



**TESTIMONY OF JAN K. YAMANE, ACTING STATE AUDITOR,  
ON HOUSE BILL NO. 1692, HOUSE DRAFT 2, SENATE DRAFT 1,  
RELATING TO TOURISM**

**Senate Committee on Ways and Means**

March 28, 2014

Chair Ige and Members of the Committee:

Thank you for the opportunity to testify in support of HB 1692, HD 2, SD 1, with amendments.

The purpose of this measure is to improve the efficiency, transparency, and accountability of the Hawai'i Tourism Authority by adopting recommendations from our 2013 Report No. 13-09, *Audit of Major Contracts and Agreements of the Hawai'i Tourism Authority*. We found that the authority's tourism marketing plan is dispersed, unwieldy, and falls short of statutory requirements. The "plan" is nearly 600 pages long and spread across more than a dozen documents. We recommended that the authority be required to develop a tourism marketing plan that is contained in a single, comprehensive document. We also recommended that the authority be required, as part of its annual report, to report on the progress of its tourism marketing plan in achieving its strategic plan goals. This bill would adopt our recommendations.

We request that **Section 6** (page 14, line 8) be amended so that the Act takes effect "upon approval."

Thank you for the opportunity to testify in support of HB 1692, HD 2, SD 1. I am available to answer any questions you may have.



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**Neil Abercrombie**  
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**Mike McCartney**  
*President and Chief Executive Officer*

Testimony of  
**Mike McCartney**  
President and Chief Executive Officer  
Hawai'i Tourism Authority  
on  
**H.B. No. 1692, H.D.2, S.D.1**  
**Relating to Tourism**  
Senate Committee on Ways and Means  
Friday, March 28, 2014  
9:25 a.m.  
Conference Room 211

The Hawaii Tourism Authority (HTA) strongly supports H.B. No. 1692, H.D.2, S.D.1, with some amendments.

H.B. No. 1692, H.D.2, S.D. 1, includes HTA's housekeeping amendments and amendments proposed in response to the Legislative Auditor's 2013 report.

H.B. 1692, H.D.2, S.D.1, deletes redundant language relating to the moneys deposited into the Convention Center Enterprise Special Fund and HTA's authority to "manage, improve, and protect the natural environment and areas frequented by visitors. It responds to the findings of the Legislative Auditor, by deleting language from the old law relating to the Office of Tourism, which was incorporated into the law when HTA was established, and inserts language to direct HTA to focus on strengthening the Hawai'i brand by marketing and development of the product and experience through a tourism management plan, which is to be a single, comprehensive document. The plan includes the strategies for brand marketing, brand sustainability, and brand experience. The "Hawaii brand" is defined as "...the programs that collectively differentiate the Hawaii experience from other destinations."

H.B. 1692, H.D. 2, S.D.1, however, excludes language proposed in H.B. 2436 and S.B. 2426, relating to the disclosure of sensitive research information. This is very important to the successful promotion of Hawaii as a visitor destination in a very competitive world market. Not having the ability to protect competitively sensitive research information such as research analysis, brand management plans, and

contractor marketing plans and evaluations, is like showing your playbook to the opposing team before the start of a game.

The Office of Information Practices (OIP) commented on the changes proposed by HTA stating that:

*“...This confidentiality provision is in addition to the UIPA’s longstanding exception to disclosure for information whose disclosure would frustrate a legitimate government function, which applies to confidential business information (such as financial information allowing determination of profit margins, or commercially valuable customer lists) when disclosure of the information would cause substantial competitive harm, or when the business provided the information voluntarily...”*

*...The proposed confidentiality provision... expands that protection from public disclosure beyond the information collected by HTA from businesses as set out in the current law, to also cover information HTA itself has generated and information that would place “the state tourism economy” at a competitive disadvantage. Thus, while the original provision was directed at protecting competitively sensitive information that HTA had collected from businesses cooperating in its research, the expansion would treat HTA itself as a business whose information would be protected from possible disclosure to competitors (In this case, competing tourism destinations).”*

HTA has met with the Office of Information Practices (OIP) and developed a new subsection that provides for the protection and appropriate disclosure of competitively sensitive research, brand management, and marketing information. We request that SECTION 3 of the bill be amended by amending section 201B-7 to add a subsection (d) to read:

“(d) Where public disclosure of information gathered or developed by the authority may place businesses at a competitive disadvantage or impair or frustrate the authority’s ability to compete as a visitor destination, or to obtain or utilize information for a legitimate government function, the authority may withhold from public disclosure competitively sensitive information, including:

- (A) Completed survey and questionnaire forms;
- (B) Coding sheets;
- (C) Database records of the information; and
- (D) Brand management and marketing plans and strategies; provided that such plans and strategies shall be disclosed as required by to section 201B-4(a)(2).”

Also included in the proposed S.D. 1, are amendments proposed in 2013 in S.B. 170, S.D. 1. S.B. 170, S.D. 1, which was passed by the Senate and passed two readings in the House, added a paragraph to section 201B-3 to recognize the importance of honoring the Native Hawaiian culture as the key aspect that separates Hawaii as a unique visitor experience, and emphasizing the importance of that culture and the community to the quality of Hawaii visitor experience. The amendments proposed by H.B. 1692, H.D.2, make it more appropriate that the amend proposed by S.B. 170, S.D. 1, be included as part of the housekeeping changes proposed by H.B. 1692, S.D. 1 and are included in the proposed S.D. 1, which is attached.

Other amendments proposed in the bill restructure the law for clarity and to conform to the other changes made in the bill.

For these reasons, we strongly urge the passage of H.B. 1692, H.D.2, S.D. 1, with the amendments proposed.

Thank you for the opportunity to offer these comments.



## OFFICE OF INFORMATION PRACTICES

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To: Senate Committee on Ways and Means

From: Cheryl Kakazu Park, Director

Date: March 28, 2014 at 9:25 a.m.  
State Capitol, Conference Room 211

Re: Testimony on H.B. No. 1692, H.D. 2, S.D. 1  
Relating to Tourism

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Thank you for the opportunity to submit testimony on this bill. The Office of Information Practices (“OIP”) had concerns about a confidentiality provision in an earlier version of the bill, which was deleted from the H.D. 2 and was not in the S.D. 1. However, after discussions between OIP and the Hawaii Tourism Authority (“HTA”), HTA came up with proposed language for a more narrowly drawn confidentiality provision that would be acceptable to OIP. Thus, OIP would not oppose amendment of this bill to add a confidentiality provision to the proposed subsection (d) of section 201B-7, HRS, using the following language:

“(d) Where public disclosure of information gathered or developed by the authority may place businesses at a competitive disadvantage or impair or frustrate the authority's ability to compete as a visitor destination, or to obtain or utilize information for a legitimate government function, the authority may withhold from public disclosure competitively sensitive information, including:

- (A) Completed survey and questionnaire forms;
- (B) Coding sheets;
- (C) Database records of the information; and

(D) Brand management and marketing plans and strategies; provided that such plans and strategies shall be disclosed as required by section 201B-4(a)(2)."

Thank you for considering OIP's testimony.

OIP has agreed to HTA's proposed confidentiality provision as follows:

**“(d) Where public disclosure of information gathered or developed by the authority may place businesses at a competitive disadvantage or impair or frustrate the authority's ability to compete as a visitor destination, or to obtain or utilize information for a legitimate government function, the authority may withhold from public disclosure competitively sensitive information, including:**

- (A) Completed survey and questionnaire forms;**
- (B) Coding sheets;**
- (C) Database records of the information; and**
- (D) Brand management and marketing plans and strategies; provided that such plans and strategies shall be disclosed as required by section 201B-4(a)(2).”**