

SB2310

LINDA LINGLE
GOVERNOR



RUSS K. SAITO
Comptroller

SANDRA L. YAHIRO
Deputy Comptroller

**STATE OF HAWAII
DEPARTMENT OF ACCOUNTING
AND GENERAL SERVICES**

P.O. BOX 119
HONOLULU, HAWAII 96810-0119

WRITTEN TESTIMONY
OF
RUSS K. SAITO, COMPTROLLER
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
TO THE
SENATE COMMITTEES
ON
JUDICIARY AND GOVERNMENT OPERATIONS
AND
TRANSPORTATION, INTERNATIONAL AND INTERGOVERNMENTAL AFFAIRS
ON
FEBRUARY 5, 2010

S.B. 2310

RELATING TO GOVERNMENT RECORDS

Chair Taniguchi, Chair English, and members of the Committees, thank you for the opportunity to present written testimony on S.B. 2310.

The Department of Accounting and General Services (DAGS) recommends that this bill be held. This bill sets a maximum fee for reproducing a government record at not more than ten cents per page, sheet, or fraction thereof.

Fees for reproducing government records are set in accordance with rules adopted by the agency having control of the records and are determined by the cost of labor to search and reproduce records, material costs, equipment costs, including rental/maintenance costs, and other related costs. Just the equipment and material costs exceed 10 cents per page and the cost of wide format (up to 36 inches wide) copies is significantly higher.

Fees for the reproduction of records in the State Archives are governed by Hawaii Administrative Rules (HAR), Title 3, Chapter 20, Rules Governing the Public Use of the State Archives and Records Center and Schedule of Fees for Special Services. The State Archives currently charges 25 cents per page for records measuring less than 8-1/2 x 14", and 5 dollars a page for records over 8-1/2 x 14".

Fees for the reproduction of records in the Land Survey Division are governed by HAR, Title 3, Chapter 40, Rules Governing the Public Use of the Land Survey Division Maps, Descriptions and Records and Schedule of Fees for Services, Maps and Other Record Data. The Land Survey Division currently charges \$1 per page for copies using the Xerox copier, and \$6 for the first square foot plus 15 cents per additional square foot for copies using the wide format Xerox copier.

DAGS believes that these fees are necessary to recover a portion of the actual costs to reproduce documents.

Thank you for the opportunity to present written testimony on this matter.

LINDA LINGLE
GOVERNOR



STATE OF HAWAII
DEPARTMENT OF PUBLIC SAFETY
919 Ala Moana Boulevard, 4th Floor
Honolulu, Hawaii 96814

CLAYTON A. FRANK
DIRECTOR

DAVID F. FESTERLING
Deputy Director
Administration

TOMMY JOHNSON
Deputy Director
Corrections

JAMES L. PROPOTNICK
Deputy Director
Law Enforcement

No. _____

TESTIMONY ON SENATE BILL 2310
RELATING TO GOVERNMENT RECORDS
by
Clayton A. Frank, Director
Department of Public Safety

Senate Committee on Judiciary and Government Operations
Senator Brian T. Taniguchi, Chair
Senator Dwight Y. Takamine, Vice Chair

Senate Committee on Transportation, International and Intergovernmental Affairs
Senator J. Kalani English, Chair
Senator Mike Gabbard, Vice Chair

Friday, February 5, 2010; 10:30 AM
State Capitol, Conference Room 016

Senator Taniguchi, Senator Takamine, Senator English, Senator Gabbard, and
Members of the Committees:

The Department of Public Safety (PSD) opposes this measure because the amended maximum amount that can be charged for the duplication of records, ten cents, does not cover the cost of duplication of records by the department. By setting a maximum amount of ten cents for duplication of records in statute, there is no allowance for inflation without going through the legislative process to amend the law. This would only set up repeated legislative initiatives based on the status of the economy. If this measure is passed, given the current cost of duplication, as well as the current economic situation, the required duplication of records by PSD and other state agencies would create a deficit that would draw fiscal resources from other core elements of the departments.

Senate Bill 2310
February 5, 2010
Page 2

Based on the foregoing reasons, PSD strongly opposes this measure due to its negative impact on the priorities set forth in the Executive Supplemental Budget for Fiscal Year 2010-2011.

Thank you for the opportunity to provide testimony on this measure.

DEPARTMENT OF PLANNING AND PERMITTING
CITY AND COUNTY OF HONOLULU

650 SOUTH KING STREET, 7TH FLOOR • HONOLULU, HAWAII 96813
TELEPHONE: (808) 768-8000 • FAX: (808) 768-8041
DEPT. WEB SITE: www.honolulu.dpp.org • CITY WEB SITE: www.honolulu.gov

MUFI HANNEMANN
MAYOR



DAVID K. TANOUE
DIRECTOR

ROBERT M. SUMITOMO
DEPUTY DIRECTOR

February 5, 2010

The Honorable Brian T. Taniguchi, Chair
and Members of the Committee on Judiciary
and Government Operations
The Honorable J. Kalani English, Chair
and Members of the Committee on Transportation,
International and Intergovernmental Affairs
State Senate
State Capitol
Honolulu, Hawaii 96813

Dear Chairs Taniguchi, English, and Members:

**Subject: Senate Bill No. SB 2310
Relating to Government Records**

The Department of Planning and Permitting (DPP) **opposes** Senate Bill No. 2310 because it sets a bad precedent that may increase costs to the department and encourages the use of paper products which are a critical resource. The proposed cap does not exclude large format hard copy products (i.e., maps, graphics) which can have a page size as large as or larger than 36" x 24".

Oftentimes the information requested via hard copy can be accessed online via the internet or using other forms of electronic media (i.e., cd, email, ftp). In general, this saves resources and helps defray costs associated with purchasing paper supplies and ink, as well as labor to produce the printed copy. Nowadays, most information is readily available online and kept up-to-date.

For those who don't own a computer or have access to the internet, printing hard copies may be appropriate. However the price for large format documents larger than 'Legal' size (8.5" x 14") should not be 'capped'. Information such as maps, are sometimes requested on large format that is costly to produce. We should be able to charge a fee that is more in sync with the actual cost of the product that is ordered. Keeping the price of large format documents higher may reduce the frequency of requests, discourage wasteful practices, and encourage the use of electronic media.

The Honorable Brian T. Taniguchi, Chair
and Members of the Committee on Judiciary
and Government Operations

The Honorable J. Kalani English, Chair
and Members of the Committee on Transportation,
International and Intergovernmental Affairs

State Senate
February 5, 2010
Page 2

Accordingly, we respectfully request that Senate Bill No. 2310 either be held or filed.

Thank you for the opportunity to testify.

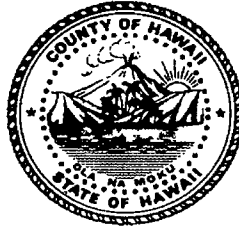
Very truly yours,


David K. Tanoue, Director
Department of Planning and Permitting

DKT: jmf

sb2310-jh.doc

KENNETH G. GOODENOW
County Clerk



RODNEY OSHIRO
Deputy County Clerk

County of Hawai'i
Office of the County Clerk
25 Aupuni Street
Hilo, Hawai'i 96720
Telephone: (808) 961-8255
Facsimile: (808) 961-8912

February 4, 2010

The Honorable Senator Brian Taniguchi,
Chair, and Members of the Committee on Judiciary & Government Affairs
The Honorable Senator Kalani English,
Chair, and Members of the Committee on Transportation, International and Intergovernmental
Affairs
Hawai'i State Capitol
415 South Beretania Street
Honolulu, Hawai'i 96813

Re: Testimony in Opposition to Senate Bill 2310, Relating To Government Records
Hearing Friday, February 5, 2010, 10:30 a.m., Conference Room 016

Dear Chair Taniguchi, Chair English and Senators:

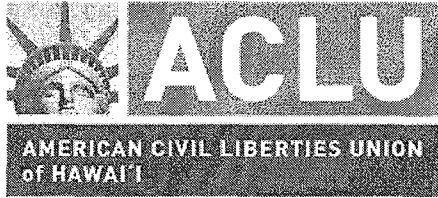
The Office of the County Clerk, County of Hawai'i opposes this bill which limits our authority to charge a reasonable duplication fee. The cost of government continues to rise.

The following is our current duplication fee structure as per Section 2-104 of the Hawai'i County Code which has not been changed since 1977:

- “(a) Duplicated copy of any record (by duplicating machines, including, but not limited to, microfilm printer, Thermofax, Verifax, Xerox, Offset, Mimeograph, etc.)... . \$ 1.00
- Each additional page or copy thereof.....\$.10
- (c) Ordinances, resolutions and chapters of the Hawai'i County Code:
 - 1 -- 20 pages.....\$ 1.00
 - 21 -- 50 pages.....\$ 2.00
 - 51 -- 100 pages.....\$ 5.00
 - 101 250 pages.....\$ 8.00
 - 251 500 pages.....\$20.00
 - 501 and over pages.....\$30.00”

We ask that this bill be filed.

Sincerely;
Rodney Oshiro
Deputy County Clerk



Via E-mail: JGOTestimony@Capitol.hawaii.gov
Committee: Committee on Judiciary and Government Operations
Committee on Transportation, International and Intergovernmental Affairs
Hearing Date/Time: Friday, February 5, 2010, 10:30 a.m.
Place: Room 016
Re: Testimony of the ACLU of Hawaii in Support of SB 2310, Relating to Government Records

Dear Chair Taniguchi, Chair English, and Members of the Committees on Judiciary and Government Operations and Transportation, International and Intergovernmental Affairs:

The American Civil Liberties Union of Hawaii (“ACLU of Hawaii”) writes in support of SB 2310, which clarifies that government agencies may charge up to, but not more than, ten cents per page when responding to requests to access government records.

Currently, government agencies routinely charge fifty cents a page to access government records. These exorbitant fees contravene the Legislature’s intent in passing the Uniform Information Practices Act (“UIPA”), which was to “[p]romote the public interest in disclosure,” “[e]nhance governmental accountability through a general policy of access to government records,” and “[m]ake government accountable to individuals in the collection, use, and dissemination of information relating to them[.]” Hawaii Revised Statutes (“HRS”) § 92F-2. HRS § 92-21, which allows for collection of a “reasonable” fee for photocopies, was intended to allow government agencies to recoup their actual costs for producing government records – not to discourage citizens from obtaining the records to which they are entitled. Unfortunately, the very high cost of obtaining records means that many individuals and organizations are effectively prohibited from procuring records, thus undermining the goal of transparency the Legislature intended in passing UIPA. Fifty cents per page – for photocopying alone – is an outrageous sum, and the ACLU strongly supports the Legislature’s efforts to curb these excessive fees.

The mission of the ACLU of Hawaii is to protect the fundamental freedoms enshrined in the U.S. and State Constitutions. The ACLU of Hawaii fulfills this through legislative, litigation, and public education programs statewide. The ACLU of Hawaii is a non-partisan and private non-profit organization that provides its services at no cost to the public and does not accept government funds. The ACLU of Hawaii has been serving Hawaii for over 40 years.

American Civil Liberties Union of Hawaii
P.O. Box 3410
Honolulu, Hawai'i 96801
T: 808.522-5900
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Hon. Sen. Taniguchi, Chair, JGO Committee,
Hon. Sen. English, Chair, TIA Committee,
and Members Thereof
February 5, 2010
Page 2 of 2

Thank you for this opportunity to testify.

Sincerely,

A handwritten signature in black ink, appearing to read 'D. M. Gluck', written in a cursive style.

Daniel M. Gluck
Senior Staff Attorney
ACLU of Hawaii

American Civil Liberties Union of Hawai'i
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