



UNIVERSITY OF HAWAII SYSTEM

Legislative Testimony

Testimony Presented Before the
Senate Committee on Judiciary
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by

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SB 2090 – RELATING TO JUDICIAL ENFORCEMENT OF THE UNIFORM INFORMATION PRACTICES ACT

Chair Rhoads, Vice Chair Keohokalole, and members of the committee:

The University strongly opposes SB 2090. This measure is overly prejudicial to State and county agencies for failing to comply with a proposed procedural deadline. The measure provides that if the agency fails to file a motion for summary judgment within thirty days of service of process, the circuit court “shall order the immediate disclosure of the government record, except to the extent prohibited by law.”

First, this measure encroaches into the Judiciary’s constitutional power to promulgate its own procedural rules. Article VI, Section 7 of the Hawai’i State Constitution provides, “The supreme court shall have power to promulgate rules and regulations in all civil and criminal cases for all courts relating to process, practice, procedure and appeals, which shall have the force and effect of law.” *Id.* In addition, Article VI, Section 1 of the Hawai’i State Constitution provides, “The several courts shall have original and appellate jurisdiction as provided by law and shall establish time limits for disposition of cases in accordance with their rules.” *Id.*

Under Rule 56(a) of the Hawai’i Civil Rules of Procedure (“HRCP”), the procedural deadline to file a motion for summary judgment is *fifty days prior to trial* as opposed to thirty days after service of process. In addition, HRCP Rule 56(a) allows for a party to file a motion for summary judgment beyond this deadline with the court’s permission and a showing of good cause. *Id.*

The Hawai’i Supreme Court has established a deadline for parties, including governmental agencies, to file motions for summary judgment. This measure encroaches upon the Hawai’i Supreme Court’s constitutional power to promulgate its own rules and procedural deadlines for the disposition of cases.

Second, the harshness of this measure would likely encourage individuals to file civil actions in circuit court upon the agency's denial of the production of the requested records. The increase in litigation would impose a strain on the agency's time and resources to defend these actions in court rather than have the issue addressed by the Office of Information Practices.

In light of the above, the University of Hawai'i strongly opposes this measure and asks that it be held in committee.

Thank you for the opportunity to testify.