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# A BILL FOR AN ACT

RELATING TO GOVERNMENT TRANSPARENCY.

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

1           SECTION 1. The legislature finds that government  
2 transparency is the foundation of our republic. Our system of  
3 government holds officials accountable by entrusting the people  
4 with the ultimate decision-making power. The public interest is  
5 best protected when government operations are open to public  
6 scrutiny.

7           To that end, Hawaii's Uniform Information Practices Act  
8 states that "the formation and conduct of public policy--the  
9 discussions, deliberations, decisions, and action of government  
10 agencies--shall be conducted as openly as possible." In other  
11 words, officials should be held accountable for not only their  
12 decisions, but also the discussions and deliberations that lead  
13 to those decisions. The decision-making process itself should  
14 be transparent to the people.

15           Too often, however, reality has not lived up to these  
16 ideals, and the process of government has been hidden from the  
17 people. The Uniform Information Practices Act allows for five



1 narrow exceptions to public disclosure, including for government  
2 records that must be confidential in order for the government to  
3 function. Unfortunately, some officials have twisted this  
4 exemption and the related "deliberative process privilege" into  
5 an excuse to withhold vast numbers of documents from disclosure.  
6 This goes against the original intent of the Uniform Information  
7 Practices Act, and must end.

8       The legislature further finds that transparency in the  
9 budgetary process is of the utmost importance. Yet some of the  
10 most egregious examples of resistance to public disclosure have  
11 occurred in budgeting. For example, the City and County of  
12 Honolulu recently used the aforementioned exemptions to justify  
13 hiding its departmental budget requests from the public.

14       Taxpayers and the people of Hawaii expect officials to  
15 steward public funds in a responsible manner for the public  
16 good. The public should know if a department's needs are going  
17 overfunded or unfunded. The voters are this state's ultimate  
18 policymakers, and deserve to know not only how public money is  
19 actually being spent, but how government officials have proposed  
20 to spend it.



1           The purpose of this Act, therefore, is to ensure that the  
2 public has access to budget-related documents from all  
3 government agencies. The Act accomplishes this by specifying  
4 that one of the purposes of the Uniform Information Practices  
5 Act is to ensure that budgeting happens as openly as possible;  
6 by specifying that agencies shall release all budget and budget-  
7 related documents; and by clarifying that the narrow exceptions  
8 to disclosure under section 92F-13 shall not apply to budget or  
9 budget-related documents in the absence of a legitimate public  
10 safety justification for nondisclosure.

11           SECTION 2. Section 92F-2, Hawaii Revised Statutes, is  
12 amended to read as follows:

13           "~~§~~92F-2~~+~~   **Purposes; rules of construction.** In a  
14 democracy, the people are vested with the ultimate decision-  
15 making power. Government agencies exist to aid the people in  
16 the formation and conduct of public policy. Opening up the  
17 government processes to public scrutiny and participation is the  
18 only viable and reasonable method of protecting the public's  
19 interest. Therefore the legislature declares that it is the  
20 policy of this State that the formation and conduct of public  
21 policy--the discussions, deliberations, decisions, budgeting,



1 and action of government agencies--shall be conducted as openly  
2 as possible.

3 The policy of conducting government business as openly as  
4 possible must be tempered by a recognition of the right of the  
5 people to privacy, as embodied in section 6 and section 7 of  
6 article I of the constitution of the state of Hawaii.

7 This chapter shall be applied and construed to promote its  
8 underlying purposes and policies, which are to:

- 9 (1) Promote the public interest in disclosure;
- 10 (2) Provide for accurate, relevant, timely, and complete  
11 government records;
- 12 (3) Enhance governmental accountability through a general  
13 policy of access to government records;
- 14 (4) Make government accountable to individuals in the  
15 collection, use, and dissemination of information  
16 relating to them; and
- 17 (5) Balance the individual privacy interest and the public  
18 access interest, allowing access unless it would  
19 constitute a clearly unwarranted invasion of personal  
20 privacy."



1 SECTION 3. Section 92F-12, Hawaii Revised Statutes, is  
2 amended by amending subsection (a) to read as follows:

3 "§92F-12 Disclosure required. (a) Any other provision in  
4 this chapter to the contrary notwithstanding, each agency shall  
5 make available for public inspection and duplication during  
6 regular business hours:

7 (1) Rules of procedure, substantive rules of general  
8 applicability, statements of general policy, and  
9 interpretations of general applicability adopted by  
10 the agency;

11 (2) Final opinions, including concurring and dissenting  
12 opinions, as well as orders made in the adjudication  
13 of cases, except to the extent protected by section  
14 92F-13(1);

15 (3) Government purchasing information, including all bid  
16 results, except to the extent prohibited by section  
17 92F-13;

18 (4) Pardons and commutations, as well as directory  
19 information concerning an individual's presence at any  
20 correctional facility;



- 1           (5) Land ownership, transfer, and lien records, including
- 2           real property tax information and leases of state
- 3           land;
- 4           (6) Results of environmental tests;
- 5           (7) Minutes of all agency meetings required by law to be
- 6           public;
- 7           (8) Name, address, and occupation of any person borrowing
- 8           funds from a state or county loan program, and the
- 9           amount, purpose, and current status of the loan;
- 10          (9) Certified payroll records on public works contracts
- 11          except social security numbers and home addresses;
- 12          (10) Regarding contract hires and consultants employed by
- 13          agencies:
- 14                (A) The contract itself, the amount of compensation;
- 15                (B) The duration of the contract; and
- 16                (C) The objectives of the contract,
- 17          except social security numbers and home addresses;
- 18          (11) Building permit information within the control of the
- 19          agency;
- 20          (12) Water service consumption data maintained by the
- 21          boards of water supply;



- 1           (13) Rosters of persons holding licenses or permits granted  
2                    by an agency that may include name, business address,  
3                    type of license held, and status of the license;
- 4           (14) The name, compensation (but only the salary range for  
5                    employees covered by or included in chapter 76, and  
6                    sections 302A-602 to 302A-639, and 302A-701, or  
7                    bargaining unit (8)), job title, business address,  
8                    business telephone number, job description, education  
9                    and training background, previous work experience,  
10                  dates of first and last employment, position number,  
11                  type of appointment, service computation date,  
12                  occupational group or class code, bargaining unit  
13                  code, employing agency name and code, department,  
14                  division, branch, office, section, unit, and island of  
15                  employment, of present or former officers or employees  
16                  of the agency; provided that this paragraph shall not  
17                  require the creation of a roster of employees; and  
18                  provided further that this paragraph shall not apply  
19                  to information regarding present or former employees  
20                  involved in an undercover capacity in a law  
21                  enforcement agency;



1 (15) Information collected and maintained for the purpose  
2 of making information available to the general public;  
3 [and]

4 (16) Information contained in or compiled from a  
5 transcript, minutes, report, or summary of a  
6 proceeding open to the public[-]; and

7 (17) Budget and budget-related documents, including but not  
8 limited to agency budget requests; provided that this  
9 paragraph shall not require the disclosure of  
10 information regarding undercover activities of law  
11 enforcement agencies.

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

14 "§92F-13 Government records; exceptions to general rule.

15 This part shall not require disclosure of:

16 (1) Government records which, if disclosed, would  
17 constitute a clearly unwarranted invasion of personal  
18 privacy;

19 (2) Government records pertaining to the prosecution or  
20 defense of any judicial or quasi-judicial action to  
21 which the State or any county is or may be a party, to





- 1           the extent that such records would not be  
2           discoverable;
- 3           (3) Government records that, by their nature, must be  
4           confidential in order for the government to avoid the  
5           frustration of a legitimate government function;  
6           provided that this paragraph shall not apply to budget  
7           or budget-related documents unless the agency can show  
8           a legitimate public safety justification for  
9           nondisclosure;
- 10          (4) Government records which, pursuant to state or federal  
11          law including an order of any state or federal court,  
12          are protected from disclosure; and
- 13          (5) Inchoate and draft working papers of legislative  
14          committees including budget worksheets and unfiled  
15          committee reports; work product; records or  
16          transcripts of an investigating committee of the  
17          legislature which are closed by rules adopted pursuant  
18          to section 21-4 and the personal files of members of  
19          the legislature."

20           SECTION 5. Statutory material to be repealed is bracketed  
21           and stricken. New statutory material is underscored.



1 SECTION 6. This Act shall take effect upon its approval.

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INTRODUCED BY:

*A. Jyola*  
*Joe Ward*  
*Gather Hickel*  
*R. McInnis*  
*J. Paul Mitchell*

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# H.B. NO. 1730

**Report Title:**

Government transparency; Budgeting; Uniform Information Practices Act

**Description:**

Clarifies that agencies must provide public disclosure of budget documents. Clarifies that exceptions to disclosure do not apply to budget documents unless agency can show a legitimate public safety justification for nondisclosure.

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