



The Office of Information Practices (“OIP”) is charged with the administration of Hawaii’s open records law, the Uniform Information Practices Act (Modified), chapter 92F, HRS (the “UIPA”), and Hawaii’s open meetings law, part I of chapter 92, HRS (the “Sunshine Law”).

2009 Legislature: Sunshine Law Bills

The following three bills were introduced as part of the Governor’s legislative package to promote greater government efficiency while safeguarding open government.

Receiving Testimony or Presentations Without a Quorum (HB1146, SB 964)

HB 1146 and SB 964 propose to amend the Sunshine Law by adding another permitted interaction. A permitted interaction is an allowed interaction between board members outside of a noticed meeting concerning the official business of their board. The proposed permitted interaction would specifically allow board members present when a noticed meeting is canceled for lack of quorum the option of receiving public testimony and presentations on noticed agenda items.

Members of the public that come to testify, or individuals scheduled to make a presentation to the board, often want the option to give the testimony or presentation to the members present at that time instead of coming back again for the next scheduled meeting. This is especially important for those who must travel long distances or even inter-island to come to a meeting. This bill would allow those board members present to accommodate those members of the public who have come to a scheduled meeting to testify or give a presentation by permitting the board members present to hear the testimony or presentation and then report back on that testimony or presentation at a noticed meeting.

OIP believes that the reporting requirement will generally ensure that the full board has access to the information given in testimony and presentations. Further, OIP believes that public access to board members’ discussions will not be impeded because the public had notice of the meeting and because the board members cannot deliberate or make a decision concerning the testimony or a presentation until a subsequent duly noticed board meeting.



[Text of the bills: www.capitol.hawaii.gov/session2009/Bills/HB1146_.pdf and www.capitol.hawaii.gov/session2009/Bills/SB964_.pdf]

Concurrence for Emergency Meetings (HB 1147, SB 965)

HB 1147 and SB 965 propose that the emergency meeting section of the Sunshine Law be amended to transfer from the Attorney General to the OIP Director the responsibility of providing the required concurrence with a board’s finding that an emergency meeting is necessary.

Under section 92-8, a board is authorized to hold an emergency meeting when it finds an emergency meeting is necessary to respond to either: (1) an imminent peril to the public health, safety, or welfare, or (2) an unanticipated event. When a board finds it necessary to hold an emergency meeting in response to the latter, i.e. an unanticipated event, a board currently must obtain the Attorney General’s concurrence that the conditions necessary for an emergency meeting for this purpose exist.

The OIP Director is currently responsible for providing the required concurrence for boards to hold closed meetings under section 92-3.1, the limited meetings section. OIP believes that transferring responsibility for concurrence under the emergency meeting section to the OIP Director is consistent with the OIP Director’s responsibility to administer the Sunshine Law and will avoid any resulting confusion if responsibility for concurrence under these two sections is not placed with the same official.

[Text of the bills: www.capitol.hawaii.gov/session2009/Bills/HB1147_.pdf and www.capitol.hawaii.gov/session2009/Bills/SB965_.pdf]

See Sunshine Law Bills, p. 2

Sunshine Law Bills (cont. from p. 1)

Electronic Filing of Meeting Notices on State Calendar (HB 1148, SB 966)

HB 1148 and SB 966 propose amendment to the notice provision of the Sunshine Law. Under this bill, state boards would be required to file their notices and agendas electronically on the State calendar maintained on the State website instead of filing hard copies with the Office of the Lieutenant Governor.

OIP believes that electronic posting provides easier access for the public to all state board notices and agendas because of their availability over the Internet. Because state boards are currently directed to post their regular meeting notices on the State calendar under the Governor’s Executive Memorandum No. 08-06, this bill will eliminate the current duplicate filings by these boards on the state calendar and in the Office of the Lieutenant Governor. OIP believes that this would further government efficiency by eliminating staff time spent and resources used to receive and post hard copies or in rejecting untimely filed notices. These functions would all be performed electronically.

In the event of an interruption in Internet service, the proposed amendment would require boards to file their notices with OIP. OIP would then be responsible for the electronic posting as soon as Internet service is restored.

The statute would also still require physical notices to be posted at the board’s office and at the site of the meeting whenever feasible as well as mail notification to persons who request notification in such form.

[Text of the bills: www.capitol.hawaii.gov/session2009/Bills/HB1148_.pdf and www.capitol.hawaii.gov/session2009/Bills/SB966_.pdf]



OIP Annual Report 2008

The Office of Information Practices *Annual Report 2008* is now available at www.hawaii.gov/oip/reports.html.

This report to the Governor and to the Legislature summarizes OIP’s activities and findings in administering

the State’s public records law and open meetings law for fiscal year 2008 (July 1, 2007, to June 30, 2008). Here are a few highlights from the report.

In FY 2008, OIP received 918 requests for assistance, including requests for general advisory opinions under the UIPA and Sunshine Law and requests for investigations of violations of the Sunshine Law, the UIPA, or OIP’s administrative rules.



Requests for Assistance

A majority of the requests for assistance are handled through OIP’s Attorney of the Day (“AOD”) service, by which the public, agencies, and boards may receive general legal advice from an OIP staff attorney, usually within that same day. In FY 2008, OIP received 779 AOD requests.

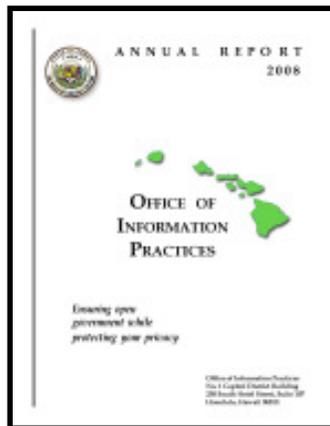
Requests for Opinions / Appeals

Upon request, OIP provides written advisory opinions on UIPA and Sunshine Law issues. OIP also investigates and renders opinions on complaints filed alleging violations of the Sunshine Law. Further, OIP hears appeals and issues written determinations from agency denials of access to records.

OIP issues formal, informal and summary opinions, depending on the facts and issues involved and whether the opinions have widespread application for guidance purposes. In FY 2008, OIP issued 32 written opinions, some of which are summarized in the annual report.

Training

OIP does UIPA and Sunshine Law training upon request. In FY 2008, OIP conducted 19 training sessions.



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