

MAR 16 2026

SENATE 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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31 WHEREAS, collectively, these practices have resulted in
32 avoidable financial harm to affected parties, including lost
33 income, disrupted operations, civil penalties, fines, and
34 litigation costs; and



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

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8 WHEREAS, this structure, which does not subject the
9 responsible department to fiscal consequences, weakens
10 institutional incentives for compliance, diffuses
11 accountability, and allows recurring procedural failures; now,
12 therefore,

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

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21 (1) A clear description of the proposed action and the
22 factual basis supporting the action;
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24 (2) Citation to any statute, rule, or formally adopted
25 policy the state agency relied on to take the proposed
26 action;
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28 (3) Notice of the person's right to request a contested
29 case hearing or administrative appeal, whichever is
30 applicable; and
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32 (4) A clear statement of the deadlines and procedures for
33 exercising the rights listed in paragraph (3); and
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35 BE IT FURTHER RESOLVED that each state agency is
36 encouraged:

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38 (1) Where a contested case hearing is timely requested in
39 response to a proposed state agency action implicating
40 a protected liberty or property interest, not to
41 implement the final adverse action until completion of
42 the contested case proceeding unless the state agency



1 makes written findings that immediate action is
2 necessary to prevent imminent harm to public health,
3 safety, or the environment; and
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- 5 (2) To the extent practicable, to maintain functional
6 separation between investigative, prosecutorial, and
7 adjudicatory roles to ensure impartial decision-
8 making; and
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10 BE IT FURTHER RESOLVED that, where a court of competent
11 jurisdiction or a final administrative or appellate decision
12 determines that a state agency has violated procedural due
13 process requirements under the United States Constitution,
14 Hawaii State Constitution, or chapter 91, Hawaii Revised
15 Statutes, and the violation results in:
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- 17 (1) Monetary damages, fines, penalties, restitution, or
18 settlements;
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20 (2) Attorneys' fees or costs awarded against the State; or
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22 (3) Documented financial harm requiring compensation or
23 remedial payment,
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25 the state agency whose action or omission gave rise to the
26 financial obligation is urged to satisfy the financial
27 obligation from its operating budget and not from the general
28 fund, to the extent permitted by law; and
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30 BE IT FURTHER RESOLVED that the Department of Budget and
31 Finance is requested to support each state agency in satisfying
32 its financial obligations arising from a violation of procedural
33 due process requirements by adjusting departmental allotments or
34 imposing internal accounting transfers as necessary but so as
35 not to impair any constitutionally or federally mandated
36 service; and
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38 BE IT FURTHER RESOLVED that each state agency is requested
39 to include in its annual budget submission a summary of:
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- 41 (1) Any expenditures made or determinations of a state
42 agency's financial obligation due to its violation of



procedural due process requirements pursuant to the determination of a court of competent jurisdiction or a final administrative or appellate decision; and

- (2) The nature of the violation resulting in the expenditure or determination and any corrective measures the state agency has implemented to prevent repetition of similar violations; and

BE IT FURTHER RESOLVED that each state agency is urged not to discharge, threaten, or otherwise discriminate against an employee regarding the employee's compensation, terms, conditions, location, or privileges of employment because the employee, or a person acting on behalf of the employee, reports or is about to report to the employer, or reports or is about to report to a public body, verbally or in writing, a violation or suspected violation of any procedural due process right or requirement of chapter 91, Hawaii Revised Statutes, such as improper denial of a right to a hearing or abuse of discretion; and

BE IT FURTHER RESOLVED that each state agency is requested to submit an annual report to the Legislature no later than twenty days prior to the convening of each Regular Session detailing:

- (1) The number of contested case hearings and administrative appeals requested;
- (2) The number of contested case hearing and administrative appeal requests granted, denied, or withdrawn;
- (3) The average time each contested case hearing or administrative appeal took to resolve; and
- (4) The number of state agency decisions reversed, remanded, or modified after administrative or judicial review; and



1 BE IT FURTHER RESOLVED that each state agency is encouraged
2 to make the requested annual report available on the state
3 agency's publicly accessible website; and
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5 BE IT FURTHER RESOLVED that certified copies of this
6 Resolution be transmitted to the Governor; Comptroller;
7 Chairperson of the Board of Agriculture and Biosecurity;
8 Attorney General; Director of Finance; Director of Business,
9 Economic Development, and Tourism; Director of Commerce and
10 Consumer Affairs; Adjutant General; Chairperson of the Board of
11 Education; Superintendent of Education; Chairperson of the
12 Hawaiian Homes Commission; Director of Health; Director of Human
13 Resources Development; Director of Human Services; Director of
14 Labor and Industrial Relations; Chairperson of the Board of Land
15 and Natural Resources; Director of Law Enforcement; Director of
16 Corrections and Rehabilitation; Director of Taxation; Director
17 of Transportation; and President of the University of Hawaii
18 System.
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OFFERED BY: *Keith W. R. [Signature]*

