

STAND. COM. REP. NO. 368

Honolulu, Hawaii

FEB 16 2023

RE: S.B. No. 720  
S.D. 1

Honorable Ronald D. Kouchi  
President of the Senate  
Thirty-Second State Legislature  
Regular Session of 2023  
State of Hawaii

Sir:

Your Committee on Government Operations, to which was referred S.B. No. 720 entitled:

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

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Add an exception to mandatory disclosure of government records for deliberative and pre-decisional government inter-agency or intra-agency records concerning an agency decision about a government action;
- (2) Require agencies to report their use of the exception to the Officer of Information Practices from July 1, 2023, through June 30, 2027; and
- (3) Require the Office of Information Practices to convene a working group to examine agency use of the exception and report to the Legislature prior to the Regular Session of 2029.

Your Committee received testimony in support of this measure from the Office of Information Practices; Department of Budget and Finance; University of Hawai'i System; Honolulu Board of Water Supply; University of Hawaii Professional Assembly; Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO. Your



Committee received testimony in opposition to this measure from one individual. Your Committee received comments on this measure from the Department of Commerce and Consumer Affairs, Employees' Retirement System, League of Women Voters of Hawaii, and Grassroot Institute of Hawaii.

Your Committee finds that although public participation is not required in all government decisions, timely disclosure of relevant deliberative government records relative to the decision is necessary for meaningful participation, unless an exception applies. Your Committee further finds that there is a delicate balance forged between and amongst experienced practitioners representing media, government, the Office of Information Practices, and the public interest necessary to effectuate sound and considered decisions. Finally, your Committee finds that S.C.R. No. 192, Regular Session of 2022, required a working group to develop recommendations for statutory exceptions to the Uniform Information Practice Act to address the need for deliberative and pre-decisional agency processes and records in decision-making.

Your Committee has amended this measure by:

- (1) Reducing the limit for presumption of an abandoned matter by from three years to two years;
- (2) Deleting section 5 which would have required the Office of Information Practices to convene a working group by January 1, 2028, and report to the Legislature before the Regular Session of 2029;
- (3) Inserting an effective date of July 1, 2112, to encourage further discussion; and
- (4) Making technical, nonsubstantive amendments for the purpose of clarity and consistency.

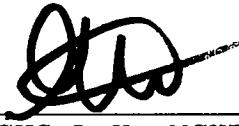
Your Committee finds it interesting that a member of the working group signed the report and did not elect to submit testimony outlining concerns or opposition to this measure, but the member has issued media reports expressly disparaging the working group product and this measure. Your Committee hopes that should your Committee on Judiciary choose to hear this measure,



the member of the working group will choose to submit testimony on the measure expressing their opposition or concerns.

As affirmed by the record of votes of the members of your Committee on Government Operations that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 720, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 720, S.D. 1, and be referred to your Committee on Judiciary.

Respectfully submitted on  
behalf of the members of the  
Committee on Government  
Operations,



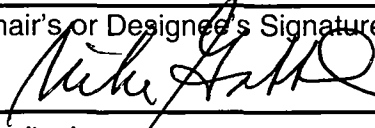
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ANGUS L.K. MCKELVEY, Chair



The Senate  
 Thirty-Second Legislature  
 State of Hawai'i

**Record of Votes**  
**Committee on Government Operations**  
**GVO**

Bill / Resolution No.:* <i>SB 720</i>	Committee Referral: <i>GVO, JDC</i>	Date: <i>2-7-23.</i>		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
MCKELVEY, Angus L.K. (C)	✓			
GABBARD, Mike (VC)	✓			
SAN BUENAVENTURA, Joy A.	✓			
WAKAI, Glenn				✓
AWA, Brenton	✓			
<b>TOTAL</b>	<i>4</i>	<i>—</i>	<i>—</i>	<i>1</i>
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
<b>Distribution:</b> Original     Yellow     Pink     Goldenrod File with Committee Report     Clerk's Office     Drafting Agency     Committee File Copy				

\*Only one measure per Record of Votes