

2004 Legislative Wrap-Up: Information Practices

During the 2004 Legislative Session, the Office of Information Practices ("OIP") reviewed and monitored 164 bills and resolutions for their effect on government information practices.

For complete information about all bills in the 2004 session, including the text of bills, bill history, committee reports, list of acts, and list of vetoed measures, consult the Legislature's web site at www.Capitol.hawaii.gov.



☛ Social Security Numbers and Privacy Interest (HB 2674; Act 92)

This law limits public access to social security numbers previously required to be disclosed as part of certified payroll records pursuant to section 92F-12(a)(9) and expressly instructs agencies to attach a significant privacy interest to social security numbers, thus limiting opportunities for identity theft.

☛ Natural Energy Laboratory of Hawaii: Proprietary Information (HB 2142; Act 23)

This law creates a new section in chapter 227D, HRS, which protects from public disclosure business trade secrets and other confidential proprietary information contained within records pertaining to tenants and prospective tenants of the Natural Energy Laboratory of Hawaii Authority ("NELHA"), notwithstanding chapter 92F, HRS, or any other law to the contrary.

This law allows NELHA to segregate information contained in business plans attached to leases of state land prior to public disclosure, but does not apply to leases of state land themselves or to other information required to be public by section 92F-12(a)(5), HRS. The OIP worked with NELHA on appropriate language, and supported the bill at the Legislature.

☛ Office of Information Practices: Civil Enforcement (HB2335/SB 2810)

These bills would have made clear that the OIP has the authority to civilly enforce the Sunshine Law. They would also have made the OIP's powers and duties under the Sunshine Law more akin to its powers and duties under the UIPA. Both bills died before crossover.

☛ Site Inspections by Sunshine Boards (HB 2336)

A site inspection bill was introduced as part of the administration's package to authorize boards and commissions subject to the Sunshine Law to conduct on-site inspections of physical facilities and locations which relate to a matter under a board's supervision, control, jurisdiction or advisory power.

The bill would have required that the board specify its reasons for holding the on-site inspection, that the OIP concur with those reasons, and that procedural safeguards such as notice, videotaping, and minute-taking be required. No decisions would be permitted to be made at the meeting.

The bill was passed out of its first committee but did not receive further hearings. The companion, SB 2811, was not heard by the Senate.

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Sunshine Training for Boards and Commissions Set for August

On the morning of August 5, 2004, the Office of Information Practices will conduct a Sunshine Law training for members of all State boards and commissions.

Staff assigned to assist and/or advise State boards and commissions are also urged to attend. We will cover notices and agendas, meetings (including communication outside of meetings), permitted interactions, emergency meetings and limited meetings, and minute requirements.

Please contact the OIP at oip@hawaii.gov with any suggestions, questions, or areas of concern you would like to see addressed, and also to let us know if you plan to attend.

We will be sending a formal announcement soon, including location, but wanted to make sure that we set a date early so that everyone can block off their calendars. ☛



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☛ Sunshine Law: Teleconferencing (HB 2480/SB 2955)

Section 92-2.5, HRS, currently allows boards to meet by videoconference, but requires that the meeting terminate if both audio and video communication cannot be maintained.



These bills would have allowed boards to continue a

videoconference meeting if the video communication failed, provided that: (1) all visual aids required by, or brought to the meeting by, board members or the public, already had been provided to all meeting participants at all videoconference locations; or (2) participants were able to transmit visual aids to all other participants at all other videoconference locations by other means, such as facsimile, within fifteen minutes after the video communication failed.

If copies of visual aids are not available to all meeting participants at all videoconference locations, these bills would have required that the specific agenda items related to the visual aids not be discussed and be renoticed for a future meeting. Both bills died.

☛ Non-Attending Sunshine Board Members (HB 1765)

This bill provides that a board member's term expires when the board fails to attend three consecutive meetings where there were insufficient board members to constitute a quorum. The bill will become law effective July 13, 2004, unless signed earlier by the Governor or vetoed by the Governor.

☛ Hawaii Convention Center Records (SB 2395)

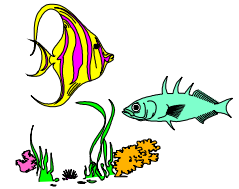
This bill would have exempted the Hawaii Convention Center from disclosure under the UIPA when a group renting the center requested that records relating to the rental not be disclosed.

The bill originally would have kept the records secret indefinitely, but based on concerns expressed by the OIP, the Hawaii Tourism Authority asked the legislature to limit the period of secrecy so that it would end 10 days after the conclusion of the Convention Center rental in question.

The Legislature passed the bill out with the more limited period of secrecy. The Governor, however, vetoed the

Staff Update

The Office of Information Practices welcomes its new student law intern, **Jennifer Higa**.



Jennifer has just completed her first year at the J. Reuben Clark Law School, Brigham Young University. She is a 1996 graduate of Kamehameha Schools and received a B.A. from Amherst College, where she majored in American History.

Jennifer's favorite hobby is reading, which occupies most of her time in law school. She reads everything in sight, including this, no doubt, so welcome, Jennifer! 📖

bill based on concerns that the bill would unduly limit public access to Convention Center records about upcoming conventions.

☛ Vexatious Requester (SB 3185)

This bill would have allowed an agency to ask the OIP to determine that a person was a vexatious requester. The agency would have the burden of proof to establish that the person's pattern of conduct met at least two of a list of factors.

If the OIP did determine that a person was a vexatious requester, the bill would have allowed the OIP to impose restrictions on the person's use of the UIPA, so long as the restrictions were narrowly tailored to the abuses that the agency had proved.

The OIP supported the bill, which would have provided agencies a potential means to address the difficulties created in the few instances in which a requester genuinely has a pattern of abusing the processes created by the UIPA, to the detriment of both the agencies affected and other record requesters.

The Senate and House passed the bill in different forms, but the conference committee draft was rejected on the floor of the House. 📖

Openline is a monthly publication of the Office of Information Practices, State of Hawaii.

Director: Leslie H. Kondo
 Editor: Michael V. Little
 Address: No. 1 Capitol District Building
 250 S. Hotel St., Suite 107
 Honolulu, Hawaii 96813

Phone: (808) 586-1400

Fax: (808) 586-1412

Internet: www.hawaii.gov/oip

email: oip@hawaii.gov

