

# **PATHFINDERS: ADMINISTRATIVE CODES, REGISTERS, AND STATE BLUE BOOKS**

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**ADDENDUM TO**  
**LEGISLATIVE REFERENCE BUREAU STUDY:**  
**"PATHFINDERS: ADMINISTRATIVE CODES, REGISTERS,**  
**AND STATE BLUE BOOKS"**

The Governor's office has recently established a policy concerning the availability of copies of rules adopted by the Office of State Planning (the only rules adopted under the HAPA by the Governor's office or other entities attached for administrative purposes). Accordingly, the bottom of page 55 of the study should now read as follows:

**Governor's Office:** Copies of rules available free of charge.

## FOREWORD

This report is prepared in response to House Resolution No. 9 (1988) requesting a study of the feasibility of publishing a state administrative code, register, and "Blue Book".

The Bureau expresses its sincere appreciation to Mr. John McGuire, Vice President for Government Affairs, Chamber of Commerce of Hawaii; Ms. Joyce Kami, Ms. Trudie Tongg, and Ms. Donna Ramo, Office of the Lieutenant Governor; Ms. Karen Higa, Information and Communication Services Division, Department of Budget and Finance; and Ms. Mimi Griffiths, Office of the Secretary of State, State of Illinois; for their cooperation and assistance. The Bureau also gratefully acknowledges the work of legal intern Ms. Janie Kashiwa, who researched and wrote a substantial part of chapter 5 and made many other valuable contributions to this report.

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Director

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## Chapter 1

### INTRODUCTION

House Resolution No. 9 (1988) (see Appendix A), requests the Legislative Reference Bureau to study the feasibility of publishing "a public records index such as a state register (similar to the Federal Register), a code of state regulations (similar to the Code of Federal Regulations)", and "a 'Blue Book' (similar to books produced by the states of Illinois, Nebraska, Wisconsin, and others)". The rationale of the Resolution is to improve access to public information by providing "uniform reference documents" to assist the public in obtaining "certain categories of information, such as rules, hearing notices, and the like".

#### Methodology

The principal data gathering activities for this study consisted of:

- (1) Reviewing comparative information on administrative codes and registers published in other jurisdictions;
- (2) Surveying other jurisdictions with respect to the contents, production, and distribution of their respective blue books;
- (3) Surveying state agencies and private businesses on their perceived needs for a state register, administrative code, and blue book; and
- (4) Obtaining general cost estimates for the development and printing of these publications.

#### Organization of the Report

The report is presented as follows:

Chapter 1 introduces the report.

Chapter 2 discusses the administrative rulemaking process in Hawaii today, both in terms of the existing statutory requirements of the Hawaii Administrative Procedure Act (HAPA), chapter 91, Hawaii Revised Statutes, as well as the internal administrative requirements superimposed upon the statutory requirements.

Chapter 3 discusses various aspects of producing a state administrative code, including: an explanation of the procedures used in producing Hawaii's statutory code, the Hawaii Revised Statutes; administrative codes published in other jurisdictions; steps taken toward the codification of administrative rules in Hawaii, notably the existence of the Hawaii Administrative Rules format and the conversion to its requirements; problems faced by persons attempting to obtain collections of agency rules; obstacles remaining to the codification of the administrative rules in Hawaii; considerations for a Hawaii code; and a system for making rules more readily available to those who want them--short of publishing a full-scale printed code--which can be implemented immediately.

Chapter 4 discusses various aspects of producing a state register, including: registers published in other jurisdictions; considerations for publishing a register in Hawaii such as the items which should be included in it, the form which those items should take (for example, publication of full text as opposed to notices); the manner in which a register can be produced; and how the publication of a register would fit into the existing scheme of the HAPA as it relates to administrative rulemaking.

Chapter 5 discusses various aspects of producing a state blue book, including: items commonly included in blue books published in other jurisdictions; the form of the respective publications; the availability in Hawaii in existing publications of the types of information commonly included in blue books; and a method of organizing that type of information as part of existing publications.

Chapter 6 provides some data as to the perceived need for a state administrative code, state register, and state blue book according to surveys of state agencies and private businesses. General cost estimates provided by printing and publishing companies are also included.

Chapter 7 presents findings and recommendations.

## Chapter 2

### ADMINISTRATIVE RULEMAKING IN HAWAII

This chapter provides an overview of the rulemaking process as it applies to state agencies in Hawaii. A state administrative code and a state register could each affect the rulemaking process, agency procedures, or both, in different ways. Ideally, this would be accomplished with a minimum of disruption, and wherever possible, facilitate efficiency in the state rulemaking process.

#### Administrative Agency Rules as Law

While most people are aware that laws can be established when enacted by a popularly elected Legislature and approved (or at least not vetoed) by a popularly elected Governor, they often are not aware of legal requirements--in the form of administrative agency rules having the force and effect of law--which can be promulgated almost entirely by the "unelected bureaucrats" in the executive branch of government.

As undemocratic as this result may appear on its face, it is extremely practical, if not essential, when viewed from the perspective of day-to-day government operations. In enacting legislation, it is virtually impossible for the Legislature to anticipate every situation which may arise in the law's operation. Implementing agencies will always need a certain amount of flexibility to "fill in the gaps" which may exist in the law. Assuming that gaps have to be filled or interpretations made, it is equally important that the agency actions be as consistent as possible. This is accomplished by the development of agency "policies" of one type or another.

From a practical standpoint, once a person in any agency begins to utilize any type of discretion in implementing or interpreting a law enacted by the Legislature, some type of administrative regulation occurs. The only question that remains is the manner and extent to which the regulators are themselves regulated. In Hawaii, nearly all state agencies are regulated through the Hawaii Administrative Procedure Act (HAPA), which is codified as chapter 91, Hawaii Revised Statutes (HRS), and the various enabling laws which authorize the agencies to adopt rules. Over the years, the Legislature has routinely delegated to administrative agencies the authority to adopt rules to implement or interpret a wide variety of legislatively established laws and programs, and in a number of cases, has directed agencies to adopt rules on specific matters.

With the exception of a few areas of rulemaking which are exempt from the HAPA, all agency rules, whether authorized or required by law, must be adopted pursuant to the requirements of the HAPA in order to be valid and enforceable. If validly adopted, the rules have the force and effect of law.

Administrative agency rules thus form a substantial adjunct to the legislatively enacted statutory laws. In some instances, notably public assistance (welfare) and occupational safety and health, they constitute vast bodies of law implementing federal programs that require the adoption of

relatively specific rules as a condition of receiving federal funds. Yet despite the importance of their role in implementing and interpreting laws and programs, the role of state agency rules has tended to remain in the shadows of public consciousness.

### HAPA and Administrative Directive 87-2

The HAPA establishes a series of specific procedures which must be followed by agencies seeking to adopt rules. While the law is entitled the Hawaii Administrative Procedure Act, the Legislature has, on occasion, required the Judiciary and legislative agencies (such as the state Ethics Commission) to adopt rules pursuant to the HAPA. On other occasions, the Legislature has exempted administrative agencies from the HAPA. In the vast majority of cases, however, rules must be adopted by administrative agencies subject to the HAPA requirements.

Generally speaking, for an agency's rules to have the force and effect of law, the HAPA requires the agency to:

- (1) Give at least 30 days' notice in a newspaper of general circulation of a public hearing on the proposed rules;<sup>1</sup>
- (2) Hold the public hearing and give all interested persons an opportunity to submit data, views, or arguments on the proposed rules orally or in writing;<sup>2</sup>
- (3) Have the rulemaking action approved by the Governor;<sup>3</sup> and
- (4) Have the rules on file at the Office of the Lieutenant Governor for at least 10 and not more than 30 days before taking effect.<sup>4</sup>

In addition, the rules must also be in a format prescribed by the Revisor of Statutes<sup>5</sup>--who by law is also the Director of the Legislative Reference Bureau<sup>6</sup>--and a copy in the Ramseyer format filed with the Legislative Auditor.<sup>7</sup>

The requirements of Administrative Directive 87-2, and the internal decision-making procedures of the respective agencies, when superimposed upon the requirements of the HAPA, make the rulemaking process for administrative agencies somewhat lengthier and more complex. The following narrative in the remainder of this section is intended to familiarize the reader with the rulemaking process from the perspective of the agency proposing the rules. While some of the specific aspects will vary from one agency to the next, the general outline of the process remains the same.

After the staff of an agency drafts a rulemaking proposal, the agency must first comply with the requirements of Administrative Directive 87-2 before undertaking to comply with any HAPA requirements. Administrative Directive 87-2 was issued by Governor John Waihee on April 1, 1987 (see Appendix B). The directive orders all agencies to obtain the Governor's preliminary approval of any proposed rulemaking action (i.e., the adoption of new rules, or the amendment or repeal of existing rules) prior to announcing

## ADMINISTRATIVE RULEMAKING IN HAWAII

any public hearing on the rulemaking action. In order to obtain this preliminary approval, the agency must do the following:

- (1) Prepare an impact statement explaining the:
  - (A) Exact changes to be made, and the reasons for the changes;
  - (B) Manner in which the proposal would affect the agency's operations or programs in terms of responsibilities, functions, activities, and interrelationships;
  - (C) Results expected from the proposal;
  - (D) Program and financial impact of the proposal including the:
    - (i) Long- and short-range program and financial impact;
    - (ii) Anticipated increase or decrease in program funding requirements;
  - (E) Long- and short-term impacts on the public, economic growth, the economy of the State, and individuals and businesses which must comply; and
  - (F) Alternatives explored in attempting to resolve the problem or situation at hand other than through rulemaking;
- (2) Circulate copies of the proposal and impact statement to:
  - (A) The Attorney General for approval as to form;
  - (B) The Director of Finance for review of fiscal impact;
  - (C) The Director of Planning and Economic Development for impact upon business; and
  - (D) The Office of the Governor.<sup>8</sup>

Once the impact statement and rulemaking proposal have been prepared and approved by the adopting agency, circulation among the agencies required to obtain the Governor's preliminary approval can occur fairly quickly, and the preliminary approval can be obtained in as little as two weeks, if the adopting agency sends copies to all agencies concurrently.<sup>9</sup> For reasons which are not clear, however, some agencies, at least in the past, have instead chosen to send the proposal to each of the reviewing agencies one after the other, which can slow the process considerably.<sup>10</sup>

After the proposing agency receives preliminary approval from the Governor to hold a public hearing, public notice must be provided according to the requirements of section 91-3(a)(1), HRS. Prior to May 3, 1989, section 91-3(a)(1) required that the public notice:

- (1) Be published at least once in a newspaper of general circulation in the State, and be mailed to all persons who have requested advance notice of rulemaking proceedings;
- (2) Be given at least 20 days before the public hearing; and
- (3) Include a statement of "the substance of the proposed rule...".<sup>11</sup>

On at least one occasion, the "substance of the proposed rule" portion of the public notice requirement caused a problem for the adopting agency. In that case, the Public Welfare Division of the then Department of Social Services and Housing was in the process of converting all of its rules to the uniform format for agency rules required by section 91-4.2, HRS, and making other substantive changes to reflect changes to the federal food stamp and Social Security laws. These changes were being accomplished by repealing all of the department's then existing rules, and adopting approximately 500 pages of new rules. In its public notice, the department listed all of the chapter titles of the new welfare rules, and also indicated that substantive changes were being made, and where copies of the full text of the proposed rules were available for inspection and copying.

In its decision in Costa v. Sunn, 64 Haw. 389, 642 P.2d 530 (1982), the state Supreme Court overturned the rulemaking action on the grounds that the public notice did not state the "substance" of the proposal. The standard established by the court was that public notices need to contain not just a statement of the subject of the proposal, but "an intelligible abstract or synopsis" of the material and substantial elements of the rulemaking proposal.<sup>12</sup> The direct outcome of the decision was that the entire rulemaking action was invalidated and the department was ordered to publish a new notice and hold another hearing. To comply with the court's order, the department's subsequent notice provided a summary of each of the hundreds of proposed sections which in form were all new, but the majority of which were actually restatements of existing rules. The notice was approximately the size of a small "Sunday supplement" in the newspaper, and cost the department over \$30,000 to print.<sup>13</sup>

A recent decision of the Hawaii Supreme Court applying the Costa decision placed many agency rules in jeopardy. On November 18, 1988, the court issued its decision in State v. Rowley (No. 12580), invalidating rules of the state park system of the Department of Land and Natural Resources which prohibited nudity in state parks. The court found the rules invalid on the grounds that the public hearing notices for the rules, which were adopted in 1971 and 1981, did not meet the standards established by the court in Costa, which had been decided after the state parks rules were adopted.

The Rowley decision was the first indication given by a state appellate court that the standards for public hearing notices for rulemaking established in Costa would be applied retroactively to rules adopted before the standards existed. The decision made all rules adopted by any agency prior to March 16, 1982 (the date of the Costa decision) vulnerable to invalidation based upon the insufficiency of the public notices. Further, because there was no statute of limitations applicable to actions challenging the sufficiency of public notices, all rules of all agencies which were adopted before the

Costa decision would appear to have been vulnerable forever to legal challenge.

The problems caused by the Costa and Rowley decisions spurred the enactment of Act 64 during the 1989 Regular Session of the Legislature. As amended by Act 64, section 91-3(a)(1), HRS, now requires that the public notice:

- (1) Be published at least once in a newspaper of general circulation in the State, and be mailed to all persons who have requested in writing advance notice of rulemaking proceedings;
- (2) Be given at least 30 days before the public hearing;
- (3) Include either:
  - (A) A statement of the substance of the proposed rule; or
  - (B) A general description of the subjects involved and the purposes to be achieved by the proposed rulemaking action; and
- (4) A statement that a copy of the rulemaking proposal will be mailed at no cost to any interested person who requests a copy, along with a description of where and how the requests may be made.

Act 64 also amended section 91-3 by requiring suits challenging the validity of rulemaking actions on grounds of noncompliance with procedural requirements to be brought within three years after the effective date of the rules or be forever barred. The Act also immunized from challenge on procedural grounds all rulemaking actions which became effective before December 31, 1986.

The procedural alternative allowing agencies notices to include a general description of the subjects of the rulemaking proposal provides a statutory means by which the agencies can get around the strict procedural requirements imposed by Costa, while the statute of limitations and immunization of rules which took effect by December 31, 1986 substantially reduced the problems caused by the retroactive application of the Costa standard in Rowley.

Public hearings provide an opportunity for interested persons to present testimony on the rulemaking proposals. Many public hearings are sparsely attended, while others may attract large crowds. While not required, some agencies schedule a series of public hearings on different islands, which, while more expensive and time consuming, provide greater opportunity for public input--whether or not anyone actually attends.

If no comments are submitted pursuant to the public notice and no testimony presented at the public hearing, or even if they are, the agency may decide to adopt the rules as proposed.<sup>14</sup> On the other hand, the agency may decide to make certain modifications to the proposed rules for any number of reasons ranging from testimony submitted to observations made by

agency staff. If changes are made, a certain amount of time is required to make the modifications. In some instances, agencies also respond in writing to testimony submitted and questions presented. If changes are made, the agency must then determine, usually in consultation with the Attorney General, whether or not a new public hearing needs to be held. The standard enunciated by the state Supreme Court in Ala Moana Boat Owners v. State, 50 Haw. 156, 434 P.2d 530 (1967) and generally applied by the Attorney General is whether or not "substantial changes" were made to the proposed rules after the public hearing. If the changes are deemed substantial, then a new public hearing must be held. If not, the modified rules can be formally adopted by the agency and sent to the Governor for approval.

When sending rules to the Governor for approval, agencies have been instructed to send three copies of the rules in the "standard" format.<sup>15</sup> This essentially is the Hawaii Administrative Rules format, developed by the Legislative Reference Bureau as the uniform format for all state agency rules, pursuant to the requirements of section 91-4.2, HRS. The format, which is essentially the same format used for the Hawaii Revised Statutes, has certain specific requirements to account for the fact that the rules filed with the Lieutenant Governor presently have no Revisor of Statutes to codify them as is the case with legislation. One of the goals of the format which will be discussed in greater detail in chapter 3 was to enable the Office of the Lieutenant Governor to file and maintain the rules in a ministerial manner with only a very limited number of "judgment calls" in unusual situations.

After the rules are signed by the Governor indicating approval, the rules are then transmitted directly to the Lieutenant Governor.<sup>16</sup> Upon receipt, the Lieutenant Governor's staff time stamps the rules, determines the date on which the rules will take effect, and stamps that date into each section of the rules. One copy of the rules is retained for filing, one copy is returned to the adopting agency, and the third is sent to the Ombudsman.<sup>17</sup>

Unless special arrangements are made, or an adoption date specified, the adopting agency does not know the effective date of the rules or amendments until a copy is received from the Lieutenant Governor's office. When the effective dates are known, copies in both the standard and Ramseyer formats are transmitted to the Legislative Auditor and the Legislative Reference Bureau. The Legislative Auditor is required by section 91-4.1, HRS, to review all rulemaking actions to determine whether any of those actions have exceeded the agency's statutory authority. Section 91-4.1 specifically requires that a copy of the rules be sent to the Auditor in the Ramseyer format (which indicates the changes being made to existing rules through the use of brackets, underscoring, and prefatory language). Copies are sent to the Legislative Reference Bureau to enable the Bureau to monitor agency compliance with the requirements of the Hawaii Administrative Rules format.

The effect of sections 91-4.1 (review by Auditor) and 91-4.2 (uniform format), taken together, is that in most cases, rulemaking proposals need to be typed twice--once in each of two different formats. Section 91-4.1 specifically requires a copy to be in the Ramseyer format--presumably to aid the Auditor in focusing upon the changes being made. For purposes of filing

with the Lieutenant Governor, however, which is the official depository for public inspection, it is important that the language of the rules be in "final" form rather than showing all the changes being made in the Ramseyer format. Consequently, the format for filing with the Lieutenant Governor is different.

Up until the point that the rules adopted by the agency are sent to the Governor for final approval before filing with the Lieutenant Governor, there are any number of ways in which the normal agency operating and decision making process will extend the time required to accomplish the rulemaking actions. These include:

- (1) Need for higher level approval at each step in the rulemaking process. Staff preparing the rulemaking proposals are usually working in division or lower level offices. Higher level approval is usually needed (to a greater or lesser degree depending upon the department) to circulate the rules for preliminary approval (and if the agency sends them out in a series, this is multiplied), to hold public hearings, and to finally adopt the rules after public hearing. If one of the decision making authorities is a board (such as in the case of the department of education or agriculture, or a board or commission attached to a department for administrative purposes), time lags can increase because approvals often require action by the board at a formally scheduled meeting;
- (2) Agency emergencies, or other actions requiring higher priority--such as responding to legislative or other inquiries, in addition to staff vacations, illnesses, and other interruptions can result in a rulemaking proposal being placed in abeyance on one or more occasions;
- (3) In most agencies, rulemaking proposals are drafted and shepherded through the process by the people whose program is most affected by the rules. While this is logical to the extent that the rules tend to be drafted by those who should know the most about the subject area, there are many disadvantages. In certain areas where changes to the rules occur frequently, for example, in response to shifting federal requirements, the staffs develop and maintain the skills needed to draft rulemaking proposals. In areas where rulemaking is very infrequent, the staffs must struggle with tasks that are unfamiliar and not likely to be used on a regular basis.

Even under the best of circumstances, i.e., if a proposal could be drafted, receive preliminary approval for public hearing, and have the hearing notice published on the same day, have no testimony submitted at the public hearing, and be adopted by the agency, approved by the Governor, and filed with the Lieutenant Governor on the day of the hearing, the rulemaking process would take over one month. The statutory requirements that the public hearing be held not less than 30 days after the public notice, and that the rules be on file at the Lieutenant Governor's office for at least 10 days before taking effect, effectively ensures a forty-day minimum period. Circumstances are rarely such that an agency rulemaking action will occur this quickly. While not common, it is not unheard of for rulemaking actions to take a year--or longer.

### Exemptions from HAPA Requirements

The HAPA exempts two categories of rules from its public notice and hearing requirements. They are:

- (1) Emergency rules adopted in response to "an imminent peril to the public health, safety, or morals or to livestock and poultry health..."<sup>18</sup>; and
- (2) Rules required to be adopted by the federal government as a condition of receiving federal funds and the agency is allowed no discretion in interpreting the federal provisions as to the rules required to be adopted.<sup>19</sup>

The limitations placed on emergency rules are that the agency must state in writing its reasons for determining the existence of the emergency. More importantly, the emergency rules can only remain in effect for a maximum of 120 days, and must be adopted in accordance with normal rulemaking procedures in order to be made permanent. In the second situation, the notice and hearing requirements are waived by the Governor pursuant to the required findings, but the agency must publish a statement of the substance of the rules in a newspaper of general circulation in the State before the waiver by the Governor.

In other situations, the legislation authorizing the agency to adopt rules completely exempts the rules from the HAPA requirements. These subject areas include:

- (1) The establishment of procedures by the Adjutant General governing the care and custody of armories, rifle ranges, reservations, and installations, including the use or rental of these facilities by civic, community, veterans, and other nonprofit public organizations and groups;<sup>20</sup>
- (2) The establishment of tolerance or regulatory or action levels by the Director of Health for purposes of the state Food, Drugs, and Cosmetics law;<sup>21</sup>
- (3) Gubernatorial command of the state militia;<sup>22</sup>
- (4) Disaster relief implementation by the Director of civil defense;<sup>23</sup>
- (5) Gubernatorial requirements for civil defense emergency periods (which may be established in advance of emergencies and have effect only during those emergencies);<sup>24</sup> and
- (6) Procedural rules for administrative forfeiture proceedings under the Penal Code by "prosecutors", which includes the Attorney General.<sup>25</sup>

A troubling aspect of this type of carte blanche exemption of agency rulemaking authority from the HAPA is that it literally subjects the public to possible regulation by whim without any type of notice at all. Not only are

the agency rules exempt from the notice, public hearing and waiting period requirements of the HAPA, the ones which are the most burdensome, but they also are not required to be in the same format as other agency rules, need not be approved by the Governor, and are not even required to be filed at the Office of the Lieutenant Governor along with the other rules. Even emergency rules exempted from the HAPA notice and hearing requirements have to be approved and placed on file. Accordingly, the practical result of this difference in treatment is that emergency rules being adopted to require inoculations to prevent a public health epidemic are now subject to stricter controls than rules regulating the rental of National Guard armories to community athletic leagues.

The Legislature may wish to consider limiting complete rulemaking exemptions from the HAPA to exemptions from the notice, public hearing, and waiting period requirements. This would maintain the ability of agencies to react quickly while ensuring an element of public access and information which at present does not necessarily exist with respect to rules implementing these laws.

#### Implications for State Administrative Registers or Codes

The purpose of this chapter is to provide an overview of the procedures followed--and the burdens faced--by agencies in adopting rules. A danger inherent in placing too many burdens upon the rulemaking process, thereby making it slower and more cumbersome, is that it increases the incentive for agencies to skip the rulemaking process entirely and either regulate the public without the benefit of written rules, or change their rulemaking proposals into "housekeeping" bills introduced during each legislative session. The legislative process is potentially less cumbersome than the rulemaking process, and subject to short time deadlines, thereby allowing the agencies, at least in the short run, to get what they want with less effort.

In the long run, however, this will create more problems for the Legislature, because, unlike rulemaking, the agencies will not be able to modify the legislation through rulemaking (which can occur at any time of year), and will instead have to come back in subsequent legislative sessions with additional legislation to modify earlier enactments. This should be of concern to the Legislature which already faces large numbers of proposed measures each year.

Accordingly, any proposal for a state administrative code or register must not only consider the benefits of public information which may flow from it, but should also be designed to minimize the burdens upon the rulemaking process in order to prevent results which ultimately are self-defeating.

## Chapter 3

### ADMINISTRATIVE CODES

The concept of an administrative code is very simple--the compilation of a government's administrative agency rules in a single publication, which is maintained, organized, and produced by a single agency or entity. An administrative code is to administrative agency rules what a statutory code is for the legislatively enacted laws of that government. The federal government and virtually all state governments have (at least to some degree) codified and published their legislatively enacted laws. The federal government and a majority of states have also codified their administrative agency rules. This chapter discusses:

- (1) The code publishing process from the standpoint of Hawaii's experience in producing the Hawaii Revised Statutes (a process which is substantially identical to the process which would likely be used to publish a state administrative code);
- (2) The contents and production of administrative codes in other jurisdictions;
- (3) The state of organization of administrative rules in Hawaii and the obstacles remaining to codification; and
- (4) Some considerations for an administrative code.

#### Part I. Code Publishing in Hawaii--the Statutory Analogy

Operationally, the work involved in the publication of a state administrative code would not be expected to differ significantly from the publication of the statutes enacted by the Legislature. In Hawaii, statutes are published in two separate publications, the Session Laws of Hawaii, and the Hawaii Revised Statutes.

#### Session Laws of Hawaii

Each year, the laws enacted by the Hawaii State Legislature are published in the Session Laws of Hawaii for that year. The Session Laws are an official publication in chronological order of the enactments of each legislative session, thereby making those Acts public. Except for certain editing changes made by the Revisor of Statutes (who is responsible for publishing the Session Laws as well as the Hawaii Revised Statutes), the Session Laws are, for the most part, a publication of the laws in the form enacted by the Legislature.<sup>1</sup> The Session Laws, taken collectively, represent all of the laws enacted in Hawaii--before statehood and since. Accordingly, the Session Laws are a very important publication because they are the only published source of a number of laws, such as the budget acts, which are not appropriately included in the Hawaii Revised Statutes.

The chronological organization of the Session Laws reflects the order in which the enactments were approved, or allowed to take effect, by the

Governor. The use of a volume of the Session Laws by someone attempting to research all of the State's laws on a particular subject could be difficult because:

- (1) The Session Laws are arranged chronologically rather than by subject (although a general subject index is included); and
- (2) The contents of a volume contain only the enactments of a particular year.

Nevertheless, the Session Laws are a valuable tool in researching the most recent changes to, or the historical development of, particular laws.

### **Hawaii Revised Statutes**

By comparison, a separate publication, the Hawaii Revised Statutes (HRS), the state statutory code, is a collection of the general and permanent statutes of the State.<sup>2</sup> The HRS, which was published in 1968, is the latest of a series of published statutory codes dating back to the last century. The HRS and its predecessors, the various compilations of the Revised Laws of Hawaii, reflect the laws of the State which were in effect at the time of publication, and are organized according to broad general subject areas. This organization by subject area makes it easier to conduct research on general laws through the HRS.

Prior to 1959, Hawaii did not have a Revisor of Statutes. Temporary statutory revision commissions were convened every ten years to determine how the previous edition of the Revised Laws of Hawaii needed to be changed to reflect laws enacted during the intervening period. Because there were no supplements prior to 1959, users of the code had to use the most recent codification along with all subsequent Session Law publications. In other words, five years after a published code edition, a user would have to check five separate Session Laws for amendments.

The Legislature provided for permanent statutory revision in 1959 by providing for a Revisor of Statutes charged with the responsibility of publishing and updating the state statutory code on a regular basis. Beginning in 1959, the Revisor of Statutes laid the groundwork for, and organized the HRS, which was formally enacted in 1968. While the office of the Revisor of Statutes was transferred from the Judiciary in 1977 and merged with the Legislative Reference Bureau,<sup>3</sup> the work of the Revisor of Statutes continued uninterrupted and unabated. In the twenty years since the enactment of the HRS, the Legislature has not had to enact any subsequent codifications of the statutory law. With a couple of exceptions,<sup>4</sup> the Revisor has published a cumulative supplement (included as a pocket part at the end of each bound volume) each year, and in 1976 and 1985, published complete sets of "replacement volumes" which merged the material contained in the cumulative supplements with the previous edition of the bound volumes.

Today, the HRS consists of 12 bound volumes (1985 replacement set), a pocket part cumulative supplement to each volume containing changes enacted by the Legislature from 1986 to 1988, a special pamphlet for the newly recodified insurance laws, and a 1987 index volume. The cost to a person of

a complete set is \$186, plus the cost of a new supplement each year. The 1988 supplement sold for \$28. Government agencies generally receive sets of the HRS and the supplements free of charge. A private legal publishing company is also selling its own published version of the Hawaii Revised Statutes for \$795, which does not include the cost of supplements.

The classification of the material in the HRS divides the statutes into 38 "titles" or broad subject areas. Some of these subject areas include "County Organization and Administration", "Taxation", "Planning and Economic Development", "Trade Regulation and Practice", and the "Hawaii Penal Code". The entire statutory scheme is presently divided into 853 chapters, parts of which are included in each title. For instance, "County Organization and Administration" currently includes chapters 46 to 70, while "Taxation" includes chapters 231 to 255. Chapters, in turn, consist of sections. There is no limit to the number of sections which may be contained within a chapter. Some chapters consist of only one section. Others may consist of dozens or even hundreds. In the longer chapters, groupings of sections may be organized into parts, subparts, or undesignated subdivisions. Sections of the HRS are designated and cited by indicating the numbers of the chapter and the section within that chapter. For example, a reference to section 231-1 refers to the first section in chapter 231 (which deals with tax administration). Because there is only one chapter 231, and only one section 1 within chapter 231, the section number is unique--as is every other section within the HRS, and can be located very easily if the appropriate chapter and section number are provided. By the same token, a mere reference to "section 1" is inherently ambiguous, as there are hundreds of chapters containing a "section 1".

The transformation of the legislative enactments as they appear in the Session Laws of Hawaii (i.e., in the form enacted by the Legislature containing brackets, underscoring, and prefatory language, and arranged in purely chronological order) to the way they appear in the HRS supplements (i.e., "final" language, merged into the existing body of law, arranged by subject matter) is entirely the work of the Revisor of Statutes.

While the computerization of legislative bill drafting functions in recent years has aided the production of the Session Laws, it is of far less help in producing the HRS supplements. The data in the Legislature's computer system are in the form used to publish the enactments in the Session Laws. The transformation into the supplements, however, reflects extensive editorial work.

The Revisor of Statutes prepares an extensive manuscript integrating the new enactments of general and permanent laws with material already contained in the supplements. The prefatory language as well as the underscoring indicating the added material must be removed, along with the language being deleted. In preparing the supplements and replacement volumes, the Revisor is authorized to make various changes in acts incorporated in the supplements and replacement volumes as are necessary to conform the style with that of the last revision of the laws, as long as the sense, meaning, or effect of any act are not altered.

The matter set forth in the supplements and replacement volumes as published by the Revisor are, by law, prima facie evidence of the law.<sup>5</sup>

Additional functions undertaken by the Revisor in preparing the manuscript include:

- (1) Preparation and insertion of annotations reflecting court decisions and Attorney General Opinions interpreting or applying statutes;
- (2) The preparation of a wide variety of notes reflecting, among other things:
  - (A) Cross references to other statutes or uncodified provisions of enactments such as effective dates or transition provisions;
  - (B) Indication of references to repealed provisions or other inaccuracies;
  - (C) Source notes reflecting the enactments which amended the statutory section; and
  - (D) The portions of existing provisions affected by the most recent enactments;
- (3) Determining the effect of multiple amendments upon the same provision; and
- (4) Determining entries which need to be added to or deleted from the existing index to reflect the new enactments.

For purposes of quality control, extensive checklists of all editorial functions are used, and, in the most time consuming aspect of the process, all compiled material is reviewed against the checklist by several different staff members. This involves each person reading through hundreds of pages of material, word by word, checking for everything from incorrect references to improper spelling. When the manuscript preparation and verification is completed, the Bureau's computer database is updated to reflect changes shown in the manuscript. The material to be included in the supplement is printed out on an office printer and checked against the manuscript to ensure that material has not been dropped inadvertently. When verification is completed, computer tapes are prepared, and sent to the printer contracted by the Revisor. While the printing of the Session Laws and the HRS is exempt from public contract requirements,<sup>6</sup> the Revisor normally solicits bids from qualified publishers as a means of promoting competition and reducing costs. In order to be qualified, the contractor must have computer equipment which is compatible with the Bureau's in order that the photocomposition and printing can be accomplished directly from the Bureau's computer tapes.

When the photocomposition work is completed, the printer produces page proofs of what the completed supplement pages will look like if accepted by the Revisor. These page proofs (sometimes referred to as "galleys") are then proofread word for word, punctuation mark for punctuation mark, against the original manuscript for accuracy. This proofreading operation is considerably

more extensive and complicated than the limited "spell check" functions now available on some computer systems. In addition to checking for correct spelling, it is also necessary to check for correct punctuation, spacing, indentation (e.g., blocked versus paragraph style), boldfacing, type size, and font--all of which is beyond the capacity of office equipment available for the general market.

After errors are discovered, material is returned to the printer for correction--as often as necessary. Multiple correction cycles usually arise when lines are shifted from one page to the next--for example, if a paragraph or note did not appear in the page proof, adding it in would require some of the material on the page (which is frequently packed densely) to shift to the next page. This can produce a ripple effect of shifting material over a series of many pages. In any situation such as this, it is imperative that all lines on each of the affected pages be checked to ensure that nothing was dropped accidentally by the computerized printer, particularly at the top or bottom of a page. Once all page proofs are accepted, the material can be printed, wrapped, and shipped to Hawaii.

Distribution of the Session Laws and Hawaii Revised Statutes is handled by the Lieutenant Governor.<sup>7</sup> Over the years, this arrangement has generally worked well because the Lieutenant Governor's office has the necessary storage space (used, among other things, for elections equipment) which the Bureau does not have. The Lieutenant Governor is authorized to provide free copies of the materials to government agencies and, to date, generally has done so. In setting the price charged to private users, the Lieutenant Governor has generally charged an amount which would cover the printing costs for all copies. All money received is turned over to the general fund.<sup>8</sup>

In addition to the printed statutes, the complete text, and all annotations to the HRS are available to the public on a searchable database as part of the Bureau's "HO'IKE" computerized information retrieval system.

Effective October 1, 1988, the Bureau, pursuant to approval from the Senate President and Speaker of the House of Representatives, entered into a contract with a private vendor who is selling the data from the Bureau's database for the Hawaii Revised Statutes on "floppy" disks, along with the vendor's own software which allows the material to be searched. The State of Hawaii will receive 10% of the gross receipts from the sale.

In an informal survey of law firms in the City and County of Honolulu during the summer of 1987, the Bureau found that over 200 private firms were planning to obtain computers, and were interested in the prospect of having the statutes on a searchable database. The efforts of the vendor under the October contract will provide a good indication of the type of market which exists for the sale of computer searchable databases, as distinct from printed material, and could have some bearing upon the approach taken in publishing a state administrative code.

## Part II. Administrative Codes in Other Jurisdictions

H.R. No. 9 directs the Bureau to study the feasibility of publishing a code of state administrative agency rules "like the Code of Federal Regulations" which is published by the United States government. Forty states, the District of Columbia, and Guam, in addition to the United States, produce some version of an administrative code.

The data contained in this part were obtained from the 1987 Administrative Codes and Registers State and Federal Survey published by the Administrative Codes and Registers Committee/Section of the National Association of Secretaries of State (NASS Survey). The survey was published in July, 1988, and reflects the various codes as they existed in late 1987 when the information was collected. The information in that survey relating to administrative codes (which is arranged by state in the original) has been reorganized into a subject area arrangement to facilitate comparisons, and is generally contained in charts 1 to 6 in this part. The symbol "N/R" indicates that the jurisdiction did not respond to the request for information concerning the particular item.

Chart 1 shows the agencies in the respective jurisdictions which are responsible for publishing the administrative codes. The United States Code of Federal Regulations (C.F.R.) is published by the Office of the Federal Register (an office within the National Archives), and is distributed by the United States Government Printing Office. Administrative codes in the other jurisdictions were published by a variety of agencies. In 18 jurisdictions, the agency responsible for publication was the Secretary of State or Lieutenant Governor. For purposes of comparison to Hawaii, responses indicating either of these agencies were combined because the Lieutenant Governor of Hawaii is legally designated as the Secretary of State for intergovernmental affairs.<sup>9</sup>

State administrative codes are published by various legislative agencies in 15 jurisdictions, and in 7 by administrative agencies (other than the Secretary of State or Lieutenant Governor) including the Office of the Governor, the State Library, and the Department of Administration. The Regulations of Connecticut State Agencies is published by an agency of that state's Judiciary. In New Hampshire, the administrative code appears to be a purely private publication with little or no state involvement.

The contrast between New Hampshire's privately published state administrative code and those of the other jurisdictions is not as stark as a superficial comparison might indicate. To begin with, unless all manuscript preparation, checking of material, photocomposition, printing, and proofing are done in-house, then some part of the process needs to be contracted out to a private entity. For example, as discussed in part I, while all preparation work on the Hawaii Revised Statutes, including the entry of all data onto computer tapes, is handled by the Legislative Reference Bureau in-house, the photocomposition, printing, and if necessary, binding work is contracted to private printers. Further along the spectrum, the jurisdiction could contract for most of the work, including the manuscript preparation and arrangement, to be handled by a private contractor. Eleven jurisdictions appear to have substantial involvement on the part of private contractors as

Chart 1  
Administrative Codes  
Production Agencies; Expenses

State	Code	Publishing Agency	Full-time Equivalent Position	Salaries	Printing Expenses	Subsidy	By	Method of Distribution
United States	Code of Federal Regulations	Office of the Federal Register (Nat'l. Archives)	13	N/R	N/R	N/R	U.S. Govt. Printing Office	3rd and 4th class mail
Alabama	Alabama Administrative Code	Legislative Reference Service	2	\$35,000	Under \$10,000	N/R	State	UPS
Alaska	Alaska Administrative Code	Lt. Gov.'s Office	1	N/R	\$15,000/\$20,000	\$80,000	Private	By publisher
Arizona	Arizona Administrative Code	Secretary of State	3	N/R	\$92,000	100%	State	In-house; 1st class mail/printed matter, courier state, agencies
California	California Administrative Code	Governor's Office	50	\$2,000,000	\$1,400,000	N/R	State	Mail order and over the counter
Colorado	Colorado Code of Regulations	Secretary of State	N/R	N/R	N/R	N/R	Private	N/R
Connecticut	Regulations of Connecticut State Agencies	Commission on Official Legal Publications (Judicial Dept.)	28 FT 3 PT	N/R	N/R	N/R	State	U.S. mail and in-house mail system
District of Columbia	District of Columbia Municipal Regulations	Mayor's Office	8	\$240,000	\$248,000	N/R	Govt.	Mail

State	Code	Publishing Agency	Full-time Equivalent Position	Salaries	Printing Expenses	Subsidy	Distributed By	Method of Distribution
Florida	Florida Administrative Code Annotated	Department of State	9 FT 1 PT (Code and Register)	N/R	N/R	N/R	Private	N/R
Georgia	Official Compilation Rules and Regulations of the State of Georgia	Secretary of State	4	\$86,000	\$100,000	N/R	State	U.S. Postal Service; UPS
Guam, Territory of	Guam Administrative Rules and Regulations	Attorney General	7.5	N/R	N/R	N/R	Govt.	Mail or customer pick-up
Illinois	Illinois Administrative Code	State Library	8	\$150,000 (Approx.)	\$210,000 main set; \$31,000 supplement	N/R	State	Postal service special 4th class; state delivery system
Indiana	Indiana Administrative Code	Legislative Services Agency	4	N/R	N/R	N/R	State	Postal service 4th class
Iowa	Iowa Administrative Code	Legislative Council	6	\$100,000	\$273,000	N/R	State	Mail
Kansas	Kansas Administrative Regulations	Revisor of Statutes (Legislature)	2	N/R	N/R	N/R	State	N/R
Kentucky	Kentucky Administrative Regulations Service	Legislative Research Commission	3	N/R	N/R	N/R	State	Bulk rate
Louisiana	Louisiana Administrative Code	Governor's Office	5 (Code and Register)	\$66,200 (Code and Register)	\$73,374 (Code still incomplete)	\$71,000	State	U.S. postal service and state messenger service

State	Code	Publishing Agency	Full-time Equivalent Position	Salaries	Printing Expenses	Subsidy	Distributed By	Method of Distribution
Maine	Code of Maine Rules	State Department	1	N/R	N/R	N/R	Private	N/R
Maryland	Code of Maryland Regulations	Secretary of State	14.5 (Code and Register)	\$441,000 (Code and Register)	\$400,000 (Code and Register)	12% (Code and Register)	State	in-house; U.S. mail book rate
Massachusetts	Code of Massachusetts Regulations	Secretary of State	7	N/A (Combined with other functions)	\$30,000	N/A	State	2nd class mail
Michigan	Michigan Administrative Code	Legislative Service Bureau	8	N/R	N/R	N/R	State	U.S. mail
Minnesota	Minnesota Rules	Revisor of Statutes (Legislature)	50	\$1,500,000	\$250,000 (50% recovered)	\$2,800,000	State	By state register and public documents division of Dept. of Administration
Missouri	Code of State Regulations	Secretary of State	7	\$93,500	\$228,284	\$247,923	State	in-house; UPS
Montana	Administrative Rules of Montana	Secretary of State	3.5	\$70,242	\$20,703.40	\$12,300	State	Special 4th class mail
Nebraska	Nebraska Administrative Code	Secretary of State	1	N/R	\$12,000	N/R	State	Mail
Nevada	Nevada Administrative Code	Legislative Counsel Bureau	35	N/R	N/R	N/R	State	Postal service or UPS
New Hampshire	New Hampshire Code of Administrative Rules Annotated	P R I V A T E L Y	P U B L I S H E D	Private	N/R			

State	Code	Publishing Agency	Full-time Equivalent Position	Salaries	Printing Expenses	Subsidy	Distributed By	Method of Distribution
New Jersey	New Jersey Administrative Code	Secretary of State	17 (Code and Register)	\$427,000 (Code and Register)	\$122,500	No direct subsidy received	State	Mail--special 4th class
New York	Official Compilation of Codes, Rules & Regulations of the State of New York	Department of State	6 FT 4 PT	N/A	0	50%	Private	1st class mail or UPS
No. Carolina	No. Carolina Administrative Code	Office of Administrative Hearings	5 (Code and Register)	\$110,916	\$5,000	\$250,000	State	1st class U.S. mail; courier and inter-office
No. Dakota	No. Dakota Administrative Code	Legislative Council	2.5	\$19,000	\$25,665	\$35,755	State	Secretary of State
Ohio	Ohio Administrative Code	Legislative Service Commission	2.6	N/A	N/R	N/A	Private	N/R
Oregon	Oregon Administrative Rules Compilation	Secretary of State	2	\$159,911 (Code and Register)	\$90,565	None	State	Bulk mailing
Pennsylvania	Pennsylvania Code	Legislative Reference Bureau	7	N/R	N/R	N/R	Private	U.S. mail 2nd class news-paper treatment
So. Carolina	Part of Code of Laws of So. Carolina	Legislative Council	43	N/R	N/R	0	Private	Mailed by publisher
So. Dakota	Administrative Rules of So. Dakota	Legislative Research Council	2	N/R	N/R	N/R	State	In-house, through Bureau of Admin.

State	Code	Publishing Agency	Full-time Equivalent Position	Salaries	Printing Expenses	Subsidy	Distributed By	Method of Distribution
Tennessee	Official Compilation-- Rules and Regulations of the State of Tennessee	Department of State	9	\$163,308	\$47,531.10	N/R	State	Postal mail and messenger mail
Texas	Texas Administrative Code	Secretary of State	1/2	\$15,000	N/A	None	Private	Freight shipping
Utah	Utah State Administrative Code	Dept. of Administrative Services	3	\$64,000	\$30,000 for publishing code	\$168,000 (total budget)	Private	Left to publisher
Vermont	Vermont Administrative Code	Secretary of State	1.5	\$20,000	\$3,000 per year	N/R	State	As we can
Washington	Washington Administrative Code	Legislature	3	\$70,032 (includes benefits of approx. 25%)	\$118,574 (3 year publication cycle average)	\$18,106 (3 year average)	State	UPS
West Virginia	West Virginia Code of State Rules	Secretary of State	2	\$45,000	0	0	State	U.S. postal service
Wisconsin	Wisconsin Administrative Code	Revisor of Statutes (Legislature)	8	N/R	\$256,000	N/R	State	Statewide and throughout the country via UPS

## ADMINISTRATIVE CODES

evidenced by the fact that the completed publications are distributed by private publishing companies rather than government agencies. Accordingly, while the administrative codes in those jurisdictions are apparently considered to be publications of a designated government agency, persons seeking to obtain copies of those codes are instructed to purchase them directly from the private entity.

Chart 2 provides certain information relating to the publication of the codes including the frequency of printing, the number of sets printed, and the number of paying and free subscribers. The number of sets that need to be printed is an important consideration when determining the feasibility of publishing a code because, generally speaking, the more copies printed, the lower the cost per copy. While certain costs such as paper may increase with the need--although even these costs can be reduced through bulk purchases, many of the printing related costs are fixed. These fixed costs include the cost of embedding the photocomposition codes to control the computers which arrange and set the material for each page to be printed, the making of any necessary printing plates, and the labor for altering the presses to handle the particular print run. The cost of these fixed expenses is generally the same regardless of the number of copies printed. Accordingly, the cost per copy, up to a certain point, is reduced if those fixed costs can be spread over a greater number of copies printed.

Not all jurisdictions responded to the questions relating to the number of sets printed in the last complete publication, or the number of subscribers. If an answer was not given with respect to the number of sets printed, an attempt was made to estimate this by totalling the number of paid and free subscribers.

Anyone familiar with the Code of Federal Regulations is aware that it is a large publication. All 175 soft-covered volumes are reprinted each year with amendments merged in. The C.F.R. has over 5,000 subscribers, with roughly two-thirds of them paying and one-third of them free. It is not clear whether all of these subscriptions are for complete sets--but that would appear to be reasonable, given the fact that the C.F.R. is distributed among many libraries nationwide. Assuming this is true, the volume of state code publications is a good deal smaller. Among the 36 jurisdictions from which totals could be ascertained or approximated,<sup>10</sup> 17 printed fewer than 500 complete sets of their administrative code, 12 printed 500 to 1,000, and 8 printed over 1,000 sets. Alabama printed the fewest sets of any jurisdiction--50. With one possible exception, no jurisdiction printed more than 2,000 complete sets. California indicated that it has over 41,600 subscribers, but it is almost inconceivable that all have purchased complete sets. As long as it is possible to purchase selected volumes or portions of the code, it would stand to reason that states having larger codes (including California) would have a smaller percentage of subscribers purchasing the entire code. Another large jurisdiction, the state of New York, reported subscriptions for 390 complete sets and 8,500 partial sets, a ratio of just under 21.8 partial sets for each full set. Assuming that same ratio applied in California, 1,825 of that state's subscriptions would be for full sets and the remaining 39,775 would be for partial sets. On the other hand, given the much cheaper cost of a set, (as compared to New York) the number of

Chart 2

Administrative Codes  
Publication; Subscriptions

State	Amount Received from Subscriptions	Frequency of Printing Entire Code	No. of Sets Printed in Last Complete Publication	Year Entire Code Last Published	No. of Paid Subscribers	No. of Free Subscribers
United States	N/R (All funds from sales go to Government Printing office)	Annually	N/R	1986	3,353	1,734
Alabama	\$6,130	Reprinted only when inventory depleted	50	1984	42	5
Alaska	None	N/A	N/A	1975	1,300	None
Arizona	\$81,000	Code is loose- leaf, updated bi-monthly	Chapters indicating individual agencies, when reprinted, when inventory depleted	1975	Sets-247 Parts-4,900	Sets-109 Parts-406
California	\$1,400,000	N/A	N/A	N/A	41,297	323
Colorado	N/R	Code changed monthly by Register	N/R	1978	N/R	N/R
Connecticut	\$14,752	N/A	1,000	1975	581	291
District of Columbia	\$79,000	Annually	N/R	N/R	N/R	N/R
Florida	N/R	N/R	N/R	N/R	N/R	N/R
Georgia	\$35,000	Loose-leaf, updated monthly	10	1983	250	578
Guam, Territory of	N/R	Annual updates	500	1984	200	85

State	Amount Received from Subscriptions	Frequency of Printing Entire Code	No. of Sets Printed in Last Complete Publication	Year Entire Code Last Published	No. of Paid Subscribers	No. of Free Subscribers
Illinois	\$75,930	Tentatively, every 2 years	1,000	1986	Sets-338 Indiv vols-198	Sets only-202
Indiana	N/R	Every 4th year	1,400	1984	N/R	N/R
Iowa	\$78,492	None since 1975	N/R	1975-76	340	653
Kansas	N/R	N/R	2,000	1978	N/R	N/R
Kentucky	\$90,195	Annually	950	1986	859	40
Louisiana	\$31,311 (to date)	Every 4 years (tentatively)	6 of 14 volumes now available	Incomplete	Varies by volume-- 1,104 total	160
Maine	N/R	N/R	N/R	1986	N/R	N/R
Maryland	\$100,000	Supplements issued annually	Varies (printed by title as needed)	1976	200-full sets; indiv. titles from 20 to 1,200	60-full sets
Massachusetts	\$25,000	First printing 1978, second printing 1987	750	1987	225	25
Michigan	N/R	10 years	N/R	1979	1,300	1,000
Minnesota	\$212,000	Every odd- numbered year	1,000	1987	700	300
Missouri	\$79,418	Every 10 years	2,000	1976	705	40
Montana	\$32,250	1st printing 1972; recodi- fied 1980	440	1980	215	82
Nebraska	\$6,250	N/R	N/R	1975	70	4

State	Amount Received from Subscriptions	Frequency of Printing Entire Code	No. of Sets Printed in Last Complete Publication	Year Entire Code Last Published	No. of Paid Subscribers	No. of Free Subscribers
Nevada	N/R	Varies-- approx. every 2 years	175	1986	75	100
New Hampshire	P R I V A T E L Y     P U B L I S H E D			1984	N/A	N/A
New Jersey	\$665,760	Individual titles are reprinted as needed	Information not available	1975	6,469	58
New York	0; printer earns expenses from sale and profits	N/A; loose-leaf	N/A	N/A	390 for complete sets; 8,500 for partial sets	0
No. Carolina	\$14,376	Semi-annually; microfiche	250	1987	132	107
No. Dakota	\$8,910	Not determined	300	1978	81	118
Ohio	N/R	Yearly	200	1986	N/R	N/R
Oregon	\$43,200	Monthly updates	N/A	N/A	180	60
Pennsylvania	N/R	Never; Code is looseleaf	N/R	N/R	5,600 (full-700 single titles- 4,900)	0
So. Carolina	0	Continuous revision	1,750	1980-1983	N/R	1,650
So. Dakota	\$8,079.45	Twice in 10 years; not planned to be done again	250	1978	102	66
Tennessee	\$4,550	Once	Unknown	1976	206	173

State	Amount Received from Subscriptions	Frequency of Printing Entire Code	No. of Sets Printed in Last Complete Publication	Year Entire Code Last Published	No. of Paid Subscribers	No. of free Subscribers
Texas	None	Twice	Approx. 400 complete sets	1986	1,000 (est.)	N/R
Utah	0	Annually	Unknown	1980 loose-leaf; 1982 microfiche	Unknown yet	33 paid by state
Vermont	\$2,000 per year	Every 10 years	500	Not yet complete	300	100
Washington	\$170,500 (3 yr. average)	Every 3 years	1,500	1987	1,100	250
West Virginia	\$35,000 (approx.)	Once	125	1987	100	2
Wisconsin	\$300,000	Continual revision system, have not reprinted entire Code	N/A	N/A	1,108 (Over 10,000 subscriptions to one or more of the codes but less than complete set)	253

complete sets published by California may be higher. To the extent this is true, California is in a different league when compared to the other states.

Chart 3 contains information relating to cost, format, and supplements. The C.F.R. costs \$595 for the paperbound format and \$185 for microfiche. These would be annual costs, as the code is republished in its entirety every year. The Federal Register is referred to as the "supplement" to the C.F.R.--but this is only true to the extent that the Session Laws of Hawaii can be seen as a "supplement" to the HRS. Current information is provided, but it is not a supplement in the true sense which is arranged in a manner which parallels the main body of the code. A conventional supplement is not needed for the C.F.R. because of the annual republication schedule.

Of the 35 other jurisdictions which answered the question, nearly half--17, charge less than \$250 for a complete code. Eleven charged from \$250 to \$500. At higher levels: three charged from \$501 to \$750; two charged from \$751 to \$1,000; and two charged over \$1,000. The lowest cost jurisdictions were North Carolina which charges \$40 for a microfiche set (the only format in which a complete set can be obtained), and Kansas, which charges \$50 for a 4-volume set. New York (one of the states indicating distribution by a private publisher) was the most expensive jurisdiction, charging \$2,000 for a 52-volume set. By comparison, California charges \$585 for a 60-volume set.

The format used for the codes generally divides along the lines of loose-leaf as opposed to bound (either hardbound or paperbound). Twenty-eight jurisdictions have chosen to publish in a looseleaf format, 10 in bound form. Vermont indicated publication in both forms, while three jurisdictions indicated other means. The looseleaf format differs from the bound format (which most people associate with the publication of books in either "hardback" or "paperback") in that the pages are not glued or sewn together. Instead, they are literally a collection of loose pages in some type of binder, thereby allowing individual pages to be removed or inserted.

The publication in a bound format is usually an indication that the supplement is cumulative--similar to the supplemental "pocket parts" at the back of each volume of the HRS--which means that it is replaced in its entirety each year, and reflects all the changes made in the intervening period since the most recent publication of the main volume.

The looseleaf format does not require the supplement to be kept separate from the main volume. Because the pages of the main collection are loose, the new pages reflecting recent changes can be inserted and obsolete pages removed. Consequently, all material, including the material most recently published, is together in one place, with obsolete material removed--assuming the filing has been done correctly.

CHART 3  
Administrative Codes  
Cost; Format; Supplementation

State	Price Per Set	Format	Supple- mentation Frequency	Form of Supplementation	No. of Volumes Per Set	Supplement Automatically Sent to Sub- scribers of Entire Code	Supplement Covered by Original Price of Entire Code
United States	\$595; \$185 (micro- fiche)	Paperbound and microfiche	Daily (Federal Register)	Bound volume	175 (also sold by individual volumes)	No	No
Alabama	\$350	Loose-leaf	Quarterly	Replacement pages	19 (also sold by Chapter, Rules; at 25 cents per page)	Yes	No; approx. \$30 per supplement
Alaska	\$264	Loose-leaf	Quarterly	Replacement pages	5 (also sold by Quarterly supplements; \$85-110)	Publisher's control	No; depends on no. of pages
Arizona	\$420	Loose-leaf	Six times annually	Replacement pages	14, also sold by Title (rules w/ same prin- ciple subject matter) and by chapter (indiv. agency); based on pro- duction & dis- tribution cost)	Yes	No; \$90
California	\$585	Loose-leaf	Weekly	Code supplements mailed to subscribers	60 (also sold by purchase unit; price varies)	No; separate subscription	No; \$1,185
Colorado	N/R	Loose-leaf	Monthly	Register	N/R	N/R	N/R
Connecticut	\$225	Loose-leaf	Every 6 months	Replacement pages	9 loose-leaf binders (also sold by indiv. title; price varies as to total content of each title)	Yes, if they subscribe	No; \$24 per year

State	Price Per Set	Format	Supple- mentation Frequency	Form of Supplementation	No. of Volumes Per Set	Supplement Automatically Sent to Sub- scribers of Entire Code	Supplement Covered by Original Price of Entire Code
District of Columbia	N/R	Paper bound	N/R	N/R	32 (also sold by title at \$5-\$20)	N/R	N/R
Florida	N/R	Loose-leaf	N/R	N/R	N/R	N/R	N/R
Georgia	\$300	Loose-leaf	Monthly	Replacement pages	10 (also sold by indiv. sec- tions, single vols.; at 35 cents per page, \$45 per vol.)	Yes	Yes, for year of purchase only; thereafter \$20 annually
Guam, Territory of	\$150	Loose-leaf	Annual	Replacement pages	3	If requested	No; \$50
Illinois	\$210	Paperbound	1 per year in years when entire code not published	Bound volume	9 (also sold by volume, at \$25)	No; separate subscription	No; \$55/set \$33/volume
Indiana	\$207	Paperbound	Annually	Bound volume	11	No; separate subscription	No; \$40
Iowa	\$700	Loose-leaf	Every other week	Replacement pages	14	Only year of subscription	Yes; 1st year, no; thereafter \$211
Kansas	\$50	Paperbound	Annually	Bound volume	4 (also sold by indiv. volumes, at \$17.50)	No; separate subscription	No; \$15
Kentucky	\$105 \$140-for Code and Register	Paperbound	Register is Supplement to Code	Register	7	No; separate subscription	No; \$48
Louisiana	\$560	Paperbound	Annually	Bound volume	14 (also sold by volume or supplement; at \$40 per vol.; supplements-\$10)	Yes, by volume	No; \$10 for vols. 1 and 2 (others vary according to size)

State	Price Per Set	Format	Supple- mentation Frequency	Form of Supplementation	No. of Volumes Per Set	Supplement Automatically Sent to Sub- scribers of Entire Code	Supplement Covered by Original Price of Entire Code
Maine	\$295	Loose-leaf	Monthly	Replacement pages	4 (also sold by individual vols.; at \$100)	Yes	Yes
Maryland	\$500	Loose-leaf	Annual	Replacement pages	24 (also sold by indiv. title; at \$1 to \$120)	1st year after purchase only; thereafter by subscription	For 1st year only; there- after \$190/year
Massachusetts	\$470	Loose-leaf and microfilm	Weekly in the register	Register	24 (also sold by individual registrations, related subjects or complete title; at 25 cents to \$24) separate issues	No; separate subscription	No; combined code & register subscription to approx. \$250
Michigan	\$95	Hardbound	Annually	Bound volume	3	No; separate subscription	No; varies \$12 to \$20 a year
Minnesota	\$150	Hardbound	Twice each even- numbered year	Pocket part	10 (also sold by volume when available; at \$15)	Yes	Yes
Missouri	\$235	Loose-leaf	Twice a year	Replacement pages	8	Yes	No; \$35 per year based on costs
Montana	\$350 (Cost will probably increase due to loss of subsidy in 1987)	Loose-leaf	Quarterly	Replacement pages (3-hole punched format)	17 (also sold by individual title; at \$25 for initial purchase and \$5 for yearly update)	Yes	No; \$150 per year
Nebraska	\$400	Loose-leaf	Monthly	Replacement pages	34 (also sold by volume)	No; separate subscription	No; \$15/agency plus printing costs

State	Price Per Set	Format	Supple- mentation Frequency	Form of Supplementation	No. of Volumes Per Set	Supplement Sent to Sub- scribers of Entire Code	Covered by Original Price of Entire Code
Nevada	\$175	Loose-leaf	Quarterly	Replacement pages	9	Yes	No; \$50 per year
New Hampshire	\$244	Loose-leaf	Every 6 months	Replacement pages and pocket parts	5 (also sold by volume at \$50)	N/R	For 1 year only
New Jersey	\$1,200	Loose-leaf	Monthly	Replacement pages	39 (also sold by agency title; at \$55 per volume)	Yes; 1st year of subscription; thereafter upon renewal	For 1st year; thereafter \$580 or \$30/volume
New York	\$2,200	Loose-leaf	Monthly	Loose-leaf replacement pages	52 (also sold by volume; at \$49.50 per vol.)	No; separate subscription	Only for 1st year; there- after \$465 per set; \$31 per volume
No. Carolina	\$40 (micro- fiche)	Loose-leaf and micro- fiche (en- tire Code only avail. in micro- fiche; por- tions may be pur- chased in loose-leaf)	None	N/R	N/R	N/R	N/R
No. Dakota	\$150	Loose-leaf	Monthly	Replacement pages	14	Yes	Yes (for prior supplements); \$110 per year after subscrib- ing to set
Ohio	N/R	Post binder	Monthly	Replacement pages and pocket parts	N/R	N/R	N/R
Oregon	\$540	Loose-leaf	Monthly	Replacement pages	8	Yes	Yes; then \$240 per year

State	Price Per Set	Format	Supple- mentation Frequency	Form of Supplementation	No. of Volumes Per Set	Supplement Automatically Sent to Sub- scribers of Entire Code	1st year; thereafter by subscription	1st year; thereafter \$367-Full Code; single titles vary	So. Carolina	So. Dakota	Tennessee	Texas	Utah	Vermont	Washington																			
Pennsylvania	\$817	Loose-leaf	Monthly	Replacement pages	52 (also sold by indiv. titles; price varies)	1st year; thereafter by subscription	1st year; thereafter \$367-Full Code; single titles vary	No; varies annually based on printing costs	So. Carolina	\$108.78	Loose-leaf and microfiche	Loose-leaf	Monthly	Replacement pages	14	Yes	No; \$20 per year	No; \$500 a year	No; separate subscription	22 (also sold by title; at \$45-\$195)	4 anticipated (also sold by volume at \$35)	N/A	N/R	No; separate subscription if universal option is purchased	Unknown; prob- ably 5 (also sold by agency \$10-\$20 per agency)	Loose-leaf; hardbound; paperbound	Quarterly	Replacement pages	Bound volume	Annual	Paperbound (8-1/2 x 11)	\$340+7.8% sales tax	Only in year of purchase full set; thereafter by subscription	Only for year of purchase; thereafter \$45 for 1 year supplement; \$80 for 2 year supplement
So. Carolina	N/R	Pamphlets inserted in binders	Annual	Pamphlets	7	Yes	No; varies annually based on printing costs		So. Carolina	\$108.78	Loose-leaf and microfiche	Loose-leaf	Monthly	Replacement pages	14	Yes	No; \$20 per year	No; \$500 a year	No; separate subscription	22 (also sold by title; at \$45-\$195)	4 anticipated (also sold by volume at \$35)	N/A	N/R	No; separate subscription if universal option is purchased	Unknown; prob- ably 5 (also sold by agency \$10-\$20 per agency)	Loose-leaf; hardbound; paperbound	Quarterly	Replacement pages	Bound volume	Annual	Paperbound (8-1/2 x 11)	\$340+7.8% sales tax	Only in year of purchase full set; thereafter by subscription	Only for year of purchase; thereafter \$45 for 1 year supplement; \$80 for 2 year supplement
Pennsylvania	\$817	Loose-leaf	Monthly	Replacement pages	52 (also sold by indiv. titles; price varies)	1st year; thereafter by subscription	1st year; thereafter \$367-Full Code; single titles vary		Pennsylvania	\$817	Loose-leaf	Monthly	Replacement pages	52 (also sold by indiv. titles; price varies)	1st year; thereafter by subscription	1st year; thereafter \$367-Full Code; single titles vary																		
So. Carolina	N/R	Pamphlets inserted in binders	Annual	Pamphlets	7	Yes	No; varies annually based on printing costs		So. Carolina	\$108.78	Loose-leaf and microfiche	Loose-leaf	Monthly	Replacement pages	14	Yes	No; \$20 per year	No; \$500 a year	No; separate subscription	22 (also sold by title; at \$45-\$195)	4 anticipated (also sold by volume at \$35)	N/A	N/R	No; separate subscription if universal option is purchased	Unknown; prob- ably 5 (also sold by agency \$10-\$20 per agency)	Loose-leaf; hardbound; paperbound	Quarterly	Replacement pages	Bound volume	Annual	Paperbound (8-1/2 x 11)	\$340+7.8% sales tax	Only in year of purchase full set; thereafter by subscription	Only for year of purchase; thereafter \$45 for 1 year supplement; \$80 for 2 year supplement
So. Dakota	\$108.78	Loose-leaf	As amended, by article or chapter	Replacement pages	(Sold by indiv. articles; at 2 cents per page (minimum \$2))	Yes, if desired	No; 2 cents per page (minimum \$2)		So. Dakota	\$108.78	Loose-leaf and microfiche	Loose-leaf	Monthly	Replacement pages	14	Yes	No; \$20 per year	No; \$500 a year	No; separate subscription	22 (also sold by title; at \$45-\$195)	4 anticipated (also sold by volume at \$35)	N/A	N/R	No; separate subscription if universal option is purchased	Unknown; prob- ably 5 (also sold by agency \$10-\$20 per agency)	Loose-leaf; hardbound; paperbound	Quarterly	Replacement pages	Bound volume	Annual	Paperbound (8-1/2 x 11)	\$340+7.8% sales tax	Only in year of purchase full set; thereafter by subscription	Only for year of purchase; thereafter \$45 for 1 year supplement; \$80 for 2 year supplement
Tennessee	\$170	Loose-leaf	Monthly	Replacement pages	14	Yes	No; \$20 per year		Tennessee	\$170	Loose-leaf	Loose-leaf	Monthly	Replacement pages	14	Yes	No; \$20 per year	No; \$500 a year	No; separate subscription	22 (also sold by title; at \$45-\$195)	4 anticipated (also sold by volume at \$35)	N/A	N/R	No; separate subscription if universal option is purchased	Unknown; prob- ably 5 (also sold by agency \$10-\$20 per agency)	Loose-leaf; hardbound; paperbound	Quarterly	Replacement pages	Bound volume	Annual	Paperbound (8-1/2 x 11)	\$340+7.8% sales tax	Only in year of purchase full set; thereafter by subscription	Only for year of purchase; thereafter \$45 for 1 year supplement; \$80 for 2 year supplement
Utah	120 public 100 state	Paperbound	Twice a month by register	Register	4 anticipated (also sold by volume at \$35)	N/A	N/R		Utah	120 public 100 state	Paperbound	Loose-leaf	Twice a month by register	Register	4 anticipated (also sold by volume at \$35)	N/A	N/R	No; separate subscription	22 (also sold by title; at \$45-\$195)	4 anticipated (also sold by volume at \$35)	N/A	N/R	No; separate subscription if universal option is purchased	Unknown; prob- ably 5 (also sold by agency \$10-\$20 per agency)	Loose-leaf; hardbound; paperbound	Quarterly	Replacement pages	Bound volume	Annual	Paperbound (8-1/2 x 11)	\$340+7.8% sales tax	Only in year of purchase full set; thereafter by subscription	Only for year of purchase; thereafter \$45 for 1 year supplement; \$80 for 2 year supplement	
Washington	\$340+7.8% sales tax	Paperbound (8-1/2 x 11)	Annual	Bound volume	9	Only in year of purchase full set; thereafter by subscription	Only for year of purchase; thereafter \$45 for 1 year supplement; \$80 for 2 year supplement		Washington	\$340+7.8% sales tax	Paperbound (8-1/2 x 11)	Loose-leaf	Annual	Bound volume	9	Only in year of purchase full set; thereafter by subscription	Only for year of purchase; thereafter \$45 for 1 year supplement; \$80 for 2 year supplement																	

State	Price Per Set	Format	Supple- mentation Frequency	Form of Supplementation	No. of Volumes Per Set	Supplement Automatically Sent to Sub- scribers of Entire Code	Supplement Covered by Original Price of Entire Code
West Virginia	\$300	Loose-leaf	Monthly	Replacement pages	12 (also sold by agency; price depends on cost of publication)	No; separate subscription	No; \$50 per year
Wisconsin	\$200	Loose-leaf	Monthly	Replacement pages	17 (also sold by individual agency or sub- ject; at \$2 -- \$35)	No; separate subscription	No; \$200 per year (includes Register)

## ADMINISTRATIVE CODES

The frequency of supplementation varies with the most popular intervals being monthly (all looseleaf) or annually (generally, but not always, bound). The distribution is as follows:

More frequent than monthly	3
Monthly	13
Less frequently than monthly but more often than quarterly	1
Quarterly	4
Less frequently than quarterly but more often than annually	4
Annually	10

Three states, Kentucky, Massachusetts, and Utah have no source of supplementation other than their state registers. Kentucky and Utah, however, like the C.F.R., republish the entire code each year.

Chart 4 shows the relative sizes of the administrative codes, as well as information on the contents. Compared to the codes published by any of the other jurisdictions, the Code of Federal Regulations, which had 109,500 pages as of 1987, is immense. The contents are the official text of the agency regulations, and emergency rules are also included. The staff of the publishing agency also has the authority to edit the material being published.

The great majority of jurisdictions indicated that their codes contained less than 15,000 pages in a full set. The distribution is as follows:

Less than 5,000 pages	10
5,001 to 10,000 pages	15
10,001 to 15,000 pages	6
Over 15,000 pages	4

The smallest codes were published by Guam and Kansas, with 1,800 and 2,443 pages respectively. The largest codes were published by California and New York, each having approximately 40,000 pages.

Nearly all jurisdictions, with the exceptions of Iowa, Louisiana, Nebraska, and Vermont, indicated that their codes constituted the official text of the agency rules. Twenty-eight jurisdictions authorized their publishing agencies to edit the materials being published, although three specifically indicated (what is probably the rule for most jurisdictions) that the editing powers were limited to such matters as style or format.

A majority of jurisdictions--23--do not include emergency rules in their codes, while 16 do. As indicated in chapter 2, emergency rules are only in

Chart 4  
Administrative Codes  
Contents

State	Pages Per Full Set	Average Pages Per Volume	Pages Per Supplement (Average)	Official Text	Judicial Notice	Annotations	Edit	Emergency Rules Included
United States	109,500	600	N/R	Yes	Yes	Yes	Yes	Yes
Alabama	9,000	475	500	Yes	No	Yes	No	No
Alaska	4,000	800	N/R	Yes	No	No	Yes, editor's notes	Yes
Arizona	7,300	Varies- 270/750	330	Yes	No	Yes	Yes	Yes
California	40,000	1,500	200	Yes	Yes	No	No	Yes
Colorado	N/R	N/R	N/R	Yes	No	Yes	No	Yes
Connecticut	7,320	406	550	Yes	No	No	Yes, only for style to conform	No
District of Columbia	N/R	N/R	N/R	Yes	Yes	No	Yes	No
Florida	N/R	N/R	N/R	Yes	Yes	Yes	Yes	No
Georgia	3,000 approx.	300 approx.	75	Yes	No	Yes	Yes	No
Guam, Territory of	1,800 approx.	600	100-200 pages	Yes	Yes	Yes	Yes	Yes
Illinois	14,438	1,604	3,006	Yes	Yes	No	Yes, not substantive text, format only	Yes, if in effect on date of publication

State	Pages Per Full Set	Average Pages Per Volume	Pages Per Supplement (Average)	Official Text	Judicial Notice	Annotations	Edit	Emergency Rules Included
Indiana	8,777	798	2,100 to 4,000 (cumulative supplement)	Yes	No	Yes	Yes	No
Iowa	5,000	Varies	200-400	No	Yes	No	Yes	Yes
Kansas	2,443	600	620	N/R	N/R	N/R	N/R	N/R
Kentucky	4,200	600	N/R	Yes	No	No	No	Yes; only if in effect at time of publication
Louisiana	10,000	600	63	No	Yes	No	No	No
Maine	2,400	600	N/R	N/R	N/R	N/R	N/R	N/R
Maryland	15,000	600	125	Yes	Yes	Yes	Yes	Yes
Massachusetts	17,000	700	1,400	Yes	Yes	No	No	Generally no
Michigan	5,238	1,750	600	Yes	Yes	No	Yes	No
Minnesota	10,000	1,000	1,200-2,400	Yes	No	No	Yes	No
Missouri	10,000	1,250	875	Yes	Yes	Yes	Yes	No (histories only)
Montana	8,500 approx.	530	700	Yes	No	No	Yes	No
Nebraska	10,000	Varies	Varies	No	Yes	Yes	No	No
Nevada	3,500	400	150	Yes	Yes	No	No	No

State	Pages Per Full Set	Average Pages Per Volume	Pages Per Supplement (Average)	Official Text	Judicial Notice	Annotations	Edit	Emergency Rules Included
New Hampshire	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R
New Jersey	26,000	Varies according to agency title	1,000	Yes	Yes	Yes	Yes	Yes
New York	40,000+	600-900	For a full set; 900-1,200 per month	Yes	Yes	Yes	Yes	Yes
No. Carolina	100 fiche	N/R	N/R	Yes	No	No	No	Yes
No. Dakota	5,721	415	174	Yes	Yes	No	Yes	Yes
Ohio	6,912	768	118	Yes	Yes	No	Yes	Yes; history only
Oregon	8,000	1,000	93-115	Yes	Yes	No	Yes	Yes; history only
Pennsylvania	32,000	620	700	Yes	Yes	Yes	Yes	Yes
So. Carolina	Various paging each pamphlet	Various paging each pamphlet	Cumulative; increases annually	Yes	No	Yes	No	No
So. Dakota	5,400	N/R	26	Yes	Yes	Yes	Yes	No
Tennessee	10,000 approx.	714 approx.	334	Yes	Yes	No	Yes	No
Texas	11,100	500	N/R	Yes	Yes	No	Yes	No
Utah	5,000	1,250	N/A	Yes	No	Yes; limited	Yes	No
Vermont	N/R	N/R	250 so far	No	No	No	No	No

State	Pages Per Full Set	Average Pages Per Volume	Pages Per Supplement (Average)	Official Text	Judicial Notice	Annotations	Edit	Emergency Rules Included
Washington	10,300	1,144	1,750	Yes	Yes	Yes, only history notes and Rules Review Committee comments	Yes, limited powers to edit	No
West Virginia	3,600	300	50	Yes	Yes	No	Yes	No
Wisconsin	15,000	880	180	Yes	Yes	Yes	Yes	No, history note reflects existence of emergency rules

effect for a specified duration, and cannot be made permanent unless and until the normal rulemaking procedures are followed. Of the 16 jurisdictions which include them, several indicated that they are included only if they are in effect on the date a particular edition of the code is published. This reluctance to include emergency rules is understandable in light of their relatively short duration. For example, a state having a time limit on emergency rules similar to Hawaii's--120 days--could see the rules included with one set of looseleaf amendment pages and removed one or two sets of changes later. If the supplementation is on an annual basis, the rules could easily come into and go out of effect without ever being included--or, in other cases, be included and remain "on the books" for months after expiration.

Chart 5 generally compares the use of computers by jurisdictions in preparing administrative codes. Thirty jurisdictions indicate that they use computers, while nine do not. Those using computers use a variety of computer systems and software. Of the nine which do not use computers, Alaska and South Carolina were among those whose codes are distributed by private companies rather than state agencies--thereby indicating the likelihood of substantial involvement by private entities, while Iowa and Louisiana specifically referred to the fact that they used private printers, although the state handled distribution.

Despite the large scale use of computers, only 16 jurisdictions appear to have progressed to the point of having searchable databases. Of those 16, twelve do not allow public access to the databases. Twenty-three reported that they did not have searchable databases, but of those, two were planning to develop them. There is no searchable database for the C.F.R.

Chart 6 compares the availability of indexes (indices), and the arrangement of the codes. The C.F.R. has an index which is prepared by its in-house staff, and the code is arranged according to subject matter, rather than by agency.

Thirty-six jurisdictions reported having at least one index, while seven had none at all. Of the seven, three are in the process of preparing indexes. The indexes were prepared by in-house staff in 26 jurisdictions, and by private publishers in 11. Nine of those 11 jurisdictions in which the indexes are prepared by private publishers are among the jurisdictions in which distribution is also handled by private entities. The other two jurisdictions who distribute the codes themselves but have indexes prepared by publishers point again to the variety of ways in which certain aspects of state administrative code publication can be handled by private entities even though control is retained by the government entity.

Codes are arranged by subject matter in 14 jurisdictions, and by agency in the remaining 28. To the extent that agency functions and programs are distinctly different, organization by agency is, in effect, not very different from organization by subject. If, on the other hand, jurisdiction over a subject or program area is divided among many agencies, and the code arranged by agency, then rules in a particular subject area may end up being placed in very different parts of the code. On the other hand,

Chart 5  
Administrative Codes  
Computers

State	Computer Use	Searchable Data Base	Microfiche	Microfilm	Type/Brand Computer Used	Type/Brand Software Used
United States	Yes	No	Yes	No	Digital	Atex
Alabama	Yes	No	No	No	Digital	Select word processing
Alaska	No	No	No	No	N/A	N/A
Arizona	Yes	No	No	No	IBM System 36 Mini Computer; IBM 3180 terminals	Display Write/3 and 36
California	Yes	No	No	No	IBM	N/R
Colorado	N/R	N/R	N/R	N/R	N/R	N/R
Connecticut	No	No	No	No	N/R	No computers, CompuGraphic, typesetting, storage on floppy disks
District of Columbia	No	No	No	No	Word processor	N/R
Florida	Yes	No	No	No	N/R	N/R
Georgia	No	No	No	No	N/R	N/R
Guam Territory	Yes	No	No	No	IBM 5520	Bundled
Illinois	Yes	No; planned	No	No	IBM, Apple Macintosh (for indices, table of contents, intro. material, cover & title page)	ALTR; MacWrite, Microsoft Word, Aldus Pagemaker

State	Computer Use	Searchable Data Base	Yes (not available to the public)	No	Microfiche	Microfilm	Type/Brand Computer Used	Type/Brand Software Used
Indiana	Yes			No	No	No	An outside printer does the work	N/R
Iowa	No	No	No	No	No	No	(Outside printer)	N/R
Kansas	Yes	No	No	No	No	No	N/R	N/R
Kentucky	Yes	Yes; not accessible by public	No	No	No	No	Wang text mgmt	Wang
Louisiana	No	No	No	No	No	No	N/A (private publishing co.)	N/A
Maine	N/R	N/R	N/R	N/R	N/R	N/R	N/R	N/R
Maryland	Yes	Yes; will search for the public upon payment of fee	No	No	No	No	IBM mainframe	BRS/SEARCH
Massachusetts	Yes	Yes	No	Yes; micro-film is original file, has not been marketed	Yes; micro-film is original file, has not been marketed	No	WANG VS 100/LIS 12 Laser Printer	N/R
Michigan	Yes	No	No	No	No	No	Tandem	N/R
Minnesota	Yes	Yes; not accessible to the public	No	No	No	No	IBM 4341-2	VH/SP operating system, all in-house written software
Missouri	Yes	No	No	No	No	No	IBM mainframe	AIMS; BRS

State	Computer Use	Searchable Data Base	Microfiche	Microfilm	Type/Brand Computer Used	Type/Brand Software Used
Montana	Yes	No	No	No	Televideo 816 w/ external drive	Wordstar, Dastar, Dbase, Basic and Calcstar (agencies submit camera-ready copy)
Nebraska	No	No	No	No	N/R	(some agencies have their rules on-line)
Nevada	Yes	No; not yet, but we will have searchable and public access	No	No	Varies (Digital)	PSA
New Hampshire	N/R	N/R	N/R	N/R	N/R	N/R
New Jersey	Yes	Yes; not accessible to the public	No	No	Itek 1020	CPS
New York	Yes	No	No	No	Imiac	Imiac
No. Carolina	Yes	Yes; not accessible to the public	Yes	No	IBM-PC/ATMS system	IBM
No. Dakota	Yes	Yes; not accessible to the public	No	No	IBM	ATMS/STAIRS
Ohio	N/R	N/R	N/R	N/R	N/R	N/R
Oregon	Yes	Yes; accessible by the public	No	No	IBM terminal	Wang terminals; CCI language
Pennsylvania	Yes	Yes; not accessible to the public	No	No	Xyvision	Xyvision

State	Computer Use	Searchable Data Base	Microfiche	Microfilm	Type/Brand Computer Used	Type/Brand Software Used
So. Carolina	No	No	No	No	None (hard copy; binder w/annual supplements)	None
So. Dakota	Yes	Yes; not accessible to the public	Yes	No	IBM 303X, HP Laser-Jet	ALTERS, SIRS
Tennessee	No	No	No	No	(Computographic digital photo-typesetting)	N/R
Texas	Yes	Yes; not accessible to the public	No	No	VAX mini-computer (publisher owned)	N/R
Utah	Yes	Yes; not accessible to the public	No	No	WANG and AMDAHL	ALFS Programming, Text, DBMS Software
Vermont	Yes	Yes	No	No	N/R	N/R
Washington	Yes, through Legislative Service Center	Yes; accessible through Code Revisor or State Law Library only	No	No	IBM 4731 Main-frame; 3179 terminals	Developed in-house
West Virginia	Yes	Yes; not accessible to the public	No	No	IBM	Quik-Draft
Wisconsin	Yes	No	No	No	PDP 11-44/Laser Typesetter	Pager

Chart 6

Administrative Codes  
Indexes; Arrangement

State	1 or More Indexes	Type of Indexes	Who Prepares Indexes	Arrangement of Code
United States	Yes	Subject/agency index and list of sections affected	In-house staff	By subject matter
Alabama	Yes	Alphabetical	In-house staff	By agency and by subject
Alaska	Yes	Contents, check list/cross reference code/statute	Publisher	By agency
Arizona	No; a table of contents provided; Index planned	N/A	In-house staff	By subject matter and by agency (Code arranged by subject matter (known as Titles) which then divide into chapters. Chapter numbers assigned to individual agencies according to subject matter.)
California	Yes	Subject Indexes	In-house staff	By subject
Colorado	Yes	Agency, subject	Publisher	By subject matter and by agency
Connecticut	Yes	Index in front of each section	In-house staff	By subject matter (Titles are codified to the statutes by section numbers)
District of Columbia	No	N/A	N/A	By subject matter
Florida	Yes	N/R	Publisher	By agency
Georgia	Preparing index as separate publication	N/R	Publisher	N/R
Guam, Territory of	Yes	Subject	In-house staff	By agency and by order of agency location in old government Code. Will change with new law codification.

State	1 or More Indices	Type of Indices	Who Prepares Indices	Arrangement of Code
Illinois	Yes	Agency, Subject title, Statute Cross-Reference, Supplement also contains Sections Affected	In-house staff	By subject matter
Indiana	Yes	Subject index	Publisher	By agency
Iowa	Yes	Chapter Analyses for each agency and separate subject index	In-house staff	By agency
Kansas	Yes	N/R	In-house staff	By agency
Kentucky	Yes	State Cross-Reference, subject; regulations no longer in effect	In-house staff	By agency
Louisiana	Yes; one for each title	Alphabetical by key words within the title and part	In-house staff	By subject
Maine	Yes	List of the contents of each volume	Publisher	By agency
Maryland	Yes	Indexing is only based upon words appearing in headings	In-house staff	Mostly by agency; some titles are by subject
Massachusetts	Not complete yet	N/A	In-house staff	By agency
Michigan	Yes	Subject matter, agency	In-house staff	By subject matter
Minnesota	Yes	Subject index	In-house staff	By agency
Missouri	Yes	Subject, cross-ref. by statutes	In-house staff	By agency
Montana	Yes	Topical	In-house staff	By subject

State	1 or More Indices	Type of Indices	Who Prepares Indices	Arrangement of Code
Nebraska	No (table of contents only)	N/A	N/R	By subject matter under each agency
Nevada	Yes	Subject matter	In-house staff	By subject matter
New Hampshire	Yes	Individual agency	Publisher	N/R
New Jersey	Yes	Subject indices and comprehensive definitions for each agency Title; full Code index to be issued in 1988	In-house staff	By agency
New York	Yes	2-vol. master index for entire Code	Publisher	By agency
No. Carolina	Yes	General statute index	In-house staff	By agency
No. Dakota	Yes	Parallel tables of law implemented by rules	In-house staff	By agency
Ohio	Yes	Subject	Publisher	By agency
Oregon	No	N/A	N/A	By agency
Pennsylvania	Yes	Master index for entire Code; individual index for each Title	Publisher	By subject matter which has great similarity to agency responsibility
So. Carolina	Yes	General index; agency index	N/R	By agency
So. Dakota	Yes	Subject	In-house staff	By subject matter
Tennessee	No	N/A	N/A	By agency
Texas	Yes	Master index plus index by Title	Publisher	By subject matter

State	1 or More Indices	Type of Indices	Who Prepares Indices	Arrangement of Code
Utah	Yes	Subject	In-house staff	By agency
Vermont	Yes	By agency	In-house staff	By agency
Washington	Yes	Subject matter, to chapter level only	In-house staff	By agency
West Virginia	Yes	By agency and rule title; sections affected	In-house staff	By agency
Wisconsin	Yes	General subject matter index for total code (annual update), some codes have specific and more detailed index prepared by agency	In-house staff	Alphabetically by agency

agencies having widely varying responsibilities may have difficulty keeping track of all of their rules if they are spread over a variety of subject areas.

If there is anything which can be concluded from this part, it is simply that while there may be certain patterns of activity or procedure in state administrative code publication, there is no prescribed, much less sacrosanct, way in which the task must be accomplished. Accordingly, for the purpose of making decisions with respect to the development of a state administrative code for Hawaii, it is important to focus upon what needs to be done, and the most effective means to accomplish it.

### Part III. Progress Made Toward Codification in Hawaii

Whether intended specifically or not, Hawaii has been making steady progress since 1979 toward codification of its administrative agency rules. Progress has been made to the extent that a person looking at the collection of agency rules at the Lieutenant Governor's office or a directory of the rules might believe erroneously that the State has already codified its rules. In compiling any code, whether administrative, statutory, or otherwise, the first significant step in the process is gathering all of the material to be codified and arranging it in some kind of coherent order. On a statewide basis, prior to 1979, there was little or no order. While the Hawaii Administrative Procedure Act had been in effect since 1961, it contained no requirements for format or organization. Rules adopted by the Governor in 1961 to control the filing of rules in the Office of the Lieutenant Governor<sup>11</sup> required, among other things, that the rules be typed on a special type of printed paper, 8-1/2 by 14 inches in size. Other than these "physical" requirements, there was no regulation of how the agencies were to organize the rules, or to establish any format.

As a result, departments, and in some cases, divisions or agencies within departments developed their own styles, formats, and numbering systems. Some agencies adopted "regulations" which were divided into "rules"; others adopted "rules" which were divided into "regulations"; and still others adopted "rules and regulations" which were divided into "sections". While a certain amount of consistency might have existed within the rules of each department, there was little consistency between departments.

At the Lieutenant Governor's office, the filing rules required that the rules of each department be filed in chronological order. No provision was made to remove rules or portions thereof which were repealed, from the general collection (although attempts were made, not always consistently, to indicate repeals on the "index" maintained by the office, which was simply a listing--in chronological order--of all filings).

The effect of the filing of rules in chronological order, combined with not removing the repealed rules made it much more difficult to determine the applicable rules on file for a particular subject. A person trying to find them had to search through all of the rules ever filed by that department in order to ensure that there were no superseding amendments.

### The Hawaii Administrative Rules Format<sup>12</sup>

In 1979, the Legislature took a major step toward bringing order out of the formatting chaos, and providing a certain element of legislative oversight. Act 216, Session Laws of Hawaii 1979, enacted what are now sections 91-4.1 to 91-4.4, HRS, and amended section 91-5. Section 91-4.2 (to which minor clarifying amendments were added in 1980) requires the Revisor of Statutes to establish a single uniform format to be followed by all state agencies in publishing and filing their rules with the Lieutenant Governor. The only things specifically required by law to be included in the format are:

- (1) Establishment of size requirements;
- (2) A requirement that references be made in the rules to the statutory authority under which the rules are being adopted, and the statutory sections being implemented, if any;
- (3) A requirement that the effective date of the rules be indicated; and
- (4) A requirement that the rules incorporate relevant statutes by reference rather than by reprinting them in the rules.

The last requirement appeared to be an attempt to eliminate or at least minimize a not uncommon practice of agencies to adopt "rules" which were nothing more than word-for-word recitations of the enabling legislation. This type of so-called rulemaking actually was a useless effort because the rules were nothing more than an inferior repetition of what was already law, and accomplished none of the normal purposes of rulemaking in terms of filling in gaps or indicating how the implementing agency would be interpreting problem areas in the statute. Section 91-5(a), HRS, gave the agencies until June 21, 1981 to convert their existing rules to the format developed by the Revisor of Statutes, although no penalties were established for failing to do so.

The Hawaii Administrative Rules format was developed during the latter part of 1979 and issued in early 1980. The first rules in the new format were filed in the Lieutenant Governor's office during the summer of 1980. By the conversion deadline of June 21, 1981, only a relatively small portion of the rules had been converted, although progress was steady and would remain so over the next several years. In 1984, the Bureau published a more formal second edition of the format as part of an Hawaii Administrative Rules Drafting Manual. The drafting manual included some relatively minor changes to the format which were made in response to the experience of the several previous years, and also included examples of different types of rulemaking proposals (such as the drafting of new chapters, or amendments to existing rules) to more effectively help those in the agencies who were involved in drafting.

The primary consideration in developing the Hawaii Administrative Rules format--and for understanding its requirements and the ways in which it is distinct from codification--is that there is no central agency in control of the process. Unlike the legislatively enacted statutes, there is no Revisor of Statutes to take over the process once the rulemaking proposals take effect.

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The role of the Revisor of Statutes in rulemaking is limited to developing the format, and assisting the agencies in complying with its requirements.

Because there is no code of agency rules, persons seeking copies of the rules must obtain them from the agency which adopted them, or some other source. Someone seeking copies of all agency rules would have to go to all state departments. If the process for obtaining legislatively enacted statutes were the same--if there were no Revisor of Statutes or some other agency publishing the Session Laws, Hawaii Revised Statutes, or both--a person would have to obtain copies of all of the laws ever enacted by going to whichever house of the Legislature originated the bill which ultimately was enacted into law.

Accordingly, the overriding intention of the Bureau in developing the Hawaii Administrative Rules format was to establish a system whereby all agencies, working independently rather than in concert, could adopt rules, deposit them in one location, and have that collection take on the appearance of a code, even though no code existed. Other policy considerations that went into the development of the Hawaii Administrative Rules format were:

- (1) Establishing a numbering and organizational system which would allow all rules to be identified by a single series of numbers while allowing the agencies flexibility to organize material in the way they believed was the most appropriate;
- (2) Style and formatting requirements as near to the HRS model as would be practical;
- (3) Physical requirements which would facilitate maintenance of collections of rules from many agencies; and
- (4) A system for filing rules at the Lieutenant Governor's office which would provide for the removal and separate storage of versions of rules which were repealed or otherwise became obsolete.

Under the format's numbering system, all rules are divided into a series of 23 titles. The offices of the Governor and the Lieutenant Governor were assigned titles 1 and 2 respectively. Other than the Office of Hawaiian Affairs being assigned title 9, titles 3 through 20 were assigned to each of the administrative departments according to the alphabetical order of the names of the departments as they existed in 1979.<sup>13</sup> Accordingly, the assignment of title 15 to the Department of Business and Economic Development, title 16 to the Department of Commerce and Consumer Affairs, and title 17 to the Department of Human Services reflects the fact that they were respectively the Departments of Planning and Economic Development, Regulatory Agencies, and Social Services and Housing at the time the format was created. Title 21 was subsequently assigned to legislative agencies (to include the rules of the Ethics Commission), and title 22 to the Judiciary, while the newly created Department of Public Safety will adopt its rules as title 23. The rules included in each title reflect the rules of that department as well as all agencies attached to that department for administrative purposes. Accordingly, given the potentially diverse subject areas which might be covered within the same title (for instance, the rules of the

Department of Commerce and Consumer Affairs include such subject areas as insurance, financial institutions, securities, cable television, and approximately three dozen regulated professions and occupations), all departments were given a great deal of flexibility in determining the organizational structure for their rules.

All titles are divided into chapters, which in turn have to be divided into sections. Other than these three components, departments have several other levels of organization which they have the option to use. Titles, for instance, may be divided into subtitles and subtitles into parts--each of which include collections of one or more chapters.<sup>14</sup> Some departments exercised the option to assign subtitles to each of their major operating divisions or program areas. For example, the Department of Transportation has divided its rules into subtitles for administration, airports, highways, harbors, and motor vehicle safety. Others, such as the Departments of Health, and Commerce and Consumer Affairs decided not to use subtitles at all.

For numbering purposes, however, all rules can be identified solely by the numbers which reflect the required units of organization, i.e., the title, chapter, and section. For instance, a reference to section 17-744-10 refers to the tenth section of the seven hundred forty-fourth chapter of title 17 (Department of Human Services). Under this numbering system, as long as all three components are provided, every agency rule can be identified by a unique number, and does not have to be referred to by a cumbersome title such as "Rules and Regulations of the Department of Human Services, Public Welfare Division, Relating to Income Maintenance, Rule 5, Section 3". While this specific reference is fictitious, its length and style would have been normal for rules as they existed prior to the Hawaii Administrative Rules format.

The numbering system reflects certain similarities to the HRS, which itself is broken down into titles, chapters, and sections. The similarities in the formats for the Hawaii Administrative Rules and the HRS, however, are much more extensive. These include the use of section headings, division of sections into specified organizational units consisting of subsections, paragraphs, subparagraphs, and clauses, and requirements for word usage and style. An example of the organization of a typical section in the Hawaii Revised Statutes is included as Appendix C, while a counterpart from the Hawaii Administrative Rules is included as Appendix D. The purpose of following the HRS style and format requirements as closely as practical was that:

- (1) To the extent the format was uniform, it inherently would be different from whatever most agencies were already doing. The HRS was something that all agencies had some knowledge of and familiarity with; and
- (2) By having to use a comparable format for drafting rules, agency staffs would also become more proficient at drafting bills--which, to more than a small degree, appears to have occurred.

Unlike the HRS, however, the Hawaii Administrative Rules, under the uniform format, are organized by department rather than by subject matter.

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The HRS can be organized by subject matter because the Revisor of Statutes handles all placement and organization. Chapter numbers in the HRS run consecutively throughout the entire set of statutes, thereby eliminating any need to include references to titles. Because there is no codification of the rules--and therefore no centralized control, the departments have full control over their own rules, subject only to the requirements of law and the format. Accordingly, inclusion of the title number is necessary to distinguish chapters adopted by different departments. A simple reference to "chapter 10" with respect to rules is inherently ambiguous, as there may be a chapter 10 in each of the 22 titles.

The Hawaii Administrative Rules format requires all rules filed with the Lieutenant Governor to be on paper which is 8-1/2 by 11 inches in size,<sup>15</sup> as opposed to the 8-1/2 by 14 inch paper under the old requirements. The primary reason for using 8-1/2 by 11 inch paper was that it is now the standard size paper used in most office work, and more importantly, ring binders are readily available to accommodate 8-1/2 by 11 inch paper but not 8-1/2 by 14. The ability to store agency rules in standard sized ring binders facilitates the ability of agencies, businesses, and individuals to maintain collections of rules from a variety of agencies.

A new set of procedures for filing rules at the Lieutenant Governor's office had to be developed to provide for the removal of repealed or obsolete versions of the rules. Accordingly, a system was established which, collectively speaking, mirrored the system of main volumes and supplements used for the publication of the Hawaii Revised Statutes.<sup>16</sup> All complete chapters are filed in one set of ring binders, arranged in numerical order. All changes to those chapters (whether amending or repealing existing sections or adding new sections) are filed on separate sheets of paper--not more than one section on a single sheet of paper--and stored in separate binders in numerical order. From time to time, agencies can compile chapters as needed for the purpose of merging the amended pages into the primary chapters. The result is a newly compiled chapter, which replaces the chapter in the main set.<sup>17</sup> All pages superseded by this process, or when entire chapters are repealed, are stored in a third set of folders according to the year in which superseded. The purpose of retaining the superseded pages is to enable a researcher to reconstruct what the rules were as they existed during a prior period. A person viewing the rules on file in the Lieutenant Governor's office would see thousands of pages of rules organized in a distinct numerical arrangement, with primary material in one set of binders, and amendments in a second. To the extent that the agencies have complied with the requirements of the Hawaii Administrative Rules format, the layout and organization of the rules is substantially identical to an administrative code. Any person who obtains copies of the rules from all agencies could readily organize a rules collection in the same manner.

To assist government agencies and members of the public interested in administrative agency rules, the Bureau has published a series of administrative rules "directories" in 1981, 1982, and 1983, during a period when large numbers of rules were being converted to the Hawaii Administrative Rules format. A 1988 cumulative edition was published and distributed in November, 1988, and includes all rules in the format which were on file at the Lieutenant Governor's office as of May 1, 1988.

The directories are, in effect, detailed tables of contents of all of the rules in numerical order. Put another way, the 1988 rules directory condenses the contents of over 14,000 pages of rules into 227 pages of organized lists. By looking over the list of chapters contained in each title, the reader can quickly ascertain all of the general subjects of all of the rules adopted by each department and converted to the format. Following the list of chapters, the number and heading of every section of every chapter is also listed, allowing the reader to ascertain the contents of every chapter. Unless the reader is looking for a very specific or obscure provision, and has no hint as to the relevant agency or chapter number of the rules involved, most items in the rules can usually be found through the use of the rules directory. In addition, the directory contains the names and telephone numbers of specific individuals in each department who can be contacted for the purpose of obtaining copies of rules, and information concerning rulemaking proceedings.

### **Problems Eliminated By Having An Administrative Code or Functional Equivalent**

Any person who can obtain from all state agencies, copies of the rules in the form filed in the Lieutenant Governor's office would have the functional equivalent of a state administrative code. At present, however, someone attempting this would face a rather daunting task. While the administrative agencies have, collectively speaking, generally done a good job of complying with the requirements for converting their rules to the Hawaii Administrative Rules format, results in the area of dissemination of the rules to the public is somewhat mixed.

In fairness to the agencies, it must be understood that when it comes to seeking copies of agency rules, the "general" public falls into very distinct groups with very different interests:

- (1) A small minority are interested in obtaining rules from agencies across the board. These persons or entities tend to be: libraries, some attorneys (usually larger firms or government law offices), large businesses who deal with a wide range of agencies, and legislative agencies for public policymaking purposes;
- (2) The vast majority, often individuals or small entities, are only interested in obtaining a few rules from one or two agencies. Examples of individuals or entities in this category would be: persons seeking licensure in one of the several dozen regulated professions and occupations (ranging from real estate sales, to cosmetology to optometry), persons or businesses seeking to register new businesses or apply for a particular government loan program, or a person preparing for an unemployment compensation or welfare hearing.

As between the two categories, agencies generally appear to have placed a priority, understandably, on accommodating the needs of persons in the second category who provide a majority of the inquiries. Agencies have accommodated these needs through a variety of publications--which are often not exact copies of the rules as they are filed in the Lieutenant Governor's

## ADMINISTRATIVE CODES

office. One common, and undoubtedly helpful practice of many agencies is to combine statutes and implementing rules into a single publication. This way, an individual (who may not have ready access to the HRS) will have all of the relevant materials in one publication. Another common practice is to issue rules in pamphlet or booklet form in a size which is smaller and easier to handle than the 8-1/2 by 11 inch size required for filing with the Lieutenant Governor.

While the distribution of rules in this form is convenient and helpful to the great majority of users who are interested in the rules of only a few agencies, the variety of publications reflecting the differing needs of each agency makes it difficult for the relative few who wish to maintain collections of rules from a wide range of agencies. The Bureau has attempted to help this latter group of users through the format by requiring agencies to make certain accommodations, as follows:

- (1) Rules cannot be considered "official" copies unless they are copies of the rules on file at the Lieutenant Governor's office, and on 8-1/2 by 11 inch paper;
- (2) Rules must be marked as "unofficial" copies if they are combined with other materials, such as statutes (which tends to blur the distinction between statutes and rules), or if they are re-typed before printing (because of the errors that can creep in during the re-typing);
- (3) "Official" copies of rules must be made available to interested persons at a cost which is not greater than "unofficial" copies;<sup>18</sup>
- (4) Departments have been asked to designate a single individual from whom copies of all departmental rules can be obtained (to reduce the likelihood of a person having to go to a series of offices, possibly in a number of different locations, in an effort to get all of a department's rules).

By asking for "official" copies of rules from each department, a person seeking to collect a broad range of state agency rules should be able to substantially replicate the collection of active rules on file at the Lieutenant Governor's office. It is impossible to discern how many people--if anyone at all--have attempted this undertaking. As a practical matter, however, a person seeking to do this would run into some obstacles. During the month of August, 1988, two individuals working for the Bureau were instructed to make inquiries of all of the state departments on the availability of official copies of rules, and the cost thereof. The offices contacted were those given by the departments as the specific locations to call in order to obtain copies of the department's rules. The results of this telephone survey are reproduced below.

**Governor's Office:** The listed contact person is actually employed by the Office of State Planning and knew nothing about the availability of the administrative rules.

ADMINISTRATIVE CODES, REGISTERS, AND STATE BLUE BOOKS

**Lieutenant Governor's Office:** Official master set available.  
Reproduction 25 cents per page.

**Accounting and General Services:** Official master set available.  
Reproduction \$1 per page.

**Agriculture:** Official master set available for review only. No reproduction. Suggested LG's office.

**Budget and Finance:** Official master set available. Reproduction 25 cents per page.

**Business and Economic Development:** Official master set available.  
Reproduction 25 cents per page.

**Commerce and Consumer Affairs:** Unofficial preprinted sets available for sale. Refused to quote prices.

**Corrections:** Official master set available. Reproduction free.

**Defense:** Official master set available. Reproduction free.

**Education:** Official master set available. Reproduction free unless excessive number of pages requested.

**Hawaiian Homes Lands:** Official master set available. Reproduction 25 cents per page.

**Health:** Official master set available. Reproduction free.

**Human Services:** Official master set available. Reproduction 25 cents per page.

**Labor and Industrial Relations:** Official master set available.  
Reproduction free.

**Land and Natural Resources:** Official master set available.  
Reproduction free.

**Personnel Services:** Official master set available. Reproduction \$1.75 per set.

**Taxation:** Official master set available. Reproduction free.

**Transportation:** Official master set available. Reproduction 25 cents per page. Certain sections are preprinted in unofficial versions and are available at no charge.

**University of Hawaii:** Official master set available. Reproduction cost unknown.

**State Ethics Commission:** Unofficial master set available.  
Reproduction free.

The seven departments allowing free reproduction from official master sets appear to provide more than reasonable accommodation to persons attempting to obtain copies of a wide range of state agency rules. Because the Department of Commerce and Consumer Affairs' unofficial preprinted sets generally contain rules which are replicas on 8-1/2 by 11 inch paper of those on file at the Lieutenant Governor's office, they are unofficial only because they also include copies of related statutes. By separating and discarding the statutes, the user would have what amounts to an "official" copy of the rules at a cost which is not greater than the unofficial copies.

The six departments charging 25 cents or more per page for reproduction costs are either making official copies available only for costs in excess of unofficial copies or are making all copies of rules available only at a relatively high price. If the official copies do in fact cost more, then these departments should modify this practice to implement the distribution requirements of the Hawaii Administrative Rules format which is itself a simple and not very onerous step in the direction of helping interested persons readily acquire and maintain a collection of rules from a variety of agencies. These departments, as well as the Department of Agriculture which apparently does not make any official copies available, should be directed to modify their policies.

For the relatively small minority of persons or entities seeking to collect all or a substantial proportion of all state agency rules, the existence of a published state administrative code is a vastly superior alternative to physically walking around to each agency seeking to obtain copies. Assuming these are the only alternatives, the choice appears to be rather stark. However, a third, intermediate alternative exists.

#### **Agency Rules Subscription Service**

An alternative to making the person physically go to the source of the agency rules--short of publishing a code--is to have the agency send the rules to the person seeking them. Under this concept, each department would establish lists of persons seeking to have copies of the department's rules or portions thereof, as well as any amendments, sent to them as soon as they take effect. Persons on the mailing lists could be billed on a pay-as-you-go basis (e.g., separately for each shipment) or, if the department is concerned about collection difficulties, the purchasers could be required to deposit a specific amount, from which amounts owing would be reduced as shipments are made. The departments should be allowed to charge amounts which are reasonably adequate to cover the costs of reproducing and distributing the materials to private persons.

Government agencies seeking copies of other agencies' rules could sign up under the same system. At the same time, the state library system could ensure that a reasonable number of state libraries, including at least one library on each of the neighbor islands, are included on the mailing list of each department. This will ensure that agency rules are distributed promptly and directly throughout the state libraries and thereby made more accessible to the general public.

The notion of agencies maintaining mailing lists of persons interested in their rules is hardly revolutionary. As mentioned in chapter 2, all agencies are required under section 91-3(a)(1) to mail public hearing notices of rulemaking proceedings to all interested persons who have so requested, and make copies of the proposal available to all who request them. A rule subscription service follows the same concept at the other end of the process--sending copies of final rules after they have taken effect.

A rule subscription service would, at least initially, entail a greater workload for each department in setting up the mailing lists and accounts. A certain amount of bookkeeping work would also be added. One way to limit this problem substantially would be to require the departments to only make the service available to persons desiring all rules of the department and agencies attached to that department. This would eliminate the multiplicity of mailing lists consisting of persons seeking various portions of the department's rules. Instead, there would be only one mailing list consisting of a relatively small number of people seeking all of the rules and all changes thereto. The departments could then expand the service if they wished, to the extent they could accommodate and handle requests.

A significant advantage of this system is that users would receive updated material much faster than they ever would through a published administrative code with periodic supplements. Furthermore, as discussed in chapter 6, the cost would probably be cheaper.

#### **Part IV. Obstacles Remaining to Codification**

Even if legislation ordering the development of a state administrative code were enacted today, some obstacles to codification remain. The rules which have been converted to the Hawaii Administrative Rules (uniform) format provide a solid base for, as well as the bulk of material which would be contained in, a state administrative code. Yet, not all rules have been converted to the uniform format, and some rules are not even subject to the format. Finally, the rules converted to the format are stored in a number of different mediums, thereby making it difficult for any agency assigned the job of publishing a code to bring all of the necessary materials together.

##### **Rules Not Converted to Format**

Despite the requirement in section 91-5, HRS, that all rules be converted to the uniform format developed by the Bureau by June 21, 1981, not all rules have been converted. Despite compliance by the overwhelming majority of agencies, a few pockets remain. To date, the Department of the Attorney General, the Public Utilities Commission, and the Hawaii Paroling Authority have not converted to the format any of their rules which existed in 1979. While the Public Utilities Commission and the Attorney General have adopted rules after 1979 which comply with the format, these were rules adopted for the first time, and thus were never in the old format to begin with. In fairness to the Department of the Attorney General, it should be noted that the Department's attorneys, in their capacity as counsel to the respective agencies, have provided substantial amounts of assistance to other agencies in converting their rules.<sup>19</sup>

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Finally, the Department of Health has not yet completed the conversion process. Although the great majority of the Department's rules have been converted, several sets remain unconverted. The rules listed below are rules which the executive departments, in response to a Bureau survey, have indicated still need to be converted to the Hawaii Administrative Rules format, and the date when conversion was expected to be completed.

### Department of the Attorney General<sup>20</sup>

"General rules of practice and procedure and rules governing the commissioning of notaries public are being revised and will be converted to the format by December 1988, hopefully." As of June, 1989, there was no change.

### Department of Budget and Finance<sup>21</sup>

Public Utilities Commission's General Orders:

- 1 Rules of Practice and Procedure
- 2 Motor Carriers
- 3 Classification of Property Carriers
- 3-A Classification of Passenger Carriers
- 4 Construction and Filing of Tariffs and Schedules By Common Carriers of Property
- 4-A Construction and Filing of Tariffs and Tariff Changes by Water Common Carriers of Property and/or Passengers
- 5 Uniform System of Accounts For Motor Carriers
- 5-A Uniform System of Accounts For Water Carriers
- 6 Overhead Electric Line Construction
- 7 Standards For Electric Utility Service
- 8 Standards For Telephone Service
- 9 Standards For Gas Service, Calorimetry, Holders and Vessels
- 10 Underground Electric and Communication Systems

Conversion to be completed: January 1989. As of June, 1989, there was no change.

### Department of Corrections<sup>22</sup>

Hawaii Paroling Authority rules. "Tentative time schedule" for conversion: "1988-1989". As of June, 1989, there was no change.

**Department of Health<sup>2 3</sup>**

1. Rules of Practice and Procedures (Chapter 1) Eff. 6/15/62
2. Food Services and Food Establishments (Chapter 1A) Eff. 10/30/75
3. Milk (Chapter 3) Eff. 4/9/69
4. Clinical Labs, Directors and Personnel (Chapter 30) Eff. 12/26/74
5. Vital Statistics, Registration and Records (Chapter 88) Eff. 7/9/76

"All above will be converted by 6/89." As of June, 1989, there was no change.

The need to have all rules converted to the uniform format is central to the concept of an administrative code as a comprehensive body of the rules of a jurisdiction. All of the rules on the above list were presumably adopted in a valid manner, and unless repealed or otherwise found invalid, have the force and effect of law. Not including them in a code would make that code less than complete. By virtue of not being converted to the uniform format, those rules are not included in the general numbering system, and do not contain the required references to the statutes which authorize the rules, those implemented by them, and the rules' effective dates. Some of the rules may also contain invalid references, such as the Attorney General's rules governing notaries public, which contain reference to the Revised Laws of Hawaii 1955--which has not been in effect since 1968 when the Hawaii Revised Statutes was enacted.

As mentioned in chapter 2, there are no penalties for an agency's failure to meet the June 21, 1981 deadline. Further, while this noncompliance is undesirable, the Legislature should take care not to act precipitously by imposing a cure which could be worse than the disease. For instance, immediately repealing the nonconforming rules could result in the agencies being frozen into inaction until new rules can be adopted--thereby having to defer all normal actions on such matters as parole hearings, utility ratemaking proceedings, or the licensing of notaries.

A preferable approach would be to repeal the nonconforming rules as of a specified future date--thereby giving the agencies some time to get the old rules converted without having to cease all activities which are guided or directed by rules. Failure to meet the legislatively imposed deadline would result in known consequences at a known time.

**Rules Exempt From HAPA**

As discussed in chapter 2, the Bureau has identified a half-dozen instances in the HRS where agencies are completely exempt from the requirements of the Hawaii Administrative Procedure Act--not only the notice and hearing requirements, but the gubernatorial approval, filing, and format requirements as well. For codification purposes, aside from the fact that these exempt rules can be in virtually any format, and not a part of the numbering system in which the other rules are organized, it will be impossible

for anyone to know which version of the rules is current--or the most current. Theoretically, an agency statement to the effect that a particular version of the rules is the version presently in force is applicable only for that moment in time. With no procedural controls, the rules can literally be revised as the recipient of the copy is walking out the door. To say that the rules are subject to change on a moment's notice would be an overstatement, as no notice is required at all.

To ensure greater reliability in any codification, the Legislature should consider limiting exemptions from the HAPA for rulemaking purposes to exemptions from the public notice and public hearing requirements--the most lengthy and time consuming aspects of the law, and, if appropriate, the 10-day waiting period after filing with the Lieutenant Governor for the rules to take effect. Limiting the exemptions in this manner would ensure greater executive accountability by requiring gubernatorial approval, making the rules available for inspection along with other rules at the Lieutenant Governor's office, and make the rules easier to codify as well.

### Agency Reorganizations

While the vast majority of state agency rules have been converted to the Hawaii Administrative Rules format, statutory changes within the past two years which reorganized various administrative agencies have placed a number of rules in a state of flux. For example, all corrections rules are still under the Department of Human Services, as the Department of Corrections has not yet adopted its own rules. Even if the Department of Corrections had adopted the rules, they would have to be revised again as rules of the new Department of Public Safety. The Housing Finance and Development Corporation of the Department of Business and Economic Development has adopted its own rules for programs which were transferred with it from the Hawaii Housing Authority. These will have to be readopted as part of the Department of Budget and Finance. Further, while the Department of Commerce and Consumer Affairs has adopted general rules to reflect its change of name from the Department of Regulatory Agencies (chapter 16-52, Hawaii Administrative Rules, states that all references to the department's old name should be replaced by the new one, and changes of the name are being made in specific chapters as those chapters are amended), the vast majority of the rules of the Department of Human Services and the Department of Business and Economic Development still refer to those departments by their old names and have no general amendment to indicate any changes. Accordingly, if all of the State's rules could be and were codified today, a significant portion of the rules would be codified under the department which no longer handles the function, or under the name of a department which is not its current legal name.

### Rules Converted to Uniform Format--Method of Storage

While all state administrative rules are subject to a uniform format, the equipment used to produce the rules has been anything but uniform. Within the past decade, the Legislature has itself moved steadily toward coordinated automation--to the point where both houses presently use the same type of word processing system, even though each house has separate computer systems. Statewide, the variety of equipment and systems used to produce

the administrative rules reflects a much earlier stage of development. Having been created by 18 different executive departments and many other agencies, the rules reflect production by--and are stored on--a variety of systems which reflect that diversity.

Assuming the production of some kind of administrative code is ordered, a critical element will be the storage of all of the State's administrative rules on a single computer database. Whether the database is used for production purposes, search purposes, or both, its existence is essential for the maintenance and upkeep of the code. Someone, whether the producing agency, or a contractor hired by the producing agency, will have to coordinate the development of that database. Any effort to develop such a database will have to contend with the fact that different agencies have rules stored on different electronic mediums--or on no electronic medium at all. Table 1 shows the responses of the various departments to part of a Bureau survey (included as Appendix E) asking how the department and agencies attached to that department for administrative purposes have stored their rules. The columns on the right side of the table reflect the number of pages of rules the department had on file at the Lieutenant Governor's office as of mid-1988.

Any database will have to be created from material stored on at least a half-dozen different computer systems. At least 1,200 pages are not stored on any kind of electronic medium at all. In some cases, the agency never created the rules on any kind of electronic medium. In others, the rules were created and stored on an older generation of data processing equipment--such as mag card--but were never converted to the agency's existing computer system when the old equipment was discarded.

In reality, the different means of storing and maintaining rules is probably even greater than the chart would indicate. By dealing with departments as a whole, differing practices between subordinate components and agencies within a particular department may be aggregated together as part of a larger whole. A simple review of the rules on file at the Lieutenant Governor's office sometimes reveals distinct differences in the appearance of rules adopted by the same department, such as typeface, font, and character size, clearly resulting from the use of different equipment.

For over the past five years, the Bureau has strongly urged all departments to take steps to centralize their rulemaking activities. Drafting rules and complying with the uniform format, much like statutory bill drafting, is not particularly difficult for experienced persons who do it on a regular basis--but can be considerably more difficult, frustrating, and time consuming for those who only do it occasionally. Even if the drafting itself is not centralized, centralizing the typing can result in the development of expertise among those who work with the format regularly--a skill which is similar to the typing of bills for proposed legislation.

With a few exceptions, the approach of the executive agencies has been to have the staffs who implement the rules do all of the work to produce them. In practice, this tends to result in agency staffs across a broad front each struggling separately with their own rules. One of the significant exceptions is the Department of Commerce and Consumer Affairs. While the

Table 1  
STORAGE MEDIUM FOR RULES

	<u>Number of Pages</u>	
	<u>Main Chapters</u>	<u>Amendments</u>
Office of the Governor 100% on Wang diskettes <sup>1</sup>	15	0
Office of the Lieutenant Governor None stored electronically <sup>2</sup>	93	37
Department of Accounting and General Services None stored electronically	98	28
Department of Agriculture None stored electronically	832	24
Department of the Attorney General No rules yet converted	0	0
Department of Budget and Finance Employees' retirement system rules on hard disk Health fund rules on hard/floppy disk Other rules not stored electronically	146	30
Department of Business and Economic Development 100% on Wang Diskettes	381	60
Department of Commerce and Consumer Affairs 100% on Xerox 860 IPS diskettes	1,634	153
Department of Corrections (rules still with DHS)		
Department of Defense 100% on Exxon diskettes	59	0
Department of Education 100% on IBM diskettes	206	51
Department of Hawaiian Home Lands 100% on Wang VS. But all data was inputted manually (after having been erased from mag cards or after having been on IBM diskettes) and has never been proofed. Accuracy uncertain <sup>3</sup>	77	32
Department of Health Variety of Wang, Xerox, Brother EM-200 microdisk, IBM Displaywriter, and IBM PC AT systems	978	73

	<u>Number of Pages</u>	
	<u>Main Chapters</u>	<u>Amendments</u>
Department of Human Services IBM Displaywriter (administration and welfare) and IBM II mag card (Hawaii Housing Authority)	1,634	1,238
Department of Labor and Industrial Relations 80% on Wang diskettes, 18% on Xerox diskettes, 2% other	2,417	1,329
Department of Land and Natural Resources 90% stored on either IBM or Wang diskettes	420	155
Department of Personnel Services 100% Wang diskettes	202	33
Department of Taxation None stored electronically	266	25
Department of Transportation Airports - mag cards and Wang diskettes Harbors - IBM Displaywriter diskettes Motor Vehicle Safety Office - IBM System 6 diskettes Administration and Highways - Erased from IBM mag cards	986	210
University of Hawaii 100% stored on DEC mainframe computer using Word II MVAX software	207	115
Judiciary Wang VS minicomputer disks	127	0

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1. Telephone conversation with Mr. Robert Hee, Office of State Planning (attached to Governor), October 19, 1988.

2. Telephone conversation with Ms. Joyce Kami, Office of the Lieutenant Governor, November 18, 1988.

3. Telephone conversation with Mr. Ken Toguchi, Department of Hawaiian Home Lands, September 28, 1988.

basic drafting is handled by the separate entities of the department, all of the typing is handled by the clerical staff of a single office. Considering the large number of rules which this department has, the results, in terms of quality and consistency on a department-wide basis, are much better than any other department. This type of performance should not only be encouraged administratively, but to the extent possible, encouraged by the code production process as well.

## Part V. Considerations in Developing an Administrative Code for Hawaii

### Approach to Publication

Assuming a state administrative code is to be published, the manner in which this effort is undertaken may depend in large part upon the goals sought to be achieved. However the project is undertaken, the end result will be that the work of persons involving the State's administrative rules--be it program implementation, research, litigation, or simply information--will be made easier. However, the manner in which the code's development is approached can depend upon whether:

- (1) The primary goal is to "get a set of books on the shelf" as soon as possible, regardless of cost; or
- (2) The code development is treated as part of a broader effort to better coordinate the rulemaking process used by all state agencies.

If the primary goal is the former, then the easiest approach is one of physically cutting and pasting a manuscript consisting of all state agency rules and having a private contractor do everything from entering the data into a computer system to producing the printed code. Development of a database will be a secondary consideration, and, for purposes of any subsequent amendments, publication of supplements may be slower, as agencies will continue to produce rules on the variety of systems listed in part IV.

The second approach, where the code is treated as part of a broader effort to better systematize the rulemaking systems of all state agencies, would concentrate on the development of a comprehensive computer database by the code producing agency either by itself or through contract if cost effective, and the use of compatible computer systems by all agencies in producing rules. The existence of compatible technologies would facilitate the publication of amendments to the existing body of rules, which happens on a year-round basis. Having all of the rules on a database subject to its control gives the producing agency much greater leverage in dealing with prospective printing vendors. Without this control, the producing agency could find itself wedded to the vendor who created the initial code publication--a potentially significant drawback to the first approach.

Another relevant consideration in selecting approaches to code development and production is whether the State will also be publishing a state register. In the long run, the availability of compatible systems will

provide the register producing agency greater flexibility in arranging material, for example, to reduce the number of pages required in each issue, thereby reducing costs.

The distinction between the two different approaches to the development of an administrative code could be eliminated if--but only if--a vendor is found who will agree to:

- (1) Handle all computer data entry from a hard copy manuscript prepared by the code producing agency; and
- (2) Develop a computerized database on a system which is compatible to the producing agency's, and turn over that database in a usable form to the producing agency;

for a cost which does not substantially exceed the cost of producing a printed code publication from data submitted by the producing agency on computer tape. This, however, could only be determined after extensive review by prospective vendors (who undoubtedly would want to review all material to be included before making a commitment), and discussions between those vendors and the producing agency.

The Bureau's experience over the last decade in publishing statutory material has been that more leverage is available with respect to prospective vendors if the producing agency has control over the database. Prior to the early 1980's the Session Laws of Hawaii and the supplements to the Hawaii Revised Statutes were prepared by sending hard copy manuscripts to the vendors, who handled all of the data entry. For purposes of producing the HRS supplements, which required the maintenance and updating of a statutory database, the Bureau was effectively wedded to the same vendor over a period of years, as only that vendor had a current database of all of the statutes. When the Bureau took control of the database and began preparing computer tapes in-house, the contract for producing supplements had more vendors vying for the job competitively each year, a situation which has continued to this day. Over the past few years, the session laws and supplements have been produced by several different vendors, each of whom succeeded in undercutting the other vendors in offering the State a better price. In this manner, the rate of increase in the production cost of supplements is reduced, because no one vendor is able to get in on the ground floor and maintain a captive market over a period of years.

Cost considerations aside, the Bureau's experience has also shown that retention of control over the database has led to "cleaner" text material, with fewer errors being found in the page proofs. In the case of statute production, material is taken directly from whatever computer system is in use by the Legislature (presently a DEC system, although Wang and IBM Displaywriter systems have been used in the recent past) and entered electronically or manually to the database being used for production of the HRS supplement. While human intervention is required to "clean up" material as it is transferred, or entered manually if simpler, this is less than would be required if all of the data had to be entered manually. As a result, fewer mistakes are likely to creep in due to human error. Consequently, a network of reasonably compatible computer systems, or access to good quality optical

scanning equipment which is compatible with the producing agency's computer system, is important for the efficient upkeep and maintenance of any administrative code. The code producing agency should be authorized to direct agencies to use certain specified computer systems which are compatible with its own for the purpose of producing the agency's rules.

Finally, having control of its own computerized statutory database has allowed the Bureau to include the "HRSA" and "SLAW" databases on its HO'IKE computerized information retrieval system. The "HRSA" database contains all of the material in the Hawaii Revised Statutes, including annotations, with the supplemental material continually merged into the main body. The "SLAW" database contains all material in the most recent volume of the Session Laws of Hawaii. Both of these databases, along with the other databases on the HO'IKE system (which include the status of all measures introduced in the state Legislature since 1981, and an online card catalogue integrating the collections of several government agency libraries) are all searchable. In addition to the Legislature, many other agencies have access to the HO'IKE system (a list of locations of connected terminals is included as Appendix F), as well as several libraries (the Bureau's library, the Supreme Court law library, University of Hawaii Law School library, and the Municipal Reference and Records Center of the City and County of Honolulu) which provide access to the general public.

#### **Image Processing Pilot Project<sup>24</sup>**

On December 15, 1988, the Office of the Lieutenant Governor informally notified the Bureau of its plans to make the rules filed at the office part of a pilot project in image processing which is being handled by the Information and Communication Services Division (ICSD) of the Department of Budget and Finance.

Image processing is a simplified form of computerized data storage and retrieval. Instead of entering the data manually or with some type of optical character recognition (OCR) scanner by individual words or characters, entire pages are entered at one time, in a manner similar to photocopying. Through the use of a document scanner, the contents of the paper document are digitized and stored on a magnetic or optical disk. As each document is scanned, it is stored according to an "indexing" system developed by the agency. Beginning in the summer of 1989, the pilot project (which also involves some documents at the Department of Commerce and Consumer Affairs) will entail the entry of all rules which are now on file at the Lieutenant Governor's office. The office plans to "index" the rules by chapters, and possibly by other means to aid prospective users.

Once the rules have been entered into the system, users will be able to review rules from computer terminals, rather than having to look through the actual copies of the rules on file. This will be beneficial to the user, who is less likely to make the error of skipping over amendments, and will likely reduce the amount of time spent by the staff at the Lieutenant Governor's office in providing assistance. Of incalculable benefit to the State, however, is the added security provided by making the rules available through a computer system rather than by inspection of the actual copies on file. While there are no known instances of filed copies of rules being stolen, the

potential danger always exists because it is virtually impossible for the staff at the Lieutenant Governor's office to look over the shoulder of every user at all times.

The search capabilities for the user of an image processing system are more limited, however, than they would be on a system (such as the Bureau's HO'IKE system) in which the data was entered word-by-word, whether manually, or through the use of an optical scanner. Generally, data can only be searched according to the manner in which it was "indexed". Because data in an image processing system are entered by entire pages or portions thereof, it is not possible to search for material or key words entered on a particular page. Once a particular page is located, a user could focus upon or highlight a specific area of that page--but the only way to get the particular page itself is through the index system. The only items capable of being searched are the index entries supplied by the controlling agency. The index could be arranged by subject, numerically, or some other system selected by the controlling agency. Accordingly, a person searching for rules relating to chiropractors would get any rules indexed under the general heading of chiropractors, which would probably consist primarily of the rules of the Board of Chiropractic Examiners, which licenses and regulates chiropractors. In all likelihood, the search would not reveal rule provisions which may mention chiropractors, but involve a different primary subject, such as workers' compensation, or prepaid health. The only way to obtain the latter result under the image processing system would be to have an extremely complicated and detailed indexing system--which would probably take a greater effort to construct and maintain than the effort required to enter the data word-by-word.

From the standpoint of developing a computerized database of the rules, however, the ICSD staff believes it would be possible to convert the data in the image processing system through electronic means, into a database which could be used to print a code. In order to do this, however, it would be necessary to run the material in the image processing system through an OCR scanner. An alternative would be to scan the existing "hard" copies to develop the code database. According to the ICSD staff, the cost of a small image processing system is \$600,000. Preliminary estimates obtained from one of their prospective vendors indicate that the rules could be entered onto a database through an OCR scanner for an additional \$50,000.<sup>25</sup>

As a result of the image processing pilot project, the establishment of such a system at the Lieutenant Governor's office will be a significant improvement over the present if for no other reason than the substantially increased security provided by the system. Even though the data in the system will not be searchable by key word, the system can definitely assist the public in trying to find relevant rules, particularly if it is expanded to include computer terminals in public libraries. The computerized image processing system, when combined with "hard copies" made available through the administrative rule subscription service discussed earlier in this chapter, can go a long way in a very short time toward serving the purposes of a code, thus eliminating or at least reducing the need to publish printed volumes as soon as possible.

## ADMINISTRATIVE CODES

Even after the completion of the image processing project, the Lieutenant Governor's office should not under any circumstances release physical control of the active rules filed by the agencies under the HAPA. The fact that the rules will be searchable by the public on a computer system in no way reduces, much less eliminates, the need to retain a complete and up-to-date file in the form required by the Hawaii Administrative Rules format of all of the actual copies of rules filed by the agencies. No code can be published solely from a computer database without a permanent file to check against. If control over the organization of the physical copies is compromised or lost, the ability of any agency to publish an administrative code may be jeopardized or slowed substantially.

### **Form of Publication: Bound vs. Looseleaf**

Entirely aside from the manner in which the code will be produced is the form which the publication will take. As discussed in part II, a distinct majority of jurisdictions use a looseleaf format, as opposed to a bound format with cumulative supplements. The Hawaii Revised Statutes is an example of a publication in the bound format--bound main volumes, with a set of supplements showing all changes since the printing of the bound volumes. The supplements are replaced each year by a new set which incorporate the most recent changes. Publications such as the Commerce Clearing House tax services are examples of a looseleaf format, where loose replacement pages are issued at various intervals, and inserted in place of, or between existing pages.

The advantages and disadvantages of the respective formats are as follows:

#### I. Advantages of bound format:

##### A. For users:

1. No question as to what material is included. Supplements will indicate that they show all changes to the main volume as of a specified date. If a supplement is outdated, it will be evident.
2. All changes are in one place. No concern about misfiling or not filing replacement pages.
3. Easier for new users--only need to get a set of main volumes plus the most recent supplement.
4. Easier to keep track of what the law was as of a particular point in the past, if you keep all supplements.
5. Harder to lose pages, as they are stitched or stapled in.

##### B. For producing and distributing entities:

1. Fewer questions as to the date of the most recent issue of replacement pages, or whether specific pages should or should not have been removed.
2. Inventory of distributors is simple, as stocks of only the main volumes and most recent supplements need to be kept. Extra copies of old supplements, if any, can be discarded.

II. Disadvantages of bound format:

A. For users:

1. Need to look in more than one place. Failure to look at the supplement means you miss all changes.
2. Changes come only as quickly as new cumulative supplements are issued. If supplements are annual, then you only get the changes once a year.
3. Changes made after the most recent supplement may be difficult to find (although, if there are other publications, such as the Session Laws in the case of statutes, or a register in the case of rules) this problem can be mitigated.

B. For producing and distributing entities:

1. More work because cumulative supplements get larger each year until folded into the main volumes. Accordingly, there is more proofreading and checking each year (assuming the staff is conscientious) as the new, larger supplement must be proofed word-for-word each year. In the years when the supplements are merged into the main volumes, the workload can become very substantial.

III. Advantages of looseleaf format:

A. For users:

1. Assuming the availability of competent support staff:
  - a. Multiple updates can be received during the year, thereby ensuring receipt of recent amendments on a more timely basis;
  - b. No need to look in more than one place. Replacement pages containing changes are merged into the main set;
  - c. Removable pages are easily photocopied.
2. If competent support staff irregular or nonexistent:

## ADMINISTRATIVE CODES

- a. None--although the same advantages in no. 1 above will apply if the users are themselves willing and able to competently handle the filing on a regular and continuing basis.

### B. For producing and distributing entities:

1. Less production work. Because there is no cumulative supplement, the staff only needs to proof and check replacement pages, which constitute a much smaller volume;
2. For profit making entities--to the extent the problems discussed in the disadvantages occur--more sales.

## IV. Disadvantages of looseleaf format:

### A. For users:

1. Even with the best support staff, a certain level of concern will always exist. As long as any possibility of human error exists, the misfiling or nonfiling of any pages, or the removal of any pages which should not be removed, means that the set will be inaccurate--and the error may not be detected until much later;
2. Users for whom competent support staff is either nonexistent or available only on an irregular basis will have to do their own filing, may encounter many problems, or possibly both. All potential problems concerning pages being misfiled, not filed, or improperly removed are more likely to occur, and on a larger scale. For instance, upon receipt of replacement pages, untrained staff might accidentally remove all pages rather than just those needing to be replaced;
3. Any user purchasing a set for the first time after publication of the main set is published, will not receive an integrated set. They will receive a main set and replacement pages for all subsequent changes--which may reflect several years or more. The filing of all changes must be accomplished before the set can be used;
4. Keeping track of past versions of the law is more difficult than retaining cumulative supplements. Instead, all obsolete pages will have to be retained and filed separately according to the year replaced. Finding how the law appeared at an earlier date will require tracing through replaced pages;
5. Increase in the likelihood of problems or misunderstandings caused by people having different versions of the publication. As long as any two people

have pages filed in a different way (e.g., because one has misfiled or not filed a page) a potential for difficulty exists, especially if one party is a court and the other is someone appearing before it. Marking the replacement pages in an appropriate manner can help to reduce the problem--but it cannot eliminate filing errors;

6. The unbound nature of looseleaf makes it easier to lose pages, whether in filing, or if a page is removed for copying;
7. If the misfiling or improper removal of pages gets out of control, for example, if pages are discarded by mistake, a new set of replacement pages for a particular year or an entire new set may have to be purchased, thereby resulting in increased cost to the user.

B. For producing and distributing entities:

1. Having to answer a greater number of inquiries as to filing and the existence of replacement pages;
2. Distributing entities would have a more complicated inventory, as records would have to be kept of the stocks of main volumes, and each set of replacement pages. Assuming, for example, that replacement pages are issued quarterly (as they are in more than a few jurisdictions), this would mean keeping track of 41 different items after 10 years--one set of main volumes and 40 different sets of replacement pages.

This discussion does not attempt to weigh the relative advantages and disadvantages of bound and looseleaf formats. That weighing is very much a matter of the personal preference of each user. For instance, a user with access to competent support staff at all times may believe that the earlier access to new changes far outweighs any potential problems caused by misfilings. A user without that type of support staff may believe the opposite. As a practical matter, the users who could be disadvantaged by a looseleaf system would include legislators who do not necessarily have personal staff available on a year-round basis, and who often have to contend with relatively high turnover in staff personnel.

As a general rule, it would appear that a looseleaf system is advantageous to users having competent support staff on a regular basis, and to producing entities. In the case of the former, like the ownership of a sophisticated piece of machinery, the advantages accrue from being able to afford the cost of good maintenance and upkeep. Failing to do so can be disastrous. In the case of the producing entities, the advantages accrue, in effect, from shifting a part of the burden of the organizational work to the users.

The greater potential disadvantages for users of the looseleaf format may account in part for what appears to be a minor trend among the

administrative code publishing jurisdictions toward publishing in the bound format. During the period from 1970 to 1979, 17 jurisdictions began publishing administrative codes. Of those, 15 now publish in the looseleaf format, and two in the bound format. By comparison, among the 10 jurisdictions which began publishing codes since 1980 (Alabama-1984, the District of Columbia-1983, Illinois-1986, Louisiana-1984, Maine-1986, Minnesota-1983, Nevada-1983, New Hampshire-1984, Utah-1980, and West Virginia-1987) the split was even, with five opting for each format. Not surprisingly, private publishers tend to favor looseleaf. Among all of the jurisdictions indicating distribution by a private publisher, only one, Utah, publishes in the bound format. All others publish in looseleaf.<sup>26</sup>

Any agency assigned the job of organizing the data for a state administrative code will probably require a minimum of three additional permanent positions, one professional, and two clerical. During the initial stages of the project, three to five additional positions would likely be required as long-term temporaries, for a total of six to eight positions. Assuming the agency will be developing a computerized database, the role of the staff will be to:

- (1) Coordinate the efforts of all agencies to get their rules into the database (after the agencies (a) have obtained equipment which is compatible with the code producing agency's; or (b) verified the manuscript compiled by the producing agency);
- (2) "Clean up" any problem areas in the data which are at variance with the official copies of the rules (which will require checking over 13,000 pages of documents with the material entered into the database);
- (3) Work with the respective agencies on incorporating subsequent changes to existing rules; and
- (4) In the event a code is published in printed form, embed certain necessary codes into the material in cooperation the vendor who will be handling the photocomposition and printing work.

## Determination of Code Producing Agency

The two agencies which are the most logical choices to serve as the code producing agency are the Office of the Lieutenant Governor and the Legislative Reference Bureau. The primary factor favoring the Office of the Lieutenant Governor is that the office already serves as the repository for all official filings of state agency rules, which cannot take effect until after having been filed there for at least 10 days. As such, the office already plays a pivotal role in the rulemaking process, and code production will continue in that vein, as evidenced by the fact that administrative codes are produced by the office of the Lieutenant Governor or Secretary of State (whose functions in Hawaii are handled by the Lieutenant Governor) in more jurisdictions than any other agency. Second, the Office of the Lieutenant Governor is already statutorily responsible for distributing (selling) the statutes.<sup>27</sup> If, however, the Lieutenant Governor's office is assigned the task of publishing a state register, it should not be assigned the state code.

No single agency should be required to simultaneously handle the initial phases of both projects.

On the other hand, the Bureau is the only state agency which has any experience in code publishing. The Hawaii Revised Statutes is one of, if not the largest document published by any agency of the State. In addition, the Bureau's computerized information system, HO'IKE, is available to promote public information and access to the rules. Whether or not a code is actually printed, having all of the State's rules on the HO'IKE system will give the State something which is presently available in few other jurisdictions--a searchable computer database which is accessible by the public.

The primary drawback to assigning the function to the Bureau or the Lieutenant Governor is present lack of office space. Additional office space would be required to accommodate the added personnel and office equipment (such as filing cabinets, of which up to a half dozen may be required, desks, work tables, shelving space, and computer terminals). If anything, this problem will become more severe during the next several years when the capitol is being renovated.

Whichever agency is assigned the job of code production, the task of developing a computerized database could be expected to take the better part one to two years. Much of this will depend upon:

- (1) The availability of optical scanning equipment and the extent to which the data in the Lieutenant Governor image processing system database or the "hard" copies of the rules can be scanned accurately;
- (2) If the material cannot be scanned, the extent to which the agencies' existing computer systems are compatible with the code producing agency's;
- (3) How fast the agencies having incompatible equipment can obtain equipment which is compatible; and
- (4) Once the proper equipment is obtained, how quickly the agencies can get the data loaded and transferred.

Once all of the data are organized in the database, every agency should be required to verify and certify that the version of the rules contained in the database represents a complete and accurate replication of that agency's rules. This review by the agencies should include proofreading of all agency rules by its own staff to ensure accuracy.

Despite the necessary time lag, the agency rule subscription system discussed in part III should be able to fulfill virtually all of the needs of users requiring access to a wide range of state agency rules. Participation by the state library system will ensure access by the general public at a much earlier date than a code could ever be published. The use of the agency rule subscription system, wherein the agencies send copies of the rules to the users upon adoption, will also provide some valuable data for a published code. If users find they have difficulty coping with organizing the rules as they are delivered by the agencies, it may be an indication of difficulties which would be faced if a code is published in a looseleaf format.

## Chapter 4

### STATE REGISTER

House Resolution No. 9 directs the Bureau to study the feasibility of publishing a state register "similar to the Federal Register", published by the United States government. In addition to the federal government, registers are produced by 38 states and the District of Columbia.

A register is simply a publication or "bulletin" which contains information on government activities deemed to be of importance in the particular jurisdiction. In all cases, however, the primary focus of registers appears to be administrative rulemaking. Some jurisdictions publish the full text of both proposed and adopted rules, others publish the full text of one or the other, while still others only publish notices or summaries. In all cases, however, the thrust is to provide a single publication which can be referred to for current information on rulemaking (and possibly other) matters in that jurisdiction.

#### Part I. Registers in Other Jurisdictions

The data contained in this part were obtained from the 1987 Administrative Codes and Registers State and Federal Survey published by the Administrative Codes and Registers Committee/Section of the National Association of Secretaries of State. The survey was published in July, 1988, and reflects the various registers as they existed in late 1987 when the information was collected. The information in that survey (which is arranged by state in the original) has been reorganized into subject areas to facilitate comparison, and is generally contained in charts 7 to 12. The symbol "N/R" indicates that the jurisdiction did not respond to the request for information concerning the particular item.

Chart 7 shows the agencies in the respective jurisdictions which are responsible for publishing the register. The Federal Register is published by the Office of the Federal Register (an office within the National Archives), and is distributed by the United States Government Printing Office. Registers in the other jurisdictions were published by a variety of agencies. In 17 jurisdictions, the agency responsible for publication is the Secretary of State or the Lieutenant Governor. For purposes of comparison with Hawaii, the responses indicating either of these agencies were combined because the Lieutenant Governor of Hawaii is legally designated as the Secretary of State for intergovernmental affairs.<sup>1</sup>

Registers are published by various legislative agencies in 13 jurisdictions, and in six by administrative agencies (other than the Secretary of State or the Lieutenant Governor) including the Office of the Governor, the State Library, and the Department of Administration. Connecticut's register, the Connecticut Law Journal, is published by that state's judiciary, which may be the reason why it appears to be the only register which includes recent appellate court decisions in the publication. In North

Chart 7

State Registers  
Production Agencies; Expenses

State	Register Name	Production Agency	Full-time Equivalent Positions	Salaries	Printing Expenses	State Subsidy	Distributed By	Method of Distribution
United States	Federal Register	Office of the Federal Register (Archives)	15	N/R	N/R	N/R	U. S. Govt. Printing Office	2nd class mail
Alabama	Alabama Administrative Monthly	Legislative Reference Service	2	\$35,000	Under \$10,000	N/R	State	1st class mail; hand mail
Alaska	Alaska Administrative Journal	Office of Lt. Gov.	1	N/R	N/R	\$30,000	State	1st class mail
Arizona	Arizona Administrative Register	Office of Secretary of State	3	N/R	\$15,000	100%	State	In-house; 1st class mail and state messenger
Arkansas	Arkansas Register	Office of Secretary of State	3	N/R	N/R	N/R	State	Mail and state messenger
California	California Administrative Notice Register	Office of Administrative Law (Gov.)	50	\$2,000,000	\$161,000	\$142,000	State	Mail order and over the counter
Colorado	Colorado Register	Secretary of State	N/R	N/R	N/R	None	Private	N/R
Connecticut	Connecticut Law Journal	Judicial Department	28 FT 3 PT	N/R	N/R	N/R	State	U.S. mail and in-house mailing system

State	Register Name	Production Agency	Full-time Equivalent Positions	Salaries	Printing Expenses	State Subsidy	Distributed By	Method of Distribution
District of Columbia	District of Columbia Register	Mayor's Office	8	\$240,000	\$248,000	0	Municipal	Mail
Florida	Florida Administrative Weekly	Department of State	9 FT 1 PT (Code and Register)	\$147,669	\$76,348	\$100,000	State	Mail
Illinois	Illinois Register	Illinois State Library	8	\$150,000	\$280,000	Varies from week to week	State	Mail--bound printed matter rate; state delivery system
Indiana	Indiana Register	Legislative Services Agency	4	N/R	N/R	N/R	State	Mail--inter-office mail
Iowa	Iowa Administrative Bulletin	Legislative Council	7	\$90,000	\$140,000	Open-end Appropriation	State	Mail
Kansas	Kansas Register	Secretary of State	1	\$47,845.33	\$83,842.43	None	State	2nd class postage
Kentucky	Kentucky Administrative Register	Legislative Research Commission	3	N/R	N/R	N/R	State	Mail--4th class
Louisiana	Louisiana Register	Division of Administration (Gov.)	5 (Code and Register)	\$66,200	\$43,437	\$196,933	State	Mail--2nd class; state messenger service
Maryland	Maryland Register and Maryland Register State Contract Supplement	Secretary of State	14.5 (Code and Register)	\$441,000	\$400,000	12%	State	Mail--2nd class mostly; some 1st class

State	Register Name	Production Agency	Full-time Equivalent Positions	Salaries	Printing Expenses	State Subsidy	Distributed By	Method of Distribution
Massachusetts	Massachusetts Register	Secretary of State	7	N/R	\$30,000	N/R	State	Mail; limited over the counter sales of separate issues
Michigan	Michigan Register	Legislative Council	8 (Code and Register)	\$36,000	\$31,000	N/R	State	Mail--1st class
Minnesota	Minnesota State Register	Dept. of Administration	2.5	\$65,550	\$130,000	None	State	Mail--2nd class
Missouri	Missouri Register	Secretary of State	7	\$93,500	\$228,284	\$247,923	State	Mail--2nd class; sheltered workshop
Montana	Montana Administrative Register	Secretary of State	3.5	\$70,242	\$18,543	\$20,475	State	First class mail
New Hampshire	New Hampshire Register	Office of Legislative Services	3	N/R	N/R	N/R	State	Mail; other distribution
New Jersey	New Jersey Register	Office of Administrative Law (Secretary of State)	17 (Code and Register)	\$427,000	\$129,300	No direct subsidy	State	Mail--1st and 2nd class; inter-office
New York	New York State Register	Secretary of State	8 PT	N/R	N/R	largely subsidized	State	Mail--1st and 2nd class
No. Carolina	No. Carolina Register	Office of Administrative Hearings (quasi-judicial)	5 (Code and Register)	\$110,916	\$30,000	\$250,000	State	Mail--1st class; courier and inter-office

State	Register Name	Production Agency	Full-time Equivalent Positions	Salaries	Printing Expenses	State Subsidy	Distributed By	Method of Distribution
Ohio	Ohio Monthly Record	Legislative Service Commission	2.6	N/R	N/R	N/R	Private	N/R
Oklahoma	The Oklahoma Register	Department of Libraries	1	N/R	\$15,700	N/R	State	In-house
Oregon	Oregon Administrative Rules Bulletin	Secretary of State	2	\$159,911	\$30,000	N/R	State	Bulk mailing
Pennsylvania	Pennsylvania Bulletin	Legislative Reference Bureau	7	N/R	N/R	N/R	State (Privately composed, printed, and mailed)	Mail--2nd class newspaper treatment
Rhode Island	Compilation of Rules of State Agencies	Archives Division (Secretary of State)	1	\$20,000	\$5,000	\$25,000	State	Mailing list by subscription; all state agencies automatic
So. Carolina	So. Carolina State Register	Legislative Council	1.5	General Funds	General Funds	None	State	Mail--3rd class; Interagency
So. Dakota	So. Dakota Register	Legislative Research Council	1	N/R	N/R	N/R	State	In-house
Tennessee	Tennessee Administrative Register	Secretary of State	9	\$163,308	\$15,763	N/R	State	Mail and state messenger
Texas	Texas Register	Secretary of State	12.5	\$256,000	\$200,000	\$268,000	State	Mail--2nd class through distributor; local conventions

State	Register Name	Production Agency	Full-time Equivalent Positions	Salaries	Printing Expenses	State Subsidy	Distributed By	Method of Distribution
Utah	Utah State Bulletin	Department of Administrative Services	3	\$64,000	Private contract (we pay \$8,000 for state copies)	\$168,000 (Total budget)	State	Bulk rate
Virginia	Virginia Register of Regulations	Virginia Code Commission (Legislature)	4.5	\$100,000	\$106,000 (including postage)	\$75,055	State	Mail--3rd class (changing to 2nd class)
Washington	Washington State Register	Statute Law Committee (Legislature)	6.67	\$150,552	\$78,534	\$161,586	State	2nd class permit; mailed by state printer
West Virginia	State Register	Secretary of State	2	\$45,000	0	0	State	Mail
Wisconsin	Wisconsin Administrative Register	Revisor of Statutes Bureau (Legislature)	8	N/R	\$27,000	N/R	State	UPS or 1st class U.S. mail

Carolina, the register is published by a quasi-judicial agency called the "Office of Administrative Hearings".

Two states, Colorado and Ohio, appear to have extensive work on the register handled by private publishers. As in the case of administrative codes, discussed in chapter 3, certain aspects of any government publication may be contracted out to a private firm. One indication that these two states may have greater than the usual amount of involvement with private entities is the fact that distribution is handled by private publishing firm, i.e., copies are obtained directly from the publisher, rather than from a government agency. Many more states appear to have substantial involvement by private publishers in producing administrative codes, which is probably due to the fact that the publication of codes is considerably more extensive and complicated than the publication of registers.

Chart 8 contains information on, among other things, the frequency of issue of, the number of subscribers to, and the cost of a one year subscription to, the register in each jurisdiction. The Federal Register is published daily (each working day) for a total of over 200 issues each year, with a cost of \$340 for a one year subscription, and a total of 31,700 paid and free subscribers. In terms of the number of issues per year and total pages, no other register approaches the size of the Federal Register.

The state register issued most frequently is the Texas Register, which is issued 100 times a year, or nearly twice a week, while Rhode Island's register, which is issued quarterly, is the least frequent. In between those two extremes are 14 jurisdictions whose registers are issued weekly, 10 which issue them every two weeks or twice a month (24 to 26 issues each year), and another 13 which issue them monthly.

Of the 36 jurisdictions which provided information on the number of free and paying subscriptions to the register, the breakdown is as follows:

<u>Number of subscribers</u>	
Under 250	6
250 to 500	7
501 to 750	4
751 to 1,000	7
1,001 to 1,500	3
1,501 to 2,000	2
2,001 to 3,000	4
Over 3,000	3

Of these, Alaska reported the smallest number of subscribers, 190, while Pennsylvania had the largest with over 12,000.

While the subscription prices do not vary as widely as the number of subscriptions, the range, in percentage terms, is still substantial. Unlike the data reflecting the number of subscribers, however, the annual subscription prices clustered more heavily in the lower ranges, with over two-thirds of the jurisdictions charging under \$100 a year.

Chart 8

State Registers  
Subscriptions; Price

State	Amount Received from Frequency of Issue	No. of Paid Subscribers	No. of Free Subscribers	Price Per Issue	Price Per Subscription	Method of Price Determination	Length of Subscription
United States	N/R	20,000	11,700	\$1.50	\$340	Regulation	1 year
Alabama	\$8,500	170	22	N/R	\$50	Statute requires availability at cost	1 year
Alaska	\$17,500	70	120	N/R	\$250	Cost to print and postage	1 year
Arizona	\$7,452	224	222	\$3	\$36	Cost of production and distribution	1 year
Arkansas	N/R	220	75	\$3.50	\$40 per year	Set by Secretary of State	1 year
California	\$19,000	381	600	N/R	\$50	Set by statute	1 year
Colorado	N/R	N/R	N/R	N/R	N/R	N/R	N/R
Connecticut	\$212,276	2,485	1,534	\$2	\$80	By commission vote	1 year
District of Columbia	\$79,000	650	328	N/A	\$50	N/R	1 year
Florida	\$198,270 (\$232,221.42 from line charges)	2,061	210	Usually \$3-\$4	\$136.55	Law says: 50% of operating cost collected from subscribers; 50% from line charges	1 year

State	Amount Received From Subscriptions	Frequency of Issue	No. of Paid Subscribers	No. of Free Subscribers	Price Per Issue	Price Per Subscription	Method of Price Determination	Length of Subscription
Illinois	\$112,673 (includes single issue sales, microfiche, indices)	Weekly	546	177	\$10	\$200	In part: statute says to cover publication and mailing costs	1 year
Indiana	N/R	Monthly	250+	800+	\$15	\$175	By the Legislative Council	1 year
Iowa	N/R	Every other Wednesday	245	781	\$4	\$133	By Supt. of Printing following statutory guidelines	1 year
Kansas	\$66,464.50	Weekly	1,025	490	\$2	\$55	Single copy price determined by Secretary of State	1 year
Kentucky	\$42,816	Monthly	892	60	N/R	\$48	Costs of printing, pages involved	1 year
Louisiana	\$54,000	Monthly	941	441	\$7	\$40-state agencies \$80-others	By the director	1 year
Maryland	\$200,000	Register every 2 weeks; contract Supp. alternate weeks	Register 2,500; contract Supp. 1,500	Register 400	\$3-Md.R. \$2-S.C.S.	\$75-Md.R. \$25-S.C.S.	By legislative committee	1 year
Massachusetts	\$40,000	Weekly	365	25	\$1.25	\$125	Cost	1 year
Michigan	N/R	Monthly	1,021	894	N/A	\$50	Cost of publication	1 year

State	Amount received from Subscriptions	Frequency of Issue	No. of Paid Subscribers	No. of Free Subscribers	Price Per Issue	Price Per Subscription	Method of Price Determination	Length of Subscription
Minnesota	40% of operating expenses (about \$117,000)	Weekly	850	125	\$3.50	\$130	Market pricing	12 month full or 3 month trial subscriptions
Missouri	\$79,418 average	Every 2 weeks	815	40	\$5	\$56	By staff; printing expenses	1 year
Montana	\$36,675	2 times monthly	163	91	\$9.35	\$225 (will probably in- crease due to loss of subsidy in 1987 session.)	Rule-Secretary of State and Code Committee set fee	Calendar year
New Hampshire	N/R	Weekly	75	188	N/A	\$30	By director of Legislative Services	1 year
New Jersey	\$199,500	Every 2 weeks	2,444	448	\$8	\$75-2nd class mail \$150-1st class mail	By director, Office of Admin- istrative Law	1 year
New York	\$18,000	Weekly	600	2,300	\$1.50	\$40-2nd class mail \$80-1st class mail	Set by statute	1 year
No. Carolina	\$22,621	Monthly	278	548	\$8	\$95	Administrative rule	1 year
Ohio	N/R	Monthly	N/R	N/R	N/R	N/R	N/R	N/R
Oklahoma	\$12,960	Monthly	108	107	\$10	\$120	N/R	1 year
Oregon	0	Twice a month	0	850	N/A	N/A	N/A	N/A

State	Amount Received from Subscriptions	Frequency of Issue	No. of Paid Subscribers	No. of Free Subscribers	Price Per Issue	Price Per Subscription	Method of Price Determination	Length of Subscription
Pennsylvania	N/R	Weekly	12,000	0	\$1.25	\$45	Regulations of Joint Committee on Documents	1 year
Rhode Island	N/R	Quarterly	Very few	All state and gov. agencies	N/R	\$19.50	Cost of printing and mailing	1 year
So. Carolina	\$14,140	Monthly	186	331	\$6.25	\$75	By director	1 year
So. Dakota	\$2,200	Weekly	110	160	N/R	\$20	By Code Commission	1 year
Tennessee	\$2,040	Monthly	204	47	\$1.50	\$10	By Secretary of State	1 year
Texas	\$280,000	2 times weekly 100 times per year	3,800	300	\$3	\$80-year \$60-6 mos.	Secretary of State	1 year or 6 months
Utah	0	Twice a month	170	33	\$5	\$120	By contract bid	1 year
Virginia	\$66,215	Every 2 weeks	779	105	\$4	\$85	By Code Commission	1 year
Washington	\$67,500	2 times monthly	450	146	\$7	\$150 + 7.8% sales tax = \$161.70	By Code Revisor to cover printing costs	1 year
West Virginia	\$15,000 {approx.}	Weekly	200	2	\$1.50	\$75	Cost per issue	1 year
Wisconsin	\$5,000 (Code update includes subscription Register)	Twice a month	200	0	Not sold per issue	\$25	Printing cost	1 year

# ADMINISTRATIVE CODES, REGISTERS, AND STATE BLUE BOOKS

Under \$50 a year	11
\$50 to 100	14
\$101 to 150	6
\$151 to 200	3
\$201 to 250	2

Of the jurisdictions reporting prices, Tennessee had the lowest subscription price at \$10 a year, while Alaska had the highest at \$250. Having the smallest number of subscriptions, it is understandable that Alaska would have one of the higher subscription prices, as there would be fewer subscriptions over which to distribute the fixed costs of the publication.

Chart 9 shows, among other things, the relative sizes of the respective publications (in terms of total pages), the existence of searchable databases, and the availability of the registers in non-printed formats such as microfilm or microfiche. The Federal Register is a very large publication, averaging just under 200 pages in each daily issue, for a total of nearly 45,000 pages a year. In addition to the printed form, the Federal Register is also available in microfiche.

Registers in other jurisdictions come in a wide range of sizes. The 38 jurisdictions reporting page counts showed the following distribution:

Under 500 pages a year	5
501 to 1,000	5
1,001 to 1,500	5
1,501 to 2,000	3
2,001 to 2,500	3
2,501 to 3,000	6
3,001 to 4,000	5
4,001 to 5,000	2
Over 5,000	4

South Dakota published the smallest register, which totalled only 205 pages per year. The category of registers having over 5,000 pages a year also contains the greatest span of page numbers, as it includes the two largest state registers, which are Connecticut at 10,000 pages, and the largest, Illinois, which at 28,000 pages is approximately 62% the size of the Federal Register.

Eleven jurisdictions reported having searchable databases for their registers, while 27 did not. The Federal Register and four jurisdictions' registers are available on microfiche. Six jurisdictions have their registers available on microfilm.

Charts 10 and 11 contain information on the contents of the various registers. While the dominant features of registers generally appear to be publication of either the full text or notices of proposed, final, and emergency rules, other types of documents, such as executive orders, gubernatorial proclamations, attorney general opinions, notices of state contracts, open meetings, and public hearings are included to varying degrees.

Chart 9  
State Registers  
Production

State	Method of Sales Promotion	Pages Per Issue	Pages Per Year	Computer Use	Searchable Data Base	Microfiche	Microfilm
United States	Public information work-shops	192	44,814	Yes	No	Yes (\$145)	No
Alabama	No promotion	35-40	480	Yes	No	No	No
Alaska	N/R	65	3,380	Yes-Communicating displaywriter; database entry (STAIRS)	Yes	No	No
Arizona	Printed price list	26	364	Yes-by outside contractor	No	No	No
Arkansas	N/R	60	1,200	No-Typewriting machine, then to printers	No	No	No
California	Brochure	50	2,600	Yes-Typewrite with equipment at office of State Printing	No	No	No
Colorado	N/R	N/R	N/R	N/R	N/R	N/R	N/R
Connecticut	No promotion	200	10,000	No-Computahic typewriting, floppy disk storage	No	No	No
District of Columbia	N/A	150	1,800	No-Word processor	No	No	No
Florida	N/A	98	5,125	No-micro-computers	No	No	No

State	Method of Sales Promotion	Pages Per Issue	Pages Per Year	Computer Use	Searchable Data Base	Microfiche	Microfilm
Illinois	Word of mouth; workshops on rulemaking; brochures	540	28,082	Yes-Only for indices and table of contents; agencies must provide camera-ready copy	No	Yes, volume years only; \$200 per set	No
Indiana	No promotion	260	3,117	No-Typeset material	No	No	No
Iowa	No promotion	114	2,956	Yes-Varietyper 20/20 hard Winchester, telecommunicating by agency to Printing Division; Outside vendor contracted for heavy volume	Yes-only white material is stored in Printing Division	No	No
Kansas	Advertising insert	32	1,675	No-State printing plant does all typesetting	No	No	No
Kentucky	N/A	163	1,950	Yes	Yes	No	No
Louisiana	No promotion	101	1,203	No-private publishing company	No	No	No
Maryland	Flyers distributed by state agencies; 1st class mail solicitations	100 Register	2,600 Register	Yes	Yes	No	No
Massachusetts	Periodic advertisements in Lawyer's Weekly, Boston Business Journal	60	3,500	Yes-input from compatible media or optical scanner copy	Yes	No	Yes-Original file filmed, not marketed yet
Michigan	Direct mail, advertising, seminars, etc.	175	2,100	Yes-Macintosh computer used to generate camera-ready copy	No	No	No

State	Method of Sales Promotion	Pages Per Issue	Pages Per Year	Computer Use	Searchable Data Base	Microfiche	Microfilm
Minnesota	Direct mail, some print advertising	53.5	2,780	Yes	Yes	Yes	No
Missouri	Direct mail; pamphlets; flyers	145	2,044	Yes	Yes	No	Yes
Montana	Fact sheets to new attorneys; bulletins	88	2,123	Yes-for indices, tables, and mailing list. Agencies submit camera-ready copy.	No	No	No
New Hampshire	N/A	30	360	No-cut and paste	No	No	No
New Jersey	Direct mail; space advert., envelope stuffers, booth at state bar convention	126	3,032	Yes	Yes	No	No
New York	No promotion	90-110	5,000	Yes	No	No	No
No. Carolina	Mail out pamphlets	75	670	Yes-IBM-AIMS (script)	Yes	No	No
Ohio	N/R	118	1,418	N/R	N/R	N/R	N/R
Oklahoma	N/R	253	3,037	No-cut and paste, photocopy	No	No	Yes
Oregon	N/A	28	667	Yes-prepared on IBM displaywriter	No	No	No
Pennsylvania	No promotion	100	5,200	Yes-XYvision	No	Yes	Yes

State	Method of Sales Promotion	Pages Per Issue	Pages Per Year	Computer Use	Searchable Data Base	Microfiche	Microfilm
Rhode Island	N/R	130-150	350-400	No-staff compilation	No	No	No
So. Carolina	N/A	125	1,496	No	No	No	No
So. Dakota	State Bar Association Newsletter	4	205	Yes	Yes	Yes, available if desired	No
Tennessee	No promotion	78	993	No-Digital photo-typesetting system	No	No	No
Texas	Direct mail, brochures, piggy-back mail	70	5,000	Yes-Compugraphic MCS 100, phototypesetter with 8400	No	No	Yes
Utah	Left to contractor	120	2,880	Yes-forms and some rules photocopied, rest on word processor	No	No	Yes-Micro-filmed after 2 years; buyer pays cost
Virginia	Brochures mailed; promote at various meetings; displays	97	2,525	Yes	Yes, under development	No	No
Washington	Ads in Bar Association and other law journals	227	5,443	Yes-IBM 4731 Mainframe, 3179 terminals	No-changes too quickly	No-XEROX, tried for 2 years and gave up	No
West Virginia	State bar, marketing letters	25	1,300 to 1,500	No-word processor	No	No	No
Wisconsin	Information brochure	29.4	706	No-typewriter	No	No	No

Chart 10  
State Registers  
Contents

State	Proposed Rules	Adopted Rules	Emergency Rules	Court Ordered Rules	Executive Orders	Proclamations	State Contracts	Open Meetings	Public Hearings
United States	Full text	Full text	Full text	Full text	Full text	Full text	No	Yes	Yes
Alabama	Notice only	Notice only	Notice only	No	No	No	No	No	No
Alaska	Summary	Summary	Summary	No	Yes	Yes	Summary	Yes	Yes
Arizona	Notice with Summary of text	Listed by Rule No. only	Notice with Summary of text	No	Full text	Full text	No	No	No
Arkansas	No	Full text	Full text	No	No	No	No	No	No
California	Notice only	Notice only	Notice only	No	Full text	No	No	Yes	Yes
Colorado	Full option- all; notice required	Full text	Full text	Full text	N/A	N/A	N/A	No	No (except on rules)
Connecticut	Full text or full text, only notice; depends on quantity of setting and time allowed	No	No	No	No	No	No	No	Yes
District of Columbia	Full text	Full text	Full text	No	Full text	No	Notice only	Yes	Yes
Florida	Full text	Notice only; list	Full text	No	No	No	No	Yes	Yes
Illinois	Full text	Full text	Full text	Full text	Full text	Full text	No	No	Yes, for proposed rules only

State	Proposed Rules	Adopted Rules	Emergency Rules	Court Ordered Rules	Executive Orders	Proclamations	State Contracts	Open Meetings	Public Hearings
Indiana	Full text	Full text	Full text	No	Full text	No	No	No	Yes
Iowa	Full text	Full text (if identical to Notice, may omit with statement)	Full text	Full text	Full text	Full text	No	No	Yes
Kansas	Notice only	Full text	Full text	No	Full text	No	Notice only	Yes	Yes
Kentucky	Full text	Notice only	Full text	No	No	No	No	Yes	Yes
Louisiana	Full text or Notice only (Lengthy ones are referenced)	Full text	Full text	No	Full text	No	No	No	Yes
Maryland	Full text	Notice only; full text of any changes added when adopted	Full text	Full text	Full text	Full text	Notice only	Yes	Yes
Massachusetts	Notice only; agency required to have copies of proposed rules	Full text	Full text	Notice only; Published separately by the court	Full text	Notice only	Notice only Published as separate serial	No	Yes
Michigan	Full text	Full text	Full text	No	Full text	No	No	No	Yes
Minnesota	Full text	Full text	Full text	No	Full text	Full text	Notice only	Yes	Yes
Missouri	Full text	Full text	Full text	No	No	No	No	Yes	Yes

State	Proposed Rules	Adopted Rules	Emergency Rules	Court Ordered Rules	Executive Orders	Proclamations	State Contracts	Open Meetings	Public Hearings
Montana	Full text and notice only	Notice only	Full text and notice only	No	No	No	No	No	Yes
New Hampshire	Notice only	Notice only	Notice only	No	Full text	No	No	No	Yes
New Jersey	Full text	Full text	Full text	Full text	Notice only	No	Notice only of awards	Yes	Yes
New York	Full text or Notice (Full text if under 2,000 words; summary if over 2,000)	Full text or Notice (Full text if under 2,000 words; summary if over 2,000)	Full text or Notice (Full text if under 2,000 words; summary if over 2,000)	No	Full text	No	Notice only	No	Yes
No. Carolina	Full text and notice only	Notice only; full text if rules differ from proposed	No	No	Full text	No	No	No	Yes
Ohio	Notice only	Full text	Full text	No	No	No	No	No	Yes; of rules in accordance w/public hearings concerning the Ohio APA
Oklahoma	Full text and notice; text usually published if submitted	Full text	Full text	No	Full text	No	No	No	Yes; if to consider rules
Oregon	Notice only	Notice only	Notice only	No	Full text	Full text	No	No	Yes

State	Proposed Rules	Adopted Rules	Emergency Rules	Court Ordered Rules	Executive Orders	Proclamations	State Contracts	Open Meetings	Public Hearings
Pennsylvania	Full text	Full text unless adopted exactly as proposed	Full text	Full text	Full text	Full text only for proclamation or disaster or emergency	No	Yes	Yes
Rhode Island	No	No; only an index to filings	No; only an index to filings	No; only an index to filings	No; only an index to filings	No	No	No	No
So. Carolina	Notice only; synopsis	Full text	Full text	No	No	No	No	Yes	Yes
So. Dakota	Notice only	Notice only	Notice only	Notice only	Notice only	No	No	Yes; rules administrative- Yes; on review committee only	Yes; on review committee only
Tennessee	Full text	Notice only	Full text	No	No	Full text	No	No	No
Texas	Full text	Full text; changes only	Full text	Full text	Full text	Full text	Summaries, Yes	Yes	Yes
Utah	Full text; lengthily rules may only have notice	Notice only; changes and date	Full text	None to date	Full text	Full text	No	No	Yes
Virginia	Full text	Full text	Full text	No	Full text	No	No	Yes	Yes
Washington	Full text	Full text	Full text	Full text; very infrequent	Full text	Full text of proclamations of emergency	No	Yes	No
West Virginia	Notice only	Notice only	Notice only	Notice only	Full text	No	No	Yes	Yes

State	Proposed Rules	Adopted Rules	Emergency Rules	Court Ordered Rules	Executive Orders	Proclamations	State Contracts	Open Meetings	Public Hearings
Wisconsin	Full text or notice only (Statutory option for agency)	Full text; printed as replacement pages for Code	Notice only	No	Full text or notice only (Statutory option for Revisor)	No	No	No	Yes

Chart 11

State Registers  
Other Contents

State	Other Executive Items	Judicial Items	Legislative Items	Attorney General Opinions	Other	Index
United States	Full text	No	No	No	No	Yes
Alabama	No	No	No	No	No	No
Alaska	Summary	No	No	Summary	Vacancies on boards/ commissions	Yes, by Dept.
Arizona	No	No	No	Summary of opinions	Governor's appoint- ments to board and commissions with description	Yes (semi-annual)
Arkansas	Notice only	No	No	Full text	Gubernatorial appointments	Yes Quarterly
California	No	No	No	No	Office of Admin. Law Opinions, full text; regulatory determi- nations, full text	No
Colorado	N/A	N/A	N/A (except rules changes)	Yes, for rules opinions only	N/R	Yes
Connecticut	No	Full text	No	Full text only those with public interest, not all	All Supreme Court Opinions; all Appel- late Court Opinions, CT Practice Book	No
District of Columbia	Notice only	Notice only	Full text	No	Personnel opinions, full text; zoning orders, full text	No
Florida	No	No	No	No	Declaratory State- ments; Notice only	Yes, list of affected rules

State	Other Executive Items	Judicial Items	Legislative Items	Attorney General Opinions	Other	Index
Illinois	No	No	Yes, notice from legislative over- sight committee only	No	Department of reve- nue quarterly index to letter rulings; regulatory agendas; list of employers violating prevailing Wage Act; toxic substances lists; notice of acceptance of applications of purchases of banks by out-of-state corporations	Yes, cumulative (by agency) and Sections Affected Indices
Indiana	No	No	N/R	Full text	N/R	Yes
Iowa	Full text	As submitted by court	No	Summaries as submitted by Attorney General	N/R	No, table of contents only
Kansas	Full text	Notice only	Notice only	Full text	Municipal bond sales, full text	Yes
Kentucky	No	No	No	No	Minutes of subcom- mittee meetings full text; agenda, full text	Yes
Louisiana	Full text; Policy and Procedure Memoranda by the Div. of Adm.	No	Full text; Oversight Committee Reports	No	Full text; potpourri; notices; hearings (for information only)	Yes
Maryland	Full text	Full text	Notice only	Full text	Full text of State Ethics Committee Opinions; notice only of Governor's appointments	Yes

State	Other Executive Items	Judicial Items	Legislative Items	Attorney General Opinions	Other	Index
Massachusetts	Full text; discretionary	No	Notice only Session Laws published by division separately	Full text also cumulative numeric and sub- ject index	State register of historic places, add'ns and decisions; monthly cumulative table of calendar year regulation filings	Yes by agency
Michigan	No	No	Full text	Full text	N/R	Yes
Minnesota	Full text	Notice only; synopsis of supreme and tax court decisions	Notice only	No	Grants, full text; Non-state, con- tracts, notice only	Yes
Missouri	No	Full text	No	No	N/R	Yes (table)
Montana	No	No	No	Full text	N/R	No
New Hampshire	No	No	No	Notice only	N/R	No
New Jersey	Notice only	Notice only of decisions affecting rules	No	Full text (formal opinions only)	Petitions for rule- making, availability of grant funds; notice only	Yes
New York	No	No	No	Notice only	N/R	Yes (a quarterly index is published)
No. Carolina	No	Full text; selected items only	Full text; selected items only	Full text; selected items only	Voting Rights Act letter opinions, annexation applica- tions; full text	Yes
Ohio	No	No	No	No	N/R	Yes; table of rules affected; subject matter index

State	Other Executive Items	Judicial Items	Legislative Items	Attorney General Opinions	Other	Index
Oklahoma	No	No	Full text; legislative disapprovals	No	Full text of resolu- tions (legislative disapprovals)	Yes
Oregon	Full text	No	No	Notice only	N/R	Yes
Pennsylvania	No	Full text	Notice only	Full text	Full text; Public Utility Commission and Environmental Resources applica- tions and actions; Insurance Dept. alleged violations	Yes
Rhode Island	No	No	No	No	N/R	No
So. Carolina	No	No	No	No	N/R	Yes
So. Dakota	Appointments; notice only	No	No	No	N/R	No
Tennessee	No	No	Notice only	No	Full text of an- nouncements and public necessity rules	No
Texas	Full text	Full text	Full text	Summaries	N/R	Yes
Utah	Full text of announcements and notices	No	No	Full text	Notice of non-rule hearings	Yes; subject and agency
Virginia	Full text of Governor's comments on proposed regulations	No	No	No	Full text of state tax bulletins; no- tices of intended action and general notices of state agencies	Yes

State	Other Executive Items	Judicial Items	Legislative Items	Attorney General Opinions	Other	Index
Washington	No	Full text of Supreme Court Rules	No	Synopsis	Full text--juvenile disposition stan- dards; notice only- maximum interest rates	Yes; cumulative throughout yr.; table of admin. code sections affected
West Virginia	Notice only	Summary	Notice only	Summary	Notice only: exec- utive appointments; rule monitor updated weekly; administra- tive hearings; admin- istrative orders	No
Wisconsin	No	No	Notice only; legislative review	Notice only; rules and rulemaking	Rule-related (notice only)	No

**Rulemaking Items**

All jurisdictions provided information on what they publish in their registers with respect to rulemaking related matters. The overwhelming majority publish some type of information, either the full text, or notice of rulemaking proposals, in their registers.

Full text of proposed rules	16
Notice only	10
Either-depending on length	4
Other combination or possibility	7
Not included	2

An even greater majority include information concerning adopted rules, as indicated below:

Full text of final rules	18
Notice only	12
Other combination or possibility	8
Not included	1

Some of the states in the "other" category, perhaps as a means of reducing bulk, only require changes from the proposal to be shown. Pennsylvania uses a less discretionary variation, publishing the full text of the final rules unless adopted exactly as proposed.

Perhaps because of the looser restrictions on emergency rules (which are normally exempt from the notice and public hearing requirements of laws regulating rulemaking), an even greater number of jurisdictions publish the full text of emergency rules, as follows:

Full text of emergency rules	25
Notice only	7
Depends on length	1
Other combination or possibility	3
Not included	3

The last of the items relating to rulemaking generally included in registers is the notice of public hearings. According to the survey, 28 jurisdictions indicated that notices of public hearings are included in their register, while six say they are not. What is not certain about the 28 jurisdictions which include public hearing notices is whether they include notices of all public hearings, or just those relating to rulemaking. Five jurisdictions, other than the 28 previously referred to, indicated that only public hearing notices relating to rulemaking are included.

**Non-rulemaking Items**

If there is any one item not necessarily related to rulemaking which jurisdictions are likely to include in their registers, it is executive orders. As indicated below, over two-thirds of the jurisdictions include them, and the vast majority of those who include them publish the full text.

# ADMINISTRATIVE CODES, REGISTERS, AND STATE BLUE BOOKS

Full text of executive orders	23
Notice only	2
Other	3
Not included	10

The only other item included by a majority of jurisdictions in their registers is opinions of the attorney general of the jurisdiction. While executive orders and attorney general opinions do not have the force and effect of law, as statements of the chief executive officer and the legal counsel for the jurisdiction, respectively, they are normally accorded great weight by the agencies of that jurisdiction. Of the 39 jurisdictions which publish registers, 23 publish some kind of information concerning attorney general opinions, as follows:

Full text of attorney general opinions	10
Summaries only	6
Notice only	4
Other	3
Not included	16

Just over one-third of the 38 jurisdictions which provided information on proclamations reported that they included gubernatorial proclamations in some fashion.

Full text of proclamations	9
Notice only	1
Other	3
Not included	25

Of the three jurisdictions in the "other" category, two indicated that they publish the full text of proclamations of emergencies or disasters.

Fewer than one-third of the jurisdictions include information relating to state contracts, as indicated below:

Notice of state contracts included	7
Other	3
Not included	28

Included in the three jurisdictions in the "other" category are New Jersey, which includes only notices of awards, and Texas, which publishes summaries of consultant contracts over \$10,000.

A minority of 16 jurisdictions (including South Dakota which only includes notices of the meetings of its rules review committee), include notices of agency meetings which are open to the public. Twenty-two do not.

As compared to the other jurisdictions, the Federal Register includes the full text of proposed rules, final rules, emergency rules, executive orders, and proclamations, as well as notices of public hearings and open meetings. Contract information and attorney general opinions are not included. The Federal Register also includes an index, which, as shown on chart 11, is also

true of nearly two-thirds of the other jurisdictions. Twenty-five jurisdictions include indexes and 14 do not.

Chart 12 provides other information concerning the publications themselves. Of the agencies providing information, 26 reported that they authorize the producing agency to correct nonsubstantive errors. Only seven authorize the correction of substantive errors, while 37 do not. The Federal Register allows correction of both.

Finally, the material published in the Federal Register constitutes official text. The other jurisdictions providing information to the survey are substantially divided, as 22 report that the contents of their registers are official text, while 16 report that they are not. This is obviously the case in jurisdictions whose registers include notices or summaries rather than the full text of the adopted rules. Still, of the jurisdictions publishing full text of adopted rules, 15 consider the publication to be official text, while 8 do not.

## **Part II. State Register--Some Considerations for Hawaii**

Assuming the Legislature directs the publication of a register for Hawaii, some important policy questions will have to be decided before implementation, such as:

- (1) The contents of the register;
- (2) How the register will fit into existing statutory requirements for rulemaking;
- (3) How the register will be produced; and
- (4) The agency most appropriate to publish the register.

For the purposes of this study, in light of the concerns expressed in H.R. No. 9, improved access to information by the public will be treated as the paramount consideration.

### **Contents of the Register**

A state register can include whatever the Legislature wants included. If other jurisdictions are to serve as a guide, at least a majority of other jurisdictions which have registers include information relating to proposed rules, adopted rules, emergency rules, executive orders, attorney general's opinions, and public hearing notices (especially those relating to rulemaking). With respect to all of these documents other than public hearing notices, another important question is whether they should be published in full text, or in an abbreviated form such as a notice or summary.

Unless made the subject of an article or other media attention, there is relatively little formal dissemination of executive orders and attorney general's opinions on a regular basis. Inclusion of these items would therefore make these documents more readily accessible to the general public, particularly if at least selected branches of the state library system maintain subscriptions.

Chart 12

State Registers  
Legal Authorization; Requirements

State	Correction of Nonsubstantive Errors	Correction of Substantive Errors	Official Text	Judicial Notice	Annotations	Edit	Legislative Oversight	Economic Impact Statement
United States	Yes	Yes	Yes	Yes	No	Yes	No	Yes
Alabama	No	No	No	No	No	No	Yes	No
Alaska	No	No	No	No	No	No	No	No
Arizona	N/R	N/R	N/R	N/R	N/R	Yes; summary only at this review stage	No; Governor's regulatory council	Not printed
Arkansas	No	No	No	No	No	No	No	No
California	Yes	No	Yes	No	No	No	No	Yes
Colorado	No	No	Yes	No	Yes	No	Yes	Not as to register directly
Connecticut	Yes, typographical errors	Yes, by request of agency	Yes	No	No	No	No	Yes
District of Columbia	Yes	No	Yes	Yes	No	No	N/R	No
Florida	Yes	No	Yes	Yes	No	No	Yes	Yes
Illinois	Yes	Yes, w/in one week of publication in Register	Yes	Yes	No	No	Yes	Yes

State	Correction of Nonsubstantive Errors	Correction of Substantive Errors	Official Text	Judicial Notice	Annotations	Edit	Legislative Oversight	Economic Impact Statement
Indiana	Yes	No	Yes	No	Yes	Yes	No	No
Iowa	Yes	No; call to attn. of agency	No	No	No	Yes	Yes; Administrative Rules Review Committee	Yes
Kansas	No	No	No	No	No	No	No	No
Kentucky	Yes	No; only by agency amendment	No	No	No	No	Yes	Yes
Louisiana	Yes; corrected w/agency approval	No; only through APA	No	No	No	No	Yes	Yes
Maryland	Yes	No	Yes	Yes	Yes	Yes	Yes	Yes
Massachusetts	Yes	No	Yes	Yes	No	Yes; for format, not substance	Yes, but only for a few agencies	No
Michigan	Yes and No	No	Yes	Yes	Yes	Yes	Yes	Yes
Minnesota	No	Yes	No	Yes	No	Yes	No	No
Missouri	Yes	No	Yes	No	No	Yes	Yes	Yes
Montana	Yes	No	No	No	No	No	No	No
New Hampshire	Yes	No	No	No	No	Yes	Yes	Yes
New Jersey	Yes	No	Yes	Yes	No	Yes	No	Yes
New York	No	Yes	No	No	No	Yes	No	Yes

State	Correction of Nonsubstantive Errors	Correction of Substantive Errors	Official Text	Judicial Notice	Annotations	Edit	Legislative Oversight	Economic Impact Statement
No. Carolina	Yes	No	No	No	No	Yes	Yes	Yes
Ohio	Yes	Yes	Yes	No	No	Yes	Yes	Yes
Oklahoma	No	No	No	No	No	No	Yes	No
Oregon	Yes	No	No	No	No	No	No	Yes
Pennsylvania	Yes	No	Yes	Yes	No	Yes	Yes	Yes
Rhode Island	No	No	No	No	No	No	No	No
So. Carolina	Yes	No	Yes	No	No	No	Yes	No
So. Dakota	No	No	No	Yes	No	No	No	No
Tennessee	Yes	No	Yes	Yes	No	Yes	Yes	No
Texas	Yes	Yes	Yes	Yes, Court Appeals of Criminal Procedures	No	Yes	Yes	Yes
Utah	Yes	No	Yes	No	No	Yes	Yes; committee reviews all rules	Yes; minimal
Virginia	Yes	No	Yes	No	No	Yes	No; legislature can defer effective date for 21 days	Yes
Washington	No	No	Yes	Yes	No; only of filing errors, etc.	No	Yes, notice of objection by joint Admin. Rules Review Committees	Yes, for rules affecting businesses

State	Correction of Nonsub- stantive Errors	Correction of Sub- stantive Errors	Official Text	Judicial Notice	Annotations	Edit	Legislative Oversight	Economic Impact Statement
West Virginia	Yes	No	Yes	Yes	No	Yes	Yes	No
Wisconsin	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes

For similar reasons, a strong argument exists in Hawaii to include administrative directives issued by the Governor. Administrative directives bear a number of similarities to executive orders, and, for practical purposes of the affected agencies are no less important. For example, as discussed in chapter 2, the requirement and procedures for agencies to follow in obtaining preliminary approval from the Governor to hold public hearings for rulemaking are established in an administrative directive.

While recent state appellate court decisions are not normally included in state registers, the Legislature may wish to consider including them in a state register for Hawaii. As a relatively small jurisdiction, the volume of cases is inadequate to require the printing of permanently bound volumes at a rapid rate. The decisions of the State's appellate courts are distributed in the form of advance sheets anywhere from one and one-half to five months after the date of issuance, depending upon the volume of material, and in the permanently bound volumes after one or more years. Until available in the advance sheet form, decisions are filed on 8-1/2 by 11 inch pages at the Supreme Court law library.

If the Supreme Court and Intermediate Appellate Court sent camera ready copy on the 8-1/2 by 11 inch pages to the register producing agency, those decisions could be disseminated to all subscribers within a few weeks on a regular basis, and timeliness would not depend upon the volume of material. Inclusion of these decisions in the register would be helpful to government law offices and legislative agencies as well as the private bar, and might help to boost subscriptions among private law firms.

In addition to determining what items should be included, an equally important area of decision is the form in which those items should be included, i.e., full text, notice, or some other form.

As discussed in chapter 2, agencies are already required to publish public hearing notices for rulemaking in a newspaper of general circulation at least 30 days before the public hearing is held, and information on emergency rules must be published as soon as possible. The chart below shows circulation figures for various newspapers published in this State. In order to approach the circulation figures for the Advertiser or Star-Bulletin, the state register would have to have many more subscribers than any other register in the nation, including the Federal Register--something which cannot be assumed, and which is highly unlikely to occur. Accordingly, publication of notices or summaries of proposed rules and emergency rules in the register would not add much to the body of information now generally available. Publication of the full text of proposed rulemaking actions also would not necessarily add a great deal to the body of information available because section 91-3(a)(1)(B) requires agencies to mail copies of rulemaking proposals free of charge to persons who request them.

The extent of the benefit of publishing the full text of adopted rules would depend in part upon whether the Legislature mandates the state agencies to provide the rule subscription service discussed in chapter 3. Publication of the full text of adopted rules in the state register would not necessarily provide much benefit to those who subscribe to both the register and the rule subscription service. On the other hand, there could be some

Table 485.-- AVERAGE PAID CIRCULATION OF DAILY AND SUNDAY ENGLISH-LANGUAGE  
NEWSPAPERS: 1984-85 TO 1987-88

[Averages for 12-month periods ended in March. Foreign-language daily newspapers, not included in this table, are the Hawaii Hochi, Japanese and English; The Korea Times and Han Kook Ilbo, Korean; and United Chinese Press, Chinese]

Newspaper	1984-85	1985-86	1986-87	1987-88
Daily:				
Honolulu Advertiser 1/ .....	86,998	84,782	88,551	93,088
Honolulu Star-Bulletin 2/ .....	110,045	102,734	99,724	97,950
Hawaii Tribune-Herald (Hilo) 3/ .....	19,868	19,946	20,290	20,328
West Hawaii Today (Kailua-Kona) 4/ ..	7,138	7,680	8,298	8,820
Maui News (Wailuku) 5/ .....	15,983	15,506	15,199	15,805
Garden Island (Lihue) 5/ .....	9,550	9,479	9,500	9,525
Sunday morning:				
Sunday Star-Bulletin and Advertiser .	198,184	195,344	199,684	203,358
Hawaii Tribune-Herald (Hilo) .....	22,605	22,663	22,944	23,209
West Hawaii Today (Kailua-Kona) 6/ ..	6,626	7,431	8,273	8,961
Maui News (Wailuku) 7/ .....	14,668	14,684	15,117	16,326
Garden Island (Lihue) 8/ .....	8,900	8,884	9,300	9,528

1/ Mornings, Monday through Saturday.

2/ Afternoons, Monday through Saturday.

3/ Afternoons, Monday through Friday.

4/ Mornings, Monday through Friday.

5/ Afternoons, 4 times weekly (Monday, Wednesday, Thursday, and Friday).

6/ Beginning April 29, 1984.

7/ Beginning September 1984.

8/ Beginning July 1, 1984.

Source: Audit Bureau of Circulations data provided to DBED by newspaper publishers.

Source: *Hawaii, Department of Business and Economic Development, State of Hawaii Data Book 1988* (Honolulu: 1988) p. 436.

benefit even to these subscribers if the register publishes the text in the Ramseyer format, thereby showing where the exact changes were made, in much the same manner as the Session Laws of Hawaii does for statutes. It also goes without saying that publication of the full text of adopted rules would be of benefit to anyone who does not subscribe to the agency rule subscription service, as there is presently no requirement that information on adopted rules (other than emergency rules) be published anywhere.

### Effect of the Register on Statutory Scheme

Assuming a register is to be published, an important consideration is how it will fit within the present scheme of the Hawaii Administrative Procedure Act for rulemaking purposes. The single most important change which could be made would be if the public notice requirement were changed from publication in a newspaper of general circulation to publication in the state register. The advantages of doing so are not inconsequential, and can be summarized as follows:

- (1) State agencies spent just under \$39,000 in fiscal year 1986-1987, and just under \$50,000 in fiscal year 1987-1988 to publish public hearing notices related to rulemaking matters (see chapter 6 for further discussion).<sup>2</sup> The savings to the State would offset a portion of the cost of producing the register;
- (2) Matters would be made simpler for register subscribers who anticipate a need to submit views on rulemaking proposals, as they would only need to look in the register, rather than at all notices in the newspapers;
- (3) The risk of agencies having their rules invalidated for inadequate public notice (as was the case in Costa v. Sunn, discussed in chapter 2), would be eliminated if the full text of the proposal were published in the register, as there would be no second guessing as to whether the notice contained adequate information with respect to the proposed changes--although this prospect has already been reduced substantially by the amendment to section 91-3(a), HRS, by Act 62, Session Laws of Hawaii 1989, which gives agencies the alternative of providing a general description of the subjects involved and the purposes to be achieved by the rulemaking proposal; and
- (4) Restricting public hearing notices to the register will increase subscriptions (thereby reducing the cost per subscription) by effectively requiring interested persons or entities to subscribe, as they would not be able to obtain the information from newspapers as is presently the case.

There are two significant disadvantages to requiring that public hearing notices for rulemaking be published in the register rather than newspapers. They are:

- (1) Unless and until the register develops circulation comparable to one of the major daily newspapers, which is highly unlikely, the effect

will be to restrict public information on rulemaking proceedings. Public hearing notices published in daily newspapers, in effect, go to the home of every subscriber. The typical individual is not likely to subscribe to a state register. This has not happened in any other jurisdiction. Pennsylvania, with a population of over 9,000,000, has the largest number of subscribers (12,000) of any state register. As shown in chapter 6, a state register in Hawaii is not likely, at least initially, to have more than 1,000 subscribers--and will probably have much fewer. One thousand subscribers is slightly more than 1% of the daily circulation of the Honolulu Star-Bulletin, the newspaper having the largest daily circulation in the State;

- (2) The rulemaking process will likely be slowed further. Presently, agencies can publish public hearing notices as soon as they receive preliminary approval from the Governor. The hearing can be held on any date at least 30 days after publication of the notice. Assuming the state register were published twice a month (in the average range as compared to other jurisdictions), on the first and fifteenth day of each month; material would have to be submitted to the publisher anywhere from five to ten days before publication. At a minimum, the agency will have this five- to ten-day period added to the statutory 30-day notice requirement. If the agency misses the submittal period (for example, if the rules are not ready until the eleventh day of the month, thereby missing the deadline for publication on the fifteenth) then it will have a 19- or 20-day waiting period before the notice can be published, added to the 30-day period after the publication.

As a practical matter, people who believe they may need to comment on agency rulemaking proposals would appear to have their interests best served by the statutory requirements in section 91-3(a), HRS, that agencies mail hearing notices directly to persons who have requested advance notice of the agencies' rulemaking proceedings, and copies of the proposals upon request. Accordingly, for those who deem early knowledge of rulemaking proposals critical to their interests, even a register would not likely provide notice to them on as timely a basis as exists under present legal requirements.

It would appear, then, that the persons who would receive the greatest benefit from the publication of a register are those who desire to keep abreast of current changes to state agency rules on a broad scale, but do not necessarily feel a need to participate in the rulemaking process itself. These individuals or entities would include libraries, certain government agencies such as government legal staffs or legislative agencies, and businesses who need to know what changes have been made for purposes of compliance.

Even if publication in the register is not required for purposes of satisfying the public notice requirements of the HAPA, the agency producing the register should strive to publish the proposed, final, or emergency rules (whichever are to be published) as soon as they become available. This could be accomplished by making some relatively minor modifications to the HAPA:

- (1) If proposed rules are to be published, require that a copy of the public hearing notice and the rulemaking proposal (in the Ramseyer format) be delivered to the register producing agency before publication of the hearing notice in the newspaper. This would have the added advantage of ensuring that the rulemaking agency has copies of the rulemaking proposal available for distribution from the time the notice is published in the newspaper--which has not always been the case;<sup>3</sup>
- (2) If final or emergency rules are to be published, require the filing of a copy of the final or emergency rules (in the Ramseyer format) specifically for inclusion in the register, in addition to the copy in the format required for filing. This should not constitute any additional burden to the agencies, as they are already required under section 91-4.1, HRS, to file a copy in the Ramseyer format with the Legislative Auditor. Requiring the filing of both versions simultaneously will help to ensure timely completion of the Ramseyer versions, thereby helping the Legislative Auditor in the Auditor's legislative oversight function.

Another alternative would be to prohibit the application of any rule to any person until published in the register, but this would also have the effect of slowing the rulemaking process. Section 91-2(b), HRS, now requires that rules not be applied until made available for public inspection.

### Production of the Register

In terms of dealing with material produced by the agencies, the situation which will be faced by the agency assigned to produce a state register will be the same as that faced by an agency assigned to produce a state administrative code. At present, each department, and sometimes agencies within the same departments, are producing rules on a variety of computer systems, and sometimes on no computer system at all.

This situation, however, is much less an obstacle to the production of a register than it is to the production of a code. A code is, for the most part, a permanent body to which changes must be made. In the long run, a code requires a master database with all of the rules on a single system. This is not the case with a register, in which each issue is a completely different set of material.

If the Legislature deems it essential that all of the material in the register take on a uniform appearance, then either of two events will have to occur:

- (1) All agencies will have to obtain compatible computer equipment for purposes of producing material for the register; or
- (2) All material which is produced on a system not compatible with the producing agency's equipment will have to be entered manually by the producing agency.

The time, expense, or extra work which would be required by either of these approaches would appear to be a high price to pay simply to achieve a uniform appearance.

On the other hand, if each agency were simply required to deliver camera ready copy--produced on whatever system or equipment it has available--to the register producing agency, then the State can begin publishing a register fairly quickly, using existing equipment and computer systems. The only obstacles remaining would be for the producing agency to hire the necessary staff, coordinate the procedures for submitting copy for inclusion in the register, and negotiate the necessary printing contracts.

Assuming the Legislature also orders the production of a state administrative code--or at least the organization of a database from which one can be printed--then all agencies should move toward producing rules on compatible systems, which in turn, can be coordinated with the register producing agency for the purpose of producing a register with a more uniform appearance.

The work involved in coordinating the production and distribution of the state register could probably be handled by adding two staff positions, one professional and one clerical, to the staff of the register producing agency. With the agencies producing and delivering camera ready copy, the primary duties of the staff would be to organize the material, negotiate contracts, and prepare tables of contents, tables of sections affected, indexes, and other materials to aid users of the register.

#### **Selection of Register Producing Agency**

As indicated in part I, the agency which most commonly produces the register in other jurisdictions is the Secretary of State, whose functions in Hawaii are handled by the Lieutenant Governor. The second most common choice is one of the legislative agencies.

In Hawaii, the Lieutenant Governor is unquestionably the most logical agency to prepare the register, if for no other reason than that many documents which are commonly included in state registers are required by law to be filed in the Lieutenant Governor's office:

- (1) All rules adopted by agencies and approved by the Governor must be filed at the office of the Lieutenant Governor in order to take effect;<sup>4</sup>
- (2) Under the state "Sunshine Law", all agencies holding meetings must file a notice in the Lieutenant Governor's office at least six days before the meeting;<sup>5</sup> and
- (3) Copies of all attorney general's opinions are required to be filed with the Lieutenant Governor.<sup>6</sup>

While not required by law, the Office of the Lieutenant Governor also maintains files of executive orders, administrative directives, and gubernatorial proclamations.<sup>7</sup> Assuming the Legislature determines that any

or all of these items should be included in a state register, then the Lieutenant Governor's office is in a particularly good position to know of the existence of documents which should be included.

The Lieutenant Governor's office, as in the case of the Legislative Reference Bureau, also does not presently have enough office space to accommodate the personnel required to coordinate the production and distribution of a state register.<sup>8</sup> Additional office space would have to be made available for the two additional staff positions and necessary office equipment.

## Chapter 5

### STATE BLUE BOOKS

A blue book is a manual published at regular intervals, usually annually or biennially for and about a particular state. It serves as an informative reference guide to the public and contains a wide variety of information pertaining to state government and the state generally. In a few states, this publication is called a "manual," "red book," or "handbook"; however, the most common name is "blue book."

#### Part I. Blue Books in Other Jurisdictions

The information in this part was obtained by reviewing copies of blue books on file in the Bureau library and by conducting a survey of the states which publish blue books. The publications actually reviewed were the Illinois Blue Book,<sup>1</sup> Maryland Manual,<sup>2</sup> Official Manual, State of Missouri,<sup>3</sup> Fitzgerald's Legislative Manual, State of New Jersey,<sup>4</sup> Red Book (New York),<sup>5</sup> Pennsylvania Manual,<sup>6</sup> South Carolina Legislative Manual,<sup>7</sup> Tennessee Blue Book,<sup>8</sup> West Virginia Blue Book,<sup>9</sup> and the State of Wisconsin Blue Book.<sup>10</sup> The Bureau also surveyed each of the 31 states which a national publication indicated published blue books.<sup>11</sup> A copy of the survey is included as Appendix G. Twenty-eight of the thirty-one jurisdictions responded, and data from twenty-seven of those surveys were used.<sup>12</sup>

#### Contents

Blue books contain the "hows, whys, and whos" of state government. The framework of government, a profile of each branch, state agencies by function, and political statistics are often covered in depth. A blue book also contains general information about the state. Most blue books include a cumulative updated history of the state, feature articles about the business or industrial climate of the state, and describe places of interest including parks, historic landmarks, and museums.

There are some items which are included in virtually all blue books such as:

- (1) Photographs and biographies of the state's United States Congressional delegation and prominent members of the legislative, executive, and judicial branches of state government;
- (2) Some form of political information concerning the state, such as the structures and functions of government agencies, a brief description of the election process in the state, voting information, or state and local election results; and
- (3) Facts about the state, including population statistics and information about the state flag, animal, song, symbol, and flower, as well as a brief history of the state.

Other types of information are included in some, but not all, of the blue books. The following is a list of the number of states, out of the 27 that responded to the July 1988 survey conducted by the Bureau, whose blue book contained information about the respective subjects:

1. State universities and community colleges	23
2. The state's economy, including information about the state's employment outlook, income, agriculture, manufacturing, or the tourist industry	11
3. Recreational highlights and places of interest such as state and national parks and forests	19
4. Media information, including information about television, radio, newspapers or periodicals	14

A general summary of the contents of state blue books is shown in Charts 13 to 16.

The depth of coverage of subjects in a blue book varies tremendously, ranging from very general to extremely detailed. For example, the South Carolina Legislative Manual gives only a brief overview of the functions of each department of the executive branch<sup>13</sup> whereas Missouri's Official Manual provides detailed explanations of the operations of the divisions of each department and a list of all personnel in that department along with their addresses, titles, and annual salaries.<sup>14</sup>

### Physical Attributes

The typical blue book is either a hardbound or paperbound (some states publish in both formats) publication with a decorative cover or inside jacket. It is generally 6" by 1 1/2" by 9" in size, containing black and white photographs, illustrations, maps, and charts. As shown in chart 17, the number of pages in blue books ranges from a low of 194 (Arizona) to 1,420 (North Carolina) depending upon the number of subjects covered and the depth of coverage. The distribution of the blue books in terms of the number of pages is as follows:

<u>No. of Pages Per Book (Most Recent Edition)</u>	<u>Number of Jurisdictions</u>
100 - 200	1
201 - 300	4
301 - 400	2
401 - 500	4
501 - 600	3
601 - 700	1
701 - 800	1

Chart 13  
Blue Books  
Contents: State Leaders

State	U.S. Congress				Executive				Legislative			
	Photo/ Biogra- phies	List of Former Members	Photo/ Biogra- phies	State Agencies	Boards	Commis- sions	Inter- state Com- pacts	State Finances	Photo/ Biogra- phies	Legis- lative Dis- tricts	Committee Membership	
Alaska	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes	
Arizona	Biogs. Only	No	Biogs. Only	No	Yes	Yes	No	No	No	Yes	No	
Connecticut	Yes	Yes	Yes	Yes and names of heads of agencies	Yes	Yes	Yes	Yes	Yes	Yes	Yes	
Georgia	Yes	Yes	Yes	Yes	Yes	Yes	No	No	Yes	Yes	Yes	
Illinois	No	No	No	No	No	No	Yes	No	No	No	No	
Iowa	Yes	No	Yes	Yes	Yes	Yes	No	No	Yes	Yes	Yes	
Michigan	Yes	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	
Minnesota	Yes	Yes	Yes	Yes	Yes	Yes	No	No	Yes	Yes	Yes	
Mississippi	Yes	Yes	Yes	Yes	Yes	Yes	No	No	Yes	Yes	Yes	
Missouri	Yes	No	Yes	Yes	Yes	Yes	No	No	Yes	Yes	Yes	
Nebraska	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	No	
New Jersey	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	
New Mexico	Yes	No	Yes	Yes	No	Yes	No	No	Yes	No	No	

State	U.S. Congress			Executive				Legislative			
	Photo/ Biogra- phies	List of Former Members	Photo/ Biogra- phies	State Agencies	Boards	Commis- sions	Inter- state Com- pacts	State Finances	photo/ Biogra- phies	Legis- lative Dis- tricts	Committee Membership
New York	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes
North Carolina	Yes	No	Yes	Yes	Yes	Yes	No	No	Yes	Yes	Yes
North Dakota	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Oklahoma	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes
Oregon	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes
Pennsylvania	Yes	Yes	Yes	Yes	No	No	No	No	Yes	Yes	Yes
Rhode Island	Yes	No	Yes	Yes	Yes	Yes	No	No	Yes	Yes	Yes
South Carolina	Yes	No	Yes	No	Yes	Yes	Yes	No	Yes	Yes	Yes
South Dakota	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Tennessee	Yes	No	Yes	Yes	Yes	Yes	No	No	Yes	Yes	No
Washington	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
West Virginia	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes
Wisconsin	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Wyoming	Yes	No	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes

State	Judicial					Economy				Demographics	
	Judicial Districts	Photo/Biographies	Charts, Maps, Graphs	State Facts & History	Employment	Income	Agriculture	Manufacture	Travel, Tourism	Population	Statistics
Alaska	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	
Arizona	Yes	No	Yes	Yes	No	No	No	No	No	Yes	
Connecticut	Yes	Yes	Yes	Yes	No	No	No	No	No	Yes	
Georgia	Yes	Yes	Yes	Yes	No	No	No	No	No	Yes	
Illinois	Yes	Yes	Yes	Yes	No	No	Yes	Yes	Yes	Yes	
Iowa	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	
Michigan	Yes	Yes	Yes	Yes	No	No	No	No	No	Yes	
Minnesota	Yes	Yes	Yes	Yes	No	No	No	No	No	Yes	
Mississippi	Yes	Yes	Yes	Yes	No	No	Yes	Yes	Yes	Yes	
Missouri	Yes	Yes	Yes	Yes	No	No	No	No	No	Yes	
Nebraska	Yes	Yes	Yes	Yes	No	No	Yes	No	No	Yes	
New Jersey	Yes	Yes	No	No	No	No	No	No	No	Yes	
New Mexico	No	Yes	Yes	Yes	No	No	Yes	Yes	Yes	Yes	
New York	Yes	Yes	Yes	Yes	No	No	No	No	No	No	
North Carolina	Yes	Yes	Yes	Yes	No	No	No	No	No	Yes	

Chart 14  
Blue Books  
Contents: State Leaders; Economy

State	Judicial				Economy			Demographics	
	Judicial Districts	Photo/Biographies	Charts, Maps, Graphs	State Facts & History	Employment	Income	Agriculture	Manufacture	Travel, Tourism
North Dakota	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Oklahoma	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Oregon	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Pennsylvania	Yes	Yes	Yes	Yes	No	No	No	No	Yes
Rhode Island	Yes	Yes	Yes	Yes	No	No	No	No	Yes
South Carolina	Yes	Yes	Yes	Yes	No	No	No	No	Yes
South Dakota	Yes	Yes	No	Yes	No	No	No	No	Yes
Tennessee	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes
Washington	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
West Virginia	Yes	Yes	Yes	Yes	No	No	Yes	No	Yes
Wisconsin	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Wyoming	No	Yes	Yes	Yes	No	No	No	No	Yes

Chart 15

Blue Books  
Contents: Recreation; Education

State	Recreation			Education			
	State Parks	Natl. Forests/ Parks	Other	State Board of Education	Community Colleges	State Universities	Other State Facilities
Alaska	Yes	Yes	No	Yes	Yes	Yes	Yes
Arizona	No	No	Indian Reservation	No	No	No	No
Connecticut	Yes	No	State forests Monuments	Yes	Yes	Yes	Yes
Georgia	No	No	No	No	No	No	No
Illinois	No	No	No	Yes	Yes	Yes	Yes
Iowa	Yes	No	Historical homes, military forts	Yes	Yes	Yes	Schools for deaf and blind
Michigan	No	No	No	Yes	No	Yes	Yes
Minnesota	No	No	No	No	No	No	No
Mississippi	Yes	No	Places of interest	Yes	No	Yes	No
Missouri	Yes	No	No	Yes	No	Yes	Yes
Nebraska	No	Yes	No	Yes	Yes	Yes	Yes
New Jersey	Yes	No	No	Yes	Yes	Yes	Yes

State	Recreation			Education		
	State Parks	Natl. Forests/ Parks	Other	State Board of Education	Community Colleges	State Universities Other State Facilities
New Mexico	Yes	Yes	No	No	Yes	No
New York	Yes	No	No	Yes	Yes	Yes
North Carolina	No	No	No	Yes	Yes	Yes
North Dakota	Yes	Yes	No	Yes	Yes	Yes
Oklahoma	Yes	Yes	Yes	Yes	Yes	Yes
Oregon	Yes	Yes	No	Yes	Yes	No
Pennsylvania	Yes	No	No	No	Yes	No
Rhode Island	No	No	No	Yes	Yes	Yes
South Carolina	No	No	No	Yes	No	No
South Dakota	Yes	Yes	No	Yes	Yes	Yes
Tennessee	Yes	No	No	Yes	Yes	Yes
Washington	Yes	Yes	Yes	Yes	Yes	Yes
West Virginia	Yes	Yes	No	Yes	Yes	Yes
Wisconsin	Yes	Yes	Yes	Yes	Yes	Yes
Wyoming	No	No	No	Yes	Yes	Yes

Chart 16

Blue Books  
Contents: Politics; Media

Political Information Media

State	Description of Election Process	Election Results from State	Counties, Municipalities, Other Political Subdivisions	Newspaper	Periodicals	Radio	TV	Sources of Information
Alaska	Yes	Yes	Yes	Yes	Yes	Yes	Yes	N/R
Arizona	Yes	Yes	No	No	No	No	No	N/R
Connecticut	No	Yes	No	Yes	Yes	Yes	Yes	N/R
Georgia	Yes	Yes	No	No	No	No	No	Georgia laws, State Agencies
Illinois	Yes	Yes	Yes	Yes	No	Yes	Yes	State agencies indiv. legislators and state officials, reference books such as the broadcasting year book
Iowa	Yes	Yes	Yes	No	No	No	No	Indiv. legislators, state officers, state agencies, state Dem. and Repub. parties, universities and colleges, county gov't, various assoc. gov't, county & municipal gov't, state veterans' organ., public, state historians
Michigan	No	Yes	Yes	No	No	No	No	N/R
Minnesota	No	Yes	No	No	No	No	No	State officers, survey of officer holders

Political Information				Media				
State	Description of Election Process	Election Results From State	Counties, Municipalities, Other Political Subdivisions	Newspaper	Periodicals	Radio	TV	Sources of Information
Mississippi	Yes	Yes	Yes	Yes	No	Yes	Yes	State agencies, PR Graphic Design Agency (contracted)
Missouri	Yes	Yes	Yes	Yes	No	Yes	Yes	N/R
Nebraska	No	Yes	Yes	Yes	No	Yes	Yes	N/R
New Jersey	Yes	Yes	Yes	Yes	Yes	Yes	Yes	N/R
New Mexico	No	No	No	Yes	No	Yes	No	N/R
New York	No	Yes	Yes	No	No	No	No	N/R
North Carolina	Yes	Yes	Yes	No	No	No	No	Research, biographical data supplied at their request by the person involved, statistical report
North Dakota	Yes	No	No	Yes	Yes	Yes	Yes	N/R
Oklahoma	No	Yes	Yes	No	No	No	Yes	State agencies, colleges and universities
Oregon	Yes	Yes	Yes	Yes	Yes	Yes	Yes	N/R
Pennsylvania	No	Yes	Yes	Yes	Yes	Yes	Yes	N/R
Rhode Island	No	Yes	Yes	No	No	No	No	N/R
South Carolina	Yes	No	No	Yes	No	Yes	Yes	N/R
South Dakota	Yes	Yes	Yes	No	No	No	No	N/R

State	Political Information				Media			
	Description of Election Process	Election Results From State	Counties, Municipalities, Other Political Subdivisions	Newspaper	Periodicals	Radio	TV	Sources of Information
Tennessee	Yes	Yes	Yes	No	No	No	No	N/R
Washington	Yes	Yes	Yes	Yes	Yes	Yes	Yes	State agencies
West Virginia	No	Yes	Yes	Yes	Yes	Yes	Yes	Letters of inquiry to agencies political subdivisions congressional directory, state political Exec. Committees Directories of media organizations in state
Wisconsin	Yes	Yes	Yes	Yes	Yes	Yes	Yes	State agencies, published sources for stats
Wyoming	No	Yes	No	No	No	No	No	N/R

801 - 900	2
901 - 1,000	3
1,001 - 1,100	2
1,101 - 1,200	1
1,201 - 1,300	
1,301 - 1,400	1
1,401 - 1,500	1

### Administration

A state agency is usually responsible for the blue book project. This controlling agency must gather the information to be used, edit, and write some sections of the book. As shown in chart 17, the Secretary of State is the controlling agency in the majority of the states (17 of 26 that responded to the survey). In Hawaii, as noted earlier, the Lieutenant Governor is by law designated as the Secretary of State. In the remaining states, the controlling agency is one of the following: the Legislative Reference Bureau (three states), Division of Libraries (two states), the Clerk of the Legislature (one state), Clerk of the House of Representatives (one state), the Senate Clerk (one state), and the Department of General Services (one state). An exception is the state of New Jersey where a private organization has complete control of the blue book project and no state agency is involved.

Gathering the information is not too difficult for the controlling agency because there is a very little research involved. Most of the information used in the blue books is compiled by other state agencies, state officers, individual legislators, colleges, universities, and county governments and sent to the controlling agency. Biographical data are usually provided by the person involved and vital statistics, such as political and population statistics, are obtained from other published reference sources.

The most time consuming, in the whole process of putting together a blue book, are the steps taken to determine the layout of materials and editing what was gathered, although these steps generally will become less time-consuming as subsequent editions are published. Much of the information in a blue book typically remains the same for many years. For example, the description of the operations of state agencies, information about places of interest and state facts and history are unchanged throughout several editions of a blue book. Even the biographical data and pictures do not have to be updated for every edition. Only the political statistics and population statistics are certain to be in need of revision at each publication.

### Publication

Publication takes place biennially in the majority of states as follows:

- Annually 6
- Biennially 19
- Quadrennially 1
- When deemed appropriate by the Legislature 1

Chart 17  
Blue Books  
Preparation; Publication

No. of Books in Recent Edition	No. of Pages Per Book in Most Recent Edition	State Agency Response for Production	How Often Published	Year Last Published	Auth. By Statute	State Agency Response for Production	Publisher	How Often Published	Year Last Published	No. of Books in Recent Edition	No. of Pages Per Book in Most Recent Edition
			Private	Biennially	1987	2,500	375				
		AS.14.56.182-190	DOE, Div. of State Libraries	Private	Biennially	1987	2,500	375			
Arizona	-		Secretary of State	Private	Biennially	1986	3,500	194			
Connecticut	G.S. of Conn. sec. 3-90	Secretary of State	Private	Annually	1987	15,000	989				
Georgia	G.A.L., sec. 45-13-47	Secretary of State	In-house	Biennially	-	1,600	264				
Illinois	-	Secretary of State	Private	Biennially	1987	20,000	576				
Iowa	Code of Iowa title 11, ch. 9 sec. 6 and 83 Acts, ch. 196, sec. 10	Secretary of State	Private	Biennially	1987	34,000	390				
Michigan	Act No. 44 of Public Acts of 1899, as amended by Act No. 46 of 1981 and Act No. 56 of Public Acts of 1986	Legislative Service Bureau	Binding- Private Printing- In-house	Biennially	1987	11,000	620				
Minnesota	1987 M.S. 5.08	Secretary of State	Private	Biennially	1987	15,000	520				
Mississippi	Sec. 39-5-15, Miss. Code of 1972 Annotated	Secretary of State	Private	Quadrennially	1984-88	24,000	520				
Missouri	Ch. 11, Revised Stat. of Missouri	Secretary of State	In-house and Private	Biennially	1987-88	42,000	1,400				

State	Auth. By Statute	State Agency Response for Production	Publisher	How Often Published	Year Last Published	No. of Books in Recent Edition	No. of Pages Per Book in Most Recent Edition
Nebraska	-	Clerk of the Legislature	In-house	Biennially	1986-87	6,000	907
New Jersey	52:12-2 et. seq.	(Purely Private)	Private	Annually (in April)	1988	-	1,089
New Mexico	-	Secretary of State	In-house	Biennially	1988	7,000	216
New York	Resolution	Legislative	Private	Biennially	1987	12,000	1,077
North Carolina	CS 147:54.1	Secretary of State	Private	Biennially	1987	4,000	1,420
North Dakota	Special bill attached to appropriations bill	Secretary of State	Private	Whenever Legislature Appropriates	1981	2,000	411
Oklahoma	74.O.S. 1981 §285 (23) Note	Dept. of Libraries	"Lowest or best bid" state or private	Biennially	1987	7,500	746
Oregon	ORS 177.120	Secretary of State	In-house	Biennially	1987-88	25,248	488
Pennsylvania	Admin. Code of 1929	Dept. of General Services	Photocopy layout-in-house printing-private	Biennially	1987	29,000 soft 4,000 hard	824
Rhode Island	Yes	Secretary of State	Private	Biennially	1988	8,000	844
South Carolina	-	Clerk's Office, House of Representatives	Private	Annually	1987	20,000	488

State	Auth. By Statute	State Agency Response for Production	Publisher	How Often Published	Year Last Published	No. of Books in Recent Edition	No. of Pages Per Book in Most Recent Edition
South Dakota	2.7.1 SDCL	Secretary of State	Private	Biennially	1987	1,500	-
Tennessee	No	Secretary of State	Private	Biennially	1987	87,500	448
Washington	No	Secretary of State	Private	Annually	1988	2,200	225
West Virginia	No-In appropriation bill	Senate clerk	Private	Annually	1987	20,000	1,160
Wisconsin	S.S. 35.24	Legislative Reference Bureau	Layout-state printing-private	Biennially	1987	70,000	1,000
Wyoming	No	Secretary of State	Private	Annually	1988	6,800	236

# ADMINISTRATIVE CODES, REGISTERS, AND STATE BLUE BOOKS

The majority of states responding to the survey have their publishing done by private publishing companies rather than in-house printing facilities:

- Private 18
- In-house 4
- Private and In-house combined 5

The number of copies printed in one edition range from 1,500 books (South Dakota) to 87,500 books (Tennessee). The table below compares the jurisdictions in terms of the number of copies each printed in the most recent edition of their blue book.

## No. of Copies Printed in Most Recent Edition

Under 1,000	
1,001 - 2,000	Georgia, North Dakota, South Dakota
2,001 - 3,000	Alaska, Washington
3,001 - 4,000	Arizona, North Carolina
4,001 - 5,000	
5,001 - 6,000	Nebraska
6,001 - 7,000	New Mexico, Wyoming
7,001 - 8,000	Oklahoma, Rhode Island
8,001 - 9,000	
9,001 - 10,000	
10,001 - 15,000	Connecticut, Michigan, Minnesota, New York
15,001 - 20,000	Illinois, South Carolina, West Virginia
20,001 - 25,000	Mississippi
25,001 - 30,000	Oregon
30,001 - 35,000	Iowa, Pennsylvania
35,001 - 40,000	
40,001 - 45,000	Missouri
45,001 - 50,000	
Over 50,000	Wisconsin, Tennessee

## Distribution

Distribution is usually handled by the controlling agency; however, in a few states, the Department of Library Services is put in charge. As shown in chart 18, the majority of states distribute from 70% to 100% of their books free of charge. The table below shows the number of jurisdictions which distribute a particular range of published blue books free of charge.

<u>Percent of Blue Books Distributed Free</u>	<u>Number of Jurisdictions</u>
0	3
1 - 10	1
11 - 20	1
21 - 30	1
31 - 40	1
41 - 50	1
51 - 60	
61 - 70	1
71 - 80	4
81 - 90	2
91 - 100	10
25% of hard (hard 500, soft 3,000)	1

Some states appear to have a policy of subsidizing their blue book publication very heavily--i.e., making little or no attempt to recapture the cost of production. Of the 15 states which answered the question of whether or not there was any state subsidy for the blue book publication, 10 reported a 91% to 100% subsidy.

As might be expected, there is a close correlation between those states which heavily subsidize the publication and those which distribute a high percentage of the blue books free of charge. The chart below shows the states reporting a 91% to 100% state subsidy, and the percentage of books each state distributes free of charge.

<u>States having 91-100% Subsidy</u>	<u>Per Cent of Books Distributed Free</u>
Connecticut	75%
Georgia	66%
Illinois	100%
Iowa	100%
Minnesota	100%
Mississippi	100%
North Carolina	80%
Pennsylvania	98%
Tennessee	100%
West Virginia	99%

States which provide no subsidy, such as New Jersey and New York, sell all of their books to generate funds to support their blue book projects.

Chart 18

Blue Books  
Cost; Distribution; Style

State	Total Printing Expenses	Price/ Book	State Subsidy	Total Distribution	Per Cent Distributed	Sales Promotion	Type of Binding	Size
Alaska	\$13,300	\$10	-	2,000	45%	None	Loose- spiral	Standard
Arizona	-	\$5 soft \$10 hard	\$20,000 revolving	?	25% of hard bound	None	Paper- 3,000 Hard 500	Larger than standard
Connecticut	\$70,750	\$8 soft \$15 hard	100%	15,000	75%	Media and mass mailing vice Tax Dept. (Atty license renewal applications	Paper and hard	Half (slightly bigger)
Georgia	\$26,659	\$20	100%	1,580	66%	None	Loose- spiral	Standard (larger than)
Illinois	\$99,900	\$5	100%	20,000	100%	None	Hard	Standard
Iowa	\$53,519	-	100%	-	100%	None	Hard and paper	Standard
Michigan	\$64,000	\$9	86%	9,600 (balance sold)	1.2%	None	Hard	Standard
Minnesota	\$95,000	N/A	100%	15,000	100%	-	Paper 12,000 Hard 3,000	Standard
Mississippi	\$73,590	\$3.67	100%	24,000	100%	None	Paper 23,700 Hard 300	Standard

State	Total Printing Expenses	Price/ Book	State Subsidy	Total Distribution	Per Cent Distributed Free	Sales Promotion	Type of Binding	Size
Missouri	\$450,000	\$10.71	?	-	100%	None	Hard	Standard
Nebraska	\$45,000	\$10	?	-	75%	None	Paper	Standard
New Jersey	-	\$25.75	-	-	0%	Brochures, leaflets, displays at meetings such as librarians convention	Hard	Half
New Mexico	\$38,000	Free	-	-	-	None	Paper Hard	Standard
New York	-	\$45	-	-	0%	Brochures, leaflets	Hard	Standard
North Carolina	\$72,219	\$20	Approx. 92%	3,800	80%	None	Hard	Standard
North Dakota	\$20,000	\$10 (1981)	-	-	25%	Thru private vendors statewide	Hard	Standard
Oklahoma	\$36,740	\$10	Partial	7,500	18%	Brochures, news releases to all newspapers, TV, and radio	Paper (perfect binding)	Standard
Oregon	\$105,000	\$6	22%	25,248	38%	Press release to all Oregon media. Also public contest for book cover	Paper	Standard
Pennsylvania	\$117,005	\$3.80	100%+	33,000	98%	None	Paper 29,000 Hard 4,000	Standard
Rhode Island	\$104,000	-	-	-	100%	None	Hard	Half (slightly larger)

State	Total Printing Expenses	Price/ Book	State Subsidy	Total Distribution	Per Cent Distributed Free	Sales Promotion	Type of Binding	Size
South Carolina	\$65,000	\$4	-	20,000	85%	None	Paper	Half
South Dakota	\$24,000	\$5	83%	-	80%	None	Hard	Standard
Tennessee	\$183,315	None	100%	87,500	100%	None	Hard and paper	In between standard and half
Washington	\$9,000	\$14.95	None	2,200	0%	Brochures, newspaper articles	Paper	Standard (larger than)
West Virginia	\$178,200	\$8.91	100%	-	99%	None	Hard	Standard
Wisconsin	\$316,000	\$5.80	-	62,000	90%	None	Hard	Standard
Wyoming	\$15,132	\$2.20	-	-	95%	News release and postcards to previous requests from out-of-state	Paper	Standard

## STATE BLUE BOOKS

Generally, the books which were free of charge are distributed primarily to legislators, public schools and state libraries. The majority of books sold are distributed through the mail to the general public who phoned in or mailed in their orders.

### Production Costs

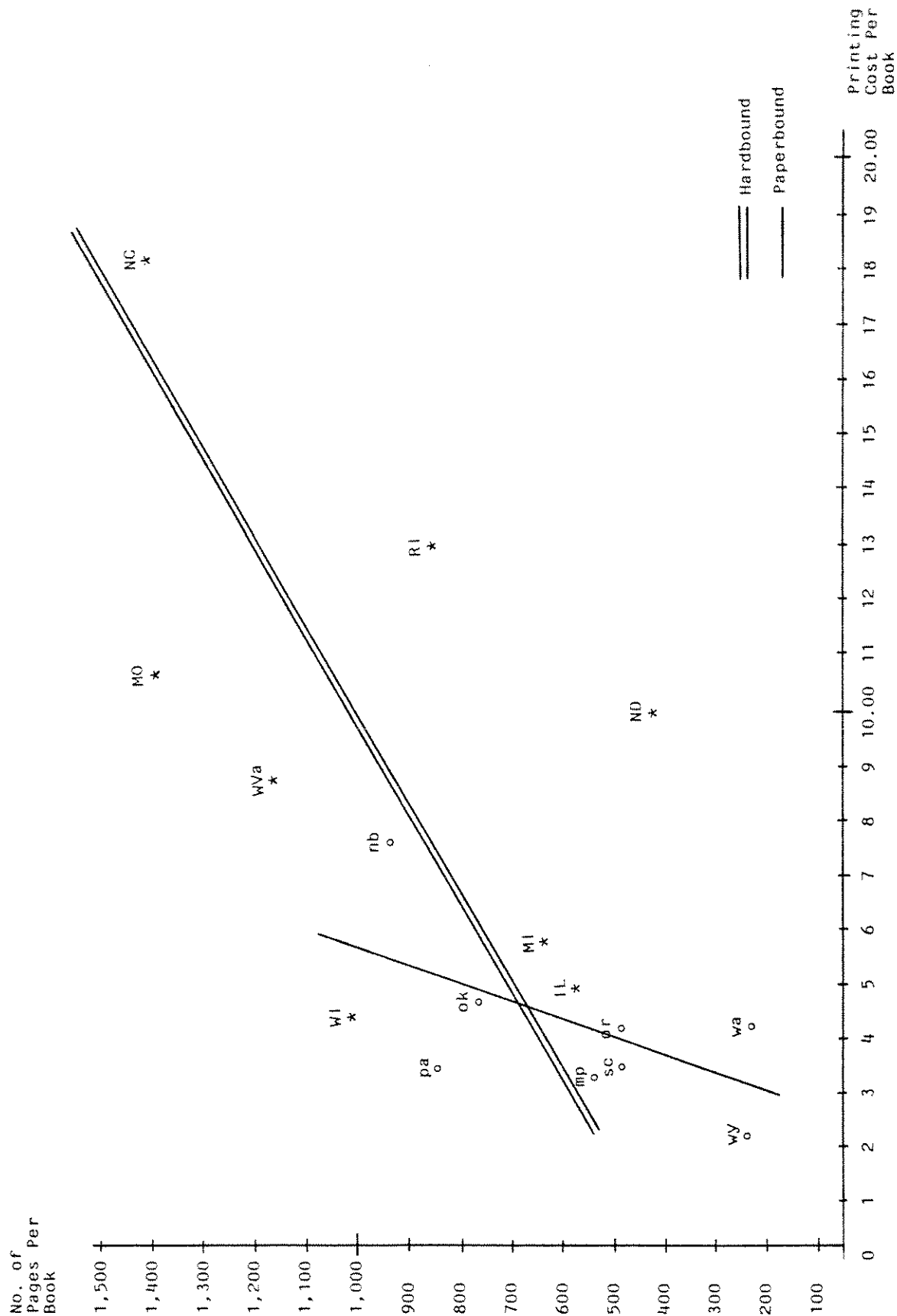
The reported printing expenses of blue books, shown in chart 18, range from \$9,000 to \$450,000, depending upon a number of factors:

- (1) The number of books printed in one edition;
- (2) The quality of the publication (e.g., whether it is a paperbound or hardbound publication, or contains black and white as opposed to color photos); and
- (3) The extent to which subjects are covered, thereby affecting the number of pages in a book).

For example, Washington's and Missouri's blue books lie at opposite ends of both the quality and quantity scale. The printing expense for the Washington State Yearbook, 1988 edition, was only \$9,000 because only 2,200 paperbound books containing 225 pages each were printed. This expense was considerably less than the \$450,000 printing expense for Missouri's Official Manual for which 42,000 gold-embossed hardcover books were printed containing 1,400 pages each.

The range of average printing costs per book of the existing blue books is shown below, including an indication of whether the publication is hardbound or softbound. Chart 19 shows in graphic form the printing cost per book as it relates to both the variables of the number of pages and type of cover. The letters in lower case plot the printing cost per book of states having blue books in paperbound form, while the upper case letters show those in hardbound. The single line represents the average of the softbounds, while the double line represents the same for the hardbounds. The significance of the respective lines is that the single line shows that as the number of pages per book increases, average printing cost of a softbound book does not rise as rapidly as that of a hardbound book.

Chart 19  
Relative Costs of State Blue Books



Note: Mississippi and Pennsylvania are included in the paperbound category because more than 85% of the no. of books printed are paperbound.

# STATE BLUE BOOKS

<u>Printing Cost Per Book</u>	<u>Soft or Hardbound/Spiral</u>
Under \$2.00	
\$ 2.01 - 3.00	1 soft
\$ 3.01 - 4.00	3 soft
\$ 4.01 - 5.00	1 soft, 2 hard
\$ 5.01 - 6.00	2 hard
\$ 6.01 - 7.00	
\$ 7.01 - 8.00	1 soft
\$ 8.01 - 9.00	2 hard
\$ 9.01 - 10.00	2 soft, 2 hard, 1 spiral
\$10.01 - 11.00	1 hard
\$11.01 - 12.00	
\$12.01 - 13.00	
\$13.01 - 14.00	
\$14.01 - 15.00	1 soft, 1 hard
\$15.01 - 16.00	
\$16.01 - 17.00	
\$17.01 - 18.00	
\$18.01 - 19.00	
\$19.01 - 20.00	1 hard, 1 spiral
\$20.01 - 21.00	
\$21.01 - 22.00	
\$22.01 - 23.00	
\$23.01 - 24.00	
\$24.01 - 25.00	
\$25.01 - 26.00	1 hard
\$26.01 - 27.00	
Over 27.00	1 hard

## Promotion/Advertising

There is generally not much promotion or advertising done for blue books. Perhaps one of the reasons is that the blue book is mainly for distribution to places such as schools and libraries and not aimed at a larger customer base. Only eight out of the 26 states do some sort of promotion or advertising. The most common means of promotion are brochures or leaflets, but the other means used are:

- (1) Mass mailing via the state Tax Department (putting a flier in with the attorney license renewal applications that are sent out);
- (2) Sending postcards to previous purchasers from out-of-state;
- (3) Displays at meetings such as librarians' conventions;
- (4) News releases to the media;
- (5) Public contests for the blue book cover; and
- (6) Promoting through private vendors.

## Part II. Consideration for a Blue Book in Hawaii

Much of the information commonly contained in state blue books is available in Hawaii within a combination of five publications. In other words, any person who obtained a copy of each of these five publications (none of them very large) would, to a great degree, have the functional equivalent of a blue book, as well as a substantial amount of information about the State which is not normally contained in a state blue book.

The great bulk of material needed for a blue book is:

- (1) The information about state departments and agencies; and
- (2) The pictures and biographies of public officials.

A regular publication of the Legislative Reference Bureau provides the bulk of the material required for the first category, while a publication of the Chamber of Commerce of Hawaii provides much of the material for the second. The remaining items commonly included in blue books, such as basic facts about and history of the State, places of interest, and political statistics can be obtained from a few other publications.

### Description of State Departments and Other Agencies

The Guide to Government in Hawaii,<sup>15</sup> (Guide) which is published by the Bureau, provides descriptions of the organization and functions of all state and county government agencies in Hawaii. More specifically, it provides descriptions of the agencies in the executive, legislative, and judicial branches, as well as boards and commissions, both regulatory and advisory. The functions and operations of the divisions and lower levels of organization of each department are described in some detail. Organization charts are also included. These descriptions (and modifications as needed over time) are furnished by the respective agencies, and compiled and edited by Bureau staff. The most recent edition of the Guide was issued in January, 1989. The publication is 194 pages long, soft covered, and perfect bound (i.e., the spine of the volume was glued rather than sewn). The 1989 edition reflects changes in state and county government agencies which went into effect as of the middle to later portion of 1988. The Guide is distributed free to legislators and government agencies, and sold to others at \$3, slightly less than the cost of printing.

The Guide is supplemented by a separate Bureau publication, the Directory of State, County and Federal Officials (Directory), which provides the addresses and telephone numbers of a large number of government officials and agencies, including the names of appointed members of the numerous regulatory and advisory boards and commissions, and the expiration dates of the members' terms. Due to the numerous changes which occur each year, the Directory is updated and reissued each year. The 1989 edition of the Directory is 132 pages long, in soft cover, and perfect bound. The Directory is distributed free to legislators and government agencies, and sold to others at approximately the cost of printing, which for the 1989 edition was \$3.

## Pictures and Biographical Information

Currently pictures and brief biographical information on state Legislators, the Governor, Lieutenant Governor, and members of Hawaii's Congressional delegation, House and Senate Clerks, Assistant Clerks, and Sergeants At Arms, members of the State Board of Education, the Board of Trustees of the Office of Hawaiian Affairs; and the Mayor, Managing Director, members of the Council, Prosecuting Attorney, and Clerk of each county; are presented in a publication entitled Who's Who In Government, State of Hawaii<sup>16</sup>, published by the Chamber of Commerce of Hawaii, which sells for \$8. The 1987-1988 edition of the publication is 40 pages long, and the format is identical to the format found in many blue books.

The Chamber of Commerce of Hawaii is a private organization and not a government agency. Accordingly, the material from the Chamber's publication could not be included directly in a state blue book should the Legislature direct the publication of one. However, the biographees presumably could submit comparable pictures and information to the producing agency as they did to the Chamber.

## State Facts, History, and Places of Interest

A pamphlet published within the past several years by the Office of the Governor and the State Legislature entitled Hawaii's State Capitol and Government<sup>17</sup> (27 pages) provides:

- (1) Basic historical information, including a list of the names and reigns of the alii beginning with Kamehameha I, and the names and terms of Hawaii's governors beginning in 1900. The publication has not been updated to include references to the current Governor and Lieutenant Governor;
- (2) Information and pictures of historical landmarks, major buildings, and monuments in the vicinity of the state Capitol, including the Capitol, Iolani Palace, Washington Place, Aliolani Hale, the Eternal Flame, and the Kamehameha, Liliuokalani, and Damien statues; and
- (3) Information and pictures of several state symbols, the state flag, seal, bird, flower, and tree.

Another publication containing more detailed information along the same lines is a 1985 informational brochure entitled "Hawaii the Aloha State" published by the Hawaii Visitors' Bureau in conjunction with the state Department of Planning and Economic Development (now Business and Economic Development). This compact publication includes:

- (1) Geographical information including: the land area of each island in terms of square miles, acreage, and distance between extreme points; the width of the channels between islands; distances between major points in the State; the elevation of chief summits and saddles and the depth of channels; and population figures for the State and each island;

- (2) Historical information including very brief discussions of: the coming of the original Polynesian inhabitants; the arrival of Captain Cook; Kamehameha the Great; the first missionaries; reigns of Kamehameha II and III; arrival of contract laborers and other immigrants; reigns of Kamehameha IV, Kamehameha V, and Kalakaua; overthrow of the monarchy and Republican period; annexation; pineapple industry; developments in the 1920's and 1930's; Pearl Harbor and World War II; postwar changes; political changes in the 1950's; statehood; and a listing of Hawaii's chief executive officers beginning with Kamehameha I;
- (3) Brief, general information on recreation and health, volcanoes, transportation, communication, cultural assets, education, religions, festivals, the economy, and the armed forces in Hawaii;
- (4) Brief information on the name "Hawaii", the Hawaiian language, time zone, and the state bird, marine mammal, nickname, motto, flag, anthem, capital, and seal.

Finally, The State of Hawaii Data Book<sup>18</sup> (Data Book) (694 pages, 1988 edition), published annually by the Department of Business and Economic Development, contains, among other things, economic, political, and population statistics of the State--items which are normally included in blue books. The economic and population statistics provide all that is needed in these areas for a blue book. The political statistics and information presented, such as the number of votes cast for a particular political party in a particular election, or the percentage of registered voters in a particular county that actually voted; are appropriate for inclusion in a blue book, but standing alone, would be more general than the types of statistics generally included in blue books, which, for example, often include information on the number of votes cast in a particular election for each of the various candidates.

The Data Book also contains a considerable amount of information about the State which is not normally included in blue books. The vast majority of this information is in tabular form, such as job counts by industry by year, attendance at certain beaches, the consumer price index for Honolulu for various categories, and listings and sales of real property.

#### **Development of a Blue Book out of Existing Resources**

As mentioned earlier, a person who obtained copies of each of the publications discussed in the earlier section would have in that small collection, the great majority of information normally included in state blue books. As such, the publication of a blue book by the State would be of comparatively marginal benefit in terms of making available to the public information which is now impossible or difficult to obtain.

In making a determination as to whether a state blue book should be published, the Legislature should consider what it perceives the primary purpose of a blue book to be. If the primary purpose is to assist people doing general research, then a blue book could be beneficial as a publication which makes a good deal of information available in one place. If, on the

other hand, the primary purpose is to have informational material to give to office visitors or young school children, it might be more appropriate to publish updated visions of the pamphlets discussed in the previous section.

At this juncture, the Legislature can take either of two courses of action. The first would recognize the status quo, and the fact that much of the information commonly included in blue books is already available within a few publications and, in the Data Book, in more detail than usually found in blue books. If the Legislature wants to go further in order to further organize the material in a state publication--and is willing to expend the funds to accomplish this--then it can direct the publication of a state blue book.

The first course of action would be extremely simple and cost very little. Under this approach, the Bureau could simply include a notice with the Guide to Government on the other sources of information containing the material commonly included in blue books, where these materials can be obtained, and at what cost, if any. The only expense associated with this proposal would be to ensure that the Office of the Governor and the Hawaii Visitors' Bureau have enough funds to continue to update and publish the respective pamphlets.

Assuming that the Legislature decides to follow the second course of action and direct the development of a state blue book, then the most efficient and cost effective method of achieving this aim would be to:

- (1) Declare the Bureau's Guide to Government in Hawaii to be the state blue book;
- (2) Direct the Bureau to compile and publish an adjunct publication to the Guide to Government to include other categories of information commonly included in blue books; and
- (3) Direct all state agencies to cooperate with and assist the Bureau by submitting written statements and other information at the direction of the Bureau which can be compiled and edited for publication.

The primary material which would need to be included in the new adjunct publication to the Guide to Government in Hawaii would be the pictures and biographies of public officials, more detailed political statistics, and descriptions of state parks, facilities, and other points of interest. Under this conception, the Guide to Government in Hawaii/State Blue Book would consist of a set of three soft covered publications, totalling approximately 450 to 500 pages. The three publications would be:

- (1) The present Guide to Government in Hawaii;
- (2) The new publication including the pictures, biographies, and other materials normally contained in blue books; and
- (3) The Directory of State, County and Federal Officials.

This separate volume approach is both efficient and cost effective, because of the flexibility available to republish each of the three publications separately, as each is likely to require a different publishing cycle. The Directory of State, County and Federal Officials is republished each year because the numerous changes in the names, addresses, and telephone numbers contained therein make frequent republication appropriate. On the other hand, a biennial republication cycle would probably be appropriate for the new adjunct publication because pictures and biographies and information on political statistics would generally be affected by the elections held every other year. The third volume, which describes the government agencies in Hawaii may have a longer publication cycle unless there is substantial change in the structures, functions, or organization of government agencies. By comparison, the Data Book is appropriately updated each year because many of the tables and other displays are added to each year as new statistics become available.

Publishing an entire publication at frequent intervals when only a small part of it requires revision is unnecessarily costly in terms of recurring printing expenses, and inefficient as well, because a great deal of staff time will be taken up proofing and checking large portions of the publication in which there is little or virtually no change. By the same token, delaying the publication of the Directory portion for a longer interval until change is required in other areas will increase the likelihood that people will have obsolete information in that particular area. The flexibility of republishing each portion on a separate schedule helps to ensure that each portion is updated on an appropriate schedule when the updating is needed.

The assignment of an additional permanent publication to the responsibilities of the Bureau would necessitate the addition of one professional staff position, at least one-half of a clerical position, and the necessary office space to accommodate them--in addition to any staff and office space requirements which might be necessitated if the Legislature also directs the Bureau to publish a state administrative code. Upon first impression, this may appear to be a large addition in relation to the workload, when compared to the two staff positions recommended for publication of the state register. This stems from a difference in the nature of the work. As conceived in chapter 4, most of the work on the register would actually be done by the various agencies who would submit camera-ready copy to the agency responsible for producing the register. Proofreading would not be required, as each agency would be submitting completed proposals. The staff of the register producing agency would simply organize the material, spot check for typographical and other obvious errors, and send it to the printer, and prepare the necessary tables and other reference documents. By comparison, the blue book staff would have to compile and edit the material submitted, and proofread the material prior to final printing. In order to be effective, proofreading requires a minimum of two participants. Accordingly, the cost of any blue book publication must, of necessity, include the costs of staffing and office space.

## Chapter 6

### ESTIMATED NEEDS AND COSTS

In order to obtain estimates of the perceived need for a state administrative code, register, and blue book, the Bureau conducted two surveys of state executive departments and the judiciary (see Appendix E); and the approximately 4,000 members of the Chamber of Commerce of Hawaii (Chamber) (see Appendix H) through the Chamber's in-house publication, the "Voice of Business". All of the state agencies responded to the surveys. Of the approximately 4,000 Chamber members, 169 (4.2%) responded. While the low response rate among the Chamber of Commerce recipients (overwhelmingly private businesses) renders the survey unreliable for purposes of gauging the general level of interest in the business community, the number of positive responses to questions of whether the respondent would purchase a particular publication may constitute a conservative but solid estimate of prospective sales. Most surveys conducted by the Bureau include stamped, self-addressed return envelopes for the convenience of the respondent. This was not done in the case of the Chamber survey because of cost considerations. Accordingly, the fact that an entity took the time and made the effort to return the survey stating that it would purchase one or more publications is probably a good indication of a definite perceived need, rather than a vague feeling that such a publication "might be nice to have".

#### Administrative Code

Of the Chamber respondents, 104 believed that their company would benefit from the publication of a state administrative code. When asked what was the most their company would pay for a main set of rules (assuming supplement costs remained constant at \$125 to \$150 a year), the distribution of the 95 who answered the question was as follows:

\$240	39
\$350	11
\$500	41
\$750	3
\$1,000	1

Forty-two of 99 respondents believed their company's need for a code would be satisfied by having copies available at public libraries, while 57 said it would not. Fifty-five of 96 respondents said their company would prefer having an administrative code available on a searchable computer database, rather than in printed volumes.

Interestingly, 56 out of 99 respondents said that having a "directory" or detailed table of contents which provided the section numbers and titles of all agency rules (assuming it cost no more than \$25) would satisfy their company's needs as an alternative to a code. This directory is precisely what the Bureau has published several editions of since 1981, including a cumulative edition which has been available since November, 1988.

All state departments surveyed except one believed that a published state administrative code would benefit their department. Assuming the code sets were distributed to the departments free of charge, the departments collectively believed that they would reasonably need anywhere from 261 to 361 sets (some gave ranges in their responses). If the sets had to be paid for out of the departments' own budgeted funds, and the sets cost in the vicinity of \$400, then the number which the departments would purchase ranged from 102 to 117.

Of 16 departments which answered the question, 11 felt that having the code as a searchable database on the Bureau's "HO'IKE" computerized information retrieval system would satisfy their department's needs, while five answered that it would not. Contrasted with the responses from the private entities, only seven out of 20 departments believed a directory such as the one published and distributed by the Bureau would be adequate for their needs.

Assuming only 50 sets of codes would be sold to private entities (a conservative estimate, based solely upon the responses to the survey by Chamber members) and that the legislative branch of the state government would need 83 sets (one for each legislator, and one each for the four majority and minority staff offices in the House of Representatives and Senate, and the three legislative service agencies) then the lowest number of sets likely to be needed would be 235 to 250 (if agencies have to purchase sets with their own funds). If, on the other hand, the private and legislative counts remained constant and other state agencies received sets free of charge, then the number of sets needed would rise to anywhere from just under 400 to just under 500. Depending upon the distribution policies established, and accommodating likely expansion in the number of users as interest and awareness of the administrative code grows, it would appear that the State might be able to reasonably publish anywhere from 500 to 750 sets of the code if publication is ordered.

As mentioned in chapter 3, the cost of a publication can vary according to the number of copies published and the type and size of the publication. The 12 hardbound volumes of the 1985 replacement set of the Hawaii Revised Statutes contain a total of 6,706 pages (excluding the supplements) and cost a total of \$150. In publishing the replacement set, the Bureau sent all data to the printing company on computer tape. Six thousand copies were printed.

By comparison, the administrative code will be a larger publication having a much smaller number of copies printed. As of mid-1988, the rules in the Hawaii Administrative Rules format on file at the Lieutenant Governor's office included 10,803 pages on 8-1/2 by 11 inch size paper in the main chapters, along with another 3,593 pages of amendments. Since much of the text in the amendments actually repeats material from the main set, the number of amendment pages was divided by five to roughly approximate the number of pages added by new material, thereby resulting in a total of 718 pages. The combined total of pages in the main set and amendments would be about 11,521. Dividing the fixed costs of a publication this size among a relatively small number of copies such as 500 to 750 will result in a higher cost per unit than was experienced with the HRS.

# ESTIMATED NEEDS AND COSTS

In publishing a state administrative code, another variable is whether the code producing agency will send computer tapes to the printer--as was the case with the 1985 replacement volumes of the HRS. If the Legislature favors the approach of getting a set of books published as quickly as possible without regard to cost, then the most expeditious means of production would be to send the thousands of pages of rules to the printer and have the printer enter the data and produce the database for the State.

To obtain cost estimates, inquiries were made of several entities who have had experience in producing and printing some aspects of the Hawaii Revised Statutes, Session Laws of Hawaii, or both. All were asked to assume that the specifications used for the Session Laws (e.g., soft cover, sewn, specified number of lines per page) would generally apply. All were assured that their identities would remain confidential in order to ensure candor. Each company was asked to submit reasonable "ballpark" estimates of what it would cost to produce a publication of the estimated size of the prospective administrative code, as well as a 750 page supplement, and accounting for several variables including:

- (1) Production from computer tapes;
- (2) Entry of all data and creation of database by contractor; and
- (3) Publication in looseleaf as opposed to bound format.

The estimates submitted were as follows:

## A. All material sent on computer tape.

Estimate No.	250 sets	500 sets	750 sets
1	\$403,500 (bound) \$1,614/set \$274,400 (looseleaf) \$1,097.60/set	\$430,000 (bound) \$860/set \$366,300 (looseleaf) \$732.60/set	\$460,500 (bound) \$614.00/set \$450,700 (looseleaf) \$600.93/set
2	\$485,982 (bound) \$1,943.93/set \$442,995 (looseleaf) \$1,771.98/set	\$536,470 (bound) \$1,072.94/set \$499,284 (looseleaf) \$998.57	\$584,070 (bound) \$778.76/set \$552,850 (looseleaf) \$737.13/set
3	\$191,520 (bound) \$766.08/set \$182,400 (looseleaf) \$729.60/set	\$200,640 (bound) \$401.28/set \$200,640 (looseleaf) \$401.28/set	\$209,760 (bound) \$279.68/set \$209,760 (looseleaf) \$279.68/set
4	\$242,075 (bound) \$968.30/set \$226,925 (looseleaf) \$907.70/set	\$256,450 (bound) \$512.90/set \$239,425 (looseleaf) \$478.85/set	\$269,185 (bound) \$358.91/set \$250,125 (looseleaf) \$333.50/set

# ADMINISTRATIVE CODES, REGISTERS, AND STATE BLUE BOOKS

B. All data entered by publisher.

Estimate No.	250 sets	500 sets	750 sets
1	450,100 (bound) \$1,800.40/set	475,700 (bound) \$951.40/set	507,200 (bound) \$676.27/set
	\$311,000 (looseleaf) \$1,244/set	\$412,900 (looseleaf) \$825.80/set	\$497,300 (looseleaf) \$663.07/set
2	\$791,158 (bound) \$3,164.63/set	\$841,646 (bound) \$1,683.29/set	\$889,246 (bound) \$1,185.66/set
	\$748,171 (looseleaf) \$2,992.68/set	\$804,460 (looseleaf) \$1,608.92/set	\$858,026 (looseleaf) \$1,144.03/set
3	\$255,360 (bound) \$1,021.44/set	\$264,480 (bound) \$528.96/set	\$273,600 (bound) \$364.80/set
	\$246,240 (looseleaf) \$984.96/set	\$255,360 (looseleaf) \$510.72/set	\$264,448 (looseleaf) \$352.60/set
4	\$575,765 (bound) \$2,303.06/set	\$590,140 (bound) \$1,180.28/set	\$602,875 (bound) \$803.83/set
	\$560,615 (looseleaf) \$2,242.46/set	\$573,115 (looseleaf) \$1,146.23/set	\$583,815 (looseleaf) \$778.42/set

C. Supplement

Estimate No.	250 copies	500 copies	750 copies
1	\$30,700 (bound) \$122.80/copy	\$32,700 (bound) \$65.40/copy	\$35,200 (bound) \$46.93/copy
	\$23,000 (looseleaf) \$92/copy	\$32,500 (looseleaf) \$65/copy	\$42,200 (looseleaf) \$56.27/copy
2	\$28,750 (bound) \$115/copy	\$32,117 (bound) \$64.23/copy	\$35,323 (bound) \$47.10/copy
	\$26,083 (looseleaf) \$104.33/copy	\$29,735 (looseleaf) \$59.47/copy	\$33,244 (looseleaf) \$44.33/copy
3	\$25,500 (bound) \$102/copy	\$26,250 (bound) \$52.50/copy	\$27,000 (bound) \$36/copy
	\$18,000 (looseleaf) \$72/copy	\$19,800 (looseleaf) \$39.60/copy	\$20,700 (looseleaf) \$27.60/copy
4	\$28,215 (bound) \$112.86/copy	\$32,000 (bound) \$64/copy	\$36,000 (bound) \$48/copy
	\$26,000 (looseleaf) \$104/copy	\$30,000 (looseleaf) \$60/copy	\$34,000 (looseleaf) \$45.33/copy

The vast disparity in estimates submitted makes it impossible to draw any definite conclusions about the cost of a state administrative code. Each of the companies submitting estimates may have operated under a very different set of assumptions about the simplicity (or difficulty) of the job, or

## ESTIMATED NEEDS AND COSTS

the ability of its equipment to handle the material. It would not have been feasible--or fair--to ask these companies to expend the time and effort which would have been required to prepare formal bids, as it is unknown at this time whether a code will even be published, much less which agency will be responsible for producing the code and the equipment which would be involved. In preparing formal bids (assuming the contractors rather than the code producing agency will be handling the data entry and database creation), the prospective bidders will probably want to send representatives to review the rules on file at the Lieutenant Governor's office to see the variety of type faces and fonts to which their equipment will have to be adjusted.

At least on the basis of the data obtained, however, it would appear that if the Legislature wanted to publish a printed code as soon as possible--by having all data entered by the contracted publisher--then it can expect to spend anywhere from \$264,000 to \$889,000 (as low as \$353 per set looseleaf to as high as \$1,186 per set bound) for 750 sets. In other words, while it might be possible to obtain 750 sets for \$264,000, the Legislature should anticipate the possibility of the cost running as high as \$889,000. If 500 sets were published instead of 750, the total cost would be lower, but the cost per set would be much higher. Meanwhile, the cost of producing the code from material sent on computer tape could range from a little under \$210,000 to \$584,000 (\$280 per set looseleaf to \$779 per set bound).

Given the maximum prices that the private entities in the Chamber of Commerce survey indicated they were willing to pay, if the lower estimates shown above turn out to be accurate, the cost of the code could be within reach of most if not all of the respondents. On the other hand, if the higher estimates turn out to be the more realistic, the result could be a cost per set which is higher than almost anyone is willing to pay. While it is indeed possible that the lowest estimates may be very realistic, it should be noted that the entity which to date has done the most work on the Hawaii Revised Statutes submitted the highest estimates. Another entity which has significant experience with the HRS submitted one of the higher estimates for data entered by the publisher, and one of the lower estimates for data sent by the producing agency on computer tape. If nothing else, however, the tremendously varied estimates indicate the potential advantages of awarding the contract through competitive bidding.

Finally, an interesting trend should be noted in the cost estimates of the bound as compared to the looseleaf formats. Generally, the smaller the number of sets published, the greater the difference between the formats, with the looseleaf sets being cheaper. The estimates start to converge at the higher levels, and in one instance (estimate number 1 at 750 copies of the supplement) the cost of the looseleaf format actually surpasses the bound format. This could have important implications for long range planning, because if a code is subsequently published on a larger scale, the cost of publishing in the looseleaf format could exceed the cost of publishing in the bound format, and users could find themselves paying a higher price for the privilege of doing their own filing.

Based on the foregoing, it would appear that unless the Legislature is determined to publish a printed code as soon as possible without regard to

cost, then more work should be done in this area by the code publishing agency to ascertain more fully the extent of the market (for example, obtaining estimates of interest in sales of partial sets in addition to full sets), and to obtain closer estimates from prospective contractors.

### State Register

Of the Chamber of Commerce respondents, 83 believed that their company would benefit from the publication of a state register, while 77 did not. Among those who did not believe their companies would benefit, the substantial majority believed that adequate information was available from other sources such as newspapers or agency contacts, while the remainder said they never dealt with state administrative agency rules. When asked what was the MOST their company would be willing to pay each year for a subscription to a state register, the distribution of the 69 who answered the question was as follows:

\$100	25
\$125	3
\$150	27
\$200	5
\$250	9

Twenty-eight of 78 respondents believed their company's need for a register would be satisfied by having copies available at public libraries, while 50 said it would not.

Each was also asked to indicate the three items which would most benefit their company if included in a state register. The answers, in descending order of vote totals, were as follows:

Final agency rules	64
Recent executive orders or attorney general's opinions	58
Proposed agency rules	54
Recent state appellate court decisions	42
Public agency meeting notices	21

All state departments surveyed except one believed that a state register would benefit their department. Assuming the register subscriptions were free of charge to state agencies, the departments collectively believed that they would reasonably need anywhere from 283 to 358 subscriptions (some gave ranges in their responses). If the departments had to pay \$125 to \$150 per subscription out of their own budgeted funds, then the total number they would purchase collectively would range from 130 to 135.

Assuming only 50 register subscriptions would be purchased by private entities (a conservative estimate, based solely upon the responses to the survey by Chamber members) and that the legislative branch of the state government would need 83 sets (one for each legislator, and one each for the four majority and minority staff offices in the House of Representatives and Senate, and the three legislative service agencies) then the lowest number of subscriptions likely to be needed among state agencies and private entities combined would be just under 270 if the agencies had to purchase

# ESTIMATED NEEDS AND COSTS

subscriptions with their own budgeted funds. If, on the other hand, the private and legislative counts remained constant and the other state agencies would receive subscriptions free of charge, then the number of subscriptions needed would rise to anywhere from 416 to 491.

Depending upon the policy established for payment of subscriptions for state agencies, it would appear that the State could reasonably assume a base of 250 to 500 subscriptions. Unlike a code, in which additional copies can be printed in advance and stored for subsequent purchase, the register subscriptions would have to be increased over time as people or entities purchase them. There would be no point in printing extra copies if no one is subscribing to the service, as people could not be assumed to want to subscribe to old issues.

As with any other publication, the cost to the State, and for each subscription, would depend upon the number of subscriptions and the size of each issue being printed. Size, in turn, is a function of what is included in the publication. As discussed in chapter 4, the Legislature may direct the inclusion of any items it believes are appropriate. Items which, with one exception, are commonly included in state registers, are discussed below in terms of the number of pages each is likely to generate in a register for Hawaii. The discussion is intended to provide some data for the Legislature to evaluate in order to balance considerations of availability of information, and prospective cost.

**Final rules.** Between July 1, 1986 and June 30, 1988, a total of 2,465 pages of final rules were filed in the Office of the Lieutenant Governor. The monthly totals of pages filed during that period are shown below.

July 1986	103
Aug 1986	298
Sept 1986	106
Oct 1986	128
Nov 1986	363
Dec 1986	<u>55</u>
TOTAL	1,053
Jan 1987	25
Feb 1987	50
Mar 1987	97
Apr 1987	45
May 1987	34
June 1987	52
July 1987	36
Aug 1987	302
Sept 1987	17
Oct 1987	110
Nov 1987	47
Dec 1987	<u>16</u>
TOTAL	831

# ADMINISTRATIVE CODES, REGISTERS, AND STATE BLUE BOOKS

Jan 1988	182
Feb 1988	66
Mar 1988	59
Apr 1988	109
May 1988	105
<u>June 1988</u>	<u>60</u>
TOTAL	581

TOTAL FROM JULY 1, 1986 TO JUNE 30, 1988 = 2,465

If the page filings were constant over this two year period, the average number of pages filed would be 1,233 pages a year, or approximately 103 pages a month.

In reality, however, as the chart indicates, the filings were anything but constant. More pages of rules were filed during the last six months of 1986 than were filed in all of 1987. If the last six months of 1986 are not included, then a total of 1,412 pages were filed during the 18 months from January 1, 1987 to June 30, 1988 for an average of 78.4 pages a month.

It should be noted, however, that these filings measure pages filed in what for purposes of the Hawaii Administrative Rules format is referred to as the "standard" (as opposed to Ramseyer) format. While there is almost no difference in page counts between the two different formats in the case of chapters which are completely new, amendments to rules typed in the Ramseyer format are generally shorter because each section does not have to be typed on a separate sheet of paper. Accordingly, if the full text of the proposed, final, or emergency rules is published in the Ramseyer format, the page totals would be less than those listed above.

**Proposed rules.** For purposes of planning a register, while there may be some variance, there would not appear to be any reason to assume that the number of pages of proposed rules would differ significantly from the number of pages of final rules.

**Attorney General Opinions.** During a two year period from mid-1986 to mid-1988, the number of pages of official opinions of the Attorney General totalled 172, averaging 86 pages a year, and just over seven pages a month.

**Executive orders.** From January 1, to December 13, 1988, executive orders totalling 154 pages were filed at the Lieutenant Governor's office.<sup>1</sup> If distributed at a constant rate, and assuming that no others were filed during the remainder of the year, they would average just under 13 pages each month.

**Administrative directives.** No administrative directives were filed at the Lieutenant Governor's office between January 1 and December 13, 1988,<sup>2</sup> indicating that these directives are issued only on an occasional basis.

**Gubernatorial proclamations.** From January 1, to December 13, 1988, gubernatorial proclamations totalling 124 pages were filed at the Lieutenant

## ESTIMATED NEEDS AND COSTS

Governor's office.<sup>3</sup> If no other proclamations were issued during the year, they would average a little over 10 pages a month.

**Public agency meeting notices.** As of December 19, 1988, 2,383 pages of public meeting notices and agendas had been filed at the Lieutenant Governor's office during 1988.<sup>4</sup> Assuming no other notices were filed during the remainder of the year, this would be an average of 198.6 pages per month.

**Appellate court decisions.** From April 23, 1986 until April 29, 1988, opinions of the Hawaii Supreme Court were printed on 889 pages of advanced sheets. This was an average of 450 pages a year. From January 5, 1984 to January 27, 1986, the Intermediate Appellate Court produced 846 pages of advanced sheets for an average of 423 pages a year. Combined, the opinions of the two courts would average approximately 873 pages a year, or just under 73 pages a month, if the rate remained constant.

In order to obtain general estimates on the cost of printing a register, the Bureau obtained estimates from three printing firms doing business in Honolulu, who have done printing work for the Bureau. Estimates were not obtained from mainland printers on the assumption that a register is more appropriately printed in-state in order to keep to a minimum the "turnaround" time from submittal of material to delivery of the finished product, and because of transportation time and costs.

The printers were asked for estimates on the cost of 250, 500, and 1,000 copies respectively of a smaller register averaging approximately 75 pages per issue, as well as a larger register averaging approximately 125 pages per issue. For purposes of their estimates, the printers were asked to assume that:

- (1) The pages would be 8 1/2 by 11 inches in size, with stapled signatures, on 35-pound white "Harborlite" paper or other stock of comparable quality and with three holes punched to accommodate a standard sized ring binder;
- (2) Camera ready copy would be furnished by the producing agency; and
- (3) Not more than five working days "turnaround" time would be required for delivery.

The estimates submitted were in terms of the cost per issue, given the number of copies required. Accordingly, estimate number 1 on the smaller register states a price of \$3,520 for 250 copies of that issue, assuming the issue was 80 pages in length. The two figures below indicate the cost of each copy and the cost of an annual subscription. The subscription cost was derived by multiplying the cost per copy by 24, the number of issues which would be included in a one-year subscription if the register was distributed at a rate of twice a month.

# ADMINISTRATIVE CODES, REGISTERS, AND STATE BLUE BOOKS

## A. Smaller register

Estimate No.	250 copies	500 copies	1000 copies
1 80p.	\$3,520/issue \$14.08/copy	\$4,000/issue \$8/copy	\$5,050/issue \$5.05/copy
24 issues	\$84,480 \$337.92/subscription	\$96,000 \$192/subscription	\$121,200 \$121.20/subscription
2 80p.	\$1,600/issue* \$6.40/copy	\$1,600/issue* \$3.20/copy	\$1,600/issue* \$1.60/issue
24 issues	\$38,400 \$153.60/subscription	\$38,400 \$76.80/subscription	\$38,400 \$38.40/subscription
3 76p.	\$1,553.95/issue \$6.22/copy	\$1,989.15/issue \$3.98/copy	\$2,649.25/issue \$2.65/copy
24 issues	\$37,294.80 \$149.28/subscription	\$47,739.60 \$95.48/subscription	\$63,582 \$63.58/subscription

## B. Larger register

1 128p.	\$5,570/issue \$22.28/copy	\$6,270/issue \$12.54/copy	\$7,935/issue \$7.94/copy
24 issues	\$133,680 \$534.72/subscription	\$150,480 \$300.96/subscription	\$190,440 \$190.44/subscription
2 128p.	\$2,350/issue* \$9.40/copy	\$2,350/issue* \$4.70/copy	\$2,350/issue* \$2.35/copy
24 issues	\$56,400 \$225.60/subscription	\$56,400 \$112.80/subscription	\$56,400 \$56.40/subscription
3 124p.	\$2,409.90/issue \$9.64/copy	\$2,948.60/issue \$5.90/copy	\$3,967.00/issue \$3.97/copy
24 issues	\$57,837.60 \$231.35/subscription	\$70,766.40 \$141.53/subscription	\$95,208 \$95.21/subscription

\*Could not produce in 5 working days. 10 working days required.

Assuming that in the initial stages of publication of the register:

- (1) The total number of state and private subscriptions would not exceed 500; and
- (2) That an attempt would be made to keep the annual subscription price in the vicinity of \$100 a year to limit the price resistance indicated by the private entities in the Chamber survey;

then the Legislature should consider keeping the contents of the register to a relatively modest number of items, allowing a longer period of time for delivery, or both. Two of the estimates indicate that 500 copies of a smaller register averaging approximately 75 to 80 pages an issue could be produced for a subscription price of under \$100 a year, while one estimate indicates that 500 copies of a larger register averaging 125 to 130 pages an issue could

## ESTIMATED NEEDS AND COSTS

be produced for under \$115 a year if 10 rather than five working days are allowed for delivery.

As discussed earlier, the items considered to be of greatest interest to both the private entities and state agencies are the final agency rules, and other executive items such as executive orders and Attorney General's opinions. All of these items are not regularly published in newspapers of general circulation. As such, their inclusion in a state register would add to the range of information made available to the public.

If the Legislature's primary interest in publishing the state register were reducing state expenditures rather than improving public access to information, then it would be of interest to note the extent to which the cost of the register could be defrayed by publishing the notices in the register rather than in newspapers of general circulation. As part of its survey of state departments (see Appendix E), the Bureau asked each department to provide figures on the amount it spent during fiscal years 1986-1987 and 1987-1988 on several categories of notices. The results of the survey are set forth below.

	FY 1986-87	FY 1987-88
Public hearing notices relating to rulemaking	\$38,947.26	\$49,933.74
Notices for other public hearings or agency meetings	49,172.86	63,484.21
Solicitations for bids for public contracts	414,298.94	488,389.47
All other public notices	95,336.49	105,045.74
Total	597,755.55	706,853.16

As discussed in chapter 4, several advantages would accrue to state agencies adopting rules if, for purposes of complying with the public notice requirements of the Hawaii Administrative Procedure Act, they could publish copies of the full text of the proposed rules in the register, rather than synopses in newspapers of general circulation. When compared to the cost estimates above, it is evident that the money saved on public notices relating to rulemaking would alone pay for anywhere from 33.2% to 130% of the printing expense of the register using FY 1987-88 figures for notice costs, and the range of prices for 500 copies of the register. However, as was also discussed in chapter 4, these cost savings must be balanced against a substantial reduction in the amount of information available to the general public, as the circulation of 500 copies of the state register would be less than 1% of the circulation of the major daily newspapers in the State.

### Blue Book

Out of 164 Chamber of Commerce respondents who answered the question, 104 stated that their companies would purchase a blue book if one were available at a "reasonable price". Many of the respondents had distinctly different ideas of what constituted a reasonable price. When asked what was the most their company would pay for a blue book, the distribution of the 113 who answered the question was:

# ADMINISTRATIVE CODES, REGISTERS, AND STATE BLUE BOOKS

\$ 5	35
\$20	73
\$35	25

All state departments surveyed believed that having a blue book would be of use to their staffs as a reference resource, and that its availability would be helpful as a means of providing information to the business community and the general public about their respective departments and programs. If the blue books were available free of charge, the departments collectively believed that they would reasonably need a total of 493 copies of the blue book. If the departments had to purchase the book for \$20 a copy out of their own budgeted funds, the number would drop to 193.

Assuming that a little over 100 copies of the blue books would be sold to private entities (a conservative estimate, based solely upon the responses to the survey by the Chamber of Commerce members) and that the legislative branch of the state government would need 83 sets (one for each legislator and one each for the four majority and minority staff offices in the House of Representatives and Senate, and the three legislative service agencies) then the lowest number of blue book copies likely to be needed would be just under 400 (if the agencies had to purchase the copies with their own funds). If, on the other hand, the private and legislative counts remained constant and the other state agencies received books free of charge, then the number of copies needed would rise to approximately 700.

Depending upon the distribution policies established, and accommodating the likely expansion in the number of users as interest and awareness grows, it would appear that the State would reasonably be able to publish 750 copies of the first edition of the blue book if the next edition would be published relatively soon thereafter, or a greater number if there would be a longer period until republication. The schedule for republication is important in this context because if an excessive number of copies are printed in one year and another edition is published very soon thereafter then there might be a large inventory left undistributed which would have to be discarded if the need does not expand quickly enough. On the other hand, a longer interval between publications allows more time for the extra stock to be used as need expands.

Cost estimates for blue books were obtained from the same companies which supplied the estimates for the state administrative code. The estimates were based on the assumption that all material for the blue book would be included in a single 750 page publication generally subject to the same specifications as the Session Laws. The estimates submitted were as follows:

## A. Single Publication

	250 copies	500 copies	750 copies
1.	\$35,100 \$140.40/copy	\$37,200 \$74.40/copy	\$39,700 \$52.93/copy
2.	\$35,103 \$140.41/copy	\$39,157 \$78.31/copy	\$43,050 \$57.40/copy

## ESTIMATED NEEDS AND COSTS

3.	\$32,256 \$129.02/copy	\$33,024 \$66.05/copy	\$33,792 \$45.06/copy
4.	\$30,000 \$120/copy	\$34,000 \$68/copy	\$38,000 \$50.66/copy

The relatively small number of copies result in the unit cost being quite high in the estimates. Even if the unit cost were reduced by 50% because of a smaller number of pages, greater number of copies being distributed, or both, the cost per unit, even on the lowest estimate, would be slightly higher than \$20 a copy, and may meet with resistance in the private sector.

As discussed in chapter 5, another alternative in the publication of a blue book would be, in effect, to declare the Guide to Government in Hawaii published by the Legislative Reference Bureau to be the State's blue book, with the Bureau publishing in a separate volume, items commonly contained in blue books which are not already included in the Guide to Government. Most of the copies of the Guide to Government are distributed free to legislators, all public libraries, other state agencies, as well as most secondary schools (both public and private) and institutions of higher education. Thus, as a practical matter, the Guide to Government is already distributed to many of the places to which a blue book would likely be distributed. Other copies are sold to interested individuals, as well as to the University of Hawaii bookstore in instances where the publication is assigned reading in a particular course.

Using the Guide to Government as the State's blue book, as discussed in chapter 5, would mean that the blue book would consist of three separate publications, each republished on a schedule most appropriate for the contents therein, and minimizing costs by not reprinting material earlier or more often than necessary. The Bureau's recent cost experience with respect to the two elements of the Guide to Government are as follows:

- (1) When the 1984 edition of the Guide to Government in Hawaii was published, 1500 copies were printed for \$3990. Copies not distributed free to government agencies and educational institutions were sold for \$3 each, the approximate cost of printing. Seven hundred fifty copies of the 1989 edition of the Guide were printed for \$4,502.25, an average of approximately \$6 a copy. The low number of copies printed was necessitated by the anticipated lack of storage space during the period when the state capitol is renovated. Lower unit costs could be achieved by printing larger numbers of copies.
- (2) The Directory of State, County and Federal Officials is an annual supplement to the Guide to Government in Hawaii. Because the names and telephone numbers contained in the Directory change frequently, it is republished in updated form every year. In publishing the 1989 edition of the Directory, 1,300 copies were printed for \$3,984. Copies not distributed free to government agencies are sold for \$3 each, the approximate cost of printing.

- (3) At least in the initial stages, the third publication containing other material commonly included in blue books would probably approximate the size of the Directory, and therefore would not be expected to cost significantly more.

Under this approach, the total printing cost of the three publications constituting the blue book would probably be somewhere between \$10 and \$15. The cost to some purchasers would be lower if they were only interested in part of the series, as they would not be required to purchase the portions they did not want.

## Chapter 7

### FINDINGS AND RECOMMENDATIONS

#### Part I. State Administrative Code

The Bureau finds that:

1. Hawaii has been making progress toward codification of its administrative rules since 1980, when the Legislative Reference Bureau, pursuant to section 91-4.2, Hawaii Revised Statutes, issued the Hawaii Administrative Rules format, a uniform format for all state agency rules. Under the format, the rules are organized into a comprehensive numbering system in which each state department and all agencies attached to that department for administrative purposes, constitute a separate "title", which is in turn divided into chapters as determined by the department to be appropriate. To the extent that agencies have converted their rules to the uniform format, a collection of rules takes on the appearance of having been codified.

2. Despite the statutory requirement for all agencies to convert all of their rules to the uniform format by June 21, 1981, that process has not been completed. Most departments have converted all of their rules. However, the Department of the Attorney General, the Public Utilities Commission, and the Hawaii Paroling Authority have not converted any rules at all, and the Department of Health has a few remaining to be converted. A state code could not be considered complete without these rules being included, and including them in their present format would place them at odds with the organizational scheme of all of the other rules of the State.

3. Several instances exist where agencies are authorized to adopt rules in a manner which is completely exempt from the Hawaii Administrative Procedure Act. Not only are the rules exempt from the public notice and public hearing (the most cumbersome) requirements, but those of gubernatorial approval, filing with the Lieutenant Governor, and complying with the uniform format as well. As such, there is no way for the public to know that these rules exist, much less when or how they are changed. For purposes of codification, it would be impossible to know if the published version was correct, as the rules could be changed at any time, virtually at the whim of the agency. Limiting the scope of the exemption to removing the public notice and hearing requirements, and, where necessary, the waiting period after filing with the Lieutenant Governor, would make the rules subject to greater executive accountability, available for public inspection, and much easier to codify in a logical manner.

4. The primary beneficiaries (and the ones most likely to purchase) an administrative code would be persons and entities who need access to the rules of a wide range of agencies rather than just one or two. Those needing access to the rules of just one or two agencies usually can get them from the agency. In some cases, the rules can be obtained from the agency in a single publication along with other relevant information, such as a reprint of the relevant statute being implemented. These agency publications

tend to be in a variety of sizes, which is not convenient to organizing large collections.

5. Recognizing the needs of users trying to collect a variety of agency rules, the Bureau, as part of the uniform format, directed all agencies to make copies of rules available on the 8-1/2 by 11 inch size paper--which is used for filing in the Office of the Lieutenant Governor at no greater cost than the other publications. Persons or agencies obtaining these "official" copies from all agencies can replicate the collection of rules on file with the Lieutenant Governor, thereby enabling them to have what amounts to an administrative code. Most departments make these copies available for relatively low cost, or have master sets which can be copied--in several instances, free of charge. Other departments apparently are either unaware of the format requirements that official copies be made available for the same price as unofficial copies, or are making all of their rules relatively expensive to obtain by charging relatively high copying prices, such as 25 cents a page. One department does not make its rules available for copying at all.

6. Even with the availability of "official" copies, a person or entity seeking copies of all agency rules now must go to each and every department to get them, which is not particularly convenient.

7. Even without the publication of an administrative code, the needs of large users can be promoted significantly by requiring state departments to establish systems whereby persons can "subscribe" to obtain copies of all the department's rules, as well as any changes.

8. The Code of Federal Regulations, which consists of over 140,000 pages, and which, rather than supplemented to show changes, is reproduced in its entirety each year, is not, practically speaking, an appropriate model upon which to establish an administrative code for the State of Hawaii. However, over 30 states, along with the District of Columbia and Guam, now publish administrative codes in some form. The vast majority of these publications are on a considerably more modest scale than the Code of Federal Regulations, and indicate that an administrative code of the size which Hawaii would be likely to produce would not be out of the ordinary.

9. The rules now officially on file at the Lieutenant Governor's office presently include over 11,000 pages of material. By comparison, the 12-bound volume set of the Hawaii Revised Statutes 1985 Replacement series (excluding supplements and index) contains 6,706 pages. Accordingly, a state administrative code could be as much as 50% larger to double the size of the existing Hawaii Revised Statutes.

10. The process to be followed in printing a state administrative code could be the same as now used in printing the Hawaii Revised Statutes, if all of the rules are organized on a computer database, used by the printer to set the type, make the necessary plates, and actually print the code.

11. While a "hard copy" set of all of the State's rules converted to the Hawaii Administrative Rules format is on file at the Lieutenant Governor's office, each state department now has its own rules stored its own way--on

## FINDINGS AND RECOMMENDATIONS

one or more types of electronic mediums, such as diskettes or mag cards, and in some cases, on no electronic medium at all. This is significant because:

- (a) In order to create a database, the existing rules will either have to be converted to a different medium or entered into a computer system from scratch, either by typing, or by scanning with an optical character reader; and
- (b) Even if a complete database existed, the fact that different departments are producing rules on different systems will create problems as those rules are amended in the future.

12. If the Legislature is not concerned about the cost of producing a printed code, and is interested solely in producing a set of books as quickly as possible, then the quickest approach to accomplishing this end would be to contract with a private publisher to produce and print the entire code from "scratch". But the problem of future amendments will remain.

13. A broader approach would be to use the goal of code production for the purpose of streamlining the rulemaking process for all state agencies. This approach would concentrate on the development of a computer database by the code producing agency, and the production of rules on compatible computer systems in all other agencies. This will ensure a better coordinated transition from the present system in which all rulemaking activity occurs solely within the adopting agencies, to the greater centralized coordination required for production and maintenance of a code. An added benefit of this approach may be that departments will have a greater incentive to centralize at least the typing of rules and amendments, as has been done by the Department of Commerce and Consumer Affairs, which will improve the quality and consistency of the rules on a department-wide basis.

14. Subject to the condition that adequate additional office space can be allocated to the Bureau to accommodate the three new permanent, and possibly as many as five temporary positions required for the task, the Legislative Reference Bureau is the most logical agency to handle the codification work. If the database for the administrative code is controlled by the Bureau, it can be made available to other government agencies and to the general public through the Bureau's HO'IKE computerized information retrieval system. This would make Hawaii one of the few jurisdictions having a searchable computer database which is accessible to the public.

15. Assuming state agencies make copies of their rules available under an agency rule subscription service to private users for three cents a page or less and free to government agencies, any private person or government agency so desiring could assemble what amounts to a looseleaf administrative code. The cost to the private users would be less than \$450, making it cheaper than most of the estimates received for printing bound or looseleaf sets of an administrative code. In many if not most cases, the cost to private users would probably be lower because they would only subscribe to those departments whose rules they really wanted. Government agencies could maintain collections for their own staffs, and collections could be made available to the general public through the state library system.

The Bureau recommends that the Legislature:

1. Direct the Legislative Reference Bureau to develop a computerized database of the administrative rules of all state agencies. Development of the database is a critical step in the development and maintenance of an administrative code. Upon its completion, the database can be made available to government agencies and the public in a searchable form through the Bureau's HO'IKE system. Authorize the addition of one professional and two clerical positions on a permanent basis, and other professional and clerical staff on a temporary basis as needed for the Bureau along with additional office space.

2. Refrain from directing the publication of a printed code at this time. When the database is completed, better estimates can be made of the publication costs, and a clearer picture of user needs will likely be available.

3. Direct all state agencies to assist the Bureau in developing and maintaining the computerized database by:

- (a) Doing an initial proofreading of material printed from the database against the agency's own file of rules;
- (b) Certifying the accuracy of material in the database; and
- (c) Producing all subsequent rules or amendments thereto on word processing systems approved by the Bureau.

4. Direct all state departments to establish procedures whereby users can obtain copies on a subscription basis of the rules of the department and agencies attached to the department for administrative purposes. Features of the subscription system should include:

- (a) Allowing users to establish an account with the department with an initial payment specified by the department;
- (b) Requiring departments to make official copies of rules available at a low cost, e.g., three cents a page, plus postage;
- (c) Providing for departments to mail copies of rules and amendments to users as soon as they become available for public distribution, and deducting the cost of reproduction and postage from the account;
- (d) Allowing state agencies to subscribe free of charge; and
- (e) Allowing departments to require subscribers to subscribe to all rules of the entire department, and agencies attached to the department for administrative purposes.

5. Direct the state library system to obtain subscriptions to all state agency rules to the end that a complete collection will be available to the general public in at least one library on each island for inspection and copying.

## FINDINGS AND RECOMMENDATIONS

6. If the Legislature does not direct the establishment of an agency rules subscription service, all agencies should, at the very least, be required to make copies of rules available for a cost which is lower than the 25 cents a page generally applicable to government documents. A cost of five or ten cents a page (amounts generally required for coin operated copying machines) would appear to be more reasonable.

7. After completion of the computerized database, if the Legislature determines that an administrative code should be issued in printed form, input should first be obtained from public and private subscribers to the agency rules subscription services in order to determine whether the code should be printed in a looseleaf format, or in a bound format with periodic supplements.

8. Effective December 31, 1990 (or some other specified future date) repeal all state agency rules which have not been converted to the Hawaii Administrative rules format.

9. Limit exemptions from the Hawaii Administrative Procedure Act, chapter 91, Hawaii Revised Statutes, to exemptions from the public notice, public hearing, and waiting period requirements. Refrain from granting total exemptions which also exempt rules from the uniform format, and filing with the Lieutenant Governor.

### Part II. State Register

The Bureau finds that if the Legislature decides that a register should be published:

1. In addition to the Federal Register published by the United States government, registers are produced in 38 states and the District of Columbia. While the contents of the registers may include virtually any material desired by the publishing jurisdiction, all registers contain some type of information related to administrative rulemaking.

2. Compared to other registers, the Federal Register, which publishes over 200 issues a year containing a total of approximately 45,000 pages, and is distributed to 31,700 paid and free subscribers is in a league of its own and not an appropriate model for a register published by the State of Hawaii.

3. The overwhelming majority of state registers are published weekly (14), monthly (13), or somewhere in between (10). A majority of publishing states (24) have fewer than 1,001 subscribers to their register.

4. Nearly all states publish some information (usually either full text or notices) on proposed, final, and emergency rulemaking actions. A majority of jurisdictions also publish information concerning executive orders and attorney general opinions. Public hearing notices (generally), gubernatorial proclamations, and certain information regarding state contracts are also published in a minority of states.

5. According to the relatively small number of responses to a Bureau survey sent to all members of the Chamber of Commerce of Hawaii, the items of greatest interest for publication in a register were final agency rules, executive orders, and attorney general opinions. These were followed closely by proposed agency rules and appellate court decisions.

6. Of the items generally included in state registers, the item for which information is now most available in Hawaii is proposed agency rules (agency rulemaking proposals). Under the Hawaii Administrative Procedure Act, notices of public hearings on the proposals are required to be published in newspapers of general circulation, and copies of those notices sent to persons who have requested the agency to send copies of all notices to them. Legislation enacted in 1989 also requires agencies to mail copies of rulemaking proposals free of charge to persons who request them.

7. At present, no information on final agency rules, executive orders, and attorney general opinions is published in any systematic way. Appellate court decisions are published in advance sheet form, normally a period of several weeks after the decision is rendered.

8. Assuming only 50 subscriptions are purchased by private users, the State could reasonably anticipate a solid base of 250 subscriptions to a register if executive agencies had to pay for them with budgeted funds. If state agencies received them free of charge, this number could rise to nearly 500.

9. According to "ballpark" estimates by local printers, the printing costs of a register consisting of 24 issues averaging 125 pages per issue could be somewhere between \$110 and \$150 per subscription, assuming 500 subscriptions. Most private users indicated resistance at either \$100 or \$150 per subscription. According to estimates from the same printers, if the page volume were kept between 75 and 80 pages per issue, then the printing costs could be in the range of \$75 to \$100 per subscription.

10. A register consisting of the full text of final rules, executive orders, administrative directives, and attorney general opinions, based on recent findings, would likely contain an average of 125 pages per month (just over 60 pages per issue if the register is published twice a month). The inclusion of proposed rules would add an average of approximately 105 pages per month. These totals will generally be lower if the text of rules is published in the Ramseyer format. All references contained in this paragraph are to average numbers of pages. In fact, the volume of pages of the text of rules can vary substantially from one month to the next.

11. The number of subscriptions to a state register would at best be only a small percentage of the subscriptions to major daily newspapers in Hawaii. Even a wildly optimistic projection of 1,000 subscriptions to a state register would equal only a little over one per cent of the circulation of the largest daily newspaper in the State.

12. If a uniform appearance of the contents is not required, publication of a register could begin relatively quickly. Unlike an administrative code, no extensive database would need to be developed or maintained. Agencies

## FINDINGS AND RECOMMENDATIONS

could submit camera ready copy produced on their own word processing systems, to the register producing agency, which essentially would be responsible for organizing the material, producing necessary tables and indexes, coordinating matters with the printer, and distributing the final copies.

13. The Lieutenant Governor's office is without doubt the most appropriate agency to publish a state register. Aside from the fact that registers are produced by the Lieutenant Governor or Secretary of State in more jurisdictions than any other office, most of the material which would likely be included in a register is now regularly filed with the Lieutenant Governor. Agencies are required by state law to file final rules, attorney general opinions, and public hearing notices with the Lieutenant Governor's office, which also maintains files of administrative directives, executive orders, and gubernatorial proclamations.

14. The agency assigned the responsibility of producing the state register would likely need at least one professional and one clerical position added to existing staff.

The Bureau recommends that if the Legislature decides that a register should be published:

1. The Legislature direct the Lieutenant Governor to begin production of a state register as soon as possible, and that the register be distributed not less frequently than once a month. The agency assigned to produce the register should be different from the agency assigned to work on the state administrative code. No single agency should be expected to "start up" both projects at the same time.

2. The contents of the register be limited initially to final rules published in the Ramseyer format, executive orders, administrative directives, and attorney general opinions.

3. The register not be substituted for newspapers of general circulation as the place in which notices of public hearings on agency rulemaking proposals are required to be published.

4. State agencies be allowed to receive subscriptions to the register free of charge.

5. The cost of subscriptions to other users be limited to the average printing cost per subscription, plus necessary postage, and that every effort be made to keep the subscription cost (exclusive of postage) under \$100 per year.

6. The Legislature direct state agencies to submit camera ready copies to the Lieutenant Governor of items required to be included in the register.

7. The Lieutenant Governor periodically survey paying subscribers on the desirability of including additional items in the register such as text or notices of agency rulemaking proposals, gubernatorial proclamations, state appellate court decisions, public hearing notices generally, and information

concerning state contracts. The surveys should advise the subscribers of the anticipated increase in subscription prices which would result from the addition of each item.

8. The state library system take steps to ensure that a reasonable number of branch libraries receive subscriptions to the state register.

9. The Lieutenant Governor be authorized one additional professional and one clerical staff position and appropriate office space.

### Part III. Blue Books

The Bureau finds that:

1. "Blue books" are official government publications which are published at regular intervals as a reference guide, and contain a wide variety of information pertaining to state government and the state generally. Blue books--or a functional equivalent are published by approximately 30 states.

2. While blue books vary substantially in size, depth and breadth of coverage and production cost, virtually all blue books contain certain items such as pictures and biographies of prominent government officials, information on the structures and functions of government agencies, election results, a brief history of the state, population statistics, and emblems and symbols. A majority of blue books include information on institutions of higher education in the state and recreational highlights and places of interest. A smaller number include information on the state's economy and the media.

3. Most jurisdictions reported printing costs of under \$11 per book, while a half-dozen reported costs of anywhere from \$14 to over \$27 per book. Ten states reported free distribution of over 90% of all copies printed.

4. Most of the information normally contained in blue books, and a great deal of information about the State of Hawaii not usually contained in blue books is already available to the public in a collection of publications which include the Bureau's Guide to Government in Hawaii and Directory of State, County, and Federal Officials, the Department of Business and Economic Development's State of Hawaii Data Book, the Chamber of Commerce of Hawaii's Who's Who in Government, and two small pamphlets, one published jointly by the Legislature and Office of the Governor and the other by the Hawaii Visitors' Bureau. As such, the publication of a blue book would not make much more information available to the public than is presently available from existing sources, and the only reason to order the publication of a blue book would be to have all of the material collected in a publication or publications of a single agency.

5. Assuming the publication of a blue book is directed, efforts should be made to keep the cost of the book to under \$20, as this was an acceptable price to nearly three-fourths of the private business who responded to an informal Bureau survey.

## FINDINGS AND RECOMMENDATIONS

The Bureau recommends that:

1. If the Legislature determines that the formal publication of a blue book is not necessary, the Bureau can readily inform the public of the availability of information in the respective sources by simply including a notice to that effect in its Guide to Government in Hawaii.

2. In the alternative, if the Legislature finds that it is important to have a publication designated as a blue book, then the quickest and most cost-effective means of achieving this goal is to:

(a) Declare the Bureau's Guide to Government in Hawaii, its supplement the Directory of State, County, and Federal Officials, and a third publication (to be developed by the Bureau) containing the remaining items usually contained in blue books--as the State's official blue book.

(b) Allow the series of three publications to be updated separately, and distributed either individually or collectively. This will enable each portion to be updated when needed, and only when needed, thereby reducing the cost of subsequent reprintings. Collectively, the printing costs of the three publications would likely be approximately \$10 to \$15. The cost of purchase could also be kept lower because purchasers would only need to purchase the portions they need or want.

3. Regardless of whether or not the publication of a blue book is directed, in anticipation of an expanded program of tours of the state capitol, the Legislature should direct the updating and reprinting of the pamphlet published jointly with the Office of the Governor entitled "Hawaii's State Capitol and Government". The pamphlet is an attractive and informative souvenir item for visitors. The use of a blue book for this purpose would be excessive.

## FOOTNOTES

### Chapter 2

1. Hawaii Rev. Stat., sec. 91-3(a)(1).
2. Hawaii Rev. Stat., sec. 91-3(a)(2).
3. Hawaii Rev. Stat., sec. 91-3(c).
4. Hawaii Rev. Stat., sec. 91-4.
5. Hawaii Rev. Stat., sec. 91-5.
6. Hawaii Rev. Stat., sec. 23G-11.
7. Hawaii Rev. Stat., sec. 91-4.1.
8. Hawaii, Administrative Directive No. 87-2, April 1, 1987. The requirement of preliminary gubernatorial approval to hold public hearings has existed for approximately 10 years, and had been set forth in earlier Administrative Directives. The primary change imposed by Administrative Directive 87-2 is the additional information required with respect to the likely impact of the proposed rulemaking upon business and the economy, and the review by the Director of Business and Economic Development.
9. This has been the personal experience of the writer, who, in his capacity as an officer in the Judge Advocate General's office of the Hawaii Army National Guard, was responsible for the adoption of rules in 1985 by the state Department of Defense relating to military justice. The rules established procedures for imposing nonjudicial punishment and conducting trials by court-martial for criminal offenses under chapter 124A, Hawaii Revised Statutes, the Hawaii Code of Military Justice. As such, the rules were not the sort which are routinely adopted by state agencies, and presumably received at least an average amount of scrutiny.
10. From August, 1979, until December, 1986, the writer was the researcher at the Legislative Reference Bureau who developed, and was primarily responsible for the Bureau's implementation of the uniform format for state agency rules (the Hawaii Administrative Rules format). As a service to the agencies, the Bureau, upon request, reviews proposals for compliance with the format requirements, and also answers questions from the agencies. In this capacity, the personal experience of the writer included dealing with hundreds of telephone and personal inquiries concerning the rules format specifically and the rulemaking process generally. It was evident from many of these phone calls and inquiries that the possibility of concurrent review had never occurred to the staffs of many agencies.
11. Hawaii Rev. Stat., sec. 91-3(a)(1).
12. 64 Haw. 389, 394 (1982).
13. The Department published notices in newspapers of general circulation in the State, as well as

in Kauai, Maui, and Hawaii counties. The amounts paid to the respective newspapers was as follows:

Hawaii Newspaper Agency	\$13,321.31
Garden Isle	\$ 5,346.72
Maui Publishing	\$ 5,097.04
Hawaii Tribune Herald	\$ 7,080.00
Total	\$30,845.32

Telephone conversation, Ms. Ann Sakamoto, Assistant Program Administrator, Program Development--Social Services section, Public Welfare Division, Department of Human Services, October 26, 1988.

14. Hawaii Rev. Stat., sec. 91-3(a)(2).
15. Legislative Reference Bureau, Hawaii Administrative Rules Drafting Manual, 2d ed. (Honolulu: 1984) §00-8-2, p. 134.
16. Rules sent to the Governor for approval can be approved by the Governor and filed with the Lieutenant Governor on the day they are received by the Governor. This is not always the case, however. On some occasions in the past, rules have been known to have waited the better part of a month for approval and filing if, for example, the Governor was out-of-state and had not delegated the authority to approve rules to the Lieutenant Governor.
17. This is a practice of long-standing which was established between the late Mr. Herman Doi, the original Ombudsman, and a prior Lieutenant Governor, as an accommodation to the Ombudsman to ensure that the Ombudsman would always have a current file of agency rules.
18. Hawaii Rev. Stat., sec. 91-3(b).
19. Hawaii Rev. Stat., sec. 91-3(d).
20. Hawaii Rev. Stat., sec. 121-19.
21. Hawaii Rev. Stat., sec. 328-8(c).
22. Hawaii Rev. Stat., sec. 121-5.
23. Hawaii Rev. Stat., sec. 127-4.
24. Hawaii Rev. Stat., sec. 128-27.
25. Hawaii Rev. Stat., sec. 712A-10(10).

### Chapter 3

1. Hawaii Rev. Stat., secs. 23G-13, 23G-16.5. Prior to 1982, the Revisor of Statutes edited the Acts to delete the repealed material and incorporate the added material. The Acts were thus published in "final" form, i.e., with all changes already made. In 1982, the Legislature directed the Revisor to include the bracketing (designating material to be repealed) and under-

- scoring (designating material to be added) as they appeared in the enactment--except where entire sections were being added or repealed. The effect of this change makes it easier for researchers to see precisely what changes were being made in the enactment without having to obtain an actual copy of the bill as enacted by the Legislature.
2. 1968 Sess. Laws of Hawaii, Act 16.
  3. 1977 Sess. Laws of Hawaii, 1st Special Session, Act 8.
  4. Supplements were not published in 1976 and 1985, the years in which replacement volumes of the Hawaii Revised Statutes were published.
  5. Hawaii Rev. Stat., sec. 23G-15.
  6. Hawaii Rev. Stat., sec. 23G-17.
  7. Hawaii Rev. Stat., sec. 23G-18.
  8. Hawaii Rev. Stat., sec. 23G-18.
  9. Hawaii Rev. Stat., sec. 26-1.
  10. If the state did not indicate how many sets were printed in the last complete publication, an attempt was made to estimate a "ballpark" figure based upon the total number of paying and free subscriptions. In these cases, the figure used to arbitrarily place the state within one of the ranges tended to be close to the combined total of subscribers. If the state allows purchases of single volumes, these estimates will tend to be high, i.e., probably indicating a greater number of complete sets than may in fact have been printed.
  11. Office of the Governor, "Rules and Regulations Governing the Filing of Rules and Regulations by State and County Officers in the Office of the Lieutenant Governor as Required by Law", effective December 27, 1961. Superseded by Session Laws of Hawaii 1980, Act 67, §2.
  12. The term "Hawaii Administrative Rules" is the term selected by Revisor of Statutes--who by law is also the Director of the Legislative Reference Bureau--to describe the body of administrative agency rules which have been converted to the format prescribed by the Bureau. The term does not denote a formal codification of the State's rules.
  13. Legislative Reference Bureau, Hawaii Administrative Rules Drafting Manual, 2d ed. (Honolulu: 1984), §00-3-2, pp. 26-27.
  14. Ibid., §§00-3-1 to 00-3-7, pp. 25-28.
  15. Ibid., §§00-2-3, p. 22.
  16. Ibid., §§00-8-2 to 00-8-12, pp. 134-139, and §00-5-4, pp. 64-65.
  17. Ibid., §§00-5.5-1 to 00-5.5-5, pp. 101-102.
  18. Ibid., §00-9-1 to 00-9-5, pp. 141-143.
  19. Over the past 8 years, the writer has discussed format related matters on numerous occasions with a wide variety of deputy attorneys general requesting assistance or advice with respect to agency rulemaking. Agencies being assisted by those deputies included virtually every department and many of the subdivisions of and agencies attached to those departments for administrative purposes.
  20. Department's response to Legislative Reference Bureau survey on Administrative Codes, Registers, and Blue Books, set forth as Appendix E.
  21. Ibid.
  22. Ibid.
  23. Ibid.
  24. Information about the image processing system was obtained in a meeting involving the staffs of the Lieutenant Governor's office and the EDPD, which the writer was invited to attend.
  25. Telephone conversation with Ms. Karen Higa, programmer, Department of Budget and Finance, Information and Communication Services Division, December 22, 1988.
  26. See chart 3 at p. 29 and accompanying text.
  27. Hawaii Rev. Stat., sec. 23G-18.

#### Chapter 4

1. Hawaii Rev. Stat., sec. 26-1.
2. Legislative Reference Bureau survey of state government agencies on administrative codes, registers, and blue books, August, 1988, question No. 5. See Appendix E.
3. This has been personal experience of the writer. On occasion, if an agency did not request the assistance of the Bureau in reviewing proposed rules prior to the public hearing, the writer, upon seeing the published hearing notice, would request a copy of the rulemaking proposal from the agency which had published the notice. On at least several occasions, the response from the agency was that copies were not yet available for distribution--despite the fact that some of these notices had stated that copies could be obtained.
4. Hawaii Rev. Stat., sec. 91-4.
5. Hawaii Rev. Stat., sec. 92-7(b).
6. Hawaii Rev. Stat., sec. 28-3.
7. Telephone conversation with Ms. Joyce Kami, Administrative Assistant, Office of the Lieutenant Governor, November 18, 1988.
8. Interview with Joyce Kami, Administrative Assistant, Office of the Lieutenant Governor, November 25, 1988.

## Chapter 5

1. Illinois Blue Book, 1983-84 (Springfield, Illinois: Secretary of State, 1983).
2. Maryland Manual, 1987-88 (Annapolis, Maryland: Maryland State Archives, 1987).
3. Official Manual, State of Missouri, 1987-88 (Jefferson City, Missouri: Secretary of State, 1987).
4. Fitzgerald's Legislative Manual, State of New Jersey, 1987 (Trenton, NJ: Mullin, Edward J., 1987).
5. Red Book, 89th Edition, (Albany, New York: Williams Press, Inc., 1987).
6. Pennsylvania Manual, vol. 108 (Harrisburg, Pennsylvania: Department of General Services for the Commonwealth of Pennsylvania, 1987).
7. South Carolina Legislative Manual, 1988 (South Carolina: House of Representatives, 1988).
8. Tennessee Blue Book, 1985-86 (Nashville, Tennessee: Secretary of State, 1985).
9. West Virginia Blue Book, 1985 (Charleston, West Virginia: Jarrett Printing Company, 1986).
10. State of Wisconsin Blue Book, 1987-88 (Madison, Wisconsin: Wisconsin Legislative Reference Bureau, 1987).
11. Hellebust, Lynn, State Legislative Sourcebook, 1988 (Topeka, Kansas: Government Research Service, 1987). Surveys were returned from Alaska, Arizona, California, Connecticut, Georgia, Illinois, Iowa, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Jersey, New Mexico, New York, North Carolina, North Dakota, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Washington, West Virginia, Wisconsin, and Wyoming. Idaho, Maryland, and Vermont did not respond.
12. California returned the survey, but examination of the data received indicated that the publication did not constitute a blue book.
13. South Carolina Legislative Manual, 1988 (South Carolina: House of Representatives, 1988).
14. Official Manual, State of Missouri, 1987-88 (Jefferson City, Missouri: Secretary of State, 1987).
15. Claire Marumoto, Guide to Government in Hawaii, Legislative Reference Bureau (Honolulu: 1989).
16. Chamber of Commerce of Hawaii, Who's Who in Government, State of Hawaii 1989-1990 (Honolulu: 1989).
17. Office of the Governor and Hawaii State Legislature, Hawaii's State Capitol and Government, (Honolulu: publication date unspecified).

18. The State of Hawaii Data Book A Statistical Abstract 1988, Department of Business and Economic Development, State of Hawaii (Honolulu: 1988).

## Chapter 6

1. Telephone interview with Joyce Kami, Administrative Assistant, Office of the Lieutenant Governor, December 13, 1988.
2. Ibid.
3. Ibid.
4. Telephone interview with Donna Ramo, Administrative Services section, Office of the Lieutenant Governor, December 19, 1988.

HOUSE OF REPRESENTATIVES  
FOURTEENTH LEGISLATURE, 1988  
STATE OF HAWAII

H.R. NO. 9

## HOUSE RESOLUTION

RELATING TO PUBLIC INFORMATION.

WHEREAS, the Legislature has declared that it is the policy of this State that the conduct and formulation of public policy be as open as possible by enactment of Part I of Chapter 92, Hawaii Revised Statutes; and

WHEREAS, the Legislature has also declared its intent to protect the people's right to know by enactment of Part I of Chapter 92, Hawaii Revised Statutes; and

WHEREAS, this declared policy and intent results in public access to records information maintained by the government that evidence the formulation of public policy, as reflected by the enactment of Part V of Chapter 92, Hawaii Revised Statutes; and

WHEREAS, the government's existence and operation result in the vast accumulation of information which is not disseminated to the public and remains undisclosed; and

WHEREAS, the information intended for storage represents a potential untapped resource by which the State, its officers, employees, and citizens may benefit, but the State lacks any uniform reference documents to assist the public in obtaining certain categories of information, such as rules, hearing notices, and the like; and

WHEREAS, many states provide their citizens with access to public information by creation of indexes, guides, registers, and blue books covering references to public information and records, including notices of proposed agency rules, notices of agency meetings and hearings, agency rules, administrative decisions, department descriptions by divisions, and public health statistics; and

WHEREAS, the federal government also publishes compilations such as the Federal Register, and the Code of Federal Regulations as reference documents for public information and records; now, therefore,

BE IT RESOLVED by the House of Representatives of the Fourt enth Legislature of the State of Hawaii, Regular Session of 1988, that the Legislative Reference Bureau is requested to study the feasibility of providing for a public records index such as a state register (similar to the Federal Register), a code of state regulations (similar to the Code of Federal Regulations), a "Blue Book" (similar to books produced by the states of Illinois, Nebraska, Wisconsin, and others) and other similar publications; and,

BE IT FURTHER RESOLVED that the Legislative Reference Bureau shall report its findings and recommendations to the House of Representatives twenty days before the convening of the Regular Session of 1989; and

BE IT FURTHER RESOLVED that a certified copy of this Resolution be transmitted to the Legislative Reference Bureau.

OFFERED BY

*James K. Ego*  
*Roland Kotani*

*David M. Hayes*

*Les Alana J.*  
*James T. Hon*  
*Mike Orito*

*Robert Hayes*  
*Ngzi Finau*  
*REB Bellweber*

*Edison*  
*Carol Fukunaga*  
*Joan Hayes*

*Mark [unclear]*  
*Ngzi Isbell*  
*Francis Knoll*

*Myrtis [unclear]*  
*Joseph [unclear]*  
*Deann C. [unclear]*

*IM [unclear]*  
*Calvin [unclear]*  
*Light [unclear]*  
*Robert J. [unclear]*

Appendix B



EXECUTIVE CHAMBERS  
HONOLULU

JOHN WAIHEE  
GOVERNOR

April 1, 1987

ADMINISTRATIVE DIRECTIVE NO. 87-2

TO: All Department Heads

FROM: Governor John Waihee

SUBJECT: POLICY AND PROCEDURE FOR THE ADOPTION, AMENDMENT, OR  
REPEAL OF ADMINISTRATIVE RULES

This administrative directive updates the policy and procedure by which departments or agencies shall request executive approval of any proposed adoption, amendment, or repeal of rules. It rescinds Administrative Directive No. 82-4, Policy and Procedure for the Adoption, Amendment, or Repeal of Administrative Rules, dated June 7, 1982.

Legal Reference:

Section 91-3(c), Hawaii Revised Statutes, states, "The adoption, amendment, or repeal of any rule by any state agency shall be subject to the approval of the governor."

Policy:

Whenever any department or agency requests executive approval for the proposed adoption, amendment, or repeal of a rule, the director of the department or agency shall ensure that the proposed changes conform with existing legal provisions, especially those provisions of Chapter 91, Hawaii Revised Statutes, and current rules. In requesting any adoptions, amendment or repeal of rules, the director shall fully explain the:

- (1) Exact changes to be made and the reasons for the changes. If applicable, the present rules shall be cited and the proposed rules shall be quoted in full without paraphrasing.
- (2) Manner in which the proposed adoption, amendment, or repeal of the rules would affect the operations or programs of the department or agency in terms of responsibilities, functions, activities, and inter-relationships, both internal and external.

ADMINISTRATIVE DIRECTIVE NO. 87-2

April 1, 1987

Page Two

- (3) Final result (program improvement) to be expected by instituting the proposed adoption, amendment, or repeal of the rules.
- (4) Program and financial impact on the state of the adoption, amendment, or repeal of the rules. This should include the:
  - (a) Long- and short-range program and financial impact.
  - (b) Anticipated increase or decrease in program funding which will be required for the present biennium or future budgetary periods, including a notification of whether funds are currently budgeted to permit the implementation of the proposed adoption, amendment, or repeal of the rules, and a forecast of anticipated savings or funding shortfalls which might be incurred.
- (5) Long- and short-term impacts on the public, on economic growth and the economy of the State, and on the individuals or businesses which must comply.
- (6) Other alternatives explored in attempting to resolve the problem or situation at hand, other than that of adopting, amending, or repealing the rules in question.

Procedure:

Formal announcement of a public hearing or the holding of a public hearing on the proposed adoption, amendment, or repeal of any rules shall not be made by departments and agencies prior to:

- (1) Obtaining the Attorney General's approval as to form prior to submitting the rules to me for preliminary approval.
- (2) Providing this office with a copy of the rule, including the information requested in items 1 through 6 above. A copy of this information and a copy of the rule shall be concurrently provided to the Director of Finance and to the Director of Planning and Economic Development.
- (3) Obtaining my preliminary approval of the rules to be adopted, amended, or repealed.

Departments and agencies shall obtain my final approval for the adoption, amendment, or repeal of the rules after the required public hearing has been held. In requesting final approval, the director of the department or agency concerned shall indicate whether the facts and circumstances regarding the proposed adoption, amendment, or repeal of the rules have changed, compared to that information which was sent to me before the public hearing. A copy of the proposed rules shall be sent to the Attorney General for approval as to form prior to submitting the rules to my office for final approval.

ADMINISTRATIVE DIRECTIVE NO. 87-2

April 1, 1987

Page Three

If any changes have been made, please explain these revisions by providing me with updates of information requested in items 1 through 6 above. A copy of this information shall be concurrently sent to the Director of Finance and to the Director of Planning and Economic Development.

If the changes are determined to be substantial by the Attorney General, a second public hearing shall be held; in these situations, items 1 through 6 shall be completed.

Submit three copies of the proposed adoption, amendment, or repeal of the rules in accordance with Chapter 91, HRS, and in the clean format for my final approval. The original and a copy of the rules shall be signed by the director of the department, and by the chairperson of a board or commission when the rules are for a board or commission which is assigned to a department for administrative purposes; or by the chairperson of the board or commission of a principal department, and the Deputy Attorney General. The third copy may have a facsimile of the required signature.

Upon filing of the rules, one copy of the rules shall be returned to the department by the Office of the Lieutenant Governor.

Each department or agency adopting, amending, or repealing a rule, after my approval, shall submit certified copies of the rule in the Ramseyer and clean formats to the Legislative Auditor and Legislative Reference Bureau.

Your full cooperation in complying with provisions of this administrative directive is essential.



JOHN WAIHEE

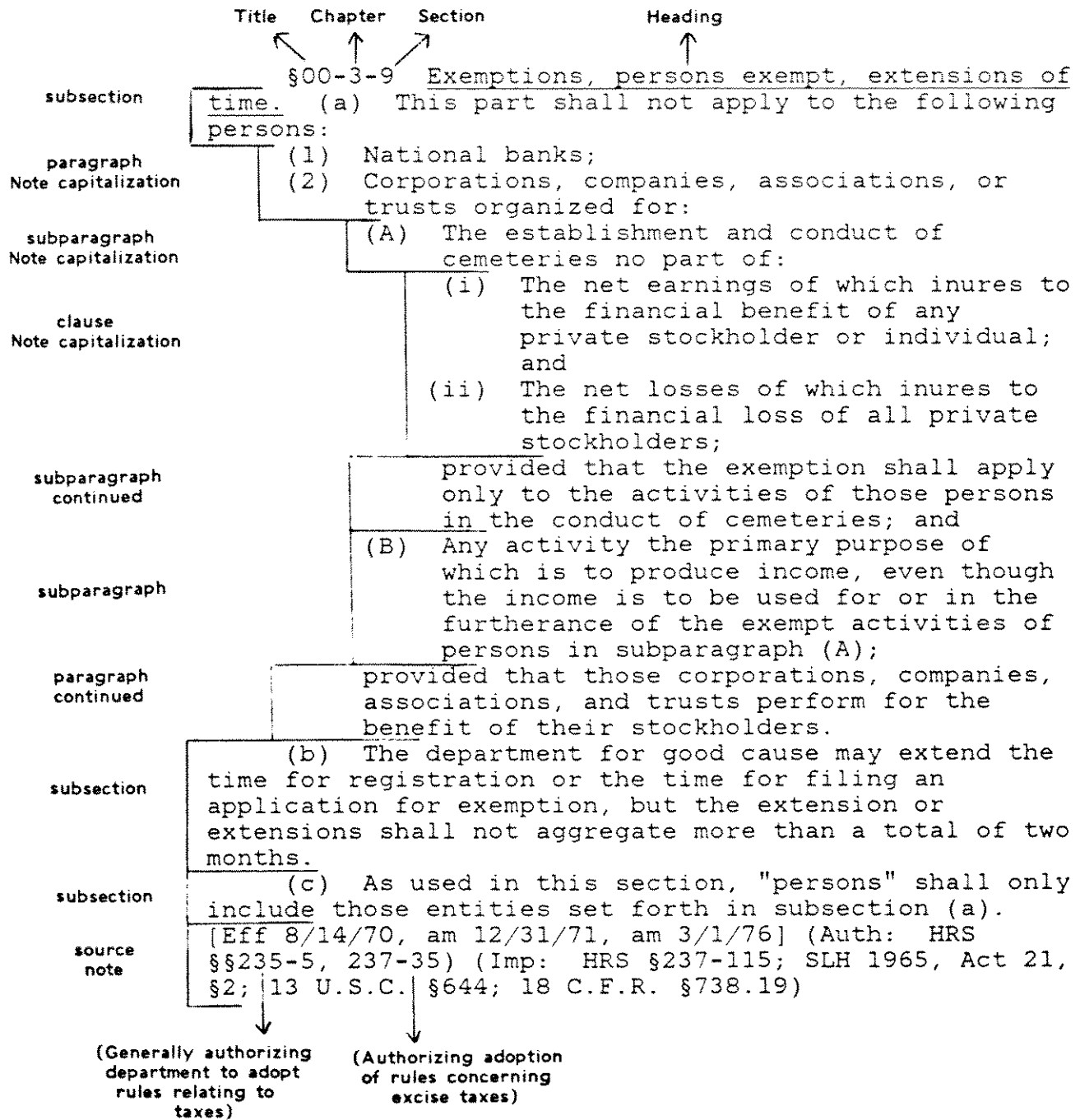
Appendix C  
Bill Drafting Manual, Sample Section

EXAMPLE OF STYLE

chapter number	section number	title	
"§000-00"		Exemptions, persons exempt, rules.	
	(a)	This chapter shall not apply to the following persons:	Subsection
Note capitalization	(1)	National banks;	Paragraph
	(2)	Corporations, companies, associations, or trusts organized for:	
Note capitalization	(A)	The establishment and conduct of cemeteries no part of:	Subparagraph
Note capitalization	(i)	The net earnings of which inures to the financial benefit of any private stockholder or individual; and	Clause
	(ii)	The net losses of which inures to the financial loss of all private stockholders; provided that the exemption shall apply only to the activities of such persons in the conduct of cemeteries; and	
			Subparagraph continued
	(B)	Any activity the primary purpose of which is to produce income, even though the income is to be used for or in the furtherance of the exempt activities of such persons;	Subparagraph
		provided that such corporations, companies, associations, and trusts perform for the benefit of their stockholders.	Paragraph continued
	(b)	The department shall establish rules concerning exemptions and may for good cause extend the time for registration or the time for filing an application for exemption, but the extension or extensions shall not aggregate more than a total of two months.	Subsection
	(c)	As used in this section "person" shall only include those entities set forth in paragraphs (1) and (2). [L 1961, c 187, §3; am L 1963, c 2, §2 and c 205, §3; Supp, §128-9.2; am L 1967, c 269, §1; HRS §000-00; am L 1975, c 157, §5; am L 1977, c 111, §2]	Source note

## Appendix D

### Administrative Rules Drafting Manual



Survey of Departments

LRB SURVEY ON STATE ADMINISTRATIVE CODE,  
REGISTER, AND BLUE BOOK  
OFFICE OF THE GOVERNOR

STATE REGISTER

A state register, like the Federal Register, is an official government publication providing current information on regulatory and other matters. In other states, issues of the register are commonly published on a weekly, bi-weekly, or monthly basis. Items which may be included are the full text or notices of proposed agency rules, recently adopted rules, public notices, recent supreme court or attorney general's opinions, or executive orders.

1. Do you believe your department would benefit from subscribing to a state register?

21 Yes                      1 No

Now please answer either (a) or (b).

- (a) IF YOU ANSWERED "NO", why do you believe your department would not benefit?

0 Never deal with rules from other departments

1 Adequate information available from other sources such as newspapers or contacts in the other agencies

1 Other (please specify)

Please go directly to section on State Administrative Code.

- (b) IF YOU ANSWERED "YES", why would your department benefit?

15 Need more information on what rules are being adopted by other agencies

16 Greatest benefit would be items other than rules, such as appellate court or attorney general's opinions, and executive orders or administrative directives

8 Other (please specify)

Please answer remaining questions.

2. How many subscriptions to the state register do you believe your department would reasonably need? (Assume for the purposes of this question that state agencies could receive subscriptions free of charge.) 283 to 358
3. States having a volume of rulemaking activity comparable to Hawaii charge anywhere from \$50 to \$250 for annual subscriptions to their state registers. The average was \$133. Assuming your department had to pay \$125 to \$150 per subscription out of its own budgeted funds, how many subscriptions would your department purchase? 130 to 135
4. What three items would most benefit your department if included in a state register?

10 Proposed agency rules

19 Final and emergency agency rules

13 Recent state appellate court decisions

21 Recent state executive orders, administrative directives, and attorney general's opinions

4 Public agency meeting notices

2 Other public notices (specify)

5. How much did your department spend during fiscal year 1986-1987 and fiscal year 1987-1988 to place each of the following categories of public notices in newspapers of general circulation. (If exact figures are not available, please approximate according to the best of your ability.)

	FY 1986-87	FY 1987-88
Public hearing notices relating to rulemaking	38,947.26	49,933.74
Notices for other public hearings or agency meetings	49,172.86	63,484.21
Solicitations for bids for public contracts	414,298.94	488,389.47
All other public notices	95,336.49	105,045.74
	597,755.55	706,853.16

## STATE ADMINISTRATIVE CODE

Statutes enacted by the legislature are codified and published in the Hawaii Revised Statutes. While state agency rules are subject to a uniform format, they have never been published in a formal state administrative code.

1. Do you believe your department would benefit from having a published code of state administrative agency rules?

21 Yes                      1 No

Now please answer either (a) or (b).

- (a) IF YOU ANSWERED "NO", why do you believe your department would not benefit?

0 Never deal with rules of other departments

0 Can easily get copies of rules from other departments if we need them

0 Other (explain)

Please go directly to section on Blue Books.

- (a) IF YOU ANSWERED "YES", why would your department benefit?

13 Better able to keep track of latest versions of our department's own rules

19 Need to refer to rules of other departments and not always easy to get them

11 Need a complete collection of rules so we won't miss anything

3 Other (explain)

Please answer remaining questions.

2. How many sets of a state administrative code do you believe your department would reasonably need? (Assume the sets were provided free of charge.) 261 to 361
3. States having a volume of administrative rules comparable to Hawaii charge anywhere from \$170 to \$1,000 for a main set of a state administrative code, plus \$20 to \$500 for supplements each year. The average was \$388 for a main set and \$133 for supplements. Assuming the cost of a Hawaii code was in the average range and your department had to purchase copies of the code out of its own budgeted funds, how many sets would your department purchase? 102 to 117
4. Would your department's need for a state administrative code be satisfied by having the state code as one of the searchable databases in the Legislative Reference Bureau's "Ho'ike" system? Yes - 11 No - 5
5. Instead of a published code containing the full text of all rules, would your agency's needs be satisfied by having a "directory" or detailed table of contents providing the section numbers and titles of all agency rules? (Assume that such a directory would be free of charge or at nominal cost.)

7 Yes 13 No

6. As of 1984, your department reported that the rules converted to the (uniform) Hawaii Administrative Rules format were stored as follows:

No rules in 1984. Please indicate what percentage of your department's rules are stored on some form of electronic media such as tapes, disks, or magnetic cards, and the type of system used.

Please indicate any changes in your method of storage.

7. Please list all rules of your department which need to be converted to the (uniform) Hawaii Administrative Rules format, and your timetable for conversion. Please include separate attachments if necessary.

## STATE BLUE BOOK

State blue books are government publications which serve as a type of almanac for that state. Categories of information commonly included are biographical information on state leaders; structures, functions, and duties of governmental agencies; and other pertinent information on the history, culture, demographics, and scenic attractions of the state.

1. If the state government published a blue book, would it be of use to your staff as a reference resource?

22 Yes                      0 No

If your answer is "Yes", how many copies could your department reasonably use? (assuming they were available free of charge.) 493

How many would your department purchase if they cost \$20 a copy? 193

2. Regardless of whether your department would need any copies for its own internal use, would the availability of a state blue book be helpful to your department as a means of providing information about your department and its programs to the business community and the general public?

22 Yes                      0 No

THANK YOU VERY MUCH FOR YOUR ASSISTANCE.

Questionnaire sent to all department heads. Question 6 of the State Administrative Code section varied according to each department as follows:

### OFFICE OF THE LT. GOVERNOR

6. As of 1984, your department reported that the rules converted to the (uniform) Hawaii Administrative Rules format were stored as follows:

None stored electronically as of June 15, 1984, but plan was to place approximately 50 per cent of rules on IBM Displaywriter diskettes.

Please indicate any changes in your method of storage.

### DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES

6. As of 1984, your department reported that the rules converted to the (uniform) Hawaii Administrative Rules format were stored as follows:

None stored electronically.

Please indicate any changes in your method of storage.

#### DEPARTMENT OF AGRICULTURE

6. As of 1984, your department reported that the rules converted to the (uniform) Hawaii Administrative Rules format were stored as follows:

Department did not respond in 1984. Please indicate what percentage of your department's rules are stored on some form of electronic media such as tapes, disks, or magnetic cards, and the type of system used.

#### DEPARTMENT OF AGRICULTURE

6. As of 1984, your department reported that the rules converted to the (uniform) Hawaii Administrative Rules format were stored as follows:

Department did not respond in 1984. Please indicate what percentage of your department's rules are stored on some form of electronic media such as tapes, disks, or magnetic cards, and the type of system used.

#### DEPARTMENT OF BUDGET AND FINANCE

6. As of 1984, your department reported that the rules converted to the (uniform) Hawaii Administrative Rules format were stored as follows:

Department did not respond in 1984. Please indicate what percentage of the rules of your department (and agencies attached for administrative purposes) are stored on some form of electronic media such as tapes, disks, or magnetic cards, and the type of system used.

#### DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

6. As of 1984, your department reported that the rules converted to the (uniform) Hawaii Administrative Rules format were stored as follows:

All rules stored on Xerox 860 IPS diskettes.

Please indicate any changes in your method of storage.

#### DEPARTMENT OF AGRICULTURE

6. As of 1984, your department reported that the rules converted to the (uniform) Hawaii Administrative Rules format were stored as follows:

Department did not respond in 1984. Please indicate what percentage of your department's rules are stored on some form of electronic media such as tapes, disks, or magnetic cards, and the type of system used.

#### DEPARTMENT OF EDUCATION

6. As of 1984, your department reported that the rules converted to the (uniform) Hawaii Administrative Rules format were stored as follows:

All rules stored on IBM diskettes.

Please indicate any changes in your method of storage.

#### DEPARTMENT OF HAWAIIAN HOME LANDS

6. As of 1984, your department reported that the rules converted to the (uniform) Hawaii Administrative Rules format were stored as follows:

Approximately 20 per cent on IBM diskettes. Remainder erased from mag cards.

Please indicate any changes in your method of storage.

#### DEPARTMENT OF HEALTH

6. As of 1984, your department reported that the rules converted to the (uniform) Hawaii Administrative Rules format were stored as follows:

Variety of Wang, IBM mag card, Xerox, Brother EM-200 microdisk, and IBM Displaywriter. (See attached)

Please indicate any changes in your method of storage.

#### DEPARTMENT OF PERSONNEL SERVICES

6. As of 1984, your department reported that the rules converted to the (uniform) Hawaii Administrative Rules format were stored as follows:

All on mag card.

Please indicate any changes in your method of storage.

#### DEPARTMENT OF BUSINESS AND ECONOMIC DEVELOPMENT

6. As of 1984, your department reported that the rules converted to the (uniform) Hawaii Administrative Rules format were stored as follows:

All rules on WANG diskettes except Land Use Commission, which is on Tr-L Executive Series Word Star System.

Please indicate any changes in your method of storage.

## DEPARTMENT OF TRANSPORTATION

6. As of 1984, your department reported that the rules converted to the (uniform) Hawaii Administrative Rules format were stored as follows:

Airports rules--mag card; harbors rules--IBM Displaywriter diskettes; MVSO rules--IBM system 6 diskettes; administration and highways--erased from IBM mag cards.

Please indicate any changes in your method of storage.

## DEPARTMENT OF LAND AND NATURAL RESOURCES

6. As of 1984, your department reported that the rules converted to the (uniform) Hawaii Administrative Rules format were stored as follows:

Did not respond in 1984. Please indicate what percentage of your department's rules are stored on some form of electronic media such as tapes, discs, or magnetic cards, and the type of system used.

## UNIVERSITY OF HAWAII

6. As of 1984, your department reported that the rules converted to the (uniform) Hawaii Administrative Rules format were stored as follows:

Did not respond in 1984. Please indicate what percentage of your department's rules are stored on some form of electronic media such as tapes, discs, or magnetic cards, and the type of system used.

## JUDICIARY

6. As of 1984, your department reported that the rules converted to the (uniform) Hawaii Administrative Rules format were stored as follows:

No rules subject to Administrative Procedure Act in 1984. Please indicate what percentage of your department's rules are stored on some form of electronic media such as tapes, discs, or magnetic cards, and the type of system used.

## DEPARTMENT OF HUMAN SERVICES

6. As of 1984, your department reported that the rules converted to the (uniform) Hawaii Administrative Rules format were stored as follows:

Greatest volume on IBM Displaywriter (administration, and welfare), and IBM II mag card (HHA).

Please indicate any changes in your method of storage.

DEPARTMENT OF TAXATION

6. As of 1984, your department reported that the rules converted to the (uniform) Hawaii Administrative Rules format were stored as follows:

*No storage on magnetic medium.*

Please indicate any changes in your method of storage.

## Appendix F

### Terminals with Access to Ho'iike 10/88

LRB Research	18
LRB Library	11
LRB LISO	7
House of Representatives	13
Senate	20
Total	69

#### Departments:

State Capitol	15
Aliiolani Hale	8
Archives Bldg.	1
Gold Bond Bldg.	5
Kalanimoku Bodg.	12
Kamamalu Bldg.	4
Keelikolani Bldg.	3
Kinau Hale	2
Liliuokalani Bldg.	9
1111 Alakea Street	7
1455 Beretania Street	1
1000 Bishop Street	1
1164 Bishop Street	1
3949 Diamond Head Road	1
725 Ilalo Street	2
465 S. King Street	1
1428 S. King Street	4
333 Merchant Street	1
335 Merchant Street	4
1390 Miller Street	1
99-762 Moanalua Road	2
79 S. Nimitz Highway	2
777 Punchbowl Street	3
869 Punchbowl Street	2
425 Queen Street	2
1002 N. School Street	3
200 N. Vineyard Blvd.	2
Honolulu Airport	2
University of Hawaii	2
Island of Hawaii	5
Island of Kauai	4
Island of Maui	3
Total	115

#### City:

City Hall	11
Municipal Bldg.	10
Blaisdell Center	1
Fire Department	3
Prosecutors	2
Island of Hawaii	2
Island of Kauai	5
Island of Maui	1
Total	35

Appendix G  
Blue Book Survey

HAWAII  
BLUE BOOK SURVEY

State \_\_\_\_\_

PUBLICATION

Authorized by statute?

\_\_\_\_ Yes Statute cite: \_\_\_\_\_  
\_\_\_\_ No

State Agency Responsible for Production:

\_\_\_\_ Secretary of State  
\_\_\_\_ Office of Administration  
\_\_\_\_ Other (please specify) \_\_\_\_\_  
\_\_\_\_ None (purely private publication)

Publisher (photo composition and printing):

\_\_\_\_ State (in-house)  
\_\_\_\_ Private

How Often Published:

\_\_\_\_ Annually  
\_\_\_\_ Biennially  
\_\_\_\_ Other (please specify) \_\_\_\_\_

Year Last Published: \_\_\_\_\_

VOLUME

Number of books printed in most recent edition: \_\_\_\_\_

Number of pages per book in most recent edition: \_\_\_\_\_

SALES/DISTRIBUTION

Total Printing Expenses: \_\_\_\_\_

Price/Book: \_\_\_\_\_

State Subsidy (if any): \_\_\_\_\_

Total Distribution: \_\_\_\_\_

Is the Publication Free?

\_\_\_\_ All free  
\_\_\_\_ None free  
Approximately \_\_\_\_\_ % of the total copies distributed  
were distributed free.

Sales Promotion Methods:

\_\_\_\_ No promotional efforts  
\_\_\_\_ Brochures, leaflets, other materials  
\_\_\_\_ Other (please describe): \_\_\_\_\_

Distributed to whom: (check all appropriate)

	FREE? Yes or No
____ All legislators	_____
____ Individual purchasers	_____
____ walk-in	_____
____ mail order	_____
____ State libraries	_____
____ Public schools	_____

Physical Attributes of Publication

Type of binding:  
\_\_\_\_ Hard bound  
\_\_\_\_ Paper bound  
\_\_\_\_ Loose leaf

Size:

\_\_\_\_ Standard (approximately 6" X 9-1/2")  
\_\_\_\_ Half size (approximately 4" X 6")  
\_\_\_\_ Other (please specify): \_\_\_\_\_

Photos/Illustrations:  
☐ Color  
☐ Black and White

CONTENTS (Please check all as appropriate)

Congressional Delegation:  
☐ Photographs and biographies of members  
☐ List of former members

Executive Branch:  
☐ Photographs and biographies of elected officials  
☐ Description of State agencies  
☐ Description of Boards  
☐ Description of Commissions  
☐ Description of Interstate Compacts  
☐ State finances

Legislative Branch:  
☐ Photographs and biographies of Legislators  
☐ Information about legislative districts  
☐ Information about committee membership

Judicial Branch:  
☐ Information about judicial districts  
☐ Photographs and biographies of Judges/Supreme Court Justices

Charts, Maps, or Graphs Included?  
☐ Yes  
☐ No

State Facts and History:  
☐ Yes  
☐ No

Economy:  
☐ Employment  
☐ Income  
☐ Agriculture  
☐ Manufacturing  
☐ Travel and tourism

Demographics:  
☐ Population statistics

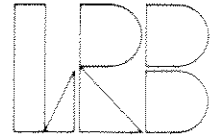
Recreation:  
☐ State parks  
☐ National forests, parks  
☐ Other (please specify)

Education:  
☐ Information about State Board of Education  
☐ Information about community colleges  
☐ Information about State universities  
☐ Other state facilities (corrections, highways, health facilities, etc.)

Political Information:  
☐ Description of the election process  
☐ General election results for the State  
☐ Counties, municipalities, other political subdivisions

Media:  
☐ Information about newspapers  
☐ Information about periodicals  
☐ Information about radio  
☐ Information about television

SOURCES OF INFORMATION:



LEGISLATIVE REFERENCE BUREAU  
State of Hawaii  
State Capitol  
Honolulu, Hawaii 96813  
Phone (808) 548-6237

**LEGISLATIVE REFERENCE BUREAU SURVEY ON  
STATE ADMINISTRATIVE CODE AND REGISTER**

TO: COMPANY PRESIDENT OR CEO  
FROM: Samuel B. K. Chang, Director

The Hawaii State Legislature has directed the Legislative Reference Bureau (LRB) to study the feasibility of publishing a state administrative code, register, and blue book. The cost of these publications is directly related to the number of copies published. Accordingly, the LRB is trying to ascertain whether there is any interest in the business and legal communities in purchasing these publications.

We would sincerely appreciate your taking a few moments to complete this survey and return it to the Legislative Reference Bureau court jacket in the office of the Clerk of the First Circuit Court, or by mailing it to the Legislative Reference Bureau, State Capitol Room 004, Honolulu, HI 96813-2407 BY SEPTEMBER 20, 1988.

Please contact Ken H. Takayama at 548-6237 if you have any questions.

**STATE ADMINISTRATIVE CODE**

State statutes enacted by the legislature are codified and published in the Hawaii Revised Statutes. While rules adopted by state administrative agencies also have the force and effect of law, there is no published code similar to the HRS for rules.

1. Do you believe your company would benefit from having a published code of state administrative agency rules?

104 Yes

65 No

Now please answer either (a) or (b).

- (a) IF YOU ANSWERED "NO", why do you believe your company would not benefit?

22 Never deal with administrative agency rules

41 Can easily get copies of rules from the agencies we deal with

4 Other (explain)

Please Go Directly to Section on State Registers

(Over)

(b) IF YOU ANSWERED "YES", why would your company benefit?

- 76 Better able to keep track of latest versions of rules
- 31 Have difficulty obtaining copies from agencies
- 75 Need a complete collection of rules so we won't miss anything
- 2 Other (explain)

**Please Answer Remaining Questions**

2. States having a volume of administrative rules comparable to Hawaii charge anywhere from \$170 to \$1000 for a state administrative code, plus \$20 to \$500 for each year supplements. The average was \$388 for the main set and \$133 for supplements. Assuming a Hawaii state administrative code would cost \$388 for the main set, would your company purchase a set?

49 Yes                      51 No

If you answered "No", what is the reason for your answer?

- 9 Can get needed rules from agencies for cheaper cost
- 16 Worth the price, but company cannot afford the cost
- 26 Need not great enough to justify cost
- 3 Other (please explain)

3. What is the MOST your company would pay for a MAIN set. Assume for purposes of this question that the cost of supplements would remain constant at \$125 to \$150 a year.

<u>39</u> \$250	<u>3</u> \$ 750
<u>11</u> \$350	<u>1</u> \$1,000
<u>41</u> \$500	

4. Would your company's need for a state administrative code be satisfied by having copies available at public libraries?

42 Yes                      57 No

5. Instead of printed volumes, would your company prefer to have access to the rules on a searchable computer database? (Assume the cost would not exceed the amount for a printed code.)

55 Yes                      41 No

6. Instead of a code, would your company's needs be satisfied by having a "directory" or detailed table of contents providing the section numbers and titles of all agency rules? (Assume the cost would not exceed \$25).

56 Yes                      43 No

## STATE REGISTERS

A state register is an official state publication providing current information on regulatory matters. In other states issues are commonly published on a weekly or monthly basis. Items which may be included are the full text or notices of proposed agency rules, recently adopted rules, public notices, recent supreme court opinions, or attorney general's opinions.

1. Do you believe your company would benefit from subscribing to a state register?

83 Yes

77 No

Now please answer either (a) or (b).

- (a) IF YOU ANSWERED "NO", why do you believe your company would not benefit?

20 Never deal with state administrative agency rules

57 Adequate information available from other sources such as newspapers or agency contacts

3 Other (please specify)

**Please Go Directly to Section on "Blue Book"**

- (b) IF YOU ANSWERED "YES", why would your company benefit?

42 Currently have difficulty getting copies of full text of new rules or proposals

29 Published notices of proposed rules don't give enough information

33 Greatest benefit would be items other than rules, such as supreme court or attorney general's opinions

10 Other (please specify)

**Please Answer Remaining Questions**

2. States having a volume of rulemaking activity comparable to Hawaii charge anywhere from \$50 to \$250 for annual subscriptions to their state registers. The average was \$133. Assuming a Hawaii state register subscription would cost \$133, would your company subscribe?

52 Yes

23 No

3. What is the MOST your company would pay per year for a subscription to a state register?

25 \$100

3 \$125

27 \$150

5 \$200

9 \$250

4. Would your company's need for a state register be satisfied by having copies available at public libraries?

28 Yes

50 No

5. What three items would most benefit your company if included in a state register?

54 Proposed agency rules  
64 Final agency rules  
42 Recent state appellate court decisions  
58 Recent state executive orders or attorney general's opinions  
21 Public agency meeting notices  
0 Other public notices (specify)

### STATE BLUE BOOK

State blue books are government publications which serve as a type of almanac for that state. Items of information commonly included are biographical information on state leaders; structures, functions, and duties of governmental agencies; and other pertinent information on the history, culture, demographics, and scenic attractions of the state.

1. If the state government published a blue book at a reasonable price, would your company purchase it?

104 Yes 60 No

2. Most states that publish blue books sell them for less than \$20. What is the MOST your company would pay for a blue book?

35 \$5 73 \$20 25 \$35

### GENERAL INFORMATION

1. How many employees does your company have?

23 Less than 5 20 5 to 10 24 11 to 25  
22 26 to 50 15 51 to 100 62 Over 100

2. Which category BEST describes your company? (Check only 1)

<u>10</u> Law firm	<u>14</u> Manufacturing	<u>7</u> Distribution
<u>12</u> Retail	<u>20</u> Financial service	<u>4</u> Hotel/recreation
<u>1</u> Restaurant	<u>8</u> Transportation	<u>5</u> Medical service
<u>14</u> Real property/sales/ management/services	<u>40</u> Other service	<u>33</u> Other (specify)

THANK YOU VERY MUCH FOR YOUR ASSISTANCE.

Please return as indicated on page 1.