

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

SYLVIA LUKE  
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STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAI'I  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
KA 'OIHANA KUMUWAIWAI 'ĀINA

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DAWN N.S. CHANG  
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COMMISSION ON WATER RESOURCE  
MANAGEMENT

LAURA H.E. KAAKUA  
FIRST DEPUTY

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 Committees on  
COMMERCE AND CONSUMER PROTECTION  
and  
JUDICIARY

Wednesday, April 5, 2023  
10:00 AM

State Capitol, Conference Room 016 and Videoconference

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

House Bill 712, House Draft 1, Senate 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 a link to the electronic audio or video recording of the meeting to be placed at the beginning of the minutes and 3) require boards to provide the state archives with a copy of any electronic or visual recording before removing it from a board's website. This version of the bill does not propose to exempt licensing boards from provisions contained in Section 92-3.7 (b)(6), Hawaii Revised Statutes (HRS). **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. However, we defer to licensing boards regarding the practicability of Section 92-3.7(b)(6), HRS, for their situation.**

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. The Department notes that it is compliant with all of the provisions of this bill.

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

# 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 Committees on Commerce and Consumer Protection  
and on Judiciary

From: Cheryl Kakazu Park, Director

Date: April 5, 2023, 10:00 a.m.  
State Capitol, Conference Room 016

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

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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.

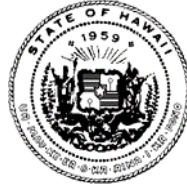
This proposal does not require boards to record meetings they would not be required to record under current law. Boards are currently required to record remote meetings “when practicable,” and keep the recording available on the

board's website until the meeting minutes have been posted on the board's website. The proposal would **encourage** a 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.

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



CATHY BETTS  
DIRECTOR  
KA LUNA HO'OKELE

JOSEPH CAMPOS II  
DEPUTY DIRECTOR  
KA HOPE LUNA HO'OKELE

STATE OF HAWAII  
KA MOKU'ĀINA O HAWAI'I  
**DEPARTMENT OF HUMAN SERVICES**  
KA 'OIHANA MĀLAMA LAWELAWE KANAKA  
Office of the Director  
P. O. Box 339  
Honolulu, Hawaii 96809-0339

April 4, 2023

TO: The Honorable Senator Donovan Dela Cruz, Chair  
Senate Committee on Ways & Means

FROM: Cathy Betts, Director

SUBJECT: [HB 712 HD1 SD1](#) – RELATING TO RECORDINGS OF PUBLIC MEETINGS.

Hearing: April 5, 2023, 10:00 a.m.  
Conference Room 211 & Via Videoconference, State Capitol

**DEPARTMENT'S POSITION:** The Department of Human Services (DHS) appreciates the measure's intent, provides comments, and defers to the Department of Accounting and General Services (DAGS), Hawaii State Archives.

**PURPOSE:** The bill encourages boards to maintain recordings of board meetings on the board's website regardless of whether the written minutes of the meeting have been posted. Requires 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. Requires the written minutes of board meetings to include a link to the electronic audio or video recording, if available online. Effective 10/1/2023. (SD1)

The HD1 amended the measure by:

- (1) Exempting licensing boards under the Department of Commerce and Consumer Affairs from the requirement that boards record meetings open to the public and make the recording electronically available;
- (2) Specifying that written minutes need only include a link to a recording if the recording is available online; and

- (3) Making technical, nonsubstantive amendments for the purposes of clarity, consistency, and style.

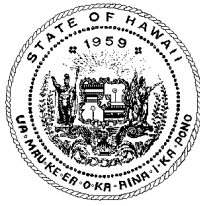
The SD1 amended the measure by:

- (1) Eliminating the exemption for licensing boards under the Department of Commerce and Consumer Affairs from the requirement that board meetings be recorded; and
- (2) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

DHS appreciates the intent of this measure which allows the recording of public board meetings when practical. However, DHS comments that for volunteer commissions that are not staffed or funded, or have limited funds, it would not be practical for them to maintain a consistent practice of recording and maintaining meetings open to the public. In the future, the Legislature may want to consider legislation that would provide centrally located resources, including training, that these volunteer boards and commissions can rely upon to assist them with technology and administrative support for the work of the boards or commissions.

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

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



STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAII  
**DEPARTMENT OF PUBLIC SAFETY**  
*Ka 'Oihana Ho'opalekana Lehulehu*  
1177 Alakea Street  
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**TOMMY JOHNSON**  
DIRECTOR

**Melanie Martin**  
Deputy Director  
Administration

**Michael J. Hoffman**  
Acting Deputy Director  
Corrections

**William F. Oku**  
Deputy Director  
Law Enforcement

No. \_\_\_\_\_

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

By

Tommy Johnson, Director

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

Senate Committee on Commerce and Consumer Protection  
Senator Jarrett Keohokalole, Chair  
Senator Carol Fukunaga, Vice Chair

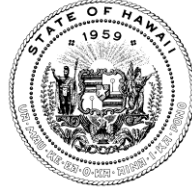
Senate Committee on Judiciary  
Senator Karl Rhoads, Chair  
Senator Mike Gabbard, Vice Chair

Wednesday, April 5, 2023; 10:00 a.m.  
State Capitol, Conference Room 016 and via Video Conference

Chairs McKelvey, Keohokalole, Rhoads, Vice Chairs Gabbard, Fukunaga and Members of the Committees:

The Department of Public Safety (PSD), as previously stated, supports House Bill (HB) 712, House Draft (HD)1, Senate Draft (SD) 1, which proposes to improve the standards of conduct relating to public agency meetings by encouraging boards to maintain any electronic audio or visual recording of a board meeting as a public record and require boards to provide the state archives with a copy of any electronic audio or visual recording before removing the recording from the board's website.

Thank you for the opportunity to provide testimony in support of HB 712, HD 1, SD 1.



STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAI'I  
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DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS  
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JOSH GREEN, M.D.  
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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 Commerce and Consumer Protection and Judiciary  
Wednesday, April 5, 2023  
10:00 a.m.  
Conference Room 016 and Videoconference

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

Chair Keohokalole, Chair Rhoads and Members of the Committees:

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

The purposes of this bill are to: (1) 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; (2) 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; (3) 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 SD1 and finds that posting recordings of meetings the Department's website and submitting recordings to the State Archives will be beneficial for both the public and the State. This will also allow licensees and the public to view recordings of meeting and stay apprised of important information discussed by their respective boards. It is important to note that licensing boards and

commissions under Hawaii Revised Statutes (HRS) section 26-9, discuss licensing applications and the disciplining of licensees, topics which are confidential, and are not disclosed to the public. Because of this, meetings are spent in closed session (executive session (HRS section 92-5) or adjudicatory session (HRS chapter 91)) and therefore not recorded. The Department also appreciates that the State Archives will permanently store audio and video recordings of meetings before removing the recording from the board's website.

Thank you for the opportunity to testify on this bill.



THE CIVIL BEAT  
LAW CENTER FOR THE PUBLIC INTEREST

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Senate Committee on Commerce and Consumer Protection  
Honorable Jarrett Keohokalole, Chair  
Honorable Carol Fukunaga, Vice Chair

Senate Committee on Judiciary  
Honorable Karl Rhoads, Chair  
Honorable Mike Gabbard, Vice Chair

**RE: Testimony Supporting H.B. 712 S.D. 1, Relating to Recordings of Public Meetings**  
Hearing: April 5, 2023 at 10:00 a.m.

Dear Chairs and Members of the Committees:

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 **supporting H.B. 712 S.D. 1.**

This bill is a straightforward measure to provide for archiving of public meetings and links to recordings when available online. Please do not use this bill as a vehicle to exempt DCCA boards (or any other boards) from existing Sunshine Law requirements. No good policy reasons have been advanced for any such exemptions, and that was not the intent of the original bill.

Thank you again for the opportunity to testify in support of H.B. 712 S.D. 1.

**HB-712-SD-1**

Submitted on: 4/2/2023 10:30:38 AM

Testimony for CPN on 4/5/2023 10:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
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.

**HB-712-SD-1**

Submitted on: 4/3/2023 10:54:32 AM

Testimony for CPN on 4/5/2023 10:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Hunter Heavilin	Individual	Support	Written Testimony Only

Comments:

I strongly support the passage of HB712, to encourage boards to maintain electronic recordings of public meetings as public records on their websites. By doing so, members of the public can more easily access and review important information discussed during the meetings, ensuring greater transparency and accountability in our government.

Additionally, HB712 would amend the information that must be included in the written minutes of board meetings, ensuring that the minutes accurately reflect the discussions and decisions made during the meeting. This is essential to ensure that members of the public have access to accurate and complete records of government proceedings. The legislation also requires boards to provide the state archives with a copy of any electronic audio or visual recording of a board meeting before removing it from their website. This will ensure that these recordings are preserved for future reference and historical documentation, further promoting transparency and accountability in our government institutions.

PETER L. FRITZ  
T-Mobil Relay (808) 568-0077

THE SENATE  
THE THIRTY-SECOND LEGISLATURE  
REGULAR SESSION OF 2023

COMMITTEES ON JUDICIARY and COMMERCE AND CONSUMER PROTECTION

Testimony on H.B. 712 HD1 SD1  
Hearing: April 5, 2023

RELATING TO RECORDINGS OF PUBLIC MEETINGS

Chairs Rhoads and Keohokalole, Vice Chairs Gabbard and Fukunaga, and members of the Committees. My name is Peter Fritz. I am Hard of Hearing (HOH) and an individual with a disability. I have served as the Chair of DCAB and the State Rehabilitation Advisory Committee and I am an advocate for the disabled. I am testifying **in support** of this bill **with an amendment to ensure that recordings are accessible to HOH and Deaf individuals**. The **proposed amendment below** makes it clear that recordings are to be accessible to disabled individuals like me.

State and local governments need to comply with Title II of the Americans with Disabilities Act (ADA). Title II compliance standards are the standards for Section 508 of the Federal Rehabilitation Act of 1973 (29 U.S.C. 794d), as amended. Hawaii already looks to Section 508 for guidance to meet accessibility the standards. The Enterprise Technology Services (ETS) website states that ETS “looks to this standard [Section 508] for reliable guidance on meeting accessibility commitments and compliance for portal architecture sites.” <https://ets.hawaii.gov/accessibility-statement>.

The proposed amendment below adds language (in red) to paragraph (6) on page 2 of the bill to incorporate the Section 508 standards.

7 (6) [When practicable, boards] Boards shall record)  
8 meetings open to the public, when practicable, and  
9 make the recording of any meeting electronically  
10 available to the public as soon as practicable after a  
11 meeting and until a time as the minutes required by  
12 section 92-9 are electronically posted on the board's  
13 website. The recording electronically available  
14 to the public shall meet or exceed the most  
15 current, ratified standards under section 508 of  
16 the Federal Rehabilitation Act of 1973 (29 U.S.C.  
17 794d), as amended, and the Web Content Accessibility  
18 Guidelines 2.0 adopted by the World Wide Web Consortium  
19 for accessibility. Boards are encouraged to keep  
20 recordings available on their website."

Thank you for the opportunity to testify.

  
Peter L. Fritz