information or records,  
19 or an agency's granting of access; provided that any  
20 review by the office of information practices shall  
21 not be a contested case under chapter 91 and shall be



- 1 optional and without prejudice to rights of judicial  
2 enforcement available under this chapter;
- 3 (2) Upon request by an agency, shall provide and make  
4 public advisory guidelines, opinions, or other  
5 information concerning that agency's functions and  
6 responsibilities;
- 7 (3) Upon request by any person, may provide advisory  
8 opinions or other information regarding that person's  
9 rights and the functions and responsibilities of  
10 agencies under this chapter;
- 11 (4) May conduct inquiries regarding compliance by an  
12 agency and investigate possible violations by any  
13 agency;
- 14 (5) May examine the records of any agency for the purpose  
15 of paragraph (4) and seek to enforce that power in the  
16 courts of this State;
- 17 (6) May recommend disciplinary action to appropriate  
18 officers of an agency;
- 19 (7) Shall report annually to the governor and the state  
20 legislature on the activities and findings of the  
21 office of information practices, including  
22 recommendations for legislative changes;



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



- 1           (12) Shall adopt rules that set forth an administrative  
2           appeals structure [~~which~~] that provides for:
- 3           (A) Agency procedures for processing records  
4           requests;
- 5           (B) A direct appeal from the division maintaining the  
6           record; and
- 7           (C) Time limits for action by agencies;
- 8           (13) Shall adopt rules that set forth the fees and other  
9           charges that may be imposed for searching, reviewing,  
10          or segregating disclosable records, as well as to  
11          provide for a waiver of fees when the public interest  
12          would be served;
- 13          (14) Shall adopt rules [~~which~~] that set forth uniform  
14          standards for the records collection practices of  
15          agencies;
- 16          (15) Shall adopt rules that set forth uniform standards for  
17          disclosure of records for research purposes;
- 18          (16) Shall have standing to appear in cases where the  
19          provisions of this chapter are called into question;
- 20          (17) Shall adopt, amend, or repeal rules pursuant to  
21          chapter 91 necessary for the purposes of this chapter;  
22          [and]



- 1       (18) Shall take action to oversee compliance with part I of
- 2             chapter 92 by all state and county boards including:
- 3             (A) Receiving and resolving complaints;
- 4             (B) Advising all government boards and the public
- 5                 about compliance with chapter 92; and
- 6             (C) Reporting each year to the legislature on all
- 7                 complaints received pursuant to section
- 8                 92-1.5[~~-~~]; and

9       (19) Shall provide state and county department freedom of  
10       information contact persons designated under section  
11       92F- with training on this chapter and chapter 92."

12       SECTION 4. Section 92-21, Hawaii Revised Statutes, is  
13 amended to read as follows:

14       **"§92-21 Copies of records; other costs and fees. (a)**  
15 Except as otherwise provided by law, a copy of any government  
16 record, including any map, plan, diagram, photograph, photostat,  
17 or geographic information system digital data file, which is  
18 open to the inspection of the public, shall be furnished to any  
19 person applying for the same by the public officer having charge  
20 or control thereof upon the payment of the reasonable cost of  
21 reproducing such copy.



1        (b) Except as provided in section 91-2.5, the cost of  
2 reproducing any government record, except geographic information  
3 system digital data, shall not be less than 5 cents per page,  
4 sheet, or fraction thereof.

5        (c) The cost of reproducing geographic information system  
6 digital data shall be in accordance with rules adopted by the  
7 agency having charge or control of that data. Such reproduction  
8 cost shall include but shall not be limited to labor cost for  
9 search and actual time for reproducing, material cost, including  
10 electricity cost, equipment cost, including rental cost, cost  
11 for certification, and other related costs.

12       (d) All fees shall be paid in by the public officer  
13 receiving or collecting the same to the state director of  
14 finance, the county director of finance, or to the agency or  
15 department by which the officer is employed, as government  
16 realizations; provided that fees collected by the public  
17 utilities commission pursuant to this section shall be deposited  
18 in the public utilities commission special fund established  
19 under section 269-33.

20       (e) Notwithstanding any other law to the contrary, any fee  
21 to access a record may be waived by the office of information  
22 practices if it determines that the public's interest is served





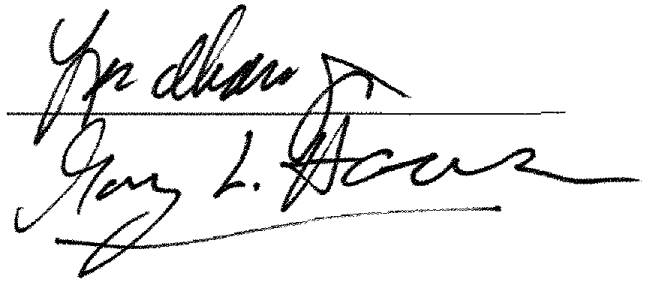
1 by a waiver; provided that any cost borne by the agency for the  
2 waiver shall not unduly disrupt operations of the agency."

3 SECTION 5. Statutory material to be repealed is bracketed  
4 and stricken. New statutory material is underscored.

5 SECTION 6. This Act shall take effect on July 1, 2007.

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INTRODUCED BY:

  
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**Report Title:**

Office of Information Practices; Contact Person; Public Access

**Description:**

Requires each state and county department to designate a contact person for freedom of information inquiries involving the open meetings and records laws (chapters 92 and 92F) and requires the office of information practices to provide training to the departmental contacts; allows the office of information practices to waive fees to access government documents if public interest is served by a waiver.

