

**SB 2234**  
**EDT - JDL**



**OFFICE OF THE LIEUTENANT GOVERNOR**

State Capitol, Fifth Floor  
Honolulu, Hawaii 96813  
Phone: (808)586-0255  
Fax: (808)586-0231  
email: [brian.schatz@hawaii.gov](mailto:brian.schatz@hawaii.gov)  
[www.hawaii.gov/ltgov](http://www.hawaii.gov/ltgov)

**BRIAN E. SCHATZ**  
LIEUTENANT GOVERNOR

TESTIMONY OF  
THE OFFICE OF THE LIEUTENANT GOVERNOR, BRIAN SCHATZ  
KIM YOSHIMOTO, CHIEF OF STAFF  
TO THE SENATE COMMITTEE ON  
ECONOMIC DEVELOPMENT AND TECHNOLOGY  
Wednesday, February 22, 2012, 1:15 p.m.  
State Capitol, Conference Room 016

**WRITTEN TESTIMONY ONLY**

S.B. 2234

RELATED TO ELECTRONIC INFORMATION

Chair Fukunaga, Vice Chair Wakai, and members of the committee, thank you for the opportunity to testify to this bill, S.B. 2234.

The Office of the Lieutenant Governor absolutely **supports the intent of Senate Bill 2234**, which requires government agencies, boards, commissions, and committees to post electronic copies of their agendas, minutes, and related documents, and encouraging state agencies to broadcast their proceedings online.

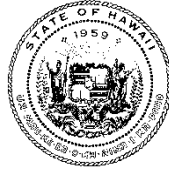
Presently, the Office of the Lieutenant Governor is responsible for the posting of the previously defined information to the Announcement Board located in the Chamber level of the Hawai'i State Capitol building. The intent of this process is to provide public access to materials under discussion in meetings by government agencies, boards, commissions, and committees.

At this time, we would like to **offer the following comments relating to S.B. 2234:**

1. Recommend the specified information be submitted to the centralized public notices website of the State of Hawai'i rather than our Office. The collection and publication of the said information in one location will facilitate more efficient administration of the announcement process, and will enable the public to access a single source for the entire catalog of information.

2. Suggest that the effective date of the proposed bill be extended to accommodate for the preparation of infrastructure capable to support the requirements stated in this bill. The Office of Information Management and Technology (OIMT) is presently investing in a strategic plan that will accommodate such a change to our state's information technology (IT) capabilities.

Thank you for the opportunity to testify on this matter.



STATE OF HAWAII  
OFFICE OF INFORMATION MANAGEMENT & TECHNOLOGY

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

TESTIMONY OF  
SANJEEV "SONNY" BHAGOWALIA, CHIEF INFORMATION OFFICER  
TO THE SENATE COMMITTEE ON  
ECONOMIC DEVELOPMENT AND TECHNOLOGY

Wednesday, February 22, 2012, 1:15 p.m.  
State Capitol, Conference Room 016

**WRITTEN TESTIMONY ONLY**

S.B. 2234

RELATED TO ELECTRONIC INFORMATION

Chair Fukunaga, Vice Chair Wakai, and members of the committee, thank you for the opportunity to testify on S.B. 2234.

The Office of Information Management and Technology **supports the overall intent of S.B. 2234**, which requires electronic posting of notices of public notices, agendas, minutes, and related documents from government agencies, boards, commissions and committees, and encouraging state agencies to broadcast proceedings online. At this time, we would like to **offer the following comments relating to S.B. 2234**:

1. Recommend revising language to specifically identify electronic or online publication to the centralized public notices website of the State of Hawaii rather than the Office of the Lieutenant Governor. This will allow for one location to serve as the primary host, provide standardization and provide uniform opt-in services for all public notices.
2. As the Chief Information Officer (CIO) and the Office of Information Management and Technology (OIMT) are currently developing the statewide information technology (IT) strategic plan that will modernize the state's IT systems, procedures and policies, it is recommended that the effective date of the proposed bill be July 1, 2013. This will allow time for the necessary infrastructure, including physical, policy and adequately trained staff, to be established in order to properly support the requirements of this bill.

Thank you for the opportunity to testify on this matter.

# OFFICE OF INFORMATION PRACTICES

STATE OF HAWAII  
NO. 1 CAPITOL DISTRICT BUILDING  
250 SOUTH HOTEL STREET, SUITE 107  
HONOLULU, HAWAII 96813  
TELEPHONE: 808-586-1400 FAX: 808-586-1412  
EMAIL: oip@hawaii.gov

To: Senate Committee on Economic Development and Technology

From: Cheryl Kakazu Park, Director

Date: February 22, 2012, 9:30 a.m.  
State Capitol, Room 016

Re: Testimony on S.B. No. 2234  
Relating to Electronic Information

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Thank you for the opportunity to submit testimony on S.B. No. 2234.

OIP supports this bill, which would require Sunshine Law boards to post electronic notice of meetings in lieu of filing a paper notice; would allow electronic notification to persons who request notification by such means; would require boards' minutes to be posted online within thirty days of the meeting and to include copies of any written materials referred to in the minutes; and would require public hearings by county agencies to be electronically noticed.

OIP, however, has the following suggestions and concerns. For bill sections 2 and 3, which address Sunshine Law notice for regular and emergency meetings, OIP suggests amendments based on portions of the language from S.B. 2859, OIP's Sunshine Law proposal. Like S.B. 2234, OIP's proposal as originally filed called for a shift from paper filing to electronic filing on the State's online calendar or appropriate county website and allowing boards to notify requesters at their electronic mailing address as part of its provisions, as well as other amendments intended to update the Sunshine Law. The electronic filing provisions were removed from S.B. 2859, S.D. 1, to allow this bill, S.B. No. 2234, to be the

vehicle. OIP has attached proposed language for bill sections 2, 3, and 4 of a suggested S.D. 1, incorporating OIP's suggested amendments.

While OIP has no objection to the SB 2234's requirement that the notice be posted on the board's own website or departmental website, OIP's suggested language would not change the current requirement that a board have its notice available for public inspection in the board's own office, which this bill in its current form would remove. OIP believes that it is still helpful to the public for a board to have a copy of its notice available at its office for visitors to review. Similarly, OIP would leave in the law's current qualification to the requirement to post notice at the meeting site, which is currently required only when feasible but under this bill would be required in every case, as there are times when it is not feasible to post notice at a meeting site. OIP's suggested language would also clarify that the notice provided for in the Sunshine Law is the only notice required by the Sunshine Law; would change the online filing location to the State's or a county's electronic calendar, rather than the Lieutenant Governor's or County Clerk's website; would provide for a back-up method of filing in the event of an internet outage; would provide for automatic rejection of an untimely filed electronic notice; would allow a county board to obtain concurrence that an emergency meeting based on an unanticipated event was necessary from its county counsel's office rather than the Attorney General; and would make technical changes to incorporate the filing requirements of section 92-7, HRS, into the emergency meetings provisions by reference rather than by repeating them.

Additionally, OIP is concerned about SB 2234's amendments to the requirements for minutes. OIP generally supports the requirement that minutes be posted online, which will ease public access to boards' minutes. However, the addition of "whether in draft or final form" as a qualifier to "minutes" may be confusing, in that the Sunshine Law does not actually require that minutes be

approved by the board, signed by their preparer or the board chair, or otherwise accepted as final; rather, the law simply requires that minutes contain the required information and be publicly available by the required date, whether or not the board has approved them.

OIP is also concerned that boards' public meeting minutes may sometimes include a reference to written materials that are not public, or are not entirely public, under the Uniform Information Practices Act. For instance, a board may refer in its public minutes to a draft settlement proposal or an evaluation of its executive director that the board had discussed in more detail in executive session, yet those documents would not be publicly available to a public requester under the UIPA. The bill's proposed requirement that any written materials mentioned in a board's discussion become wholly public may have the unintended effect of revealing confidential information. To prevent such unintended disclosure, boards may consequently choose to reveal less information to the public or seek to keep more of their discussions of sensitive issues in closed executive sessions. For this reason, OIP would suggest amending this provision to clarify that it applies only to materials distributed as part of the board's packet and that would be public under the UIPA, and to provide that electronic copies of the materials posted to the board's website suffice to meet the requirement.

Finally, OIP supports the intent of bill section 5, which amends section 92-41, HRS, to provide for electronic notice of public hearings scheduled by county agencies. Although this provision is outside the Sunshine Law and is not within OIP's purview, OIP notes that the electronic notice provided for will be consistent with the proposed electronic notice under the Sunshine Law and thus will make it easier for citizens to find notices of all types in one location.

Thank you for the opportunity to testify.

## OIP's suggested language for S.B. 2234, S.D. 1

SECTION 2. Section 92-7, Hawaii Revised Statutes, is amended to read as follows:

**"§92-7 Notice.** (a) The board shall give written public notice of any regular, special, emergency, or rescheduled meeting, or any executive meeting when anticipated in advance. The notice shall include an agenda ~~[which]~~ that lists all of the items to be considered at the forthcoming meeting, the date, time, and place of the meeting, and in the case of an executive meeting the purpose shall be stated. The means specified by this section shall be the only means required for giving notice under this part, notwithstanding any law to the contrary.

(b) The board shall ~~[file]~~ post the notice ~~[in the office of the lieutenant governor or the appropriate county clerk's office,]~~ on the electronic calendar maintained on the State of Hawaii's Internet website or county's Internet website, on the website of the board or the website of the department within which the board is established if the board does not have a website, and in the board's office for public inspection, at least six calendar days before the meeting. The notice shall also be physically posted at the [site] location of the meeting whenever feasible. In the event that a board is unable to post its notice on an electronic calendar because of an interruption in service that prevents access to the electronic calendar, the board shall file the notice in the office of the lieutenant governor if a state board, or in the appropriate county clerk's office if a county board. The office of the lieutenant governor or the appropriate county clerk's office shall then post the notice on the state or county electronic calendar as soon as service is restored.

(c) If the written public notice is ~~[filed in]~~ not posted on the website of the office of the lieutenant governor or the website of the appropriate county clerk's office [less than] at least six calendar days before the meeting, the [lieutenant governor or the appropriate county clerk shall immediately notify the chairperson of the board, or the director of the department within which the board is established or placed, of the tardy filing of the meeting notice.] board's electronic notice shall be rejected by the electronic calendar. If there is a dispute as to whether a notice was timely filed on an electronic calendar, a printout of the electronically time-stamped agenda shall be conclusive evidence of the filing date. [The] If a meeting notice is filed late, the meeting shall be



canceled as a matter of law, and the chairperson of the board or the department director shall ensure that a notice canceling the meeting is posted in the board's office and at the [place] location of the meeting, and no meeting shall be held.

(d) No board shall change the agenda, once [~~filed,~~] posted, by adding items thereto without a two-thirds recorded vote of all members to which the board is entitled; provided that no item shall be added to the agenda if it is of reasonably major importance and action thereon by the board will affect a significant number of persons. Items of reasonably major importance not decided at a scheduled meeting shall be considered only at a meeting continued to a reasonable day and time.

(e) The board shall maintain a list of names and addresses of persons who request notification of meetings and shall [~~mail~~] transmit a copy of the notice to [~~such~~] these persons at their last recorded mailing or electronic mailing address no later than the time the agenda is filed under subsection (b)."

SECTION 3. Section 92-8, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

"(a) If a board finds that an imminent peril to the public health, safety, or welfare requires a meeting in less time than is provided for in section 92-7, the board may hold an emergency meeting; provided that:

(1) The board states in writing the reasons for its findings;

(2) Two-thirds of all members to which the board is entitled agree that the findings are correct and an emergency exists;

(3) An emergency agenda and the findings are [~~filed with the office of the lieutenant governor or the appropriate county clerk's office, and in the board's office;~~] posted as required for notices by section 92-7; and

(4) Persons requesting notification on a regular basis are contacted by mail, electronic mail, or telephone as soon as practicable.

(b) If an unanticipated event requires a board to take action on a matter over which it has supervision, control,

jurisdiction, or advisory power, within less time than is provided for in section 92-7 to notice and convene a meeting of the board, the board may hold an emergency meeting to deliberate and decide whether and how to act in response to the unanticipated event; provided that:

(1) The board states in writing the reasons for its finding that an unanticipated event has occurred and that an emergency meeting is necessary and the attorney general if a state board, or the county counsel if a county board, concurs that the conditions necessary for an emergency meeting under this subsection exist;

(2) Two-thirds of all members to which the board is entitled agree that the conditions necessary for an emergency meeting under this subsection exist;

(3) The finding that an unanticipated event has occurred and that an emergency meeting is necessary and the agenda for the emergency meeting under this subsection are [~~filed with the office of the lieutenant governor or the appropriate county clerk's office, and in the board's office;~~] posted as required for notices by section 92-7;

(4) Persons requesting notification on a regular basis are contacted by mail, electronic mail, or telephone as soon as practicable; and

(5) The board limits its action to only that action which must be taken on or before the date that a meeting would have been held, had the board noticed the meeting pursuant to section 92-7."

SECTION 4. Section 92-9, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

"(a) The board shall keep written minutes of all meetings. Unless otherwise required by law, neither a full transcript nor a recording of the meeting is required, but the written minutes shall give a true reflection of the matters discussed at the meeting and the views of the participants. The minutes shall include~~[7]~~ but [~~need~~] not be limited to:

(1) The date, time and [~~place~~] location of the meeting;

(2) The members of the board recorded as either present or absent;

(3) The substance of all matters proposed, discussed, or decided; and a record, by individual member, of any votes taken; [~~and~~]

(4) Any other information that any member of the board requests be included or reflected in the minutes~~[-]~~; and

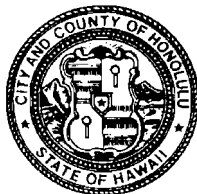
(5) Any written materials distributed to the board at the meeting, to the extent that such materials would be required to be disclosed under part II of chapter 92F and that physical copies of such materials shall not be required if they are electronically posted on the website as required by Section 92-9(b).

(b) The minutes, whether in draft or final form, shall be public records and shall be [~~available~~] posted on the website of the board or the website of the department within which the board is established if the board does not have a website, within thirty days after the meeting except where such disclosure would be inconsistent with section 92-5; provided that minutes of executive meetings may be withheld so long as their publication would defeat the lawful purpose of the executive meeting, but no longer."

DEPARTMENT OF PLANNING AND PERMITTING  
**CITY AND COUNTY OF HONOLULU**

650 SOUTH KING STREET, 7<sup>TH</sup> FLOOR • HONOLULU, HAWAII 96813  
PHONE: (808) 768-8000 • FAX: (808) 768-6041  
DEPT. WEB SITE: [www.honoluluodpp.org](http://www.honoluluodpp.org) • CITY WEB SITE: [www.honolulu.gov](http://www.honolulu.gov)

PETER B. CARLISLE  
MAYOR



DAVID K. TANOUE  
DIRECTOR

JIRO A. SUMADA  
DEPUTY DIRECTOR

February 22, 2012

The Honorable Carol Fukunaga, Chair  
and Members of the Committee on Economic  
Development and Technology  
The Honorable Clayton Hee, Chair  
and Members of the Committee on  
Judiciary and Labor  
State Senate  
State Capitol  
Honolulu, Hawaii 96813

Dear Chairs Fukunaga, Hee, and Committee Members:

Subject: Senate Bill No. 2234  
Relating to Electronic Information

The Department of Planning and Permitting **supports** Senate Bill No. 2234 with two amendments. This Bill eliminates the requirement to post hard-copy notices of public meetings with the Office of the Lieutenant Governor; requires all government agencies, boards, commissions, and committees to post electronic copies of their agendas, minutes, and related documents online; and permits the option to transmit electronic copies, rather than hard copies, of meeting notices to persons who request notification.

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

However, the Department requests removal of the requirement to post electronic copies of the "related documents" described as "any written materials referred to in the minutes" from the Bill. This requirement would impose a substantial, duplicative, and inappropriate burden on the Neighborhood Boards, the Planning Commission, and other City boards who regularly review large hard-copy documents and plans.

To prepare these documents to post on-line would require significant time and expense, and significantly increase the storage capacity needed for City websites. Members of the public who wish to see the specific details provided in these documents can find them in their local library, in reference centers, at the closest satellite city hall, at the Fasi Municipal Building, or access them as part of public review distributions, and/or web postings.

The Honorable Carol Fukunaga, Chair  
and Members of the Committee on Economic  
Development and Technology  
The Honorable Clayton Hee, Chair  
and Members of the Committee on  
Judiciary and Labor  
State Senate  
Re: Senate Bill No. 2234  
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The Department also requests that the Bill be amended to allow the agendas and minutes of the boards to be removed from the web two years after they are first posted.

After two years, most agendas and 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 Senate Bill No. 2234 with the requested amendments. Thank you for the opportunity to testify.

Very truly yours,

A handwritten signature in black ink, appearing to read 'D. Tanoue', with a long horizontal flourish extending to the right.

David K. Tanoue, Director  
Department of Planning and Permitting

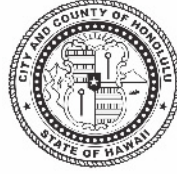
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NEIGHBORHOOD COMMISSION OFFICE  
**CITY AND COUNTY OF HONOLULU**

530 SOUTH KING STREET, ROOM 406 • HONOLULU, HAWAII 96813  
PHONE (808) 768-3710 • FAX (808) 768-3711 • INTERNET: www.honolulu.gov/nco

PETER B. CARLISLE  
MAYOR



J. THOMAS HEINRICH  
EXECUTIVE SECRETARY

February 21, 2012

TO: Senate Committee on Economic Development and Technology  
Senator Carol Fukunaga, Chair  
Senate Committee on Judiciary and Labor  
Senator Clayton Hee, Chair

RE: **Senate Bill 2234** Relating to Electronic Information EDT/JDL

TO BE HEARD: Wednesday February 22, 2012 9:30 AM Conference Room 016

Aloha, Committee Chairs Fukunaga and Hee, and Members of the Committees:

Thank you for scheduling Senate Bill 2234 for this hearing. The Neighborhood Commission Office supports the intent of this measure, especially the components to allow for the filing, posting, and distribution of meeting notices electronically.

**Suggested Drafting Amendments.** For consistency in SB 2234, two drafting amendments are suggested. First, at page 2, line 19 delete “place” and insert “location” so that this proposed amendment to HRS §92-7 is consistent with the amendments proposed at page 3, line 9; page 4, line 2; page 7, line 16; and page 8, line 20.

Second, also for consistency in terminology, at page 4, line 17 the term “filed” should be deleted and the term “posted” inserted to match the changes proposed in subsection (b) at page 3, line 1; subsection (d) at page 4, lines 4-5; page 5, lines 8-9; page 6, line 15; and page 8, line 18.

**Requested Deletion.** The Neighborhood Commission Office does **NOT** support the proposed amendment to HRS §92-9(a) as set forth in Section 4 of the bill at page 8, line 4, that the minutes shall include

“(5) Any written materials referred to in the minutes.”

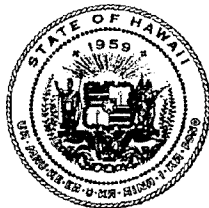
On a practical level, such a requirement would be very difficult to accomplish, and place an incredible burden on any board covered by HRS Chapter 92. One example will suffice – if an environmental impact statement is referred to in the minutes, then it would have to be reproduced as an attachment to those minutes. No board could well afford to do this. The reasonable alternative is to direct that the minutes should (not shall) identify in sufficient detail sources of information referred to in the board’s deliberations, and if

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February 21, 2012  
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possible, how to access the documents (e.g., contact the office of X; include an Internet address link; see the [date] edition of Y; etc.) to allow an interested party to review the source.

The Neighborhood Commission Office respectfully urges the committees to delete page 8, line 4 from Senate Bill 2234 before moving it forward for further consideration.  
Thank you!

J. Thomas Heinrich, Executive Secretary  
Neighborhood Commission Office



## DISABILITY AND COMMUNICATION ACCESS BOARD

919 Ala Moana Boulevard, Room 101 • Honolulu, Hawaii 96814  
Ph. (808) 586-8121 (V/TDD) • Fax (808) 586-8129

February 22, 2012

### TESTIMONY TO THE SENATE COMMITTEES ON ECONOMIC DEVELOPMENT AND TECHNOLOGY AND JUDICIARY AND LABOR

#### Senate Bill 2234 – Relating to Electronic Information

The Disability and Communication Access Board (DCAB) takes no position on this measure but wishes to provide comments.

DCAB's mission is to provide technical assistance related to accessibility for individuals with disabilities to state and county programs and services per the Americans with Disabilities Act, Title II. The purpose of this bill is to eliminate the requirement to post hard-copy notices of public meetings with the Office of the Lieutenant Governor, and require all government agencies, boards, commissions, and committees to post electronic copies of their agendas, minutes, and related documents online and transmit electronic copies rather than hard copies, of meeting notices to persons who request notification.

The purpose of publishing notices in the newspaper is to encourage the public to participate in government. Allowing state and county agencies to publish notices only online and provide electronic copies presumes that everyone has access to a computer. In many instances, that is not the case, especially for individuals with disabilities. If an individual does not have access to a computer, state and county governments are excluding a segment of the population and denying them the means to participate in government.

Two points to consider are: 1) if a state or county agency decides to publish online in lieu of in a newspaper, all material published online must be in a format that is accessible to individuals with disabilities, including people who are blind or have low vision; and 2) most people (including people with disabilities and people who are elderly) have access to a television. We suggest posting a list of meetings on a public television network reach the public without additional cost, and that any notices published online be made accessible to people who cannot access printed materials (accessible to people who use screenreaders).

If these concerns are included in language in the bill, that would address our concerns.

Thank you for the opportunity to offer comments.

Respectfully submitted,

BARBARA FISCHLOWITZ-LEONG  
Chairperson

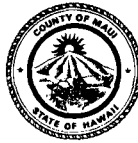
FRANCINE WAI  
Executive Director



Council Chair  
Danny A. Mateo

Vice-Chair  
Joseph Pontanilla

Council Members  
Gladys C. Baisa  
Robert Carroll  
Elle Cochran  
Donald G. Couch, Jr.  
G. Riki Hokama  
Michael P. Victorino  
Mike White

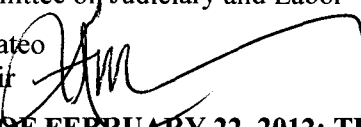


Director of Council Services  
Ken Fukuoka

**COUNTY COUNCIL**  
COUNTY OF MAUI  
200 S. HIGH STREET  
WAILUKU, MAUI, HAWAII 96793  
[www.mauicounty.gov/council](http://www.mauicounty.gov/council)

February 21, 2012

TO: The Honorable Carol Fukunaga, Chair  
Senate Committee on Economic Development and Technology  
  
The Honorable Clayton Hee, Chair  
Senate Committee on Judiciary and Labor

FROM: Danny A. Mateo  
Council Chair 

SUBJECT: **HEARING OF FEBRUARY 22, 2012; TESTIMONY IN OPPOSITION TO SB 2234,  
RELATING TO ELECTRONIC INFORMATION**

Thank you for the opportunity to testify in opposition to this important measure. The purposes of this measure are to: (1) eliminate the requirement to post hard-copy notices of public meetings with the Office of the Lieutenant Governor; and (2) require all government agencies, boards, commissions, and committees to post electronic copies of their agendas, minutes, and related documents online and transmit electronic copies, rather than hard copies, of meeting notices to persons who request notification.

The Maui County Council has not had the opportunity to take a formal position on this measure. Therefore, I am providing this testimony in my capacity as an individual member of the Maui County Council.

I oppose this measure for the following reasons:

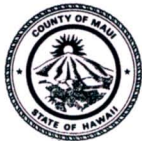
1. If there are computer problems and it is not possible to upload a meeting notice to the website, then the meeting cannot be scheduled.
2. The measure requires notice to be sent via email either before or concurrently with posting of the notice on the website. This could unfairly result in some members of the public receiving the notice prior to posting.
3. Requiring that "any written materials referred to in the minutes" be included in the minutes is nonsensical and runs counter to the stated paper-reduction goal of this measure.
4. The measure also mandates posting meeting notices at the location of site inspections, without regard to whether it is feasible to post. In the case of a site inspection scheduled to be convened on vacant land, for example, it may be infeasible to post an on-site meeting notice.

For the foregoing reasons, I oppose this measure.

Council Chair  
Danny A. Mateo

Vice-Chair  
Joseph Pontanilla

Council Members  
Gladys C. Baisa  
Robert Carroll  
Elle Cochran  
Donald G. Couch, Jr.  
G. Riki Hokama  
Michael P. Victorino  
Mike White



Director of Council Services  
Ken Fukuoka

**COUNTY COUNCIL**  
COUNTY OF MAUI  
200 S. HIGH STREET  
WAILUKU, MAUI, HAWAII 96793  
[www.mauicounty.gov/council](http://www.mauicounty.gov/council)

February 21, 2012

TO: Honorable Carol Fukunaga , Chair  
Senate Committee on Economic Development and Technology

Honorable Clayton Hee, Chair  
Senate Committee on Judiciary and Labor

FROM: Joseph Pontanilla, Council Vice-Chair

DATE: Wednesday February 22, 2012

A handwritten signature in black ink that reads "Joseph Pontanilla".

SUBJECT: **TESTIMONY IN OPPOSITION TO SB 2234, RELATING TO  
ELECTRONIC INFORMATION**

Thank you for the opportunity to testify in opposition of this measure. I provide this testimony as an individual member of the Maui County Council.

I **oppose SB 2234** for the reasons cited in testimony submitted by Maui County Council Chair Danny A. Mateo. I urge you not to support this measure.

Council Chair  
Danny A. Mateo

Vice-Chair  
Joseph Pontanilla

Council Members  
Gladys C. Baisa  
Robert Carroll  
Elle Cochran  
Donald G. Couch, Jr.  
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Mike White



Director of Council Services  
Ken Fukuoka

**COUNTY COUNCIL**  
COUNTY OF MAUI  
200 S. HIGH STREET  
WAILUKU, MAUI, HAWAII 96793  
[www.mauicounty.gov/council](http://www.mauicounty.gov/council)

February 17, 2012

TO: Honorable Carol Fukunaga, Chair  
Senate Committee on Economic Development and Technology

Honorable Clayton Hee, Chair  
Senate Committee on Judiciary and Labor

FROM: Robert Carroll  
Council Member, East Maui

A handwritten signature in black ink that reads "Robert Carroll".

DATE: Wednesday, February 22, 2012

SUBJECT: **OPPOSITION SB 2234, RELATING TO ELECTRONIC INFORMATION**

I oppose SB 2234 for the reasons cited in testimony submitted by the Maui County Council Chair, and urge you to oppose this measure.

Written Statement of  
**YUKA NAGASHIMA**  
**Executive Director & CEO**  
High Technology Development Corporation  
before the  
**SENATE COMMITTEES ON**  
**ECONOMIC DEVELOPMENT & TECHNOLOGY AND JUDICIARY & LABOR**  
Wednesday, February 22, 2012  
9:30 AM  
State Capitol, Conference Room 016

In consideration of  
**SB 2234 RELATING TO ELECTRONIC INFORMATION.**

Chairs Fukunaga and Hee, Vice Chairs Wakai and Shimabukuro, and Members of the Senate Committees on Economic Development & Technology and Judiciary & Labor:

The High Technology Development Corporation (HTDC) **supports the intent of SB 2234** replacing hard-copy notice requirements with electronic notices and adding a requirement to post board meeting minutes online.

HTDC agrees that it is appropriate to move digital and make information more accessible to the public. We would like to point out for consideration that to accomplish this goal, **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. In addition, we feel that **having multiple locations for posting** (e.g., Lieutenant Governor's website, State's website, Board's website) **makes the process cumbersome and prone to errors**. There is also a concern that the current language seems to imply that error in posting on any one of the websites means the entire meeting notice requirement was not met, making the meeting void, which may not have been the intent of the bill.

We suggest that instead, the notices should be posted on one site and the other websites include a reference (e.g., hyperlink, etc.) to the location of the official notice. This procedure would ensure that the information is both easily accessible and consistent, and avoid the question of whether the meeting is properly "noticed" if one of the pages display inconsistent information.

Thank you for the opportunity to submit testimony on this bill.

## **fukunaga2 - Ashley-Jane**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Saturday, February 18, 2012 5:43 AM  
**To:** EDTTestimony  
**Cc:** Pandiorama@yahoo.com  
**Subject:** Testimony for SB2234 on 2/22/2012 9:30:00 AM

Testimony for EDT/JDL 2/22/2012 9:30:00 AM SB2234

Conference room: 016  
Testifier position: Support  
Testifier will be present: No  
Submitted by: Andrea hamblin  
Organization: Individual  
E-mail: [Pandiorama@yahoo.com](mailto:Pandiorama@yahoo.com)  
Submitted on: 2/18/2012

Comments:

PETER L. FRITZ  
414 KUWILI STREET, #104  
HONOLULU, HAWAII 96814  
TELEPHONE: (808) 426-0000  
E-MAIL: PLFLEGIS@FRITZHQ.COM

**THE SENATE  
THE TWENTY-SIXTH LEGISLATURE  
REGULAR SESSION OF 2012**

**COMMITTEE ON ECONOMIC DEVELOPMENT AND TECHNOLOGY**

**COMMITTEE ON JUDICIARY AND GOVERNMENT AFFIARS**

**Hearing: Friday, February 22, 2012  
Testimony on S.B. 2234  
(Relating to Electronic Information)**

Chairs Fukunaga and Hee, Vice-Chairs Wakai and Shimabukuro; and members of the Committees, 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 offering **Comments about S.B. 2234**.

This measure would eliminate the requirement to post hard-copy notices of public meetings with the office of the lieutenant governor; require all government agencies, boards, commissions, and committees to post electronic copies of their agendas, minutes, and related documents online and transmit electronic copies, rather than hard copies, of meeting notices to persons who request notification. This measure would take effect upon approval.

The enactment of this measure would have an adverse impact on the access to such notices by the disabled and visually impaired because:

- The State is not prepared to provide information in the accessible formats needed by some disabled and elderly individuals. While some agencies already have the software and trained personnel and other agencies do not. It is unlikely that Hawaii can acquire the software and train personnel if this law becomes effective in sometime in July. Failure to provide documents in an accessible format would violate Title II of the Americans with Disabilities Act and Section 508 of the Rehabilitation Act of 1973.
  - Alaska, a state that provides for online posting of notices, provides that written notice shall be provided upon request. This bill should contain language such as:
    - A request for a printed copy of a required posting on the may be made to any state employee designated by the [Agency responsible for operation of the system] to receive requests.

- This measure should also provide that the person who requests notice of a meeting pursuant to Hawaii Revised Statute § 92-7 should determine whether notices should be sent by e-mail or regular mail.
- The measure should provide for posting of notices on a single site. This would make it easier for all individuals, not just individuals who are elderly or disabled to find such notices. With electronic notices, it is no longer necessary to physically post on a local site.
- Archiving of Notices. It is a requirement that notices of meetings be posted. If a meeting is not properly noticed, it cannot be held. In order to protect agencies and the public, it is necessary to archive such records. This measure should contain language similar to the following:
  - The [name of state agency maintaining the posting system] shall provide for a permanent, electronic archive system of notices posted on the [name public notice system] under this section. Access to the electronic archive system shall be made available to the public.
- This measure needs enforcement provisions and penalties should an agency fail to post minutes of meetings. Such provisions are necessary to ensure that agencies and commissions post the required information.

If this measure is to be passed, it should be passed with an effective date that goes into effect 90 days after rules providing standards for publication of notices and ensuring accessibility become effective. Furthermore, this measure should provide enforcement powers for the Office of Information Practices 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.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Peter L. Fritz". The signature is written in a cursive, somewhat stylized font.

PETER L. FRITZ