



OFFICE OF THE LIEUTENANT GOVERNOR
STATE OF HAWAII
STATE CAPITOL
HONOLULU, HAWAII 96813

SHAN S. TSUTSUI
LIEUTENANT GOVERNOR

**TESTIMONY OF
THE OFFICE OF THE LIEUTENANT GOVERNOR
TO THE
SENATE COMMITTEE ON GOVERNMENT OPERATIONS**

**SENATE BILL NO. 2293
Relating to Open Government**

Chair Kim, Vice Chair Ihara, and members of the Committee on Government Operations, the Office of the Lieutenant Governor would like to provide comments on Senate Bill No. 2293, relating to Open Government as it pertains to our office.

This measure requires boards and commissions to file notices for public meetings not only with the Office of the Lieutenant Governor, but also electronically on the State online calendar. Furthermore, this measure provides that if such notices are not filed with the Lieutenant Governor and electronically posted at least six calendar days before the meeting, the Lieutenant Governor or appropriate county clerk will notify the chairperson of such late filings and the meetings shall not be held.

The Office of the Lieutenant Governor, however, does not maintain the State online calendar nor does it have access to the calendar or information on filing dates and times. Enforcement by our office for the electronic filing requirement will, therefore, be problematic. If dual requirements for filing are mandated, it would be more efficient and effective to have a single office or agency receiving and enforcing the filing requirements for all methods. Alternatively, as the measure also requires each board to mail hard copy notices to persons requesting such, under the amendment to subsection 92-7(e), HRS, the need for physical filings may be unnecessary as all interested persons would be able to access the information either via the electronic filing or for those few individuals interested in receiving physical copies through make requests with the specific board.

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



HAWAII STATE ETHICS COMMISSION

State of Hawaii • Bishop Square, 1001 Bishop Street, ASB Tower 970 • Honolulu, Hawaii 96813

SENATE COMMITTEE ON GOVERNMENT OPERATIONS
The Honorable Donna Mercado Kim, Chair
The Honorable Les Ihara, Jr., Vice Chair

S.B. No. 2293, Relating to Open Government

Hearing: Tuesday, February 2, 2016, 1:15 p.m.

The Hawaii State Ethics Commission ("Commission") **supports the intent** of this bill, to increase public access to information regarding public meetings and public hearings to facilitate public participation and input; allow for electronic mailing and posting of meeting notices under the Sunshine Law, part I of chapter 92, HRS; allow for email notice to persons on a board's mailing list; and generally supports efforts to make government more open and accessible, but **opposes the bill in its current form** for the reasons stated below.

Board Packets

S.B. No. 2293 requires a board: (1) to allow public inspection in the board's office of the "board packet" materials for a board's public meetings; and (2) to mail copies of the "board packet" to persons requesting notification pursuant to HRS section 92-7(e).

The "board packet" for the Commission's public meetings typically includes hundreds of pages of materials, much of which consists of summaries and other documents that are protected attorney-client communications. The additional requirement to provide printed copies of such materials would create a substantial administrative burden on the Commission's staff. Currently, the Commission's staff provides members of the Commission with materials relating to public meeting agenda items in electronic (PDF) file form. In addition to the increased administrative burden that would be incurred compiling, printing and mailing printed copies of board packets, the Commission would also be required to incur the significant costs of copying hundreds of pages of materials and mailing them to persons who request notification of meetings pursuant to HRS section 92-7(e), and there is currently no appropriation in this bill to cover such costs. Therefore, the Commission strongly recommends that the board packet disclosure provisions be deleted.

Public Access to Board Minutes in Draft or Final Form within 30 Days after Board Meeting

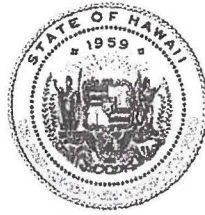
S.B. No. 2293 amends HRS section 92-9 by requiring the minutes made by a board to be publicly posted on the board's website, or a designated website maintained by the State or appropriate county, within thirty days after the date of a board meeting, regardless of whether the board has formally reviewed or approved the minutes, except where such disclosure would be inconsistent with HRS section 92-5.

The posting of the Commission's public meeting minutes on the Commission's website, prior to review and approval by the Commission, will likely lead to questions from the public which are unnecessary or premature as the minutes may be revised during the Commission's review and approval process.

Currently, the minutes of the Commission's public meetings are posted on the Commission's website after the minutes have been reviewed and approved by the Commission, and we believe this procedure should be incorporated in the statute. Therefore, we recommend S.B. No. 2293 be amended to incorporate language that approved minutes be posted on a board's website, or a designated website maintained by the State or appropriate county, within seven days after approval by the board, and the thirty day posting requirement currently reflected in the bill be removed.

We appreciate the opportunity to testify on S.B. No. 2293, Relating to Open Government. We would like to thank this Committee for its consideration of our testimony.

DAVID Y. IGE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

Testimony of
SUZANNE D. CASE
Chairperson

Before the Senate Committee on
GOVERNMENT OPERATIONS

Tuesday, February 2, 2016
1:15 PM
State Capitol, Conference Room 414

In Consideration of
SENATE BILL 2293
RELATING TO OPEN GOVERNMENT

Senate Bill 2293 proposes to provide measures to facilitate public participation and input into public meetings by making meeting documents available to the public. **The Department of Land and Natural Resources (Department) acknowledges the intent of the bill and notes that the Ige Administration has also developed policy to encourage public participation in government. However, the Department has concerns with regard to the proposed language in Section 92-3, Hawaii Revised Statutes (HRS), which may increase costs and the amount of staff time needed to mail packets to those who request hard copies.**

The Department is concerned that the requirement to “provide copies [of the board packet] to persons requesting notification pursuant to Section 92-7 (e), HRS, could be interpreted to mean that the Department would be required to provide hard copies upon request. This goes against the Administration’s paperless policy, which has been shown to be more efficient and to cut costs.

The Department currently makes available hard copies of agenda submittals at all of the main Department offices statewide for public viewing. In addition, copies of the Board of Land and Natural Resources meeting agendas are provided to 47 people who request hard copies be mailed to them. The potential cost of mailing additional documents to these 47 people is outlined in the following table:

Pages	Packets	Meetings	Copy costs	Postage	Total
250	47	22	.5		\$129,250
	47	22		6.00	6,204
Total					135,454

SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

KEKOA KALUHIWA
FIRST DEPUTY

JEFFREY T. PEARSON P.E.
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAIHOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

Based on this analysis, it would cost almost \$3,000 to mail a full year's worth of packets to any individual, or \$130 per person, per meeting. This does not include the additional staff time required to assemble the packets. The additional costs outweigh the benefits when compared to posting materials on the web.

Additionally, it is unlikely that the State e-mail system, or requestor's e-mail systems could accommodate the amount of data the board packet would require to be e-mailed. The Department currently posts all of its packets items electronically on its website prior to each meeting. An example can be viewed at <http://dlnr.hawaii.gov/meetings/blnr-meetings-2016/land-board-submittals-012216/>. The Department believes that this method is far more efficient and effective than individual mailouts, either electronic or hard copy.

Thank you for this opportunity to testify.

DAVID Y. IGE
Governor

SHAN S. TSUTSUI
Lieutenant Governor

LUIS P. SALAVERIA
Director

MARY ALICE EVANS
Acting Deputy Director



LAND USE COMMISSION
Department of Business, Economic Development & Tourism
State of Hawai'i

DANIEL ORODENKER
Executive Officer

Bert K. Saruwatari
Planner

SCOTT A.K. DERRICKSON AICP
Planner

RILEY K. HAKODA
Chief Clerk/Planner

FRED A. TALON
Drafting Technician

Statement of
Daniel E. Orodener
Executive Officer
Land Use Commission
Before the
Senate Committee on Government Operations
Tuesday February 2, 2016
1:15 PM
State Capitol, Conference Room 414

In consideration of
SB 2293
RELATING TO OPEN GOVERNMENT

Chair Mercado Kim, Vice Chair Ihara, and members of the Committee on Government Operations:

The Land Use Commission supports SB 2293 as it is consistent with the Commission's current method of operation. We also support the ability to utilize technology through electronic noticing of our meetings that should improve the efficiency of our process and public participation.

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 Government Operations

From: Cheryl Kakazu Park, Director

Date: February 2, 2016, 1:15 p.m.
State Capitol, Conference Room

Re: Testimony on S.B. No. 2293
Relating to Open Government

Thank you for the opportunity to submit testimony on this bill. The Office of Information Practices (“OIP”) supports the intent to provide for electronic mailing and posting of meeting notices, but has practical and technical concerns about some parts of this bill.

OIP believes that the language from a proposed conference draft of S.B. 475, attached hereto, provides a better starting point for both electronic mailing and posting of notices and the proposed new board packet disclosure requirement. While OIP still has concerns about the burden the proposed new board packet requirement will present for boards, the language in the proposed conference draft sets out a much more practicable version of the requirement. The board packet language was added to that bill, however, at a point in the session when the only remaining hearing was before the House Finance Committee, so there wasn’t a full opportunity for the public (including affected boards) to testify on the proposed requirement. Placing the language being discussed by the conference committee in this bill as a vehicle will allow a full opportunity for hearings on the proposal. Thus, **OIP recommends that this**

Committee replace the language of this bill with the language from the attached proposed conference draft of S.B. 475 for further consideration this session.

If this Committee instead prefers to work with the language of this bill in its current form, OIP has a number of concerns. First, the bill would amend the **purpose and intent provisions** of the Sunshine Law, part I of chapter 92, HRS. The purpose provision of the Sunshine Law, section 92-1, HRS, is currently identical to that for the Uniform Information Practices Act, section 92F-2, HRS, but the proposed amendments in bill section 2 (bill page 2, lines 11-14) would change the language of the respective provisions so that they were no longer identical. It is not clear what the purpose of these changes would be, or whether and how it would change current interpretations of the Sunshine Law's substantive provisions that are based on the purpose section in its current form. Further, to the extent that court or OIP decisions relating to the interplay between the Sunshine Law and the UIPA have taken note of the fact that they both serve identical legislative purposes, it is not clear what the intended effect would be of changing the Sunshine Law's purpose so that the two were similar but not identical. OIP respectfully suggests that any changes to the purpose section of the Sunshine Law be carefully thought out to address specific problems. OIP further asks that if the purpose sections are to no longer be identical, the reason for the distinction between the two be explained in a Committee Report. Alternatively, **if no compelling reason is found for changing purpose sections that have been the basis for decades of court and OIP interpretations of the respective laws, OIP would suggest that bill section 2 be deleted to prevent unintended consequences.**

Second, the requirement in bill section 1 to provide **board packets** will create a new and potentially substantial administrative burden for boards, as

they will need to ensure that what could be hundreds of pages of board materials, including some provided by third parties, are in ADA accessible format for the public distribution, as opposed to the simple image scans the boards may be accustomed to sending now to board members. Boards have testified that they do not have the **staff to do the work** by the deadline, and they also do not have the **financial resources to mail** packets to people on the mailing list. **The language would also create a new deadline by requiring boards to have all written materials it intended to consider in final form at the time of filing notice. If boards fail to meet their new obligations, the procedural failures may become the basis for potential liability and substantial litigation seeking to overturn the boards' action.**

While the board packet language in bill section 1 does at least define “board packet” as being limited to documents compiled and distributed to board members for use at the meeting, and to the information therein that is subject to disclosure under chapter 92F, the language added to section 92-3, HRS, by section 3 of this bill would apparently create an **additional, broader obligation for boards to allow the public to view** “documents, reports, and proposals under consideration at the meeting” at the time notice is filed regardless of whether those proposals or reports even exist in written form – they would presumably need to be reduced to writing before the notice was filed for the board to be able to consider them – and regardless of whether the information was exempt from public disclosure under chapter 92F and intended to be discussed in an executive session. **This duplication of the board packet requirement in two different places is confusing and contradictory, and the broader version set out in bill section 3 would frustrate the purpose of the Sunshine Law’s executive session provisions** by requiring boards to disclose labor or personnel matters,

settlement or public property acquisition negotiations, or other confidential matters that could otherwise be discussed in executive session. **OIP would therefore recommend that this Committee delete bill section 3.**

OIP notes that the electronic notice language in this bill at sections 4 and 5 are similar to the language of the attached SB 475 proposed CD 1. **OIP supports the concept of electronic notice. We wish to point out, however, that the electronic notice would be an additional statutory requirement and that a board's failure to provide such notice as well as timely filing with the Lt. Governor's office would now be a Sunshine Law violation.**

Finally, regarding the proposed amendments in bill section 6, at bill page 9, lines 15-16, OIP notes that "video or sound recordings made by the board" are not actually minutes as the proposed language would suggest, since **minutes are required to be written pursuant to section 92-9(a), HRS. Thus, the inclusion of video or sound recordings is confusing.** OIP further notes that it is **not necessary to amend this section to provide that video or sound recordings of a public meeting are public records, because current law already provides for their disclosure.** Section 92F-12(a)(16) of the state's Uniform Information Practices Act (Modified) ("UIPA") already makes clear that "information contained in or compiled from a transcript, minutes, report, or summary of a proceeding open to the public" is public record, and boards therefore cannot withhold access to video or sound recordings of an open meeting since the information therein is "information contained in . . . a transcript . . . of a proceeding open to the public." The proposal amendment specifying that minutes are public record after 30 days "regardless of whether the board has formally reviewed or approved the minutes" at bill page 9, lines 20-21, is likewise unnecessary, as the **current Sunshine Law does not require boards to approve or review**

minutes and OIP has consistently opined that the current law requires disclosure of public meeting minutes after 30 days regardless of whether the board considers them to be in draft form. The proposed requirement that board minutes be publicly posted online rather than merely “available” to the public within 30 days after the meeting is something not required by current law, and OIP notes that this requirement would take time to implement given that many boards do not have websites and would need to work with the State or the relevant county to figure out where their minutes should be posted, and how they can do so in a timely way. Given the likelihood that many boards will need to go through a departmental IT person or another third party to have minutes posted online, and given the need to ensure that such minutes are made ADA accessible before posting online, thereby causing a delay between the date minutes are prepared and the date they are posted online, **OIP notes that this change will effectively shorten the deadline for boards to have their minutes prepared. To give boards time to hire and train additional personnel, to develop training and procedures to streamline the accessible formatting and online posting process, and to give the State and counties time to create websites for boards to post minutes on, OIP would recommend that the effective date for such a change be no earlier than September 30, 2017** (assuming that adequate personnel and funding are appropriated and released this year).

Because the substance of the remaining amendments in bill section 6 are unnecessary under current law and OIP opinions and the new reference to “video or sound recordings” technically and confusingly conflicts with section 92-9(a)’s requirement that minutes be “written,” OIP recommends against adopting those changes.

Thank you for the opportunity to testify.

DRAFT

THE SENATE
TWENTY-EIGHTH LEGISLATURE, 2015
STATE OF HAWAII

S.B. NO. 475
S.D. 1
H.D. 2
C.D. 1

A BILL FOR AN ACT

RELATING TO OPEN GOVERNMENT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 92-7, Hawaii Revised Statutes, is
2 amended to read as follows:
3 "§92-7 Notice. (a) The board shall give written public
4 notice of any regular, special, emergency, or rescheduled
5 meeting, or any executive meeting when anticipated in advance.
6 The notice shall include an agenda [~~which~~] that lists all of the
7 items to be considered at the forthcoming meeting, the date,
8 time, and place of the meeting, and in the case of an executive
9 meeting the purpose shall be stated. If an item to be
10 considered is the proposed adoption, amendment, or repeal of
11 administrative rules, an agenda meets the requirements for
12 public notice pursuant to this section if it contains a
13 statement on the topic of the proposed rules or a general
14 description of the subjects involved, as described in section
15 91-3(a)(1)(A), and a statement of when and where the proposed
16 rules may be viewed in person and on the Internet as provided in
17 section 91-2.6. The means specified by this section shall be



1 the only means required for giving notice under this part
2 notwithstanding any law to the contrary.

3 (b) ~~[The]~~ No less than six calendar days before the
4 meeting, the board shall [file]:

5 (1) File the notice in the office of the lieutenant
6 governor or the appropriate county clerk's office~~[7]~~
7 and in the board's office for public inspection~~[7, at~~
8 ~~least six calendar days before the meeting.]~~ ; and

9 (2) Post the notice on the electronic calendar on the
10 State's internet website maintained by the State or
11 the appropriate county's internet website maintained
12 by that respective county.

13 The notice shall also be posted at the site of the meeting
14 whenever feasible.

15 (c) If the written public notice is filed ~~[in the office~~
16 ~~of the lieutenant governor or the appropriate county clerk's~~
17 ~~office]~~ or electronically posted less than six calendar days
18 before the meeting, the lieutenant governor or the appropriate
19 county clerk shall immediately notify the chairperson of the
20 board, or the director of the department within which the board
21 is established or placed, of the tardy filing or electronic



1 posting of the meeting notice. The meeting shall be canceled as
 2 a matter of law[~~the~~] and shall not be held. The chairperson
 3 or the director shall ensure that a notice canceling the meeting
 4 is filed in the office of the lieutenant governor or the
 5 appropriate county clerk's office, electronically posted on the
 6 electronic calendar maintained by the State or appropriate
 7 county, and posted at the place of the meeting[~~and no meeting~~
 8 ~~shall be held~~]. If there is a dispute as to whether a notice
 9 was timely posted on an electronic calendar maintained by the
 10 State or appropriate county, a printout of the electronic time-
 11 stamped agenda shall be conclusive evidence of the electronic
 12 posting date.

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



1 (e) The board shall maintain a list of names and postal or
 2 electronic mail addresses of persons who request notification of
 3 meetings and shall mail or electronically mail a copy of the
 4 notice to such persons at their last recorded postal or
 5 electronic mail address no later than the time the agenda is
 6 filed or electronically posted under subsection (b) [-]; provided
 7 that the board shall allow a person to continue to receive a
 8 copy of the notice via postal mail rather than electronic mail
 9 upon request of the person.

10 (f) If, between the time that a notice is filed and posted
 11 by the board and the commencement of the meeting, a board packet
 12 is distributed to board members, the board shall make the board
 13 packet available for public inspection at the time and location
 14 listed on the filed and posted notice.

15 For purposes of this subsection, "board packet" means
 16 documents subject to disclosure under chapter 92F that are
 17 compiled by the board and distributed to the board members
 18 before a meeting for use at the meeting."

19 SECTION 2. Section 92-8, Hawaii Revised Statutes, is
 20 amended by amending subsections (a) and (b) to read as follows:

DRAFT

S.B. NO. 475
S.D. 1
H.D. 2
C.D. 1

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

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

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

10 (3) An emergency agenda and the findings are filed [~~with~~
11 ~~the office of the lieutenant governor or the~~
12 ~~appropriate county clerk's office, and in the board's~~
13 ~~office,~~] and electronically posted pursuant to section
14 92-7(b), excluding the six calendar day filing and
15 electronic posting requirement; and

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

19 (b) If an unanticipated event requires a board to take
20 action on a matter over which it has supervision, control,
21 jurisdiction, or advisory power, within less time than is



1 provided for in section 92-7 to notice and convene a meeting of
2 the board, the board may hold an emergency meeting to deliberate
3 and decide whether and how to act in response to the
4 unanticipated event; provided that:

5 (1) The board states in writing the reasons for its
6 finding that an unanticipated event has occurred and
7 that an emergency meeting is necessary and the
8 attorney general concurs that the conditions necessary
9 for an emergency meeting under this subsection exist;

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

13 (3) The finding that an unanticipated event has occurred
14 and that an emergency meeting is necessary and the
15 agenda for the emergency meeting under this subsection
16 are filed [~~with the office of the lieutenant governor~~
17 ~~or the appropriate county clerk's office, and in the~~
18 ~~board's office;~~] and electronically posted pursuant to
19 section 92-7(b), excluding the six calendar day filing
20 and electronic posting requirement;



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

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

8 SECTION 3. Statutory material to be repealed is bracketed
9 and stricken. New statutory material is underscored.

10 SECTION 4. This Act shall take effect on July 1, 2015.

11



DRAFT

S.B. NO. 475
S.D. 1
H.D. 2
C.D. 1

Report Title:

Public Agency Meetings; Meeting Notice; Emergency Meetings

Description:

Allows the electronic mailing of meeting notices; requires the posting of the notice on the state or appropriate county's electronic calendar; and clarifies potential posting disputes. Adds emergency meetings to the public meeting notice requirements. (CD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.



TESTIMONY BY THOMAS WILLIAMS
EXECUTIVE DIRECTOR, EMPLOYEES' RETIREMENT SYSTEM
STATE OF HAWAII

TO THE SENATE COMMITTEE ON GOVERNMENT OPERATIONS
ON

SENATE BILL NO. 2293

FEBRUARY 2, 2016, 1:15 P.M.

RELATING TO OPEN GOVERNMENT

Chair Kim, Vice Chair Ihara and Members of the Committee,

S.B. 2293 would require that board packets of the board meetings of the Employees' Retirement System (ERS) be provided to persons requesting notification of board meetings either electronically or in hard copy at the time the agenda is made available to the public.

The ERS Board of Trustees has not had the opportunity to review S.B. 2293 and therefore has not taken a formal position on this proposal; however, the ERS staff has the following comments and concerns:

- ERS does not at present have the capability of producing entirely electronic board packets. The information presented to our board is often voluminous and delivered at, or just prior to, our meetings. The voluminous materials include detailed investment manager reports and actuarial evaluations sometimes equaling 150 or more pages. In addition, these materials may include confidential information (normally held in executive session) which would have to be redacted or separated by the presenters or ERS staff in order to be released to the public.
- Our board meetings are held the second Monday of each month with investment updates through the end of the prior month. This close timeframe results in many materials being delivered to the board by presenters at the board meetings. Were we to be required to mail any such materials it would prove costly and time consuming to photocopy or scan.
- Lastly, not all public requesters may want hard or electronic copies of all agenda item attachments. They may be interested in one item for that month, or none at all. Arbitrary requests for board packets for all meetings may not only be expensive but wasteful as well.

On behalf of the Board of Trustees and staff of ERS we wish to thank you for the opportunity to testify.

THE CIVIL BEAT
LAW CENTER FOR THE PUBLIC INTEREST

700 Bishop Street, Suite 1701
Honolulu, HI 96813

Office: (808) 531-4000
Fax: (808) 380-3580
info@civilbeatlawcenter.org

Senate Committee on Government Operations
Honorable Donna Mercado Kim, Chair
Honorable Les Ihara, Jr., Vice Chair

RE: Testimony Commenting on S.B. 2293, Relating to Open Government
Hearing: February 2, 2016 at 1:15 p.m.

Dear Chair and Members of the Committee:

My name is Brian Black. I am the Executive Director of the Civil Beat Law Center for the Public Interest, a nonprofit organization whose primary mission concerns solutions that promote government transparency. Thank you for the opportunity to submit testimony on S.B. 2293. The Law Center **strongly supports** this bill. A few areas for suggested improvements are underscored below.

S.B. 2293 is critical legislation to bring our open meetings law into the 21st Century.

Section 1: Board Materials

Our society cannot expect the public to participate and testify at Sunshine board meetings, unless the board educates the public – as it does its board members – concerning the matters that will be discussed at open meetings. Requiring public access to board packets before the meeting is essential. The logistics of this requirement, however, could prove difficult for smaller boards, some of which may garner little public interest for a typical meeting. Rather than disclosure as a matter of course for every meeting, the Committee may consider requiring that boards disclose board materials within 48 hours of any request – with prompt continuing disclosure as subsequent materials become available. Requiring a request ensures a measure of public interest in the particular materials before the board commits resources to preparing records for public access.¹

Section 2: Intent of Sunshine Law

The State of Hawai'i Office of Information Practices has recognized that the Sunshine Law protects not only public access to, but encourages public participation in open meetings. *E.g.*, OIP Op. No. 03-06 at 5 (Sunshine protects "the public's right to participate in the governmental process"). Section 2 would codify that intent.

¹ The 48-hour requirement would be necessary to shorten the existing 10 business day response time under the State of Hawai'i Office of Information Practices regulations concerning public records, so that materials would be accessible *before* the meeting.

Section 3: Access to Documents

Section 3 appears to impose the same requirement as the board packet provision in Section 1. The Committee may consider consolidating these requirements to avoid potential confusion. Please take note that incorporating this requirement into HRS § 92-3 means that the board's failure to provide relevant documents makes final board action related to those documents voidable if a concerned citizen brings a lawsuit. HRS § 92-11 (final action taken in violation of HRS § 92-3 may be void).

Section 4 and Section 5: Notices on the Internet and by E-mail and Notice of Emergency Meetings

This section ensures that interested persons receive timely notice of meetings using modern technology. Most, if not all, boards post meeting notices on an appropriate State or county website; for more than 4 years, it has been a requirement for all State boards through Executive Memorandum No. 11-11. And many boards already have e-mail distribution lists for meeting notices because it is cheaper and more efficient than postal mailings.

Section 6: Minutes on the Internet and Permission to Record Meetings

Boards must have publicly accessible minutes *on request* within 30 days of a meeting. OIP Op. No. 02-06. S.B. 2293 requires that a board post that public record on the Internet, rather than wait for board approval or a request. The actions of government boards should be timely accessible to interested members of the public; it is physically impossible to follow government operations by attending all board meetings in person.

Please note, however, that board recordings of a meeting are not "minutes" in the manner referenced in S.B. 2293. Those records under existing law are publicly accessible when requested. OIP Op. No. 02-06. The Committee may consider deleting the reference to "video or sound recordings" as minutes or moving that provision to a separate section. If the Committee intends that video or sound recordings would be posted on the Internet – as indicated in S.B. 2293 – it may consider the need for additional board resources to accomplish that task.

Section 6 also correctly eliminates the Sunshine Law's archaic reference authorizing the public only to make "sonic reproductions" of an open meeting.

Thank you again for the opportunity to testify.



Senate Government Operations Committee
Chair Donna Mercado Kim, Vice Chair Les Ihara, Jr.

Tuesday, 02/02/2016 at 1:15 PM in Room 414
SB 2293 – Relating to Open Government

TESTIMONY OF SUPPORT
Carmille Lim, Executive Director, Common Cause Hawaii

Dear Chair Mercado Kim, Vice Chair Ihara, and members of the Senate Government Operations Committee:

Common Cause Hawaii supports SB 2293 which increases public access to information before a hearing by a board by:

- Allowing for electronic mailing and “posting” of hearing notices;
- Requires public hearing notices to be published on the board’s website, or a relevant state/county website;
- Makes “board packets” (i.e., documents, reports, and proposals of matters the board will consider) available to members of the public before a public hearing;
- Clarifies Hawaii’s existing Sunshine Law: that board minutes are to be made available to the public 30 days after a hearing – regardless if the minutes have been approved by the board or not.

SUGGESTION

Section 1, lines 8-9: We suggest that board packets be provided to interested parties electronically by default, and in hard copy, only by request. This can help mitigate costs associated with printing and postal mail.

We believe that an educated, engaged citizenry is crucial to a thriving democracy. By making these information more accessible to the public, we can take a step toward fostering greater public dialog between policy makers and the public on pressing issues that affect Hawaii.

Thank you for the opportunity to offer testimony **supporting SB 2293**.



49 South Hotel Street, Room 314 | Honolulu, HI 96813
www.lwv-hawaii.com | 808.531.7448 | voters@lwv-hawaii.com

SENATE COMMITTEE ON GOVERNMENT OPERATIONS

Tuesday, February 2, 2016, 1:15 pm, Conference Room 414
SB 2293 RELATING TO OPEN GOVERNMENT

TESTIMONY

Douglas Meller, Legislative Committee, League of Women Voters of Hawaii

Chair Kim, Vice-Chair Ihara, and Committee Members:

The League of Women Voters of Hawaii supports SB 2293 which strengthens statutory policies and requirements applicable to public notice, participation, and monitoring of board meetings.

We believe that SB 2293 is needed to resolve public complaints that:

- when the public requests electronic mail notice of board meetings instead of postal mail notice under Section 92-7(e), Hawaii Revised Statutes, some boards send electronic mail notice less than 6 calendar days prior to board meetings.
- some boards schedule public testimony concerning board packets before the public has opportunity to review or hear discussion of the board packets.
- some boards delay public disclosure of board packets until after completion of board action on the board packets.
- some boards delay public disclosure of their draft minutes beyond 30 days despite OIP rulings concerning disclosure of draft minutes.

In Section 1, we suggest that you amend SB 2293 to require boards to provide only electronic copies of board packets to persons requesting notification of board meetings under Section 92-7(e), Hawaii Revised Statutes. Otherwise, many boards might find the cost of duplicating and mailing paper copies of their board packets to be prohibitive.

In Section 6, we suggest that you amend SB 2293 to eliminate the requirement for boards to post video and sound recordings on an internet website. We doubt that all boards have sufficient expertise and resources to periodically post video and sound recordings on an internet website.

Otherwise, we strongly support SB 2293. Thank you for the opportunity to submit testimony.

From:
Sent: Monday, February 01, 2016 4:20 PM
To: GVO Testimony
Subject: Testimony

THE SENATE
THE TWENTY-EIGHTH LEGISLATURE
REGULAR SESSION OF 2016

COMMITTEE ON GOVERNMENT OPERATIONS
Testimony in support of the Intent of S.B. 2293
Hearing: February 2, 2016 1:15 PM
(RELATING TO OPEN GOVERNMENT)

Chair Kim, Vice Chair Ihara, and members of the Committee.

My name is Yolanda Phelan I represent the Hawaii Association of the Blind I support the intent of SB 2293, however, I am concerned that the bill as currently drafted may not offer additional access to persons such as myself, who are visually disabled because the bill does not require that electronic documents posted on the state calendar be accessible for people who use text to speech software that allow us to access the Internet.

My concern is based on the difficulties that I encountered last year when attempting to submit testimony using the Legislature's website. I was unable to submit my testimony electronically and had to take several buses to hand deliver my testimony. I often encounter inaccessible electronic documents which cannot be read by the software that I use to access the internet on agency websites. Because this bill does not require that documents posted electronically be accessible, I am concerned that people like me will not be able to access the meeting information that this bill requires or the electronic notice for the meeting and will be denied the right to participate in government.

Please consider adding language in this bill to address my concerns.

With respect,

Yolanda Phelan
Hawaii Association of the Blind
Member- Board of Directors
Legislative Chair

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, January 31, 2016 12:16 PM
To: GVO Testimony
Cc:
Subject: Submitted testimony for SB2293 on Feb 2, 2016 13:15PM

SB2293

Submitted on: 1/31/2016

Testimony for GVO on Feb 2, 2016 13:15PM in Conference Room 414

Submitted By	Organization	Testifier Position	Present at Hearing
Barbara Polk	Individual	Support	No

Comments: I urge your support for SB 2293 that increases the availability of information to the public on issues to be discussed at public meetings. Too often, members of a committee or commission have information available to them that is not available to the public. At times, members of the public have additional or contradictory information that would be useful in decision making. Although they may have the opportunity to comment, without this information, it is often too late to make useful comments.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

TO: Members of the Committee on Government Operations

FROM: Natalie Iwasa
Honolulu, HI 96825
808-395-3233

HEARING: 1:15 p.m. Tuesday, February 2, 2016

SUBJECT: SB 2293 Relating to Open Government (Electronic Agendas) - **SUPPORT**

Aloha Chair and Committee Members,

Thank you for allowing me the opportunity to provide testimony on SB 2293, which would allow require boards subject to the open meetings law to post agendas online.

This bill also defines video and sound recordings as public records and requires them to be posted online. Too often video recordings of public meetings have not been posted until several months after the meeting. I support timely posting of recordings of meetings.

Please vote "yes" on Bill SB 2293.

PETER L. FRITZ

TELEPHONE (SPRINT RELAY): (808) 568-0077
E-MAIL: PLFLEGIS@FRITZHQ.COM

THE SENATE THE TWENTY-EIGHTH LEGISLATURE REGULAR SESSION OF 2016

COMMITTEE ON GOVERNMENT OPERATIONS

Testimony on S.B. 2293
Hearing: February 2, 2016 1:15 PM

(RELATING TO OPEN GOVERNMENT)

Chair Kim, Vice Chair Ihara, and members of the Committee. My name is Peter Fritz. I am an attorney and an individual with a disability. I have served on the State Rehabilitation Advisory Council am familiar with the barriers that must be surmounted by individuals with disabilities when trying to access information on state websites and participate in government. I am testifying **in support of the intent of the bill** but I do not support the bill as currently drafted because the bill does not require that the electronically posted meeting notices be accessible nor does it require that electronically posted meeting information be accessible.

This bill would require electronic mailing and posting of meeting notices; requires the posting of the notice on the state or appropriate county websites and increase public access to information before a public hearing by a board.

While the posting of information electronically can increase access to information for many individuals with disabilities, when that information is posted in an inaccessible format or posted on state websites that are inaccessible it will be it impossible for some disabled users to access such information.

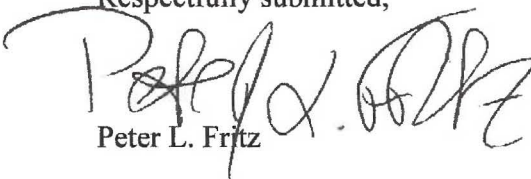
- **This Bill Does Not Require That Electronically Posted Notices of Meetings and Meeting Materials Be Posted in A Format That Is Accessible by Individuals with Disabilities.** Hawaii does not have a statute that requires that information be posted in an accessible format. Other states such as Florida have enacted statutes that require agencies to post such documents in an accessible format which provides individuals with a state remedy¹ and I respectfully suggest that this bill be amended to require that materials be posted in an accessible format.

¹ Florida Statute § 282.603. Access to electronic and information technology for persons with disabilities; undue burden; limitations

(1) Each state agency shall develop, procure, maintain, and use accessible electronic information and information technology acquired on or after July 1, 2006, that conforms to the applicable provisions set forth by s. 508 of the Rehabilitation Act of 1973, as amended, and 29 U.S.C. s. 794(d), including the regulations set forth under 36 C.F.R. part 1194, except when compliance with this section imposes an undue burden; however, in such instance, a state agency must provide individuals with disabilities with the information and data involved by an alternative method of access that allows the individual to use the information and data.

- **Many Agency Websites Are Inaccessible.** The design of many agency websites may make it impossible for individuals to access electronically posted information. The attached site survey for the legislature's own website and for the Lieutenant Governor's website show that many design elements make it difficult or impossible for individuals to access information.
- **Meetings Should Be Canceled If Meeting Materials Are Not Publically Available When the Notice of a Meeting Is Filed with the Lieutenant Governor and Posted on the State Calendar.** The bill does not require that a meeting be canceled if the materials for the meeting are not available at the agency or not posted on the agency's web site when the notice of the meeting² is filed with the Lieutenant Governor. There are no consequences for failing to make these materials available or to posting materials on an agency's website in an accessible format. Under current law, if an agency does not file the notice with the Lieutenant Governor at least six days prior to the meeting, the Lieutenant Governor must call the agency and cancel the meeting.³ This bill does not require that a meeting be canceled if the materials are not available.

Respectfully submitted,



Peter L. Fritz

² The current position of the Office of Information Practices is that when the notice is filed means six days prior to the meeting even if the notice is filed more than six days prior to the meeting. For example, if an agency was holding a meeting on January 21, 2016 the notice would have to be filed no later than January 15, 2016. If the notice was filed on January 12, 2016, the materials could be posted on January 15, 2016 and would not have to be posted when the notice was filed on January 12, 2016. Consideration should be given to clarifying this six day notice requirement.

³ Hawaii Revised Statute 92-7 (c) provides "If the written public notice is filed in the office of the lieutenant governor or the appropriate county clerk's office less than 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. The meeting shall be canceled as a matter of law, the chairperson or the director shall ensure that a notice canceling the meeting is posted at the place of the meeting, and no meeting shall be held."

Scan of first 10 pages of **Capitol.Hawaii.gov**
 Capitol.Hawaii.gov

Overall Quality	60% pages have critical issues	⊗ 60% have issues, worse than average
<u>Errors</u>	50% pages have critical issues	⊗ 50% have issues, worse than average
<u>Accessibility</u>	60% pages have critical issues	⊗ 60% have issues, worse than average
<u>Compatibility</u>	50% pages have non-critical issues	⊗ 50% have issues, worse than average
<u>Privacy</u>		✓ 0% have issues, better than average
<u>Search</u>	60% pages have non-critical issues	⊗ 60% have issues, worse than average
<u>Standards</u>	60% pages have critical issues	⊗ 60% have issues, worse than average
<u>Usability</u>	40% pages have critical issues 20% pages have non-critical issues	⊗ 60% have issues, worse than average

ACCESSIBILITY ISSUES, indicating problems for older users, people with disabilities or accessibility needs. Automated testing cannot detect all accessibility issues, so should be used alongside human testing.

Level WCAG 2 Section 508

Key

- A ● ● ● Priority A - accessibility users will find it impossible to use some pages
- AA ● ● Priority AA - accessibility users will find it difficult to use some pages

Priority 1 Issues (Level A)

- All ONCLICK handlers should have an equivalent ONKEYPRESS handler.

Section 508
1194.22 (l)
WCAG 2.0 A
F54

Some users are unable to use a mouse, so use the keyboard instead. Add an equivalent keyboard event handler to help these users.

454
458
462
466
470
477
481
485
489
493

<http://capitol.hawaii.gov/login/login.aspx>

<http://capitol.hawaii.gov/login/register.aspx>
- All ONMOUSEOUT handlers should have an equivalent ONBLUR handler.

Section 508 1194.22 (l)
WCAG 2.0 A F54

Some users are unable to use a mouse, so use the keyboard

instead. Add an equivalent keyboard event handler to help these users.

<http://capitol.hawaii.gov/login/login.aspx>

454 458 462
466 470 ...

<http://capitol.hawaii.gov/login/register.aspx>

477 481 485
489 493 ...

All ONMOUSEOVER handlers should have an equivalent ONFOCUS handler. Section 508 1194.22
(l) WCAG 2.0 A F54

Some users are unable to use a mouse, so use the keyboard instead. Add an equivalent keyboard event handler to help these users.

<http://capitol.hawaii.gov/login/login.aspx>

454 458
462 466
470 ...

<http://capitol.hawaii.gov/login/register.aspx>

477 481
485 489
493 ...

Each A element must contain text or an IMG with an ALT attribute.

WCAG 2.0
A F89

Add text to the link, or ALT text if the link contains an image. If there is no link text or the ALT text is blank, screen readers have nothing to read, so read out the URL instead.

<http://capitol.hawaii.gov/>

334 343
352 361
370 ...

<http://capitol.hawaii.gov/login/login.aspx>

517 539
549 559
569 ...

<http://capitol.hawaii.gov/login/register.aspx>

540 562
572 582
592 ...

Identify row and column headers in data tables using TH elements, and mark layout tables with role='presentation'.

Section
508
1194.22
(g) WCAG
2.0 A F91

Data tables allow screen reader users to understand column and row relationships. Layout tables read cells as a series of unrelated paragraphs with no tabular structure. Without TH or ROLE, screen readers apply heuristics to decide whether a table is a layout table or data table. These heuristics vary greatly between screen readers, and are affected by browser being used, window size, and font size (so the outcome is very unpredictable without TH or ROLE). If a data table has headers marked up using TD, then change these to TH. If a data table has no headers, add TH elements describing each row and/or column. If the table is only used for layout add role='presentation' to the TABLE element.

- JAWS Reading: Treats tables without TH and ROLE as layout tables if the table contains cells above or below certain pixel sizes. This measurement is affected by browser window size, browser font size, and the browser used.
- NVDA Reading: Applies a 'layout table' heuristic to tables without TH and ROLE which varies depending on the browser used and on the window size in some circumstances.
- VoiceOver Safari OSX 10.9 Reading: Uses a sophisticated heuristic on tables without TH and ROLE, which is similar (but not identical) to the heuristic used by NVDA with Firefox.

<http://capitol.hawaii.gov/>

129

<http://capitol.hawaii.gov/help.aspx>

273
293
1111
101
241
138
185
380
514
633
138
196
246
403
656 ...

<http://capitol.hawaii.gov/login/login.aspx>

<http://capitol.hawaii.gov/login/register.aspx>

This issue was found on another 2 pages.

- IMG elements must have an ALT attribute.

Section 508
1194.22 (a)
WCAG 2.0 A F65

Add an ALT attribute describing each image, which screen readers read aloud. Spacer images and purely decorative images should use ALT="".

- NVDA 2015.2 FF40 Windows 7 Reading: Image ignored.
- JAWS 16.0.4350 FF40 Windows 7 Reading: Image ignored.
- WindowEyes 8.4 IE11 Windows 7 Reading: Image ignored.
- VoiceOver Safari OSX 10.10 Reading: Image filename read out.
- VoiceOver Safari iOS 7.1 Touch: Image filename read out.
- SaToGo 3.4.96.0 IE11 Windows 7 Reading: Image ignored.

334
352
361
370
1111
...
229
495
517
549
587
621 ...
518
540
572
610
644 ...

<http://capitol.hawaii.gov/>

<http://capitol.hawaii.gov/help.aspx>

<http://capitol.hawaii.gov/login/login.aspx>

<http://capitol.hawaii.gov/login/register.aspx>

This issue was found on another 2 pages.

- INPUT TYPE=IMAGE elements must have a descriptive ALT attribute.

Section 508
1194.22 (a)
WCAG 2.0 A
F65

Add an ALT attribute describing the button action, which screen readers read aloud.

- NVDA 2015.2 FF40 Windows 7 Reading: Reads "button" without saying what

button does.

- NVDA 2015.2 IE11 Windows 7 Reading: Reads "button" without saying what button does.
- JAWS 16.0.4350 FF40 Windows 7 Reading: Reads image filename without saying what button does.
- JAWS 16.0.4350 IE11 Windows 7 Reading: Reads image filename without saying what button does.
- JAWS 15.0.9023 FF28 Windows 7 Reading: Reads image filename without saying what button does.
- JAWS 15.0.9023 IE11 Windows 7 Reading: Reads image filename without saying what button does.
- WindowEyes 8.4 IE11 Windows 7 Reading: Reads image pathname without saying what button does.
- WindowEyes 8.4 IE11 Windows 7 Tabbing: Reads previous heading as button label.
- VoiceOver Safari OSX 10.10 Reading: Reads "submit" as button label without saying what button does.
- VoiceOver Safari iOS 7.1 Touch: Reads image filename without saying what button does.
- SaToGo 3.4.96.0 IE11 Windows 7 Reading: Reads "button" without saying what button does.

http://capitol.hawaii.gov/help.aspx	89
http://capitol.hawaii.gov/login/login.aspx	496
http://capitol.hawaii.gov/login/register.aspx	519
http://capitol.hawaii.gov/redirect.aspx?page=http://maps.hawaii.gov/HIStateSenate	89

This issue was found on another 1 pages.



Provide a way to skip repetitive navigation links.

Section
508
1194.22
(o)

Without a skip link, screen readers read out the navigation links on every page before reading the page content. Headings can be a substitute in limited circumstances, but they're not used by all screen reader users, and many other assistive technology users have no way to navigate via headings. Add a "Skip to Content" link at the start of the document hidden offscreen by CSS, and made visible on focus, so it's available to keyboard and screen reader users: `[Skip to Content]`

http://capitol.hawaii.gov/	326
http://capitol.hawaii.gov/help.aspx	199 200 201 202 207 ...
http://capitol.hawaii.gov/login/login.aspx	369
http://capitol.hawaii.gov/login/register.aspx	392



Some pages have the same title, so the title cannot be used to distinguish pages.

WCAG
2.0 A
F25

Change the TITLE elements so they are unique for each page.

'Hawaii State Legislature' is also used on <http://capitol.hawaii.gov/>.
<http://capitol.hawaii.gov/help.aspx> 6

'Disclaimer' is also used on <http://capitol.hawaii.gov/redirect.aspx?page=http://maps.hawaii.gov/HIStateSenate>. 6

<http://capitol.hawaii.gov/redirect.aspx?page=http://maps.hawaii.gov/HIStateHouse>

WCAG
2.0 A
F68
Section
508
1194.22
(n)

- This form control has no programmatically determined name.

A programmatically determined name allows screen readers to tell the user what the control does. To add a name do one of the following:

- Use a LABEL element with the FOR attribute set to the ID of the form control
- Wrap a LABEL element around the form control
- Add a TITLE attribute
- Add an ARIA-LABELLEDBY attribute (not supported in all screen readers)
- Add an ARIA-LABEL attribute (not supported in all screen readers)

<http://capitol.hawaii.gov/help.aspx>

119

<http://capitol.hawaii.gov/login/login.aspx>

189

194

200

205

208

211

218

...

<http://capitol.hawaii.gov/redirect.aspx?page=http://maps.hawaii.gov/HIStateSenate>

119

This issue was found on another 1 pages.

Section
508
1194.22
(n)

- This form has fields without LABEL elements or TITLE attributes.

Screen readers use LABEL elements or TITLE attributes to describe form fields to non-sighted users. Without these, forms are very hard to use with a screen reader. Forms designed to be completed online shall allow people using assistive technology to access the information, field elements, and functionality required for completion and submission of the form, including all directions and cues.

<http://capitol.hawaii.gov/login/login.aspx>

194

<http://capitol.hawaii.gov/login/register.aspx>

223

228

- This page has duplicate IDs which cause problems in screen readers.

WCAG
2.0 A
F77

Two or more elements on this page share the same ID, which cause problems in screen readers which use IDs for labeling controls and table headings. This also causes problems in JavaScript methods like getElementById and querySelector, which behave inconsistently when duplicate IDs are present. Change the ID so it is unique for each element.

<http://capitol.hawaii.gov/>

331 340

349 358

367 ...

<http://capitol.hawaii.gov/help.aspx>

135

- This page has links to a PDF file, but does not provide a link to download Acrobat Reader.

Section

508
1194.22
(m)

You should include a link to download Acrobat Reader. When a web page requires that an applet, plug-in or other application be present on the client system to interpret page content, the page must provide a link to a plug-in or applet that complies with S1194.21(a) through (l).

	<u>334</u>
	<u>343</u>
http://capitol.hawaii.gov/	<u>352</u>
	<u>361</u>
	<u>1111</u>
	...
	<u>271</u>
	<u>272</u>
http://capitol.hawaii.gov/help.aspx	<u>273</u>
	<u>288</u>
	<u>289</u> ...
	<u>371</u>
	<u>663</u>
http://capitol.hawaii.gov/login/login.aspx	<u>664</u>
	<u>666</u>
	<u>685</u> ...
	<u>196</u>
	<u>197</u>
http://capitol.hawaii.gov/redirect.aspx?page=http://maps.hawaii.gov/HIStateSenate	<u>198</u>
	<u>213</u>
	<u>214</u> ...

This issue was found on another 1 pages. The trial version is limited to showing issues on 4 pages.

- This page has markup errors, causing screen readers to miss content. WCAG 2.0 A
F70

Fix the errors listed on the Standards tab of this report. Markup errors like missing end tags mean screen readers may skip important content.

http://capitol.hawaii.gov/	<u>140</u> <u>972</u>
	<u>1111</u>
http://capitol.hawaii.gov/help.aspx	<u>112</u> <u>281</u>
	<u>371</u>
http://capitol.hawaii.gov/login/login.aspx	<u>149</u> <u>678</u>
http://capitol.hawaii.gov/login/register.aspx	<u>149</u> <u>701</u>
	<u>865</u>

This issue was found on another 1 pages.

- Use the LANG attribute to identify the language of the page. WCAG
2.0 A
3.1.1

In HTML add a LANG attribute to the HTML tag, and in PDF set the language using Document Properties in Acrobat. This allows screen readers to pronounce words correctly.

http://capitol.hawaii.gov/	<u>4</u>
http://capitol.hawaii.gov/help.aspx	<u>5</u>
http://capitol.hawaii.gov/login/login.aspx	<u>4</u>
http://capitol.hawaii.gov/redirect.aspx?page=http://maps.hawaii.gov/HIStateSenate	<u>5</u>

This issue was found on another 1 pages. The trial version is limited to showing issues on 4 pages.

Priority 2 Issues (Level AA)

- Ensure that foreground and background colors have enough contrast.

WCAG 2.0
AA 1.4.3

Some users find it hard to read light gray text on a white background, dark gray text on a black background and white text on a red background.

- - The contrast ratio should be 3.0 or more for 18 point text, or larger
 - The contrast ratio should be 3.0 or more for 14 point bold text, or larger
 - The contrast ratio should be 4.5 or more for all other text

The foreground/background contrast ratio is 3.9 with 8 point text.

<http://capitol.hawaii.gov/>

150
150

- Form field labels should be unique on a page, or enclosed in a FIELDSET with a LEGEND that makes the label unique.

WCAG
2.0 AA
2.4.6

When a form contains items with the same label, screen reader users find it difficult to tell them apart. Adding a fieldset with a legend differentiates the controls, because the legend text is announced along with the label text. For example: <legend> Gift wrapped: </legend> <label> Yes </label> <label> No </label>

<legend> Express delivery: </legend> <label> Yes </label> <label> No </label>

Label used: "Go"

<http://capitol.hawaii.gov/login/login.aspx>

157 257
302 317
366 ...

Label used: "Go"

<http://capitol.hawaii.gov/login/register.aspx>

157 280
325 340
389 ...

Scan of first 10 pages of <http://ltgov.hawaii.gov/>

Overall Quality 30% of pages tested have issues, worse than average

Accessibility issues, indicating problems for older users, people with disabilities or accessibility needs.

Level WCAG 2 Section 508

Key

A ● ● ● Priority A - accessibility users will find it impossible to use some pages

AA ● ● Priority AA - accessibility users will find it difficult to use some pages

Priority 1 Issues (Level A)

- An image with a null ALT attribute should not have TITLE or ARIA label attributes. WCAG 2.0 A F39

If the image should be voiced use a descriptive ALT attribute. If the image is purely decorative remove any TITLE and ARIA label attributes.

- JAWS : Ignores all images with ALT=""
- NVDA : Reads some images with ALT="" and a TITLE or ARIA label.
- WindowEyes : Reads images with ALT="" and a TITLE or ARIA label.
- VoiceOver : Reads images with ALT="" and a TITLE or ARIA label.

<http://ltgov.hawaii.gov/>

301
303
305

- No TITLE attributes found for the frames on these pages.

Section 508 1194.22
(i) WCAG 2.0 A
2.4.1

Add a TITLE attribute to each FRAME and IFRAME element (e.g. TITLE="Main Content"). Without a TITLE some screen readers read out the FRAME filename, which is usually meaningless.

IFRAMEs with no title cause problems in:

- JAWS 14 and 15 with Firefox (the frame SRC filename is read instead)
- VoiceOver on OSX 10.9 (a meaningless title like "Frame twelve" is read out)

<http://ltgov.hawaii.gov/>

417

- This link uses general text like "Click Here" and has no surrounding text to make the context clear. WCAG 2.0
A F63

Screen readers read text around links to help understand what the link does. If there's no surrounding text and the link text is very general there's no way to work out what the link does.

Link text: "Read More"
<http://ltgov.hawaii.gov/>

397 397
397 402
402 ...

- This page has duplicate IDs which cause problems in screen readers.

WCAG 2.0
A F77

Two or more elements on this page share the same ID, which cause problems in screen readers which use IDs for labeling controls and table headings. This also causes problems in JavaScript methods like getElementById and querySelector, which behave inconsistently when duplicate IDs are present. Change the ID so it is unique for each element.

<http://ltgov.hawaii.gov/>

402

- This page has markup errors, causing screen readers to miss content.

WCAG 2.0 A
F70

Fix the errors listed on the Standards tab of this report. Markup errors like missing end tags mean screen readers may skip important content.

<http://ltgov.hawaii.gov/>

402 484

<http://ltgov.hawaii.gov/about/the-office-of-the-lieutenant-governor/>

414

Priority 2 Issues (Level AA)

- Ensure that foreground and background colors have enough contrast.

WCAG
2.0 AA
1.4.3

Some users find it hard to read light gray text on a white background, dark gray text on a black background and white text on a red background.

- The contrast ratio should be 3.0 or more for 18 point text, or larger
- The contrast ratio should be 3.0 or more for 14 point bold text, or larger
- The contrast ratio should be 4.5 or more for all other text

The foreground/background contrast ratio is 4.2 with 12 point text.
<http://ltgov.hawaii.gov/>

239 247 255 262
271 ...

Usability issues, indicating navigation problems for all users.

Status	Summary
---------------	----------------

- ⊗ Usability.gov Guidelines - Some pages violate these guidelines.
- ⊗ W3C Best Practices - Some pages violate these guidelines.
- ✓ Readability - No issues found.

Priority URL / Description Guideline

Priority 1 Issues ● Users should be able to quickly look at each link and tell where it goes. Usability.gov 10:1

Priority 2 Issues

- Omitting IMG WIDTH or HEIGHT attributes means page text jumps about as images load. Usability.gov 14:3
- The IMG WIDTH and HEIGHT attributes don't match the actual image size. This means the image will be scaled or distorted. W3C

Priority 3 Issues

- Use link text between 3 and 80 characters so it's long enough to be understood, but avoids line wrapping. Usability.gov 10:11