

STAND. COM. REP. NO. 895 -98

Honolulu, Hawaii  
March 24, 1998

RE: S.B. No. 2983  
S.D. 2  
H.D. 1

Honorable Joseph M. Souki  
Speaker, House of Representatives  
Nineteenth State Legislature  
Regular Session of 1998  
State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred S.B. No. 2983, S.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO OFFICE OF INFORMATION PRACTICES,"

begs leave to report as follows:

The purposes of this measure are:

- (1) To transfer the Office of Information Practices (OIP) from the Department of the Attorney General to the Judiciary for administrative purposes; and
- (2) Establish the OIP as the office responsible for overseeing compliance of the open meetings law and open records law.

Your Committee received testimony in support of this measure from representatives of the Office of Information Practices, Office of Hawaiian Affairs, Common Cause Hawaii, League of Women Voters, Hawaii Clean Elections and a concerned individual. Your Committee received testimony supporting the intent of this measure from the Hawaii Chapter of the Society of Professional Journalists and the Honolulu Community-Media Council.

Your Committee received testimony in opposition to this measure from the State Attorney General and the Judiciary.

Your Committee finds that the OIP is responsible for maintaining open access to public information as mandated by the federal Uniform Information Practices Act (Modified). The public finds the OIP an invaluable resource in assisting and providing access to these files and records. Moreover, the OIP has been praised as being a model approach to public access to information by national freedom of information advocates.

Accordingly, your Committee believes that the OIP is the appropriate agency to collect information, investigate, and respond to inquiries and report to the legislature regarding complaints of non-compliance with the open meetings and open records law.

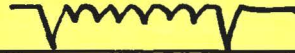
However, your Committee is concerned that placement of the OIP in the Judiciary may create a potential conflict of interest, or appearance thereof, and raises questions regarding the separation of powers.

Therefore, after careful consideration, your Committee amended this bill by:

- (1) Replacing the word "agency" with the word "board," in those sections of the bill that give the OIP power to oversee compliance with chapter 92, Hawaii Revised Statutes;
- (2) Transferring the OIP from the Department of the Attorney General to the office of the Lieutenant Governor, rather than the Judiciary;
- (3) Clarifying that complaints of board non-compliance with the provisions of chapter 92 shall be submitted to the OIP; and
- (4) Making technical, nonsubstantive changes for purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2983, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2983, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Respectfully submitted on  
behalf of the members of the  
Committee on Judiciary,



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TERRANCE TOM, Chair

