



Senate Committee on Judiciary
Honorable Karl Rhoads, Chair
Honorable Mike Gabbard, Vice Chair

RE: Testimony in support of S.B. 1255 S.D. 1, Relating to Government Records
Hearing: February 21, 2025 at 10:20 a.m.

Dear Chair and Members of the Committee:

My name is Ben Creps. I am a staff attorney at the Public First Law Center, a nonprofit organization that promotes government transparency. Thank you for the opportunity to submit testimony in **support** of S.B. 1255 S.D. 1.

We commend the Legislature’s effort to close a loophole that frustrates the intent of the Uniform Information Practices Act (UIPA). The need for this bill was recently highlighted when the University of Hawai‘i contracted out its presidential search function to a third-party company and ostensibly relinquished – by agreement – its rights to “any candidate information.” *E.g., Stewart Yerton, UH Contract Specifically Hides President Search Details from the Public, Honolulu Civil Beat* (Dec. 6, 2024) (<https://www.civilbeat.org/2024/12/uh-contract-hides-president-search-details-from-public/>).

S.B. 1255 S.D. 1 closes this loophole by amending the definition of “government record” to mean any information, regardless of form, that is “maintained by an agency or used in the performance of a government function.” It also requires contracts for the performance of a government function to “expressly require the contractor to retain records in accordance with the retention schedule of the agency and provide the agency with access to all records subject to this chapter.”

As noted by the Department of the Attorney General in prior testimony on this bill, “records related to government-contracted services are already subject to the UIPA’s disclosure requirements imposed upon government agencies.” S.B. 1255 S.D. 1 thus represents a clarification, not expansion, of existing law. It curbs a troubling practice where an agency effectively contracts that law out of existence.

We respectfully recommend **deleting** the full sentence at page 3, lines 4 – 10. That language is already covered by the proposed definition of “government record,” which includes records “used in the performance of a government function.”



Senate Committee on Judiciary
February 21, 2025
Page 2

Last, we note that the bill description is partially inaccurate. The description provides that S.B. 1255 S.D. 1 “prohibit[s] agencies from denying a request for access to records of a contractor . . . on the basis of trade secret or other proprietary information[,]” but the bill goes on to provide, “except where specifically protected by law.” In other words, that information is still protected to the full extent of existing law.

Thank you again for the opportunity to testify in support of S.B. 1255 S.D. 1.