

HB-712-HD-1

Submitted on: 3/16/2023 9:30:21 AM

Testimony for GVO on 3/21/2023 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
daniel foley	Testifying for Commission to Improve Standards of Conduct	Support	Remotely Via Zoom

Comments:

Dear Mr. Chairman and members of the Government Operations Committee,

As Chair of the Commission to Improve Standards of Conduct, I support HB 712, HD 1, which would encourage public boards to maintain any electronic audio or visual recording of a board meeting as a public record on the board's website regardless of whether written minutes of the meeting have been posted and to submit a copy of the recording to the State Archives. See Commission's December 1, 2022 Final Report at page 27.

A similar bill in the last regular session of the legislature was passed but vetoed by the Governor. (SB 3172, SD 1, HD 2, CD 1) Report at page 10. The Commission attempted to address concerns raised by the Governor in this bill.

Mahalo, Judge Daniel Foley (ret.)

OFFICE OF INFORMATION PRACTICES

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To: Senate Committee on Government Operations

From: Cheryl Kakazu Park, Director

Date: March 21, 2023, 3:00 p.m.
State Capitol, Conference Room 225

Re: Testimony on H.B. No. 712, H.D. 1
Relating to Recordings of Public Meetings

Thank you for the opportunity to submit testimony on this bill, which would statutorily provide that boards are “encouraged” to keep recordings of remote meetings on their website and required to provide such a recording to the State Archives before removing it from the website, and would require a board’s written minutes for any type of meeting to include a link to an audio or video recording when a recording is available online. **The Office of Information Practices (OIP) offers comments.**

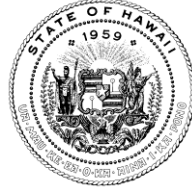
The bill’s purpose clause indicates that it is a proposal of the Commission to Improve Standards of Conduct (Commission) formed pursuant to H.R. 9 of 2022. Please note that **OIP was not part of the Commission or consulted** by the Commission regarding this or other bills proposing amendments to laws OIP administers, so the proposal does not reflect input from OIP.

This proposal does not require boards to record meetings they would not be required to record under current law. Boards are currently required to record remote meetings “when practicable,” and keep the recording available on the board’s website until the meeting minutes have been posted on the board’s website. **Licensing boards would be exempted from that existing requirement** by the

H.D. 1 version of this bill. For all other boards, the proposal would **encourage** the board to keep a remote meeting recording on its website even after posting its minutes, and **require** it to provide a copy to the State Archives if it does remove the recording. The proposal would also require written minutes of any type of meeting, remote or otherwise, to include a link to an audio or video recording of the meeting when available online.

These requirements are not a significant change from existing law and do not seem likely to present a burden for boards. **Because the proposal encourages but does not require boards to keep recordings posted online after minutes are posted, a board that is running low on storage space to host recordings of its remote meetings can remove the older recordings as needed, so long as it provides a copy to the State Archives first.**

Thank you for considering OIP's testimony.



STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAII'
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DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
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JOSH GREEN, M.D.
GOVERNOR | KE KIA'ĀINA

SYLVIA LUKE
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA

NADINE Y. ANDO
DIRECTOR | KA LUNA HO'OKELE

DEAN I HAZAMA
DEPUTY DIRECTOR | KA HOPE LUNA HO'OKELE

Testimony of the Department of Commerce and Consumer Affairs

**Before the
Senate Committee on Government Operations
Tuesday, March 21, 2023
3:00 p.m.
Conference Room 225 and Videoconference**

**On the following measure:
H.B. 712 H.D.1, RELATING TO RECORDINGS OF PUBLIC MEETINGS**

Chair McKelvey and Members of the Committee:

My name is Nadine Ando, and I am the Director for the Department of Commerce and Consumer Affairs' (DCCA or Department). The Department offers comments on this bill.

The purposes of this bill are to: (1) exempt licensing boards under DCCA from the requirement that board meetings be recorded; (2) encourage boards to maintain recordings of board meetings on the board's website regardless of whether the written minutes of the meeting have been posted; (3) require boards to provide the state archives with a copy of any recording of a board meeting before removing the recording from the board's website; (4) require the written minutes of board meetings to include a link to the electronic audio or video recording, if available online.

The Department appreciates the HD1 that excludes licensing boards from recording open meetings on page ,4 lines 12 to 13 of the bill. Licensing boards and commissions under Hawaii Revised Statutes (HRS) section 26-9, primarily discuss

Testimony of DCCA

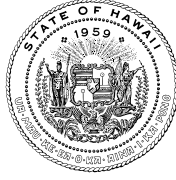
H.B. 712

Page 2 of 2

licensing applications and the disciplining of licensees, topics which are confidential, and are not disclosed to the public. Because of this, a significant portion of the meetings are spent in closed session (executive session (HRS section 92-5) or adjudicatory session (HRS chapter 91)).

Thank you for the opportunity to testify on this bill.

JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA



KEITH A. REGAN
COMPTROLLER
KA LUNA HO'OMALU HANA LAULĀ

MEOH-LENG SILLIMAN
DEPUTY COMPTROLLER
KA HOPE LUNA HO'OMALU HANA LAULĀ

STATE OF HAWAII'Ī | KA MOKU'ĀINA O HAWAII'Ī
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES | KA 'OIHANA LOIHELU A LAWELAWÉ LAULĀ
P.O. BOX 119, HONOLULU, HAWAII 96810-0119

WRITTEN TESTIMONY
OF
KEITH A. REGAN, COMPTROLLER
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
TO THE
COMMITTEE ON JUDICIARY AND HAWAIIAN AFFAIRS

H. B. 712, H.D. 1

MARCH 21, 2023, 3:00 PM
CONFERENCE ROOM 225 AND VIA VIDEOCONFERENCE, STATE CAPITOL

RELATING TO RECORDINGS OF PUBLIC MEETINGS.

Chair McKelvey, Vice Chair Gabbard, and Members of the Committee, thank you for the opportunity to testify on H.B. 712, H.D. 1.

The Department of Accounting and General Services (DAGS) offers the following **comments:**

1. The State Archives, in its role as the Keepers of Public Memory, protects and preserves the documentary heritage of Hawaii from 1790 to current and is well versed in the history of Hawaii.
2. The constantly shifting policies and priorities of third-party service providers, such as Twitter and Meta, have illustrated the uncertainty of relying upon these third parties to protect and preserve records of important value. As such, it is strongly recommended that a copy of any audio, video, minutes, and agenda creating for or during board

meetings as public record should be transferred to the State Archives for preservation within a month of creation. Waiting until the recording is removed from a website could result in loss or technological obsolescence of the files due to the delay. Digital files are much more sensitive to the ravages of time than their paper counterparts and require a more pro-active preservation strategy. This is not intended to preclude the Board from hosting their own materials on whatever platform they desire. Rather, this ensures that the Archives has the opportunity to preserve the important records closer to their point of creation.

3. Should the committee agree that deposit at the State Archives sooner than later is warranted, the State Archives will create an online transfer mechanism to ease the burden on the committee while allowing the Archives to capture the necessary metadata to establish the authenticity of the transferred records.

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

JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA



STATE OF HAWAII | KA MOKU'ĀINA O HAWAI'I
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TOMMY JOHNSON
DIRECTOR

Melanie Martin
Deputy Director
Administration

Michael J. Hoffman
Acting Deputy Director
Corrections

William Oku
Deputy Director
Law Enforcement

No. _____

TESTIMONY ON HOUSE BILL 712, HOUSE DRAFT 1
RELATING TO RECORDINGS OF PUBLIC MEETINGS.

Tommy Johnson, Director
Department of Public Safety

Senate Committee Government Operations
Senator Angus L.K. McKelvey, Chair,
Senator Mike Gabbard, Vice Chair

Tuesday, March 21, 2023; 3:00 p.m.
State Capitol Conference Room 225 and via Video Conference

Chair McKelvey, Vice Chair Gabbard, and Members of the Committee:

The Department of Public Safety (PSD) supports House Bill (HB) 712, House Draft 1 (HD), which proposes the establishment of a commission to improve standards of conduct relating to public agency meetings. As written, this measure encourages boards to maintain electronic audio or visual recording of a board meeting as a public record on the board's website and requires copies of written minutes of the meeting be posted on their website.

In addition, this measure requires boards to provide the state archives with a copy of any electronic audio or visual recording of a board meeting before removing the recording from their website.

Thank you for the opportunity to present this testimony in support of HB 712, HD1.

JOSH GREEN, M.D.
GOVERNOR | KE KIA'ĀINA

SYLVIA LUKE
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA



STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAII'
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M. KALEO MANUEL
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

Testimony of
DAWN N. S. CHANG
Chairperson

Before the Senate Committee on
GOVERNMENT OPERATIONS

Tuesday, March 21, 2023
3:00 PM

State Capitol, Conference Room 225 and Videoconference

In Consideration of
HOUSE BILL 712, HOUSE DRAFT 1
RELATING TO RECORDINGS OF PUBLIC MEETINGS

House Bill 712, House Draft 1 proposes to 1) encourage boards and commissions to maintain electronic audio or visual recordings after meeting minutes have been posted; amends the information that must be included in the written minutes of a meeting; 2) require boards to provide the state archives with a copy of any electronic or visual recording before removing it from a board's website; and 3) exempt licensing boards from provisions contained in Section 92-3.7 (b)(6), Hawaii Revised Statutes. **The Department of Land and Natural Resources (Department) supports this measure as it clarifies what is required in written minutes and encourages, rather than requires boards to keep audio and visual recording for as long as feasible, rather than permanently.**

The Department supports this bill as it clarifies and simplifies what is needed in meeting minutes. It also requires the State Archives, rather than an agency to permanently store audio and video recordings of meetings. These issues have been a matter of disagreement for several legislative sessions. Mahalo for hearing this bill which provides relatively simple solutions to address the Department's concerns with previous bills.

Mahalo for the opportunity to provide testimony in support of this measure.



DISABILITY AND COMMUNICATION ACCESS BOARD

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March 21, 2023

TESTIMONY TO THE SENATE COMMITTEE ON GOVERNMENT OPERATIONS

House Bill 712 HD1 – Relating to the Recordings of Public Meetings

The Disability and Communication Access Board (DCAB) offers comments on House Bill 712 HD1 – Relating to the Recordings of Public Meetings. This bill would exempt licensing boards under DCCA from the requirement that board meetings be recorded, encourage boards to maintain recordings of board meetings on the board's website regardless of whether the written minutes of the meeting have been posted, require boards to provide the state archives with a copy of any recording of a board meeting before removing the recording from the board's website, and require the written minutes of board meetings to include a link to the electronic audio or video recording, if available online.

DCAB offers comments to ensure compliance with Title II of the Americans with Disabilities Act, which requires state and local governments to provide equal access for individuals who are disabled when providing services, programs, or activities, especially persons with communication access needs. As it concerns House Bill 712 HD1, provisions shall be made to ensure audio and video recordings of board meetings that are posted on the board's website are accessible to people with disabilities. These comments are offered to ensure that all individuals have equal opportunity to participate in processes of their government.

Thank you for the opportunity to provide testimony.

Respectfully submitted,

KIRBY L. SHAW
Executive Director

THE CIVIL BEAT
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Senate Committee on Government Operations
Honorable Angus L.K. McKelvey, Chair
Honorable Mike Gabbard, Vice Chair

RE: Testimony Opposing H.B. 712 H.D. 1, Relating to Recordings of Public Meetings
Hearing: March 21, 2023 at 3:00 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 governmental transparency. Thank you for the opportunity to submit testimony **opposing the special exemption for DCCA boards in H.B. 712 H.D. 1.**

Under current law, boards that conduct remote meetings typically record the meetings because it is easy to do so. DCCA claims, however, that board members are unwilling to speak if there is a recording.

That is ridiculous. DCCA board members are charged with the privilege and responsibility to determine whether individuals are allowed to practice regulated professions. *These recordings only concern the public portion of meetings.* Any person attending the meeting could record it. HRS § 92-9(c). So why not have an official recording?

If DCCA has board members who wish to hide what they do during the public portion of an open meeting, DCCA should be seeking replacements for those individuals, not asking the Legislature for more secrecy.

Thank you again for the opportunity to testify in opposition to the special exemption for DCCA boards in H.B. 712 H.D. 1.



SENATE COMMITTEE ON GOVERNMENT OPERATIONS
Tuesday, March 21, 2023, 3 pm, State Capitol Room 225 & Videoconference
HB 712, HD1

Relating to Recordings of Public Meetings

TESTIMONY

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

Chair McKelvey, Vice Chair Gabbard, and Committee Members:

The League opposes exemption of DCCA licensing boards from any Sunshine Law requirements. The Sunshine Law should apply uniformly. It's irrelevant whether some DCCA licensing board members don't want the public to learn what they said during public meetings.

Thank you for the opportunity to submit testimony.

HB-712-HD-1

Submitted on: 3/17/2023 5:51:09 PM

Testimony for GVO on 3/21/2023 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Stephen T Hazam	Individual	Support	Written Testimony Only

Comments:

Please SUPPORT HB712 HD1.

HB-712-HD-1

Submitted on: 3/19/2023 11:54:36 AM

Testimony for GVO on 3/21/2023 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
lynne matusow	Individual	Support	Written Testimony Only

Comments:

As technology changes it is important that government follow suit and adopt the new uses. This bill will help those in the future learn what happened in the past, why, etc. It is important that happen. These minutes/recordings/tapes etc. must not be lost. They must be maintained. In full support.