

MAR 16 2026

SENATE CONCURRENT RESOLUTION

REQUESTING EACH STATE AGENCY TO PROVIDE THE AFFECTED PERSON WITH
WRITTEN NOTICE OF CERTAIN INFORMATION BEFORE TAKING ANY
FINAL ADMINISTRATIVE ACTION THAT MATERIALLY AND ADVERSELY
AFFECTS A PROTECTED LIBERTY OR PROPERTY INTEREST.

1 WHEREAS, article I, section 5, of the Hawaii State
2 Constitution and the Fourteenth Amendment of the United States
3 Constitution provide that no person shall be deprived of life,
4 liberty, or property without due process of law; and
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6 WHEREAS, these guarantees apply fully to the administrative
7 actions of state agencies when the actions materially affect
8 protected liberty, property, or livelihood interests; and
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10 WHEREAS, state executive departments exercise substantial
11 authority over matters including agricultural land tenure,
12 natural resource management, biosecurity enforcement, public
13 assistance eligibility, child welfare, professional licensure,
14 unemployment benefits, educational services, environmental
15 permitting, and infrastructure development; and
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17 WHEREAS, actions taken in these domains can impose
18 significant economic, legal, and personal consequences on
19 affected individuals and entities; and
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21 WHEREAS, judicial decisions, legislative audits,
22 investigative reporting, and sworn testimony have identified
23 recurring procedural due process deficiencies across multiple
24 state departments; and
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26 WHEREAS, these deficiencies include inadequate or untimely
27 notice, denial of contested case hearings, lack of impartial
28 adjudication, opaque decision-making, and the implementation of
29 adverse actions while appeals remain pending; and
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1 WHEREAS, collectively, these practices have resulted in
2 avoidable financial harm to affected parties, including lost
3 income, disrupted operations, civil penalties, fines, and
4 litigation costs; and

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6 WHEREAS, under existing law, the financial consequences of
7 unconstitutional or procedurally deficient agency actions are
8 frequently borne by affected persons or by the State's general
9 fund, rather than by the department whose conduct caused the
10 violation; and

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12 WHEREAS, this structure, which does not subject the
13 responsible department to fiscal consequences, weakens
14 institutional incentives for compliance, diffuses
15 accountability, and allows recurring procedural failures; now,
16 therefore,

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18 BE IT RESOLVED by the Senate of the Thirty-third
19 Legislature of the State of Hawaii, Regular Session of 2026, the
20 House of Representatives concurring, that, before taking any
21 final administrative action that materially and adversely
22 affects a protected liberty or property interest, each state
23 agency is requested to provide the affected person with written
24 notice that includes:

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- 26 (1) A clear description of the proposed action and the
27 factual basis supporting the action;
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 - 29 (2) Citation to any statute, rule, or formally adopted
30 policy the state agency relied on to take the proposed
31 action;
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 - 33 (3) Notice of the person's right to request a contested
34 case hearing or administrative appeal, whichever is
35 applicable; and
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 - 37 (4) A clear statement of the deadlines and procedures for
38 exercising the rights listed in paragraph (3); and
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40 BE IT FURTHER RESOLVED that each state agency is
41 encouraged:
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1 (1) Where a contested case hearing is timely requested in
2 response to a proposed state agency action implicating
3 a protected liberty or property interest, not to
4 implement the final adverse action until completion of
5 the contested case proceeding unless the state agency
6 makes written findings that immediate action is
7 necessary to prevent imminent harm to public health,
8 safety, or the environment; and
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10 (2) To the extent practicable, to maintain functional
11 separation between investigative, prosecutorial, and
12 adjudicatory roles to ensure impartial decision-
13 making; and
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15 BE IT FURTHER RESOLVED that, where a court of competent
16 jurisdiction or a final administrative or appellate decision
17 determines that a state agency has violated procedural due
18 process requirements under the United States Constitution,
19 Hawaii State Constitution, or chapter 91, Hawaii Revised
20 Statutes, and the violation results in:

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- 22 (1) Monetary damages, fines, penalties, restitution, or
23 settlements;
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 - 25 (2) Attorneys' fees or costs awarded against the State; or
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 - 27 (3) Documented financial harm requiring compensation or
28 remedial payment,
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30 the state agency whose action or omission gave rise to the
31 financial obligation is urged to satisfy the financial
32 obligation from its operating budget and not from the general
33 fund, to the extent permitted by law; and
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35 BE IT FURTHER RESOLVED that the Department of Budget and
36 Finance is requested to support each state agency in satisfying
37 its financial obligations arising from a violation of procedural
38 due process requirements by adjusting departmental allotments or
39 imposing internal accounting transfers as necessary but so as
40 not to impair any constitutionally or federally mandated
41 service; and
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1 BE IT FURTHER RESOLVED that each state agency is requested
2 to include in its annual budget submission a summary of:

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- 4 (1) Any expenditures made or determinations of a state
5 agency's financial obligation due to its violation of
6 procedural due process requirements pursuant to the
7 determination of a court of competent jurisdiction or
8 a final administrative or appellate decision; and
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 - 10 (2) The nature of the violation resulting in the
11 expenditure or determination and any corrective
12 measures the state agency has implemented to prevent
13 repetition of similar violations; and
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15 BE IT FURTHER RESOLVED that each state agency is urged not
16 to discharge, threaten, or otherwise discriminate against an
17 employee regarding the employee's compensation, terms,
18 conditions, location, or privileges of employment because the
19 employee, or a person acting on behalf of the employee, reports
20 or is about to report to the employer, or reports or is about to
21 report to a public body, verbally or in writing, a violation or
22 suspected violation of any procedural due process right or
23 requirement of chapter 91, Hawaii Revised Statutes, such as
24 improper denial of a right to a hearing or abuse of discretion;
25 and
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27 BE IT FURTHER RESOLVED that each state agency is requested
28 to submit an annual report to the Legislature no later than
29 twenty days prior to the convening of each Regular Session
30 detailing:

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- 32 (1) The number of contested case hearings and
33 administrative appeals requested;
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 - 35 (2) The number of contested case hearing and
36 administrative appeal requests granted, denied, or
37 withdrawn;
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 - 39 (3) The average time each contested case hearing or
40 administrative appeal took to resolve; and
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1 (4) The number of state agency decisions reversed,
2 remanded, or modified after administrative or judicial
3 review; and
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5 BE IT FURTHER RESOLVED that each state agency is encouraged
6 to make the requested annual report available on the state
7 agency's publicly accessible website; and
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9 BE IT FURTHER RESOLVED that certified copies of this
10 Concurrent Resolution be transmitted to the Governor;
11 Comptroller; Chairperson of the Board of Agriculture and
12 Biosecurity; Attorney General; Director of Finance; Director of
13 Business, Economic Development, and Tourism; Director of
14 Commerce and Consumer Affairs; Adjutant General; Chairperson of
15 the Board of Education; Superintendent of Education; Chairperson
16 of the Hawaiian Homes Commission; Director of Health; Director
17 of Human Resources Development; Director of Human Services;
18 Director of Labor and Industrial Relations; Chairperson of the
19 Board of Land and Natural Resources; Director of Law
20 Enforcement; Director of Corrections and Rehabilitation;
21 Director of Taxation; Director of Transportation; and President
22 of the University of Hawaii System.
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OFFERED BY: *David M. R. [Signature]*

