

OFFICE OF INFORMATION PRACTICES

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To: House Committee on Judiciary

From: Cheryl Kakazu Park, Director

Date: February 10, 2012, 2:00 p.m.
State Capitol, Room 325

Re: Testimony on H.B. No. 2404
Relating to Public Information

Thank you for the opportunity to testify in support of House Bill No. 2404. The purpose of this bill is to insert into the state's Sunshine Law, which is part I of HRS chapter 92, a requirement that boards post their minutes on the boards' websites or alternatively, a State or county website. The Office of Information Practices (OIP) supports this bill because both the public and boards would benefit from increased online accessibility to the boards' minutes.

Currently, the Sunshine Law requires every board to make the minutes of each public meeting available, upon request, within thirty days after the meeting, except for executive meeting minutes. The law does not require that the minutes be approved by the board prior to posting. Thus, OIP has advised in a formal opinion that when members of the public ask for copies or inspection of a board's minutes after thirty days has passed since its public meeting, the board must disclose the minutes, regardless of whether the minutes are in final or draft form or have been officially approved by the board. See OIP Op. Ltr. No. 02-06. OIP has also conducted workshops and provided advice to train boards on how to prepare meeting minutes.

Notably, several boards already post their minutes online. OIP believes that the public as well as boards themselves benefit from online posting of minutes because members of the public can readily view the minutes online without having to submit a request to the board every time that they want to inspect or get copies of the minutes. The boards also benefit because the public's ability to view a board's minutes online reduces the number of requests for inspection or copies of the minutes to which the board must respond.

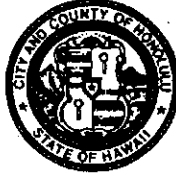
OIP understands that this bill would have an impact on the few boards that often may be unable to have their draft or final minutes prepared and available within the thirty days after their meetings. Currently, a board's failure to comply with the Sunshine Law's disclosure requirement for minutes is only revealed when the board is unable to respond to a request for inspection or copies of the minutes after thirty days has passed following its public meeting. This bill, however, would make readily apparent to anyone viewing the board's website any failure to post its minutes within the Sunshine Law's thirty-day time limit. As such, the bill simply encourages boards to promptly comply with existing law and is consistent with the Sunshine Law's intent to protect the people's right to know.

Thank you for considering our testimony.

DEPARTMENT OF PLANNING AND PERMITTING
CITY AND COUNTY OF HONOLULU

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PETER B. CARLISLE
MAYOR



DAVID K. TANOUE
DIRECTOR

JIRO A. SUMADA
DEPUTY DIRECTOR

February 10, 2012

The Honorable Gilbert S. C. Keith-Agaran, Chair
and Members of the Committee on Judiciary
House of Representatives
State Capitol
Honolulu, Hawaii 96813

Dear Chair Keith-Agaran and Committee Members:

Subject: House Bill No. 2404
Relating to Open Government

The Department of Planning and Permitting **supports** House Bill No. 2404 with one amendment. This Bill requires all government agencies, boards, commissions, and committees to post the minutes of their meetings online.

For the most part, the proposed change would reduce costs associated with printing and mailing of documents while improving public access to minutes for government agencies, boards, commissions, and committees.

The Department requests that the Bill be amended to allow the minutes of the boards to be removed from the Web two years after they are first posted.

After two years, most minutes are only of interest to those doing historical research. Agendas and minutes are permanent records that the boards must retain or archive for perpetuity. Such historical research needs can be easily met by providing access to the board files or archives and do not require the use of valuable Web space.

Please pass House Bill No. 2404 with the requested amendment. Thank you for the opportunity to testify.

Very truly yours,

A handwritten signature in black ink, appearing to read "David K. Tanoue", is written over a horizontal line.

David K. Tanoue, Director
Department of Planning and Permitting

DKT:js
hb2404 minutes-k



House JUD Committee
Chair Gilbert Keith-Agaran, Vice Chair Karl Rhoads

Friday 2/10/12 at 2:00PM in Room 325
HB 2404 – Public Information

TESTIMONY

Nikki Love, Executive Director, Common Cause Hawaii

Chair Keith-Agaran, Vice Chair Rhoads, and Committee Members:

Common Cause Hawaii supports HB2404. This bill amends the Sunshine Law to require that government agencies, boards, commissions, and committees to post the minutes of their meetings online.

This measure is a good step to improving public access. Some agencies already do post their minutes online, and this makes it convenient for citizens to monitor the proceedings, become informed, and participate.

We ask the Committee to clarify that meeting minutes still should be available in hard copy if requested by a member of the public. This option is important to continue, since some citizens do not have easy access to the Internet, or might have difficulty finding the agency's website, or may run into problems when attempting to download or open the document.

Mahalo for the opportunity to submit testimony.



Hawaii Chapter

February 10, 2012

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Rep. Karl Rhoads, Vice Chair

Testimony of Associated Builders and Contractors, Hawaii Chapter in
Strong Support of HB 2404

Chair Keith-Agaran, Vice Chair Rhoads & Members of the Committee.

Thank you for the opportunity to testify on this bill. My name is Malcolm Barcarse, Jr. I am the 2012 Board Chair and Legislative Committee Chair for Associated Builders and Contractors Hawaii Chapter. We are an association of over 150 members representing Merit Shop Contractors in the State of Hawaii.

We strongly support HB 2404. Organizations such as ours have interactions with a wide variety of governmental entities. This bill will allow us to be informed of the activities of Government in an efficient manner. By being better informed of the activities of governmental entities, organizations such as ours can participate more effectively and provide valuable insight to these entities.

Thank you for the opportunity to testify.

America's Best Contractors

Written Statement of
YUKA NAGASHIMA
Executive Director & CEO
High Technology Development Corporation
before the
COMMITTEE ON JUDICIARY
Friday, February 10, 2012
2:00 PM
State Capitol, Conference Room 325

In consideration of
HB 2404 RELATING TO PUBLIC INFORMATION.

Chair Keith-Agaran, Vice Chair Rhoads, and Members of the Committee on Judiciary:

The High Technology Development Corporation (HTDC) supports the intent of HB 2404 requiring all government agencies, boards, commissions, and committees to post the minutes of their meetings online.

HTDC agrees that it is appropriate to move digital and make documents more accessible to the public by posting minutes online. We would like to point out for consideration that to accomplish this, **all agencies must have administrative control over their websites and/or structure their websites so posting of minutes can be done quickly and easily with minimal cost.**

Thank you for the opportunity to submit testimony on HB 2404.

PETER L. FRITZ
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E-MAIL: PLFLEGIS@FRITZHQ.COM

**HOUSE OF REPRESENTATIVES
THE TWENTY-SIXTH LEGISLATURE
REGULAR SESSION OF 2012**

COMMITTEE ON JUDICIARY

**Hearing Date: February 10, 2012
Testimony on H.B. 2404
(Relating to Public Information)**

Chair Keith-Agaran, Vice-Chair Rhoads, and members of the Committee, my name is Peter Fritz. I am an individual with a disability, past member and Chair of the State Rehabilitation Committee, member and past Chair of the Disability and Communications Access Board and an attorney. I am testifying in my individual capacity **in support opposition to House Bill 2404 as currently drafted** because it would reduce access for the disabled.

This bill will require all public agencies, boards, commissions and committees to post minutes of their meetings online.

As currently drafted, it is more likely than not that this bill would reduce access to such records for the disabled.

- Agencies are not ready to provide documents in an accessible format for the individuals who have vision disabilities or motor impairments. For example:
 - The Hawaii Civil Rights Commission recently held a hearing on Proposed Amendments to Chapter 12-46 Subchapter 9, Hawaii Administrative Rules, employment discrimination rules. Prior to the hearing, a copy of the proposed amendments was posted on their website THAT WAS NOT ACCESSIBLE using JAWS or ZoomText. This meant that individuals with visual impairments were excluded from participation at the hearing held by the HCRC on the proposed rules. The HCRC was informed of this problem; however, they chose not to hold the hearing and submit the proposed amendments to the Governor for his signature. If the agency responsible for enforcing disability rules cannot get it right, what hope is there for other agencies?
 - The PDF copy of the Statewide Plan for Disabilities was not accessible using ZoomText and was difficult to read using JAWS. The document was published by the Department of Vocational Rehabilitation.
 - The PDF copy of the Statewide Plan for Independent Living was not accessible using ZoomText and was difficult to access using JAWS.
- Standards need to be developed in rules for posting of electronic notices. Currently, it can be very difficult to find notices of agencies that have chosen to publish information on their

website. Penalties need to be developed for failure to comply with these rules and provisions added to the powers of the Office of Information Practices to enforce violations. If this measure is to be passed, it should have an effective date that go into effect after rules are adopted. Some areas that need to be addressed are:

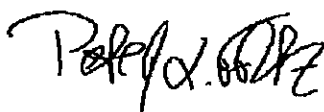
- Where such notices are to be placed on the Agency's website. Examples of current problems are:
 - Notices for meetings of the Tax Review Commission ("Tax Review Commission") are not posted on the page for the Tax Review Commission but are posted on another page on the Department of Taxation's website. Someone looking for the notice of a meeting of the TRC that "Goggles" the Hawaii Tax Review Commission, clicks on the address for the TRC and goes directly to the page would not be informed of a meeting. There is no separate telephone number to call the TRC to request information.
 - The Statewide Independent Living Council publishes notices of meetings under "Forums." It is not posted under "News and Events." Many people have been unable to find the notices of meetings because they do not expect such notices to be filed under Forums.
- Another significant problem is that many disabled people do not have computers. The National Institute on Disability and Rehabilitation Research (NIDRR) disability data did a study in 2000 and their data was 23.9% of people with disabilities had access to a computer at home compared to 51.7% of non-disabled counterparts, see http://dsc.ucsf.edu/publication.php?pub_id=6. The whole report from 2000 can be found at <http://dsc.ucsf.edu/pdf/report13.pdf>.

There is more current data from the 2009 census which shows 68.7% households with computer/internet access. It would be reasonable to extrapolate the same difference between disabled and non-disabled and this would suggest about 35% of people with disabilities who have access to a computer/internet at home in 2009 or 65% do not.

If this measure is to be passed, it should be passed with an effective date that goes into effect 90 days after the adoption of rules providing standards for publication of notices and ensuring accessibility. Furthermore, this measure should provide enforcement powers and provide for a civil remedy for individuals that allows or recovery of attorney fees by an individual who brings their own action to enforce this law.

Thank you for the opportunity to testify.

Very truly yours,



/Peter L. Fritz