



DISABILITY AND COMMUNICATION ACCESS BOARD

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March 31, 2014

TESTIMONY TO THE HOUSE COMMITTEE ON CONSUMER PROTECTION AND COMMERCE

House Concurrent Resolution 127/House Resolution 92 – Requesting the Governor to Issue an Executive Order Requiring State Agencies, Boards and Commissions to Post Meeting Minutes on the Website of the Agency, Board, or Commission within Thirty Days After the Meeting

The Disability and Communication Access Board (DCAB) would like to provide comments on House Concurrent Resolution 127/House Resolution 92 – Requesting the Governor to Issue an Executive Order Requiring State Agencies, Boards and Commissions to Post Meeting Minutes on the Website of the Agency, Board, or Commission within Thirty Days After the Meeting.

DCAB is a Governor-appointed Board and holds regular bimonthly meetings. Our minutes are not official until they are reviewed and approved at the following Board meeting. It would not be appropriate to post meeting minutes that have not yet been reviewed and approved by our Board. Due to how our meetings are structured, we cannot post minutes thirty days after the meeting.

If these resolutions are adopted and the Governor issues an Executive Order directing agencies to post minutes to agency websites thirty days after the meeting, we respectfully request two items be added:

- Language in the resolutions be amended to reflect the issue of posting approved minutes to address the issue our Board faces with bimonthly meetings (suggest thirty days after approval); and
- Training of IT personnel be provided by the Office of Information Management and Technology (OIMT) to ensure that minutes posted on State websites are accessible to individuals with disabilities.

With the inclusion of these amendments, we believe that the intent of the resolutions to keep the public aware of and able to participate in the activities and actions of State Agencies, Boards and Commissions will be satisfied.

Thank you for considering our comments.

Respectfully submitted,

BARBARA FISCHLOWITZ-LEONG
Chairperson
Legislative Committee

FRANCINE WAI
Executive Director

OFFICE OF INFORMATION PRACTICES

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To: House Committee on Consumer Protection and Commerce

From: Cheryl Kakazu Park, Director

Date: March 31, 2014 at 2:10 p.m.
State Capitol, Conference Room 325

Re: Testimony on H.C.R. No. 127 and H.R. No. 92
Requesting the Governor to Issue an Executive Order Requiring State Agencies, Boards, and Commissions to Post Meeting Minutes on the Website of the Agency, Board, or Commission Within Thirty Days After the Meeting

Thank you for the opportunity to submit testimony on these proposed resolutions. While the Office of Information Practices (“OIP”) supports efforts by boards to make minutes more widely available online, OIP has serious concerns about the feasibility of the resolution’s requests.

Currently, the Sunshine Law requires boards to prepare minutes and have them available, upon request, within thirty days after a meeting. This resolution asks all state boards to post meeting minutes on a board website within thirty days after a meeting, with or without a request.

Preliminarily, OIP notes that not all boards have a website. Those boards that do have a website often do not have the ability to post to it directly and may need departmental approval or assistance to do so. Thus, boards may not be able to meet the resolution’s 30-day website posting deadline, even if they can provide minutes to requesters through other means, such as mail or email.

The resolution also asks OIP (along with the Office of Information Management and Technology) to provide boards with “any assistance that may be needed to post their meeting minutes on their respective websites.” While OIP can and does provide state and county boards with online training and publications and similar assistance in understanding and complying with the Sunshine Law’s minutes requirement, OIP is not in a position to provide boards with web access or with technical assistance in posting their minutes online as this resolution appears to request. Thus, OIP believes the request for assistance in getting boards’ minutes online would be better addressed solely to the Office of Information Management and Technology.

Finally, the resolution asks OIP to report to the Legislature as to which state boards have, and have not, been posting meeting minutes on their websites. The Sunshine Law does not set that requirement, and OIP would not have jurisdiction to enforce or administer an executive order or resolution setting such a requirement. Moreover, as there is no definitive list of Sunshine Law boards, it would require a major commitment of OIP’s staff time to identify affected boards and to search for their meeting notices and minutes, which would adversely impact OIP’s ability to perform its core functions.

Thus, while OIP supports the intent of this bill to make minutes of Sunshine Law boards more widely available, OIP does not have the authority or the resources to support the reporting requested in this resolution, and is concerned that many state boards would have difficulty complying with it as well. OIP would therefore prefer to see this Committee hold this resolution.

**TESTIMONY BY KALBERT K. YOUNG
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE HOUSE COMMITTEE ON CONSUMER PROTECTION AND COMMERCE
ON
HOUSE CONCURRENT RESOLUTION NO. 127**

March 31, 2014

RELATING TO HOUSE CONCURRENT RESOLUTION NO. 127

House Concurrent Resolution No. 127 requests the Governor to issue an Executive Order requiring State agencies, boards, and commissions to post meeting minutes on their respective agency, board, or commission websites within thirty days after their meetings.

Section 92-9(b), Hawaii Revised Statutes does stipulate that the minutes of the meetings of agencies, boards, and commissions are public records and shall be available within thirty days after the meetings, except where such disclosures falls under the exceptions that are as provided under section 92-5, Hawaii Revised Statutes. The Department of Budget and Finance does support the general intent of this House Concurrent Resolution as it pertains to the promotion of governmental transparency; however, we would have to oppose this House Concurrent Resolution due to important operational considerations and concerns. Specifically, with regard to the practicality of posting such meeting minutes by the agencies, boards, and commission on their respective websites within the proposed rigid timeframe of thirty days after these meetings. For example, many of the agencies, boards and commissions schedule their meetings on a monthly, quarterly, or other basis and at times are also compelled to meet on an irregular basis due to a lack of the necessary quorum to conduct an official

meeting. Such uncontrollable operational considerations tends to prevent agencies, boards, and commissions from being able to officially approve their prior meeting minutes every month and would thereby make it impossible to comply with the requirement for website postings of their meeting minutes to be made within the rigid thirty day timeframe after these agency, board, and commission meetings. Also, many boards or commissions require that draft minutes be approved by the board or commission before being considered final. Since these boards or commissions may meet only once a month, it would be impractical and operational not possible to meet a thirty day requirement after the meeting for which the minutes are to cover.

Thank you for the opportunity to provide testimony on this concurrent resolution.