



OFFICE OF THE LIEUTENANT GOVERNOR
STATE OF HAWAII
STATE CAPITOL
HONOLULU, HAWAII 96813

SHAN S. TSUTSUI
LIEUTENANT GOVERNOR

**TESTIMONY OF
THE OFFICE OF THE LIEUTENANT GOVERNOR
TO THE
SENATE COMMITTEE ON WAYS AND MEANS**

**SENATE BILL NO. 472, SENATE DRAFT 1
Relating to the Office of Information Practices**

Chair Tokuda, Vice-Chair Kouchi and members of the Committee on Ways and Means, the Office of the Lieutenant Governor supports Senate Bill No. 472, Senate Draft 1, relating to the Office of Information Practices and will defer to the Departments of Budget and Finance and Accounting and General Services on any fiscal implications the transfer may have.

Thank you for the opportunity to testify.



STATE OF HAWAII
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES

P.O. BOX 119, HONOLULU, HAWAII 96810-0119

WRITTEN TESTIMONY
OF
DOUGLAS MURDOCK, COMPTROLLER
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
TO THE
SENATE COMMITTEE
ON
WAYS AND MEANS
ON
FEBRUARY 27, 2015

S.B. 472, S.D. 1

RELATING TO THE OFFICE OF INFORMATION PRACTICES

Chair Tokuda and members of the Committee, thank you for the opportunity to submit written testimony on S.B. 472, S.D. 1. The Department of Accounting and General Services (DAGS) provides the following comments on S.B. 472, S.D. 1.

DAGS recommends that the Committee modify or delete SECTION 1 of S.B. 472, S.D. 1 (at page 1, lines 4 – 6) because Section 26-35, Hawaii Revised Statutes (HRS), applies to boards and commissions and the Office of Information Practices (OIP) is not a board or commission nor does it have a board or commission with governing responsibility.

DAGS has no objection to OIP having direct communications with the Governor and Legislature. This authority could be added to SECTION 5 of the bill by including the power in Section 92F-41, HRS, by adding the language “(e) Make direct communications with the governor and legislature.”

In addition, because Section 26-35, HRS, does not apply to OIP, the Committee should consider adding to SECTION 5 of the bill the following paragraphs under Section 92F-41, HRS, in order to maintain OIP's independent decision making ability:

“(f) Any quasi-judicial functions of the office of information practices shall not be subject to the approval, review, or control of the head of the department.

(g) The head of the department shall not have the power to supervise or control the office of information practices in the exercise of its functions, duties, and powers under section 92F-42 – Powers and duties of the office of information practices.”

This above proposed language is similar to Section 26-35(7) and (8), HRS.

Thank you for the opportunity to submit written testimony on this matter.

OFFICE OF INFORMATION PRACTICES

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To: Senate Committee on Ways and Means

From: Cheryl Kakazu Park, Director

Date: February 27, 2015, at 9:00 a.m.
State Capitol, Conference Room 211

Re: Testimony on S.B. No. 472, S.D. 1
Relating to the Office of Information Practices

The Office of Information Practices (“OIP”) supports this bill, which would transfer OIP to the Department of Accounting and General Services (“DAGS”) in 2016, clarify the independence of OIP as an administratively attached agency, clarify the employment status of OIP attorneys and the civil service exception for OIP personnel, and appropriate funds to DAGS for positions to provide administrative support to OIP and its other administratively attached agencies. In light of the amendments made in the Senate Draft 1 (SD 1), OIP would like to recommend additional changes.

The Legislative Reference Bureau’s recently completed report on the feasibility of transferring OIP to DAGS (“LRB Report”) is now online at <http://lrbhawaii.info/reports/legrpts/lrb/2014/oipdags.pdf>. As the LRB Report noted, OIP is currently administratively attached to the office of the Lieutenant Governor as a “temporary office . . . for a special purpose,” because permanent offices must be housed in one of the principal executive branch departments. OIP, however, is not in fact a temporary office, as it has now been in existence for over 25 years, so the

transfer to DAGS would better comply with the constitutional requirement for permanent offices to be housed in a suitable department.

OIP strongly supports the provisions making clear that OIP will retain its independence as a good government agency and is transferring to DAGS for administrative purposes only. While OIP appreciates the recognition in the Senate Judiciary and Labor Committee's report (SSCR 157) that the Comptroller should not have the power to supervise or control OIP's exercise of its functions, duties and powers, the SD 1 amended the bill in a way that results in giving the Comptroller the power to approve OIP's personnel and purchasing decisions under HRS Sec. 26-35(a)(4) and (5) and could thus compromise OIP's independence. While OIP follows the State's personnel, purchasing, and budget rules and procedures, OIP respectfully requests that SB 472, SD 1 be amended as follows.

First, if OIP is subjected to the provisions of HRS Section 26-35(4), which makes its personnel decisions subject to applicable personnel laws, then **remove the redundant provision** currently contained on page 1 at lines 7 to 8 which states, "(b) The office of information practices shall follow and be subject to all applicable personnel laws."

Second, protect OIP's independence and making clear that the Comptroller's approval of OIP's personnel and purchasing decisions pursuant to HRS Section 26-35(a)(4) and (5) shall not be unreasonably withheld. Therefore, the provision referenced above on page 1 at lines 7 to 8 should be **replaced as follows**: "(b) Any approval by the head of the department referenced in section 26-35(a) shall not be unreasonably withheld or used to control OIP's exercise of its functions, duties, and powers."

Finally, OIP supports the appropriation request by DAGS to fund two position needed to provide administrative support to OIP and all other agencies that are now administratively attached to DAGS.

Thank you for considering OIP's testimony and proposed amendments to SB 472, SD 1.



Senate Ways and Means Committee
Chair Gilbert Jill Tokuda, Vice Chair Ronald Kouchi

Friday 02/27/2015 at 9:00 AM in Room 211
SB472 SD1 Relating to the Office of Information Practices

TESTIMONY OF SUPPORT
Carmille Lim, Executive Director, Common Cause Hawaii

Dear Chair Tokuda, Vice Chair Kouchi and members of the Committee:

Common Cause Hawaii supports SB472 SD1, which will transfer the Office of Information Practices (OIP) from the Office of the Lieutenant Governor (LG) to the Department of Accounting and General Services (DAGS).

The Hawaii State Constitution, Article V, section 6, essentially says that permanent offices must be administratively tied to an executive office, such as DAGS. Currently, OIP is administratively tied to the LG office, as a “temporary office” with “a special purpose.” As an agency that has existed for 25 years, we believe that the current administrative attachment of the OIP to the LG office is unacceptable.

Further, we believe the current administrative attachment of the OIP to the LG allows the potential for undue political influence to exist. In harmony with Common Cause Hawaii’s efforts to strengthen government transparency, this bill offers acceptable measures that will safeguard the autonomy of the OIP as an administrative attachment to DAGS.

Thank you for the opportunity to testify in support of SB472 SD1.