STAND. COM. REP. NO. 1216 -12

Honolulu, Hawaii

March 23, 2012

RE: S.B. No. 2858

S.D. 1 H.D. 1

Honorable Calvin K.Y. Say Speaker, House of Representatives Twenty-Sixth State Legislature Regular Session of 2012 State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred S.B. No. 2858, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO OPEN GOVERNMENT,"

begs leave to report as follows:

The purpose of this measure is to allow a state agency to seek judicial review by a circuit court of a decision rendered by the Office of Information Practices, and clarifies the standard of review the circuit court is required to apply.

Your Committee received testimony in support of this measure from the Department of Land and Natural Resources, the Department of Human Resources Development, the Office of Information Practices, the League of Women Voters of Hawaii, and one private individual. Your Committee received testimony in opposition to this measure from the City and County of Honolulu, the County Attorney of Kauai, three members of the Maui County Council, and three concerned citizens.

Your Committee has amended this measure by:

(1) Adding a provision to the Uniform Information Practices Act, establishing that if an action to compel disclosure is brought because an agency has not made a record available as required by the Act after the Office of Information Practices has made a decision that the

agency must disclose the record and the agency has not appealed that decision within the time period provided by this measure, the decision of the Office of Information Practices shall not be subject to challenge by the agency in any subsequent action to compel disclosure;

- (2) Changing the effective date to January 1, 2013; and
- (3) Making technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2858, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2858, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Respectfully submitted on behalf of the members of the Committee on Judiciary,

GILBERT KEITH-AGARAN, Chair

HSCR 1216-12

## State of Hawaii House of Representatives The Twenty-sixth Legislature

## Record of Votes of the Committee on Judiciary

Bill/Resolution No.:	Committee Referral	_	Date: 7 ///	6/12
SB 2858 SD1	JND		3716	112
The committee is reconsidering its previous decision on the measure.				
The recommendation is to:  Pass, unamended (as is)  Pass, with amendments (HD)  Hold  Pass short form bill with HD to recommit for future public hearing (recommit)				
JUD Members	Ay	es Ayes (W	(R) Nays	Excused
1. KEITH-AGARAN, Gilbert S.C. (C)				
2. RHOADS, Karl (VC)				
3. BROWER, Tom				
4. CABANILLA, Rida T.R.	V	/		
5. CARROLL, Mele				
6. COFFMAN, Denny				<b>✓</b>
7. HERKES, Robert N.				
8. ITO, Ken				
9. LUKE, Sylvia				
10. McKELVEY, Angus L.K.				
11. SOUKI, Joseph M.				
12. TSUJI, Clift				
13. FONTAINE, George R.				
14. MARUMOTO, Barbara C.				
15. THIELEN, Cynthia		レ		
		_		
TOTAL (15)	8	2	0	5
The recommendation is:  Adopted  If joint referral, did not support recommendation.  committee acronym(s)				
Vice Chair's or designee's signature:				
Distribution: Original (White) - Committee Duplicate (Yellow) - Chief Clerk's Office Duplicate (Pink) - HMSO				