

JAN 25 2023

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# A BILL FOR AN ACT

RELATING TO THE LEGISLATURE.

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

1           SECTION 1. The legislature finds that the house of  
2 representatives adopted House Resolution No. 9 (2022) to  
3 establish the commission to improve standards of conduct. The  
4 resolution requests the commission ensure state laws and rules  
5 relating to standards of conduct of public officers and  
6 employees contain clear standards, enforcement, and penalties  
7 and provide recommendations to increase awareness of, compliance  
8 with, and deterrent effects of the code of ethics, lobbying  
9 laws, campaign finance laws, and other relevant laws and rules.

10           Pursuant to House Resolution No. 9, the commission to  
11 improve standards of conduct convened regularly throughout 2022  
12 to diligently review, discuss, and consider the issues  
13 presented, submitted an interim report to the house of  
14 representatives outlining areas of immediate and long-term  
15 focus, then continued its work with input from the public and  
16 invited individuals and agencies to issue a final report with  
17 various recommendations and accompanying proposed legislation.





1 "Office" means the office of the public advocate  
2 established pursuant to section -2.

3 "Public advocate" means the head of the office.

4 **§ -2 Office of the public advocate; establishment. (a)**

5 There is established within the department of the attorney  
6 general for administrative purposes only the office of the  
7 public advocate.

8 (b) The office shall be headed by the public advocate, who  
9 shall be nominated and, by and with the advice and consent of  
10 the senate, appointed by the governor; provided that the term of  
11 the public advocate shall be coterminous with the term of the  
12 governor.

13 **§ -3 Staff.** The public advocate shall hire staff  
14 necessary to carry out the purposes of this chapter. The public  
15 advocate and employees of the office shall be exempt from  
16 chapter 76 and shall not be considered civil service employees  
17 but shall be entitled to any employee benefit plan normally  
18 inuring to civil service employees.

19 **§ -4 Judicial review; immunity.** No proceeding or  
20 decision of the public advocate may be reviewed in any court,  
21 unless it contravenes the provisions of this chapter. The



1 public advocate has the same immunities from civil and criminal  
2 liability as a judge of this State. The public advocate and the  
3 public advocate's staff shall not testify in any court with  
4 respect to matters coming to their attention in the exercise or  
5 purported exercise of their official duties except as may be  
6 necessary to enforce the provisions of this chapter.

7       **§ -5 Penalty for obstruction.** A person who wilfully  
8 hinders the lawful actions of the public advocate or the public  
9 advocate's staff, or wilfully refuses to comply with their  
10 lawful demands, shall be fined no more than \$1,000.

11       **PART II. RIGHTS OF THE PUBLIC RELATING TO THE LEGISLATURE**

12       **§ -11 Rights.** All persons of the public shall have the  
13 following rights:

- 14       (1) The right to expect that the person's elected state  
15 representative or state senator will be treated with  
16 fairness, equity, dignity, respect, and inclusion,  
17 regardless of seniority, faction, or party;
- 18       (2) The right to be treated with fairness, equity,  
19 dignity, respect, and honesty during public hearings,  
20 regardless of their lack of power, status, wealth, or  
21 other excuses for unequal treatment. This paragraph,



- 1 among other things, shall be construed to prohibit  
2 retaliation, including the elimination of a specific  
3 position from the budget, for any good faith conduct  
4 at a public hearing;
- 5 (3) The right to provide oral testimony at any public  
6 hearing;
- 7 (4) The right to publicly inspect written testimony no  
8 later than twenty-four hours after the written  
9 testimony is submitted;
- 10 (5) The right to expect that all members have access to  
11 and sufficient time to review all bill drafts and  
12 proposed amendments before formally voting on a  
13 measure in committee and on the floor;
- 14 (6) The right to expect that the original content of a  
15 bill is not suddenly and substantially changed without  
16 a public hearing on the new content;
- 17 (7) The right to expect that legislators have sufficient  
18 opportunity for open and honest debate on the merits  
19 of a bill and to vote on such merits, rather than  
20 burdening the legislative process with multiple



1 referrals on the bill that would effectively inhibit  
2 the opportunity for such debate;

3 (8) The right to expect that subject matter committees  
4 pass bills without deliberate defects, including  
5 defective dates, and with recommended appropriation  
6 amounts;

7 (9) The right to expect that standing committees with  
8 primary jurisdiction over fiscal matters are not  
9 referred bills solely concerning nonfiscal matters;

10 (10) The right to expect that no bill should die in a  
11 conference committee due to the absence of a  
12 conference chair;

13 (11) The right to publicly inspect all official executive  
14 communications, such as budgetary information,  
15 submitted to the legislature. For purposes of  
16 fulfilling this obligation, the respective legislative  
17 chamber shall post all official executive  
18 communications on the capitol website within a  
19 reasonable period of time;

20 (12) The right to open and transparent decision-making,  
21 including the right to hear the rationale for any



1 decision made by a committee or committee chairperson,  
2 such as the deferral or amendment of a bill, in a  
3 public meeting; and

4 (13) The right to easily inspect drafts of bills submitted  
5 to legislators for introduction or amendment,  
6 including the right to know the identity of the person  
7 who provided the draft if that person is a member of  
8 the public or lobbyist.

9 § -12 **Jurisdiction.** The public advocate has  
10 jurisdiction to investigate violations of rights enumerated  
11 under section -11.

12 § -13 **Procedures; investigation of complaints.** (a) The  
13 public advocate shall establish procedures for receiving and  
14 processing complaints alleging a violation of a right enumerated  
15 under section -11, conducting investigations, and reporting  
16 the public advocate's findings. However, the public advocate  
17 may not levy fees for the submission or investigation of  
18 complaints.

19 (b) The public advocate shall investigate any complaint  
20 alleging a violation of a right enumerated under section -11.  
21 In an investigation, the public advocate may make inquiries and



1 obtain information as the public advocate deems appropriate,  
2 consult with an appropriate agency with subject matter  
3 expertise, and hold private hearings.

4 (c) The public advocate is required to maintain secrecy in  
5 respect to all matters and the identities of the complainants or  
6 witnesses coming before the public advocate, except so far as  
7 disclosures may be necessary to enable the public advocate to  
8 carry out the public advocate's duties and powers and to support  
9 the public advocate's recommendations.

10 § -14 Powers. Subject to the privileges that witnesses  
11 have in the courts of this State, the public advocate may:

12 (1) Compel at a specified time and place, by subpoena, the  
13 appearance and sworn testimony of any person who the  
14 public advocate reasonably believes may be able to  
15 give information relating to a matter under  
16 investigation; and

17 (2) Compel any person to produce documents, papers, or  
18 objects that the public advocate reasonably believes  
19 may relate to a matter under investigation.

20 The public advocate may bring suit in an appropriate state  
21 court to enforce these powers.



1           §   -15   **Consultation.**  Before giving any opinion or  
2  recommendation that is critical of a person and except as  
3  provided in section     -16(c), the public advocate shall consult  
4  with that person.

5           §   -16   **Procedure after investigation.**  (a)  After an  
6  investigation, the public advocate shall report the public  
7  advocate's opinion and recommendations to the presiding officer  
8  of the appropriate chamber of the legislature and the  
9  complainant.

10           (b)  After a reasonable time has elapsed, the public  
11  advocate may present the public advocate's opinion and  
12  recommendations to the public.  The public advocate shall  
13  include with this opinion any reply.

14           (c)  If the public advocate has a reasonable basis to  
15  believe that there may be a breach of duty or misconduct by any  
16  legislator or employee of the legislature, the public advocate  
17  may refer the matter to the appropriate authorities without  
18  notice to that person."

19           SECTION 3.  There is appropriated out of the general  
20  revenues of the State of Hawaii the sum of \$                    or so  
21  much thereof as may be necessary for fiscal year 2023-2024 and



1 the same sum or so much thereof as may be necessary for fiscal  
2 year 2024-2025 for the purposes of this Act.

3 The sums appropriated shall be expended by the department  
4 of the attorney general for the purposes of this Act.

5 SECTION 4. This Act shall take effect on July 1, 2023.

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INTRODUCED BY:                     *M. M. G.*                      
**By Request**



# S.B. NO. 1423

**Report Title:**

Commission to Improve Standards of Conduct; Legislature; Bill of Rights; Public Advocate

**Description:**

Establishes the office of the public advocate. Establishes rights for members of the public with respect to the conduct and operation of the legislature and its members. Specifies procedures for the investigation and reporting of alleged violations of the rights.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

