
A BILL FOR AN ACT

RELATING TO THE OFFICE OF INFORMATION PRACTICES.

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

1 SECTION 1. Chapter 92F, part IV, Hawaii Revised Statutes,
2 is amended by adding a new section to be appropriately
3 designated and to read as follows:

4 "**§92F- Exemptions.** (a) The office of information
5 practices shall be exempt from section 26-35(a)(1) and shall
6 make direct communications with the governor and legislature.

7 (b) The office of information practices shall follow and
8 be subject to all applicable personnel laws."

9 SECTION 2. Section 26-1, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "**§26-1 Office of the lieutenant governor.** (a) Except as
12 otherwise provided by law, the lieutenant governor is designated
13 the secretary of state for intergovernmental relations and shall
14 perform the duties and functions heretofore exercised by the
15 secretary of Hawaii. The duties and functions shall include,
16 but not be limited to, recordation of all legislative and
17 gubernatorial acts, certification of state documents, and
18 maintenance of an official file of rules adopted by state



1 departments as provided in chapter 91. The lieutenant governor
2 may employ staff as necessary without regard to chapter 76.

3 (b) The lieutenant governor, with the approval of the
4 governor, may designate some other officer of the government of
5 the State to authenticate documents on behalf of the lieutenant
6 governor during the lieutenant governor's temporary absence
7 outside the State or during the lieutenant governor's illness
8 whenever the documents require the signature of the lieutenant
9 governor. The person shall affix the person's own signature to
10 the document with the words, "for the lieutenant governor"
11 following and the signature shall be deemed to satisfy the
12 requirement of the lieutenant governor's signature on the
13 document. The designation and approval shall be in writing and
14 shall be filed in the office of the governor and a copy thereof,
15 certified by the governor, shall be filed with the public
16 archives. The person so designated shall serve without
17 additional compensation and the lieutenant governor shall be
18 responsible and liable on the lieutenant governor's official
19 bond for all acts done by the person so designated in the
20 performance of the duties on behalf of the lieutenant governor.



1 (c) Nothing in this section shall be construed to
2 authorize the person to exercise and discharge the powers and
3 duties of the office of the governor as provided by the first
4 paragraph of Article V, section 4, of the Constitution of the
5 State. The person shall not be authorized to exercise any
6 powers whenever a successor to the lieutenant governor assumes
7 the duties of the lieutenant governor pursuant to Article V,
8 section 4, of the Constitution.

9 ~~[(d) In addition to the functions and duties provided by~~
10 ~~law, the lieutenant governor shall assume administrative~~
11 ~~responsibility for the office of information practices.~~

12 ~~(e)]~~ (d) The governor shall identify and direct other
13 duties as necessary to the lieutenant governor.

14 ~~[(f)]~~ (e) A lieutenant governor whose legal residence is
15 on an island other than Oahu and who is required to remain away
16 from the island of the lieutenant governor's legal residence but
17 within the State overnight or longer while on official business
18 shall receive an allowance to cover personal expenses such as
19 board, lodging, and incidental expenses. The allowance
20 authorized under this subsection shall be set at a daily single
21 rate to be determined by a joint agreement between the senate



1 president and speaker of the house of representatives. This
2 rate shall:

- 3 (1) Not exceed the greater of the maximum allowance for
4 such expenses payable to any public officer or
5 employee of the State; and
6 (2) Be reasonably calculated to cover the expenses
7 specified in this subsection.

8 [~~(g)~~] (f) The allowance authorized under subsection [~~(f)~~]
9 (e) shall be in addition to and shall not supplant any portion
10 of the salary of the lieutenant governor determined pursuant to
11 section 26-51. The allowance shall be paid out of any available
12 appropriation made by the legislature for expenses, other than
13 the salary, of the lieutenant governor."

14 SECTION 3. Section 26-6, Hawaii Revised Statutes, is
15 amended by amending subsection (b) to read as follows:

16 "(b) The department shall:

- 17 (1) Preaudit and conduct after-the-fact audits of the
18 financial accounts of all state departments to
19 determine the legality of expenditures and the
20 accuracy of accounts;



- 1 (2) Report to the governor and to each regular session of
2 the legislature as to the finances of each department
3 of the State;
- 4 (3) Administer the state risk management program;
- 5 (4) Establish and manage motor pools;
- 6 (5) Manage the preservation and disposal of all records of
7 the State;
- 8 (6) Undertake the program of centralized engineering and
9 office leasing services, including operation and
10 maintenance of public buildings, for departments of
11 the State;
- 12 (7) Undertake the functions of the state surveyor;
- 13 (8) Establish accounting and internal control systems;
- 14 (9) Provide centralized computer information management
15 and processing services, coordination in the use of
16 all information processing equipment, software,
17 facilities, and services in the executive branch of
18 the State, and consultation and support services in
19 the use of information processing and management
20 technologies to improve the efficiency, effectiveness,
21 and productivity of state government programs; [and]



- 1 (10) Establish, coordinate, and manage a program to provide
- 2 a means for public access to public information and
- 3 develop and operate an information network in
- 4 conjunction with its overall plans for establishing a
- 5 communication backbone for state government[-]; and
- 6 (11) Assume administrative responsibility for the office of
- 7 information practices."

8 SECTION 4. Section 28-8.3, Hawaii Revised Statutes, is
 9 amended as follows:

10 1. By amending subsection (a) to read:

11 "(a) No department of the State other than the attorney
 12 general may employ or retain any attorney, by contract or
 13 otherwise, for the purpose of representing the State or the
 14 department in any litigation, rendering legal counsel to the
 15 department, or drafting legal documents for the department;
 16 provided that the foregoing provision shall not apply to the
 17 employment or retention of attorneys:

- 18 (1) By the public utilities commission, the labor and
- 19 industrial relations appeals board, and the Hawaii
- 20 labor relations board;



- 1 (2) By any court or judicial or legislative office of the
- 2 State; provided that if the attorney general is
- 3 requested to provide representation to a court or
- 4 judicial office by the chief justice or the chief
- 5 justice's designee, or to a legislative office by the
- 6 speaker of the house of representatives and the
- 7 president of the senate jointly, and the attorney
- 8 general declines to provide such representation on the
- 9 grounds of conflict of interest, the attorney general
- 10 shall retain an attorney for the court, judicial, or
- 11 legislative office, subject to approval by the court,
- 12 judicial, or legislative office;
- 13 (3) By the legislative reference bureau;
- 14 (4) By any compilation commission that may be constituted
- 15 from time to time;
- 16 (5) By the real estate commission for any action involving
- 17 the real estate recovery fund;
- 18 (6) By the contractors license board for any action
- 19 involving the contractors recovery fund;
- 20 (7) By the office of Hawaiian affairs;



- 1 (8) By the department of commerce and consumer affairs for
2 the enforcement of violations of chapters 480 and
3 485A;
- 4 (9) As grand jury counsel;
- 5 ~~[(10) By the Hawaiian home lands trust individual claims~~
6 ~~review panel;~~
- 7 ~~[(11)]~~ (10) By the Hawaii health systems corporation, or its
8 regional system boards, or any of their facilities;
- 9 ~~[(12)]~~ (11) By the auditor;
- 10 ~~[(13)]~~ (12) By the office of ombudsman;
- 11 ~~[(14)]~~ (13) By the insurance division;
- 12 ~~[(15)]~~ (14) By the University of Hawaii;
- 13 ~~[(16)]~~ (15) By the Kahoolawe island reserve commission;
- 14 ~~[(17)]~~ (16) By the division of consumer advocacy;
- 15 ~~[(18)]~~ (17) By the office of elections;
- 16 ~~[(19)]~~ (18) By the campaign spending commission;
- 17 ~~[(20)]~~ (19) By the Hawaii tourism authority, as provided in
18 section 201B-2.5;
- 19 ~~[(21)]~~ (20) By the division of financial institutions for any
20 action involving the mortgage loan recovery fund; ~~[or]~~
- 21 (21) By the office of information practices; or



1 (22) By a department, [~~in the event~~] if the attorney
2 general, for reasons deemed by the attorney general to
3 be good and sufficient, declines to employ or retain
4 an attorney for a department; provided that the
5 governor waives the provision of this section."

6 2. By amending subsection (c) to read:

7 "(c) Every attorney employed by any department on a full-
8 time basis, except an attorney employed by the public utilities
9 commission, the labor and industrial relations appeals board,
10 the Hawaii labor relations board, the office of Hawaiian
11 affairs, the Hawaii health systems corporation or its regional
12 system boards, the department of commerce and consumer affairs
13 in prosecution of consumer complaints, insurance division, the
14 division of consumer advocacy, the University of Hawaii, the
15 Hawaii tourism authority as provided in section 201B-2.5, the
16 [~~Hawaiian home lands trust individual claims review panel,~~]
17 office of information practices, or as grand jury counsel, shall
18 be a deputy attorney general."

19 SECTION 5. Section 92F-41, Hawaii Revised Statutes, is
20 amended as follows:

21 1. By amending subsection (a) to read:



1 "(a) There is established [~~a temporary~~] an office of
2 information practices [~~for a special purpose~~] within the [~~office~~
3 ~~of the lieutenant governor~~] department of accounting and general
4 services for administrative purposes."

5 2. By amending subsection (d) to read:

6 "(d) The director may employ any other personnel that are
7 necessary, including [~~but not limited to~~] attorneys and clerical
8 staff. All personnel of the office of information practices
9 shall be employed without regard to chapter 76."

10 SECTION 6. All rights, powers, functions, and duties of
11 the office of the lieutenant governor relating to the office of
12 information practices are transferred to the department of
13 accounting and general services.

14 Employees shall be transferred without loss of salary,
15 seniority (except as prescribed by applicable collective
16 bargaining agreements), retention points, prior service credit,
17 any vacation and sick leave credits previously earned, and other
18 rights, benefits, and privileges, in accordance with state
19 personnel laws and this Act; provided that the employees possess
20 the minimum qualifications and public employment requirements
21 for the class or position to which transferred or appointed, as



1 applicable; provided further that subsequent changes in status
2 may be made pursuant to applicable civil service and
3 compensation laws.

4 Any employee who, prior to this Act, is exempt from civil
5 service and is transferred as a consequence of this Act may
6 retain the employee's exempt status, but shall not be appointed
7 to a civil service position as a consequence of this Act. An
8 exempt employee who is transferred by this Act shall not suffer
9 any loss of prior service credit, vacation or sick leave credits
10 previously earned, or other employee benefits or privileges as a
11 consequence of this Act; provided that the employees possess
12 legal and public employment requirements for the position to
13 which transferred or appointed, as applicable; provided further
14 that subsequent changes in status may be made pursuant to
15 applicable employment and compensation laws. The director of
16 the office of information practices may prescribe the duties and
17 qualifications of these employees and fix their salaries without
18 regard to chapter 76, Hawaii Revised Statutes.

19 SECTION 7. All appropriations, records, equipment,
20 machines, files, supplies, contracts, books, papers, documents,
21 maps, and other personal property heretofore made, used,



1 acquired, or held by the office of the lieutenant governor
2 relating to the functions transferred to the department of
3 accounting and general services shall be transferred with the
4 functions to which they relate.

5 SECTION 8. All rules, policies, procedures, guidelines,
6 and other material adopted or developed by the office of
7 information practices to implement provisions of the Hawaii
8 Revised Statutes which are reenacted or made applicable to the
9 department of accounting and general services by this Act, shall
10 remain in full force and effect until amended or repealed by the
11 office of information practices pursuant to chapter 91, Hawaii
12 Revised Statutes. In the interim, every reference to the office
13 of the lieutenant governor or the lieutenant governor in those
14 rules, policies, procedures, guidelines, and other material is
15 amended to refer to the department of accounting and general
16 services or the comptroller as appropriate.

17 SECTION 9. All deeds, leases, contracts, loans,
18 agreements, permits, or other documents executed or entered into
19 by or on behalf of the office of information practices pursuant
20 to the provisions of the Hawaii Revised Statutes, which are
21 reenacted or made applicable to the department of accounting and



1 general services by this Act, shall remain in full force and
2 effect. Upon the effective date of this Act, every reference to
3 the office of the lieutenant governor or the lieutenant governor
4 therein shall be construed as a reference to the department of
5 accounting and general services or the comptroller as
6 appropriate.

7 SECTION 10. There is appropriated out of the general
8 revenues of the State of Hawaii the sum of \$ or so
9 much thereof as may be necessary for fiscal year 2015-2016 and
10 the same sum or so much thereof as may be necessary for fiscal
11 year 2016-2017 to fund one full-time equivalent account clerk V
12 position (1.0 FTE) and one full-time equivalent personnel clerk
13 V position (1.0 FTE) to provide administrative support for the
14 office of information practices and the other administratively
15 attached agencies.

16 The sums appropriated shall be expended by the department
17 of accounting and general services for the purposes of this Act.

18 SECTION 11. Statutory material to be repealed is bracketed
19 and stricken. New statutory material is underscored.

20 SECTION 12. This Act shall take effect on January 7, 2059;
21 provided that:



- 1 (1) Sections 1, 2, 3, 5, 6, 7, 8, and 9 shall take effect
2 on July 1, 2016; and
3 (2) Section 10 shall take effect on July 1, 2015.



Report Title:

OIP; LG; DAGS; Transfer; Administrative Attachment; Attorneys;
Civil Service; Appropriation

Description:

Transfers OIP from LG to DAGS. Increases the independence of OIP as an administratively attached agency. Clarifies the employment status of OIP attorneys and the civil service exemption for OIP personnel. Appropriates funds to DAGS for administrative support. Effective 01/07/2059. (SD1)

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