

JAN 17 2025

A BILL FOR AN ACT

RELATING TO FEES FOR PUBLIC RECORDS UNDER CHAPTER 92F.

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

1 SECTION 1. The legislature finds that public records laws
2 are a critical mechanism to maintain government accountability
3 and transparency and support citizen involvement in government
4 decision-making. The real-world consequences of restricting
5 access to government information can range from serious to
6 routine but, in all cases, result in a less-informed citizenry.

7 The legislature further finds that this Act adopts the
8 Freedom of Information Act standard to define waivers of fees
9 for searching, reviewing, or segregating disclosable records
10 when in the public interest. The federal standard provides a
11 waiver in limited circumstances based on careful examination of
12 various factors, including the subject matter of the request and
13 identity of the requester. Case law under the Freedom of
14 Information Act will provide guidance for interpreting the
15 standard.

16 Accordingly, the purpose of this Act is to:



(1) Impose a cap on charges for searching for, reviewing, and segregating government records; and

(2) Provide for a waiver of fees in certain circumstances when the public interest is served by a government record's disclosure.

SECTION 2. Section 92F-42, Hawaii Revised Statutes, is amended to read as follows:

"§92F-42 Powers and duties of the office of information practices. The director of the office of information practices:

(1) Shall, upon request, review and rule on an agency denial of access to information or records, or an agency's granting of access; provided that any review by the office of information practices shall not be a contested case under chapter 91 and shall be optional and without prejudice to rights of judicial enforcement available under this chapter;

(2) Upon request by an agency, shall provide and make public advisory guidelines, opinions, or other information concerning that agency's functions and responsibilities;



1 (3) Upon request by any person, may provide advisory
2 opinions or other information regarding that person's
3 rights and the functions and responsibilities of
4 agencies under this chapter;

5 (4) May conduct inquiries regarding compliance by an
6 agency and investigate possible violations by any
7 agency;

8 (5) May examine the records of any agency for the purpose
9 of paragraphs (4) and (18) and seek to enforce that
10 power in the courts of this State;

11 (6) May recommend disciplinary action to appropriate
12 officers of an agency;

13 (7) Shall report annually to the governor and ~~[the state]~~
14 legislature on the activities and findings of the
15 office of information practices, including
16 recommendations for legislative changes;

17 (8) Shall receive complaints from and actively solicit the
18 comments of the public regarding the implementation of
19 this chapter;

20 (9) Shall review the official acts, records, policies, and
21 procedures of each agency;



1 (10) Shall assist agencies in complying with the provisions
2 of this chapter;

3 (11) Shall inform the public of the following rights of an
4 individual and the procedures for exercising them:

5 (A) The right of access to records pertaining to the
6 individual;

7 (B) The right to obtain a copy of records pertaining
8 to the individual;

9 (C) The right to know the purposes for which records
10 pertaining to the individual are kept;

11 (D) The right to be informed of the uses and
12 disclosures of records pertaining to the
13 individual;

14 (E) The right to correct or amend records pertaining
15 to the individual; and

16 (F) The individual's right to place a statement in a
17 record pertaining to that individual;

18 (12) Shall adopt rules that set forth an administrative
19 appeals structure ~~[which]~~ that provides for:

20 (A) Agency procedures for processing records
21 requests;



(B) A direct appeal from the division maintaining the record; and

(C) Time limits for action by agencies;

(13) Shall adopt rules that set forth the fees and other charges that may be imposed for searching, reviewing, or segregating disclosable records[, ~~as well as to provide for a waiver of fees when the public interest would be served,~~]. The rules shall:

(A) Set forth fees not exceeding \$5 per fifteen minutes or fraction thereof for the search for the record;

(B) Set forth fees not exceeding \$7.50 per fifteen minutes or fraction thereof for the review and segregation of the record; and

(C) Provide for a waiver of fees when the public interest would be served by the record's disclosure; provided that the waiver shall require that the search for or review or segregation of records be provided at no charge to the requester if disclosure of the record is in the public interest because the disclosure is



1 likely to contribute significantly to public
2 understanding of the operations or activities of
3 the government, is not primarily in the
4 commercial interest of the requester, and is not
5 unreasonably burdensome. Factors to be
6 considered when determining if the disclosure
7 would serve the public interest include, but are
8 not limited to:

- 9 (i) The subject of the request;
10 (ii) The informative value of the information to
11 be disclosed;
12 (iii) The contribution to an understanding of the
13 subject by the general public likely to
14 result from disclosure;
15 (iv) The significance of the contribution to
16 public understanding;
17 (v) The existence and magnitude of a commercial
18 interest; and
19 (vi) The primary interest in disclosure;



(14) Shall adopt rules [~~which~~] that set forth uniform standards for the records collection practices of agencies;

(15) Shall adopt rules that set forth uniform standards for disclosure of records for research purposes;

(16) Shall have standing to appear in cases where the provisions of this chapter or part I of chapter 92 are called into question;

(17) Shall adopt, amend, or repeal rules pursuant to chapter 91 necessary for the purposes of this chapter; and

(18) Shall take action to oversee compliance with part I of chapter 92 by all state and county boards including:

(A) Receiving and resolving complaints;

(B) Advising all government boards and the public about compliance with chapter 92; and

(C) Reporting each year to the legislature on all complaints received pursuant to section 92-1.5."

SECTION 3. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.



1 SECTION 4. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 5. This Act shall take effect upon its approval.

4

INTRODUCED BY: Karl Rhoads



S.B. NO. 863

Report Title:

Office of Information Practices; Public Records; Costs; Waiver

Description:

Imposes a cap on charges for searching for, reviewing, and segregating government records under the Uniform Information Practices Act. Provides for a waiver of fees in certain circumstances when the public interest is served by a government record's disclosure.

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

