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To: Senate Committee on Judiciary

From: Carlotta Amerino, Acting Director

Date: April 2, 2024, 10:05 a.m.
State Capitol, Conference Room 016

Re: Testimony on H.B. No. 1599, H.D. 1, S.D. 1
Relating to the Sunshine Law

Thank you for the opportunity to submit testimony on this bill, which would require a board holding a remote Sunshine Law meeting to provide all testifiers the option to present video testimony. The Office of Information Practices (OIP) offers comments.

Section 92-3.7, HRS, which allows remote meetings under the Sunshine Law, part I of chapter 92, currently requires boards to accept remote oral testimony in a way that allows meeting participants to **hear** the testimony – in other words, a board can satisfy the remote oral testimony requirement either (1) by providing a phone number for remote testifiers to call in to testify or (2) by providing a Zoom link or something similar for remote testifiers to testify on camera. This bill would require boards holding remote meetings to always provide a remote testimony method that allows testifiers to be **seen as well as heard**, meaning that the board would need to provide a Zoom link or similar on-camera option, while still leaving testifiers the option to be camera-off if they prefer. If someone in the public is unable to successfully stream or remotely testify at a remote meeting due to problems with that person's own internet connection, it is not considered a failure of

remote meeting connectivity on the board's part. In other words, remote meeting participants will still need to have their own adequate internet connection, or they have the option to attend at the connected physical location that is required for every remote meeting.

The current law allowing boards to use a telephone line or similar audio-only method for remote oral testimony gives boards more control over their meetings and can be a tool to help them avoid zoombombing, where a meeting is disrupted by someone taking control of the meeting feed and using it to broadcast obscene images or video. Boards have the legal ability to remove someone who willfully disrupts a meeting, and this bill would reiterate that legal authority in the remote meetings section. However, **zoombombers appear unexpectedly** and may be more technically sophisticated than the board members or staff running a remote meeting, **and thus the legal authority to remove zoombombers is of little help when the board has no prior notice or is technically incapable of doing so.** OIP is aware of instances in which a board has had to cancel its meeting because it was unable to prevent zoombombers from returning and retaking control every time the board tried to eject them. The easiest way for a board holding a remote meeting to avoid this situation is by using telephone testimony. While zoombombing instances are currently rare, this bill's removal of the board's ability to protect against it **may result in unintended consequences, such as concerted action by a group seeking to prevent an important or time-sensitive discussion or decision from being made by a board.**

At the same time, OIP recognizes the valid concern that the telephone testimony experience can be an unsatisfactory one, especially as compared to in-person or even audio-video remote participation. Requiring boards to give remote testifiers the option of being visible would help to mitigate that.

Thus, OIP recommends that this Committee decide whether to move this bill based on what it finds to be the best balance between competing interests – a board’s interest in being better able to control its remote meetings versus the remote testifiers’ interest in feeling confident that the board is receiving the full benefit of their testimony and they are not being ignored in favor of the in-person attendees who the board members can see.

Thank you for considering OIP’s testimony.



DISABILITY AND COMMUNICATION ACCESS BOARD

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April 2, 2024

TESTIMONY TO THE SENATE COMMITTEE ON JUDICIARY

House Bill 1599 HD1 SD1 – Relating to the Sunshine Law

The Disability and Communication Access Board (DCAB) supports House Bill 1599 HD1 SD1 - Relating to the Sunshine Law.

The bill would require public meeting notices to inform members of the public how to provide remote oral testimony in a manner that allows the testifier, upon request, to be visible to board members and other meeting participants. It also recognizes a board's authority to remove and block individuals who disrupt meetings remotely.

The ability to be seen when testifying is very important to many people, including those with disabilities. It may help the board members fully understand the impact the disability has on the subject matter or it may be the only opportunity for board members to interact with persons with disabilities.

Thank you for considering our position.

Respectfully submitted,

KIRBY L. SHAW
Executive Director



JOSH GREEN, M.D.
GOVERNOR
SYLVIA LUKE
LIEUTENANT GOVERNOR

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WRITTEN ONLY

TESTIMONY BY DEREK MIZUNO
ADMINISTRATOR, HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND
DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE SENATE COMMITTEE ON JUDICIARY
ON HOUSE BILL NO. 1599 H.D.1 S.D. 1

April 2, 2024
10:05 a.m.
Conference Room 016 & Videoconference

RELATING TO THE SUNSHINE LAW

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

The Hawaii Employer-Union Health Benefits Trust Fund (EUTF) Board of Trustees supports this bill. The EUTF Board believes that this bill encourages public participation by requiring that board meeting notices inform the public how to be visible when providing oral testimony. The EUTF currently allows written and oral, including visibility via Teams, public testimony. The Teams link is currently included on the board meeting notice.

Thank you for the opportunity to testify.



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

**RE: Testimony in Support of H.B. 1599 H.D. 1 S.D. 1, Relating to the
Sunshine Law**
Hearing: April 2, 2024 at 10:05 a.m.

Dear Chairs and Members of the Committees:

My name is Ben Creps. I am a staff attorney at the Public First Law Center, a nonprofit organization that promotes government transparency. Thank you for the opportunity to submit testimony **in strong support of H.B. 1599 H.D. 1 S.D. 1.**

Some boards refuse to permit individuals to testify by videoconference without giving up certain rights (*e.g.*, disclosing identity, registering in advance of a meeting). The statute concerning remote meetings permits this behavior as long as the meeting has a telephone conference option. This process, however, establishes a tiered system that denies remote testifiers the opportunity to be *seen* by the board while testifying.

This measure amends Hawai'i Revised Statutes (HRS) § 92-3.7 to clarify that boards must provide members of the public the option to participate by both audio *and* video means at remote meetings subject to Sunshine Law. This ensures that members of the public have the opportunity to fully express their views and promotes civil discourse.

Additionally, as demonstrated by the Legislature's successful use of remote testimony over the last several years, there are technological solutions to preserve the decorum of the meeting in the rare instances in which individuals may be disruptive in a remote meeting. To address this concern, H.B. 1599 H.D. 1 S.D. 1 expressly recognizes a board's authority to remove and block individuals who disrupt remote meetings.

Thank you again for the opportunity to testify in support of H.B. 1599 H.D. 1 S.D. 1.





Committee: Judiciary
Hearing Date/Time: Tuesday, April 2, 2024 at 10:05am
Place: Conference Room 016 & Via Videoconference
Re: **Testimony of the ACLU of Hawai'i in SUPPORT of HB1599 HD1 SD1 Relating to the Sunshine Law**

Dear Chair Rhoads, Vice Chair Gabbard, and Members of the Committee:

The ACLU of Hawaii **supports HB1599 HD1 SD1**, which requires public meeting notices to inform members of the public how to provide remote oral testimony in a manner that allows the testifier, upon request, to be visible to board members and other meeting participants and recognizes a board's authority to remove and block individuals who disrupt meetings remotely.

In the 21st century, amending the Sunshine Law in this way simply updates the law to reflect current technological capabilities. By requiring boards to provide for a video option for remote oral testimony, HB1599 HD1 SD1 provides for greater participation and engagement for members of the public who wish to engage in various government board meetings and conversations. This contributes to a thriving participatory democracy!

More simply, the bill expands options and choice for members of the public when testifying. Allowing for a video option provides board members and individuals attending public meetings the opportunity to see testifiers as they communicate, but doesn't make it a requirement. This allows for better experiences for both board members and the public, while allowing for voice-only options for those who may not have access to reliable or any internet access or who prefer not to be seen during their testimony.

Finally, this bill creates a legislative process that is more accessible to the public. People who live on the neighbor islands, in rural communities, those who lack transportation or childcare and those with disabilities or illness who are unable to attend hearings in person would have an opportunity to be heard and seen – as communication includes words and body language.

We are encouraged **HB1599 HD1 SD1** is moving through the legislature and urge the committee to support it.

Sincerely,

Carrie Ann Shirota

Carrie Ann Shirota
Policy Director
ACLU of Hawai'i
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The mission of the ACLU of Hawai'i is to protect the fundamental freedoms enshrined in the U.S. and State Constitutions. The ACLU of Hawai'i fulfills this through legislative, litigation, and public education programs statewide. The ACLU of Hawai'i is a non-partisan and private non-profit organization that provides its services at no cost to the public and does not accept government funds. The ACLU of Hawai'i has been serving Hawai'i for over 50 years.