



DAVID Y. IGE  
GOVERNOR  
SHAN S. TSUTSUI  
LT. GOVERNOR

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JO ANN M. UCHIDA TAKEUCHI  
DEPUTY DIRECTOR

**PRESENTATION OF THE  
PROFESSIONAL AND VOCATIONAL LICENSING DIVISION**

TO THE SENATE COMMITTEE ON GOVERNMENT OPERATIONS

TWENTY-NINTH STATE LEGISLATURE  
Regular Session of 2017

Thursday, February 9, 2017  
3:05 p.m.

**TESTIMONY ON SENATE BILL NO. 312, RELATING TO OPEN GOVERNMENT.**

TO THE HONORABLE DONNA MERCADO KIM, CHAIR,  
AND MEMBERS OF THE COMMITTEE:

The Professional and Vocational Licensing Division (“PVLD”) of the Department and Consumer Affairs (“Department”) appreciates the opportunity to testify on Senate Bill No. 312, Relating to Open Government. My name is Celia Suzuki, Licensing Administrator of the PVLD/DCCA. The PVLD offers the following comments in opposition to Senate Bill No. 312.

The purpose of the bill is to: 1) require board packets to be filed in the board’s office for public inspection and provide notice that the board packet is available to persons requesting notification of meetings and provide reasonably prompt access to

the board packet to any person upon request, and if possible, accommodate requests for electronic access to the board packet; 2) require posting of the agenda notice on an electronic calendar on a website maintained by the State or the appropriate county; and 3) clarify that the final adjudication of any dispute to determine timeliness of an agenda notice shall be the printout of the electronic time-stamped agenda.

The PVLD opposes this measure for the following reasons:

- The requirements of providing board packets to interested persons in addition to board members is a major fiscal burden as it appears the PVLD is unable to assess recipients for copying and postage fees.

There are 25 boards and commissions administratively attached to the Division which equates to more than 200 members. In addition, there are currently 380 interested persons on various board lists to whom board packets would be sent if this measure is passed which would add many thousands of dollars in material and shipping costs annually to the Division's expenses. These costs are in addition to the diversion of equally important and scarce staff time that would be required to implement this measure's proposed requirements. PLVD is currently struggling to carry out and keep pace with its large and growing list of responsibilities for managing the 25 boards and commissions and the 25 additional licensing programs that come under the Division. Thus, the Division is very concerned about the added strain the requirements in the measure would put on Division/staff resources.

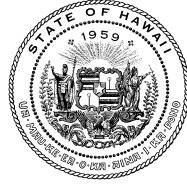
- Compliance with Hawaii Revised Statutes chapter 92F will require board staff to essentially create two separate packets; one for the general public and one for board members. This alone will add to the already taxing workload as public packets will require redaction of confidential information.
- Most of the information contained in board packets is confidential, and if sensitive information is mailed or posted in error, Boards, the Division/Department and the State are subject to major liability to which they are currently not.
- The language appears to 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 the notice. Should boards fail to meet their new obligations, the procedural failures may become the basis for potential liability and substantial litigation seeking to overturn any board action or decision.

The PVLD acknowledges that the intent of the bill is to encourage public participation in government; however, the associated costs and workload demands on staff without the ability to assess recipients requesting for packets and documents will place a major strain on the Division's fiscal obligations and personnel.

For these reasons, the PVLD respectfully requests that this bill be held in Committee. Thank you for the opportunity to submit testimony in opposition to Senate Bill No. 312.

DAVID Y. IGE  
GOVERNOR

SHAN TSUTSUI  
LT. GOVERNOR



STATE OF HAWAII  
**DEPARTMENT OF TAXATION**  
P.O. BOX 259  
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MARIA E. ZIELINSKI  
DIRECTOR OF TAXATION

DAMIEN A. ELEFANTE  
DEPUTY DIRECTOR

To: The Honorable Donna Mercado Kim, Chair  
and Members of the Senate Committee on Government Operations

Date: Thursday, February 9, 2017

Time: 3:05 P.M.

Place: Conference Room 224, State Capitol

From: Maria E. Zielinski, Director  
Department of Taxation

Re: S.B. 312, Relating to Open Government

The Department of Taxation (Department) appreciates the intent of S.B. 312 and provides the following comments for your consideration.

Section 1 of S.B. 312 requires that at the time any documents are distributed to board members, the documents are also made available to the public via electronic or a hard copy to all persons requesting the information.

Sections 2 and 3 of S.B. 312 requires the meeting notice to be posted on the electronic calendar on the State's website (State's electronic calendar) or the appropriate county's website, in addition to filing a notice with the Office of the Lieutenant Governor or the appropriate county clerk's office, no less than six days before the meeting. Failure to meet both filing requirements of the meeting notice will result in cancellation of the meeting.

Section 4 of S.B. 312 requires that the minutes of board meeting be posted on the board's website maintained by the State or appropriate county. It prohibits any board from having a future meeting until the minutes are posted within thirty days of the meeting. S.B. 312 is effective upon approval.

First, the Department notes that it provides administrative support to the Council on Revenues (COR) and the Tax Review Commission (TRC). The Department has concerns regarding the requirement set forth in Sections 3 and 4 that modifies section 92-7(b) and (c), and section 92-8 (a) and (b), Hawaii Revised Statutes, because the State's electronic calendar requires manual entry of the agendas. Manual entry of the agendas has led to non-substantive and typographical errors in the past. It seems that this new requirement to post agendas to the State's master calendar could lead to cancellation of meetings based on an error as small as a typo or a missing word.

The COR and TRC are voluntary boards, which at times has made scheduling and rescheduling meetings challenging. By statute, the COR must meet and report to the Governor and Legislature during six prescribed meeting months. The Department has concerns that a minor error to the posting of the COR's agenda would require a meeting to be cancelled and rescheduled, possibly impacting their ability to meet during a month prescribed by statute. If the Committee wishes to advance this measure, the Department requests that posting the notice to the State's electronic calendar for both the COR and the TRC, be an option, rather than a requirement.

Lastly, the Department notes that is able to meet the requirements set forth in Sections 1 and 4 of this measure. However, there have been instances when board members brought documents to meetings that were not previously provided to the Department. In these cases, the Department will makes copies for the attendees in a timely manner; if the Department is aware that a board member may bring other documents to the board meeting, the Department has asked that the board member bring enough copies of the materials for all attendees.

Thank you for the opportunity to provide comments.

DAVID Y. IGE  
GOVERNOR OF  
HAWAII



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  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

**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**

**Thursday, February 9, 2017  
3:05 PM  
State Capitol, Conference Room 224**

**In consideration of  
SENATE BILL 312  
RELATING TO OPEN GOVERNMENT**

Senate Bill 312 proposes to increase transparency in government by including and encouraging electronic access to board packets, clarifying electronic notification requirements and requiring the electronic posting of board minutes. **The Department of Land and Natural Resources (Department) supports this measure.**

The Department has sixteen attached boards, commissions and committees. Most meet monthly and several have extensive board packets attached to their meetings. The Department has found that electronic posting is the most efficient and cost effective way to allow broad public access to meeting materials, agendas and meeting minutes. For example, agendas and board submittals for the Board of Land and Natural Resources are available on the Department's website at <http://dlnr.hawaii.gov/meetings/blnr-meetings-2017/>. Hard copies are also posted for public viewing at the Department's main office and district land offices.

Thank you for the opportunity to provide comments on this measure.



HAWAII COMMUNITY  
DEVELOPMENT AUTHORITY



STATEMENT OF

JESSE K. SOUKI, EXECUTIVE DIRECTOR  
HAWAII COMMUNITY DEVELOPMENT AUTHORITY

BEFORE THE

HOUSE COMMITTEE ON GOVERNMENT OPERATIONS

ON

Thursday, February 9, 2017  
3:05 P.M.

State Capitol, Conference Room 224

in consideration of

**SB312 – RELATING TO OPEN GOVERNMENT**

David Y. Ige  
Governor

John Whalen  
Chairperson

Jesse K. Souki  
Executive Director

Chair Kim, Vice Chair Ruderman and members of the committee.

This testimony reflects my view alone. The Hawaii Community Development Authority (HCDA) has not acted on this measure.

In my capacity as the HCDA Executive Director, I respectfully offer **comments** on SB 312.

This bill has the laudable goal of making information on proposed board actions more available to the public.

The HCDA has adopted the practice of posting board packets to its website when it distributes the information to board members; however, the bill ought to allow amendments to the packets up to the time when a meeting is scheduled to commence. This will allow the board to consider the latest information covered by the agenda item. Otherwise, action may have to be delayed while a special meeting is convened, which would require additional resources and add burden to a citizen board.

Thank you for the opportunity to provide comments on this bill.

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DAVID Y. IGE  
GOVERNOR



WESLEY K. MACHIDA  
DIRECTOR

LAUREL A. JOHNSTON  
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**STATE OF HAWAII  
DEPARTMENT OF BUDGET AND FINANCE**

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EMPLOYEES' RETIREMENT SYSTEM  
HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND  
OFFICE OF THE PUBLIC DEFENDER

ADMINISTRATIVE AND RESEARCH OFFICE  
BUDGET, PROGRAM PLANNING AND  
MANAGEMENT DIVISION  
FINANCIAL ADMINISTRATION DIVISION  
OFFICE OF FEDERAL AWARDS MANAGEMENT (OFAM)

**WRITTEN COMMENTS**

TESTIMONY BY WESLEY K. MACHIDA  
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE  
TO THE SENATE COMMITTEE ON  
GOVERNMENT OPERATIONS  
ON SENATE BILL NOS. 224 AND 312

**February 9, 2017**

**3:05 p.m.**

**Room 329**

RELATING TO OPEN GOVERNMENT

S.B. 224 would require that all board information provided to board members for board meetings of all state and county government boards be provided to any person requesting such information in either electronic form or in hard copy, at the time the board packet is distributed to the board members. The proposal also requires posting of board meeting minutes within thirty days regardless of review or approval, and prohibits a board from convening subsequent meetings until prior board meeting minutes have been posted.

S.B. 312 would require would require that all board information provided to board members for board meetings of all state and county government boards be provided to any person requesting such information in either electronic form or in hard copy, at the time the



board packet is distributed to the board members. The proposal further requires posting of notices for emergency meetings within six days prior to the meeting.

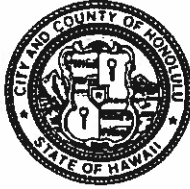
While the department will not opine on the merits of this proposal, we are very concerned about the additional unbudgeted costs to state and county governments in order to comply with such a broad mandate. While some state programs have made improvements in electronically transmitting documents for internal review, the requirement for external posting and transmittal of board documents would require extensive staff training and additional information technology resources that do not presently exist within all state departments.

We suggest that the legislature consider working with a select number of state and county boards that choose to voluntarily participate in a pilot project. The pilot project would allow the development and documentation of a successful workflow, including necessary staff and other resources, to assure compliance before proceeding with enactment of a statewide mandate.

Thank you for your consideration of our comments.

**LIQUOR COMMISSION  
CITY AND COUNTY OF HONOLULU**

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MAYOR

JOSEPH V O'DONNELL  
CHAIRMAN

NARSI A. GANABAN  
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MALAMA MINN  
CO-VICE CHAIR

DARREN Y T LEE  
COMMISSIONER

FRANKLIN DON PACARRO, JR.  
ADMINISTRATOR

ANNA C. HIRAI  
ASSISTANT ADMINISTRATOR

February 7, 2017

The Honorable Donna Mercado Kim, Chair  
The Honorable Russell E. Ruderman, Vice Chair  
and Members of the Committee on Government Operations

**Hearing:** Thursday, February 9, 2017  
3:05 PM; Room 224

**Position:** Comments on SB 312, Relating to Open Government

Dear Chair Kim, Vice Chair Ruderman, and Members:

The Liquor Commission, City and County of Honolulu (Commission), appreciates the opportunity to provide testimony providing comments on Senate Bill 312, Relating to Open Government.

The Commission fully supports and furthers the principles guaranteeing access for members of the public in the conduct of its weekly meetings. That said, we ask that Section 1 of Senate Bill 312 be clarified so as to ensure that public access will not unduly burden the licensees and license applicants that comprise the Commission's stakeholder base.

The clarification requested in Section 1 is that the "access" referred to in SB 312 is limited to making the board packet documents available for review. For any request for hard copy of said documents, we would presume that the copying-mailing charges authorized by HAR § 2-71-19 may be imposed on the requesting party. If, however, "access" is deemed to include provision of electronic or hard copy of the board packet documents to the requesting party, we would request confirmation that provision of either electronic or hard copy would be subject to appropriate copy and mail charges as authorized by HAR § 2-71-19.

The Liquor Commission appreciates the opportunity to provide testimony on Senate Bill 312, Relating to Open Government.

Respectfully submitted,

  
FRANKLIN DON PACARRO, JR.  
Administrator

FDP:ACH



Feb. 9, 2017

Sen. Donna Mercado Kim  
Committee on Government Operations  
State Capitol  
Honolulu, HI 96813

Re: Senate Bills 244 and 312

Chairwoman Kim and Committee Members:

We like SB 244 as a way to modernize the state Sunshine Law.

It is a good measure to keep the public notified via the Internet about government meetings and provide information to help it understand what is going on at the meetings.

But we also support SB 312, which does the same things but in a bit more practical way with flexibility that perhaps will make it more workable.

The key part of both bills is providing access to materials that board members use to background themselves on agenda issues. Making these available to the public would increase transparency, understanding and participation.

SB 312 would require that board packets be posted in the board's office and make the packets available on request as soon as possible. SB 244 would require that the board packets be posted online or be made available to people who have requested notification, which might prove more burdensome for some boards and commissions.

We ask that you pass SB 312 over SB 244.

Thank you for your time and attention.

Stirling Morita  
President, Hawaii Chapter SPJ



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Senate Committee on Government Operations  
Thursday, February 9, 2017, 3:05 PM, Conference Room 224

**SB 312, Relating to Open Government**

**TESTIMONY**

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

Chair Kim and Committee Members:

**The League of Women Voters of Hawaii strongly supports SB 312 which improves public notice of board meetings, public access to documents to be discussed at board meetings, and public access to board meeting minutes.**

SB 312 will help to resolve chronic public complaints about boards which:

1. fail to provide timely electronic notice of board meetings.
2. require the public to present testimony on all agenda items before the public has opportunity to review board submittals to be discussed.
3. delay public disclosure of board submittals until after completion of board meetings at which the submittals are discussed.
4. procrastinate preparation and/or disclosure of board minutes beyond 30 days.

Thank you for the opportunity to submit testimony.

THE CIVIL BEAT  
LAW CENTER FOR THE PUBLIC INTEREST

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Senate Committee on Government Operations  
Honorable Donna Mercado Kim, Chair  
Honorable Russell E. Ruderman, Vice Chair

**RE: Testimony Supporting S.B. 312, Relating to Open Government**  
Hearing: February 9, 2017 at 3:05 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 **strongly supporting S.B. 312**.

S.B. 312 is critical legislation to bring our open meetings law into the 21st Century. During the interim since last legislative session, the Law Center has worked to understand the concerns of boards and commissions to modernizing the Sunshine Law. The Internet and e-mail are pervasive features of the public's everyday routine, but our open meetings law continues to have antiquated provisions about postal mail and "sonic" recordings. This bill balances the concerns previously raised by boards with the reality of our modern electronic life.

**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 automatically disseminating this information, however, could prove difficult in some instances. To minimize the burden on boards and commissions, S.B. 312 requires filing board packets in the board's office and making the packets *available on request as promptly as possible*.<sup>1</sup>

**Section 2 and Section 3: Notices on the Internet and by E-mail and Notice of Emergency Meetings**

These sections ensure 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 5 years, it has been a requirement for all State

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<sup>1</sup> The prompt disclosure provision is 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.

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 2 also provides boards more flexibility to amend agendas if filed more than six days before a meeting. Current law discourages boards and commissions from filing an agenda before the Sunshine 6-day deadline because once filed, the agenda cannot be amended absent extreme circumstances. Earlier notice of open meetings serves the public, and boards should be able to freely amend agendas as long as the public knows everything that will be discussed at least six days ahead of the meeting.

**Section 4: 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. 312 requires that a board post that public record on the Internet, rather than wait for a request from the public. The actions of government boards should be timely accessible to interested members of the public without the need for a public records request; it is physically impossible to follow government operations by attending all board meetings in person.

Section 4 also 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 Russell Ruderman

02/09/2017 at 3:05 PM in Room 224  
SB312 – Relating to Open Government

TESTIMONY — SUPPORT  
Corie Tanida, Executive Director, Common Cause Hawaii

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

**Common Cause Hawaii supports SB312** which would allow the public to access board packets, clarifies public notification requirements of board meetings, and adds emergency meetings to public meeting notice requirements.

We believe that an educated, engaged citizenry is crucial to a thriving democracy. By making 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 SB312**.

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, February 8, 2017 3:59 PM  
**To:** GVO Testimony  
**Cc:** glenn@hawaiiantel.net  
**Subject:** \*Submitted testimony for SB312 on Feb 9, 2017 15:05PM\*

**SB312**

Submitted on: 2/8/2017

Testimony for GVO on Feb 9, 2017 15:05PM in Conference Room 224

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Glenn Shiroma	Individual	Support	No

Comments:

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, February 7, 2017 3:55 PM  
**To:** GVO Testimony  
**Cc:** christinet54@gmail.com  
**Subject:** Submitted testimony for SB312 on Feb 9, 2017 15:05PM

**SB312**

Submitted on: 2/7/2017

Testimony for GVO on Feb 9, 2017 15:05PM in Conference Room 224

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
christine trecker	Individual	Support	No

Comments: Hawaii citizens deserve adequate, accessible and timely information relating to its government boards and commissions. Now that electronic technology has made open government much more achievable, it is time for legislators to take action and modernize the Sunshine Law. I strongly urge you to pass SB312

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, February 8, 2017 8:46 AM  
**To:** GVO Testimony  
**Cc:** rkailianu57@gmail.com  
**Subject:** \*Submitted testimony for SB312 on Feb 9, 2017 15:05PM\*

**SB312**

Submitted on: 2/8/2017

Testimony for GVO on Feb 9, 2017 15:05PM in Conference Room 224

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Rachel L. Kailianu	Individual	Support	Yes

Comments:

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