

HAWAII

House Panel Rejects Effort to Create Big Public Records Exemption

The Hawaii Judiciary wanted government agencies to be able to withhold information if it would be unfair or inconvenient to someone.

FEBRUARY 3, 2015 • By Nathan Eagle   

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House lawmakers smacked down a bill Tuesday that would have created an exemption to the state open records law that one critic called “grossly over-broad.”

The Judiciary had included [House Bill 287](#) in its legislative package purportedly over concerns of identity theft and physical security. But it was really about finding a way to let judges, who have to retire at age 70, keep their birthdates secret.

The House Judiciary Committee, chaired by Rep. Karl Rhoads, plans to keep the part of the bill that deals with physical harm and gut the part that would let government agencies withhold public records if disclosure would likely cause “embarrassment, inconvenience or unfairness to an individual.”



Rep. Karl Rhoads, seen here on the House floor last session, is chairing the Judiciary Committee again this year.

The committee passed HB 287 as amended, sending it to the full House for a vote.

The written and in-person [testimony](#) was overwhelmingly against the bill. The state Office of Information Practices, League of Women Voters, ACLU, Grassroot Institute of Hawaii, The Civil Beat Law Center for the Public Interest and others explained how unnecessary it would be for government to have such a broad exception carved into the Uniform Information Practices Act.

“I find this measure to be repugnant to the concept of public information — details that the public needs to know to make informed decisions about its government,” said Stirling Morita, president of the Society for Professional Journalists Hawaii Chapter. “I submit that a lot of information about government missteps or corruption will be embarrassing or inconvenient but that should not be used as a standard to block release of information.”

Barbara Polk of Common Cause called the exemption “grossly over-broad.”

“Among the records which one might claim should be hidden under the terms of this bill are all records of consumer complaints, including their resolution; all fines or penalties imposed by the Campaign Spending Commission; Health Department findings of violations by restaurants or nursing homes; and criminal records, especially those of public persons,” she said in her testimony. “In addition, this bill appears to work against the current public concern that more information about police misconduct be released as a way to curb or guard against overzealous policing. In the past, police have opposed more openness based on all the criteria that this bill would add.”

The Honolulu Police Department was the only entity to support the bill other than the Judiciary.



Rep. Gregg Takayama, far left, questions the Judiciary's chief staff attorney, Susan Pang Gochros, during a hearing Tuesday.

Reps. Cynthia Thielen, Joy San Buenaventura, Gregg Takayama and others grilled the Judiciary's chief staff attorney, Susan Pang Gochros.

Takayama, a former journalist, asked her what documents she could foresee causing embarrassment if disclosed that aren't already protected by state privacy laws.

"Umm. Nothing comes to mind in particular," Gochros said.

San Buenaventura asked if there have been any particular instances that would cause the Judiciary to want to further fine-tune the law in such a way. Gochros said the only issue is the release of judges' birthdays.

OIP [opined in December](#) that the UIPA requires a sitting judge to disclose whether he or she exceeds the constitutionally mandated retirement age under most circumstances.

Thielen asked Gochros what the concern was in disclosing ages, she said that when birth dates are combined with other personal information like home addresses it can be "very easy to access financial information."

"I might personally like to not have (my age) be known because it may cause embarrassment or inconvenience but I'm all for people knowing that," said Thielen, 81, jokingly adding that it might actually be more embarrassing for younger public figures to have to say how old they are.

Withholding the information would be "a dangerous precedent to set," she said.

Hawaii voters have routinely shot down attempts to extend the mandatory retirement age for judges from 70 to 80, most recently last November.

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Eka Kahikina

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