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By Nancy Cook Lauer West Hawaii Today ncook-lauer@westhawaii.com

HILO — Persistent records requests from three Kailua-Kona residents have put state and county agencies on the defensive, leading to attempts to clamp down on those they think ask for too much information.

On the state level, the House has so far looked kindly on a bill bringing back legislation against so-called "vexatious" records requesters, allowing agencies to ignore requests from individuals declared vexatious by the state Office of Information Practices, OIP.

On the county level, Mayor Harry Kim is trying to broker peace between a resident and the director of the county Department of Public Works, who banned the resident's phone calls and emails because his staff was feeling harried from frequent, multiple questions.

Similar state legislation was first passed into law in 2010 on the crest of the "birther" movement searching for former President Barack Obama's birth certificate. That law was allowed to expire in 2014.

"I recall that we did notify a few individuals that the department would no longer respond to their repeated requests of a similar nature because the department considered the requesters to be vexatious," said Department of Health spokeswoman Janice Okubo in a Monday email message. "These few instances all involved individuals repeatedly requesting records related to President Obama's birth. ... I do not recall any other instance where that law was used by our department."

House Bill 1518 would bring the law back in spades, by defining a vexatious requester as someone asking for the same or essentially similar information after the state, county or other applicable agency has already supplied records or informed the requester the information isn't available. OIP would be charged with determining the requester has made requests in bad faith or with the intent to be a nuisance.

"(It) strips citizens of the fundamental right to access public records without adequate due process, said Civil Beat Law Center's Brian Black in testimony. "Applying the 'vexatious' label to frequent requesters ... would seem politically motivated to silence the news media and community advocates, not protect agency efficiency."

The bill has passed unanimously through two committees, with two voting with reservations, and the full House on second reading. It faces one more reading in the House before moving over to the Senate.

State agencies supporting the bill include the state Department of Health, Department of Business, Economic Development and Tourism and the University of Hawaii.

Hawaii Health Systems Corp., which manages the state's public hospitals, strongly supports the concept, but is recommending an agency be able to seek relief from a judge, not OIP, for a vexatious requester. HHSC CEO Linda Rosen in written testimony attached an email string of 30 pieces of correspondence, many with attachments, to and from Kailua-Kona's Tom Russi and Christine Paul to various agencies and individuals over a three-month period.

Rosen blanked out Russi's and Paul's names, even though they are part of the public record. She said she included the email string as an example of how the state's Uniform Information Practices Act, or public records law, can be abused by people who use it to "abuse and harass" state employees.

"I really didn't want to call one person out," said Chief Operating Officer Anne Lopez, who also serves as HHSC general counsel.

Russi and Paul started filing public records requests seeking information about West Hawaii hospitals almost 20 years ago. They had concerns about over-billing for medical procedures, late inspections of hospital facilities and other issues.

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"At this point, after four years, on a weekly basis, we communicate with over 25 different people and agencies, federal, state and county," Russi said in a Nov. 7 email to Lopez.

Contacted Monday, Russi said he and Paul had started asking for records about 20 years ago, but then felt threatened and targeted for harassment, so they laid off for almost 15 years.

"The government has the ability to beat you up pretty good," he said. "They beat me up pretty good."

"This bill is about Christine and I, period," Russi added.

Hawaii County Public Works Director Frank DeMarco raised more local public access concerns when he sent a Feb. 6 directive to Kona resident Aaron Stene, stating, "All communications from you shall be submitted in writing and by mail. 2) If received, we shall forward your letter(s) to the mayor for his review and/or response. 3) Except as indicated in direction No. 1 above, we shall not respond to any other forms of communications from you (e. g., emails, phone calls, meetings, etc.)."

Stene, a former blogger who now writes regular letters to the editor updating the progress of major road projects in the county, frequently called DPW staff to find out about the roads' progress.

Kim said Monday he's sending a letter to Stene clarifying the best process for obtaining information that provides the information without unduly tying up staff time.

"There's no vendetta against him," Kim said. "He asks for a lot. We're trying to find a way to respond. We'll see if this is acceptable to him."

Stene said communication channels remain open.

"It was a misunderstanding," he said. "It's being resolved."

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Buds4All • 3 hours ago

Nothing like the "establishment" being transparent! Is this not some Freedom of Information Act violation? Dictator Kim this is not your world, give the public the information they have the right by law to see!

1 ^ | v • Reply • Share ›



Russell G • 3 hours ago

Harry Kim would be wise to listen to Aaron Stene. He's the expert on roads in Kona, and they need some love from this administration. After Mayor Kenoi built so many new roads, the bar is set pretty high!

2 ^ | v • Reply • Share ›



Big ideas • 4 hours ago

Yeah...we wouldn't want the citizens to have TOO much information...they might hold Government officials accountable for their actions.....heaven forbid!

1 ^ | v • Reply • Share ›



briala • 2 hours ago

If someone is requesting the same information, can't they just send out the same response they already prepared (while charging the same fee, this time having had to do hardly any new work?) Or short circuit the issue by posting it on the county website?

I'm not completely against a protective mechanism to help with cases of true bad intent, but the criteria need to be spelled out more clearly (and specially to include only cases where the information requested truly can not have a valid public purpose), and the judge needs to be someone independent of the department desiring to not have to comply with the information request, such as the judiciary.

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