

STATE OF HAWAII
OFFICE OF INFORMATION MANAGEMENT & TECHNOLOGY

P.O. BOX 119, HONOLULU, HAWAII 96810-0119

TESTIMONY OF
SANJEEV "SONNY" BHAGOWALIA, CHIEF INFORMATION OFFICER
TO THE SENATE COMMITTEES ON
ECONOMIC DEVELOPMENT AND TECHNOLOGY,
PUBLIC SAFETY, GOVERNMENT OPERATIONS AND MILITARY AFFAIRS,
AND
JUDICIARY AND LABOR
February 3, 2012

S.B. 2233

RELATING TO ELECTRONIC INFORMATION

Chairs, Vice Chairs, and members of the committees, thank you for the opportunity to testify on S.B. 2233.

The Office of Information Management and Technology supports and recommends passage of S.B.2233, which requires government agencies to post public notices electronically.

The current statute only requires to be published only in daily or weekly publications. As electronic posting of information has become an accepted and expected way to conduct business, the state should publish public notices online as well to expand its ability to reach constituents.

This proposed bill aligns with the chief information officer's strategic IT vision to leverage new technologies to increase government transparency and enhance citizen engagement and participation, while providing increased cost efficiencies for state government.

At this time, we would like to make recommend revising SECTION 2.(a) of S.B. 2233 to specifically identify electronic or online publication to the centralized public notices website of the State of Hawaii. This will allow for one location to serve as the primary host, provide standardization and provide uniform opt-in services for all public notices.

Thank you for the opportunity to testify.

NEIL ABERCROMBIE
GOVERNOR



KAREN SEDDON
EXECUTIVE DIRECTOR

STATE OF HAWAII

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT AND TOURISM
HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION
677 QUEEN STREET, SUITE 300
Honolulu, Hawaii 96813
FAX: (808) 587-0600

IN REPLY REFER TO:

WRITTEN ONLY

Statement of
Karen Seddon
Hawaii Housing Finance and Development Corporation
Before the

**SENATE COMMITTEE ON ECONOMIC DEVELOPMENT AND TECHNOLOGY
SENATE COMMITTEE ON PUBLIC SAFETY, GOVERNMENT OPERATIONS,
AND MILITARY AFFAIRS
SENATE COMMITTEE ON JUDICIARY AND LABOR**
February 3, 2012, 1:15 p.m.
Room 016, State Capitol

In consideration of
S.B. 2233 RELATING TO ELECTRONIC INFORMATION.

The HHFDC offers the following comments on S.B. 2233.

HHFDC supports the increased use of electronic and online media for the publication and dissemination of public notices by government agencies. Not only would this trend reduce administrative expenses, but it may in many cases broaden the reach and audience for the public notices. We also note that HHFDC's stakeholders and program users increasingly access our agency's information through our website, as well as the online portals for other state agencies.

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



HAWAII COMMUNITY
DEVELOPMENT AUTHORITY



KAKA
KALAELOA

Neil Abercrombie
Governor

Joseph L. Dwight, IV
Chairperson

Anthony J. H. Ching
Executive Director

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96813

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STATEMENT OF

ANTHONY J. H. CHING, EXECUTIVE DIRECTOR
HAWAII COMMUNITY DEVELOPMENT AUTHORITY

BEFORE THE

SENATE COMMITTEE ON ECONOMIC DEVELOPMENT
AND TECHNOLOGY

AND

SENATE COMMITTEE ON PUBLIC SAFETY, GOVERNMENT
OPERATIONS, AND MILITARY AFFAIRS

AND

SENATE COMMITTEE ON JUDICIARY AND LABOR

Friday, February 3, 2012

1:15 P.M.

State Capitol, Conference Room 016

in consideration of

S. B. 2233 – RELATING TO ELECTRONIC INFORMATION.

Purpose: Requires government agencies to disseminate publications of notice electronically; provides the option of additional supplemental notice in a daily or weekly publication of statewide circulation or in a daily or weekly publication in the affected county, as appropriate; appropriates funds for the operational expenses of the Office of Information Management Technology.

Position: The Hawaii Community Development Authority (“HCDA”) supports this bill as the cost for publication in a daily or weekly publication, has risen considerably since the Honolulu Advertiser went out of business. Pursuant to Section 1-28.5, Hawaii Revised Statutes, the HCDA has expended \$14,525.62

in FY 2011 for 23 public notices. In addition to the high cost of publication of Statewide notices, our administrative staff is required to expend time and effort obtaining quotes, approving draft notices, and coordinating the publication for five county publications.

Thank you for the opportunity to testify in support of this proposal.



The Judiciary, State of Hawaii

Testimony to the Senate Committee on Economic Development and Technology

Senator Carol Fukunaga, Chair
Senator Glenn Wakai, Vice Chair

**Testimony to the Senate Committee on Public Safety, Government Operations,
and Military Affairs**

Senator Will Espero, Chair
Senator Michelle N. Kidani, Vice Chair

Testimony to the Senate Committee on Judiciary and Labor

Senator Clayton Hee, Chair
Senator Maile S.L. Shimabukuro, Vice Chair

Friday, February 3, 2012, 1:15 p.m.
State Capitol, Conference Room 016

by

Kevin Thornton
Support Services Department Head
The Judiciary, State of Hawaii

Bill No. and Title: Senate Bill No. 2233, Relating To Electronic Information.

Purpose: Requires government agencies to disseminate publications of notice electronically; provides the option of additional supplemental notice in a daily or weekly publication of statewide circulation or in a daily or weekly publication in the affected county, as appropriate; appropriates funds for the operational expenses of the office of information management technology; electronic notice requirement effective 1/1/2013.

Judiciary's Position:

The Judiciary supports the intent of this bill, with comments, and with concerns for Hawaii residents who may not have easy access to the Internet.



Senate Bill No. 2233, Relating To Electronic Information
Senate Committee on Economic Development and Technology
Senate Committee on Public Safety, Government Operations, and Military Affairs
Senate Committee on Judiciary and Labor
Friday, February 3, 2012
Page 2

Currently Hawaii residents must read a statewide publication and a county publication for notices concerning them. With the definition of website as a collection of web pages, this bill's amendments may result in notices being spread across the web pages of the various government agencies. For clarity, it is requested that the State and Counties, each provide a central web page or group of web pages that aggregate the notices from their agencies.

For the State's Public Notices aggregate web page it is recommended that it is placed on the Hawaii.Gov web page. Since the Hawaii.Gov web page is managed by the State's portal manager, Hawaii Information Consortium, and they are managed by the Access Hawaii Committee, the Access Hawaii Committee could be responsible for setting up the aggregate web pages. The Access Hawaii Committee is a cross jurisdictional committee empowered under [HRS 27G](#) and could potentially aggregate public notices from the counties. Since the portal manager's contract is self-funded, funding for the aggregate web site could be funded through this contract.

The Judiciary recognizes the additional costs, but believes that there is still a segment of our community who would be served better through print media. It is therefore requested that notices be published on-line and in print media rather than "may also be given in a daily or weekly publication".

If the notices are published online, there is no timeframe specified for how long that notice must remain on the website. If notices remain on the website indefinitely, there should be an applicable archive process. It is recommended that notices remain public for one month and are moved to electronic archive for ten years and then removed to State archives after that date.

Thank you for the opportunity to testify on Senate Bill 2233.

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 Economic Development and Technology, on
Public Safety, Government Operations, and Military Affairs, and on
Judiciary and Labor

From: Cheryl Kakazu Park, Director

Date: February 3, 2012, 1:15 p.m.
State Capitol, Room 016

Re: Testimony on S.B. No. 2233
Relating to Electronic Information

Thank you for the opportunity to submit testimony on S.B. No. 2233.

OIP supports this bill, which would require government agencies required to give public notice to do so by means of electronic notice on the State or county website, and would make the current requirement of print publication an additional option.

The Sunshine Law, which OIP administers, has separate notice requirements, and OIP has never interpreted the provision addressed in this bill to apply to Sunshine Law notices. Nevertheless, the electronic notice proposed in this bill is consistent with OIP's proposal in S.B. 2859 and H.B. 2597 to change from paper notice to electronic notice under the Sunshine Law, which will make it easier for members of the public to find all types of notices at the same online location. OIP also believes that a change to electronic notice generally will provide for faster and broader public access to notices, will utilize declining government resources more efficiently and cost effectively, and will place less of a burden on affected agencies.



STATE OF HAWAII
HAWAII STATE PUBLIC LIBRARY SYSTEM
OFFICE OF THE STATE LIBRARIAN
44 MERCHANT STREET
HONOLULU, HAWAII 96813

**Senate Committee on Economic Development and Technology
Senate Committee on Public Safety, Government Operations and
Military Affairs
Senate Committee on Judiciary and Labor**

**Friday, February 3, 2012
State Capitol, Room 016**

SB 2233 – Relating to Electronic Information

The Hawaii State Public Library System (HSPLS) supports SB 2233.

For the past several years, our libraries have seen increasing numbers of people turning to their libraries for the e-government, workforce development, education and health information they need. We anticipate this bill will dramatically increase the number visits and requests for assistance we receive from citizens across the state, and we look forward to providing the key communications linkages between government organizations and the people of Hawaii

This bill will create opportunities to open channels of communication between our citizens and the legislature, government departments, agencies and institutions at all levels. It will also have a significant workload and financial impact on HSPLS and our daily operations, as we anticipate many more people will be coming to our

libraries to access, view and print this information. This will impact our reference staff, as they help patrons search for, locate and make use of the information they require, and there will be additional costs associated with printing the documents retrieved, including paper, printer supplies and wear and tear on equipment.

To help us take full advantage of our libraries' critical position in the government to citizen's communication link, we would require additional funding of approximately \$250,000 to install dedicated computers and printers for accessing government information in our libraries. These dedicated computers would allow streaming video of legislative proceedings, provide access to the documents and information targeted in these bills, provide links to government at all levels, and open the doors to government information for citizens across the state. If this funding were appropriated and released to HSPLS by next FY 2013, we could implement these dedicated terminals and printers in our libraries statewide, probably before the beginning of the next legislative session.

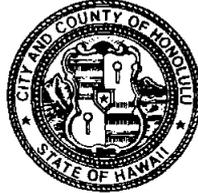
We look forward to working with the legislature to create new pathways for constituents to remain aware of and engaged in their government.

Thank you for the opportunity to testify on this bill.

DEPARTMENT OF PLANNING AND PERMITTING
CITY AND COUNTY OF HONOLULU

650 SOUTH KING STREET, 7TH FLOOR • HONOLULU, HAWAII 96813
PHONE: (808) 768-8000 • FAX: (808) 768-6041
DEPT. WEB SITE: www.honoluluudpp.org • CITY WEB SITE: www.honolulu.gov

PETER B. CARLISLE
MAYOR



DAVID K. TANOUE
DIRECTOR

JIRO A. SUMADA
DEPUTY DIRECTOR

February 3, 2012

The Honorable Carol Fukunaga, Chair
and Members of the Committee on
Economic Development and Technology
The Honorable Will Espero, Chair
and Members of the Committee on Public
Safety, Government Operations and Military Affairs
The Honorable Clayton Hee, Chair
and Members of the Committee on
Judiciary and Labor
State Senate
State Capitol
Honolulu, Hawaii 96813

Dear Chairs Fukunaga, Espero, Hee, and Committee Members:

Subject: Senate Bill No. 2233
Relating to Electronic Information

The Department of Planning and Permitting **supports** Senate Bill No. 2233 with a minor amendment. This measure requires government agencies to disseminate publication of notices electronically; and provides the option of additional supplemental notices in daily or weekly publications circulated statewide or in the affected county, as appropriate.

The public is increasingly using the Internet to follow news items, to stay informed, and to receive e-mail and text alerts on matters of interest. Passage of this bill will reduce the cost of notices for the Department, and shorten the time required to post notices by eliminating the need to submit them to the newspapers several days in advance of publication.

We request clarification of language proposed under Section 2 of the bill. What kind of information on an agency's website is needed to delineate the location of notices? Will the provision of a hotlink be sufficient?

The Honorable Carol Fukunaga, Chair
and Members of the Committee on
Economic Development and Technology
The Honorable Will Espero, Chair
and Members of the Committee on Public
Safety, Government Operations and Military Affairs
The Honorable Clayton Hee, Chair
and Members of the Committee on
Judiciary and Labor
State Senate
Re: Senate Bill No. 2233
February 3, 2012
Page 2

Please pass Senate Bill No. 2233 with the requested clarification. Thank you for the opportunity to testify.

Very truly yours,

A handwritten signature in black ink, appearing to read 'DKT', is written over a horizontal line.

David K. Tanoue, Director
Department of Planning and Permitting

DKT:jmf

sb2233-ElecInfo-bs.doc



To: Committee on Economic Development and Technology
Senator Carol Fukunaga, Chair

Committee on Public Safety, Government Operations, and Military Affairs
Senator Will Espero, Chair

Committee on Judiciary and Labor
Senator Clayton Hee, Chair

Date: February 3, 2012, Conference Room 016, 1:15 p.m.

Re: **SB2233 – RELATING TO ELECTRONIC INFORMATION**

Chair Fukunaga, Chair Espero, Chair Hee, and Committee Members:

My name is Barbara Kim Stanton, State Director of AARP Hawaii. AARP is a membership organization of people 50 and older with nearly 150,000 members in Hawaii. We are committed to championing access to affordable, quality health care for all generations, providing the tools needed to save for retirement, and serving as a reliable information source on issues critical to Americans age 50+.

AARP **opposes** SB2233 which requires government agencies to disseminate publications of notice electronically; and provides the option of additional supplemental notice in a daily or weekly publication of statewide circulation, or in a daily or weekly publication in the affected county.

Currently public notice is required in daily or weekly newspapers. This bill requires electronic or online public notice, and makes public notice optional in daily or weekly newspapers.

We acknowledge that there is a possible cost savings if public notice can be provided online or electronically. However, our concern is that people who are not computer literate or without internet access would not be able to access public notice information. This is particularly true of many seniors, disabled, and disadvantaged groups who still rely on newspapers for vital information and would miss public notices if not published in newspapers.

While online use is gaining ground, we know from our own membership that printed material remains their top preference. Until it is clear consumers more readily access public information online we believe that public notification needs to be published in daily or weekly newspapers. Public interest is best served by assuring that public information is easily accessible and we ask that the public notice requirement remain as-is.

Thank you for the opportunity to provide testimony.



January 31, 2012

The Hawaii Publishers Association strongly opposes SB2233.

There are many reasons important public notices should not be solely posted on a government website. Public notices published in newspapers of general circulation ensure notification to the general populace because they have these elements:

- Publication is in a forum independent of the government;
- The published notice is archivable and secure;
- The notice is accessible by all segments of society;
- Publication is verifiable (by way of an affidavit of publication).

Posting information on a government website on the Internet has none of these elements of permanency, reliability and accessibility. On the Internet, everything seems to move, change or cease to exist without notice or explanation. When ink is pressed to paper thousands of times, the notice is either right or wrong, but it will never be right one moment and wrong the next.

Obviously, the official website of the state is not independent of the legislative body that enacted the ordinance. Therefore, posting on a government site alone deprives the notice of the independence that protects against tampering, alteration, political bias and post-deadline posting.

People pay to receive newspapers that are dependably made available at set intervals in homes, at offices, stores and on the streets. People seek out newspapers to obtain news about crime, justice, sports, politics, social events, and even comics and puzzles. They look for advertisements for all kinds of products and services. Public notice advertisements published in newspapers that alert citizens of important events in their community are “pushed” into thousands of households statewide. The published public notices inform not just the political insiders who might occasionally visit a government website or sign up for mailed alerts, or even those with a direct stake in the matter, but the entire community.

In contrast, no one goes to a city or county website to find “the news,” and most do not pull up a government website for any reason. Posting public notices solely on a government website amid all the clutter and chatter of the vast Internet is a sure-fire way to obscure this vital and local information from the public.

Public notice laws were created to notify the public of government actions that may affect their interests or rights. Saving money is a noble and important cause, but reducing the transparency of government and making it more difficult for the common citizen to know what is going on is not the correct route to that destination.

For all of these reasons, we must respectfully oppose SB2233.

Ted Dixon
President
Hawaii Publishers Association

Hawaii
Tribune  **Herald**

February 2, 2012

The Hawaii Tribune-Herald opposes SB2219 and SB2233.

While the said purpose of the bill is to save money, the solution stated in this bill is not in the best interest of the local citizenry.

The purpose of public notices is to display information in places where the public is likely to see them. Newspapers, purchased by the consumer, contain news, information on events, advertisements, and other content that is attractive to locally engaged members of the community.

Putting public notices on a government website, while the notices will be available, will effectively remove it from the view of the general public. The public rarely visits government websites.

Public notice laws in this country serve to outline the most effective method of reaching the public. Before a state designates a newspaper to publish public notices, states generally require the newspaper to have paid circulation, a minimum percentage of news content, a local publishing address, and a continuous publishing history. The latter requirement ensures stability in the venue for public notices, so that the public will have a reliable place to search for public notices.

For these reasons and more, we urge you to vote in opposition to SB2219 and SB2233.

Respectfully submitted,



Ted Dixon
Publisher
Hawaii Tribune-Herald
Hilo, HI 96720



TO: Senator Carol Fukunaga, Economic Development and Technology Committee
Senator Will Espero, Public Safety, Government Operations & Military Affairs Committee
Senator Clayton Hee, Judiciary and Labor Committee

FR: Dave Kennedy, Senior Vice President
Honolulu Star-Advertiser

RE: **TESTIMONY IN OPPOSITION TO SB2219 and SB2233**
Friday, February 3, 2012 -- 1:15 p.m.
Hawaii State Capitol, Room 016

Aloha Chairs Fukunaga, Espero, and Hee:

The Honolulu Star-Advertiser respectfully opposes SB2219 and SB2233, which, if enacted, would eliminate the requirement that legal notices be published in newspapers of general circulation, creating the option in the case of SB2219 – and the requirement in the case of SB2233 – that they be published on the official website of the state or affected county instead.

SB2219 and SB2233 erode access to vital public information. Our readers rely upon receiving public notices from newspapers of general circulation for this information. It is a gold standard that is followed throughout the nation.

Arguably, the most important reason for legal notices to remain mandatory in print for is accessibility. Removing public notices from newspapers would force Hawaii residents to hunt for proposed government action on often difficult-to-navigate government websites.

For electronic searches, Google has become a widely adopted standard, but it is ineffective for public information searches on government websites.

For residents and readers, especially in rural and remote areas, where not everyone has easy access to a computer, this would deny them access to vital public information. While it can be argued that computers are available in public libraries, it's hard to imagine people going to the trouble of regularly visiting the library in order to check out the day's legal notices.

There is an inherent danger which rests in citizens not knowing about proposed government actions. Vital public notices include:

- Government hearings and meetings;
- Opportunities to bid on government contracts;
- Proposed property developments zoning and land-use changes; and
- Road construction and road closures.

These are all matters that affect people's lives, livelihoods and well-being. The public has a right to know about them.

Further, it is helpful to examine why newspaper publication of notices is such a longstanding and universal requirement across the United States. This requirement ensures that:

- The notice is published by a party independent of the government;
- Once printed, notices can be archived and are secure from modification and tampering;
- Notices are widely and easily accessible, throughout society; and
- Their publication is verifiable by a third party (by way of an affidavit of publication).

If any of these four elements were absent, a notice could not be authenticated and would be subject to challenge.

If legal notices no longer had to be published in newspapers of general circulation, but instead only appeared online – let alone on a *government-run* website – they would have none of these hallmarks of reliability, verifiability, permanency and accessibility. Legal notices – like all serious business – must be transparent, independently verifiable and above suspicion. The government cannot and should not be relied upon to check itself.

Furthermore, newspapers have extremely broad circulation and penetration. According to Scarborough Research, the Hawaii market ranks fourth in the nation for daily newspaper readership. The Honolulu Star-Advertiser enjoys a weekly readership of more than 538,000 readers on Oahu alone in print and online – which is eight out of 10 adults on Oahu including non-subscribers, who buy the paper at the more than 1,900 locations across the state.

Our readership and print circulation are both rising at a very healthy rate. Contrary to widespread belief, newspapers are not going the way of the dinosaurs – and certainly not THIS newspaper.

In closing, it is true that newspapers earn revenue from legal notices. However, this is a very small proportion of our overall revenue. In fact, our current state legal rate is 40% less than it was a decade ago, and far less than the open rate.

The bottom-line issue here isn't about revenue for us; it's about public access and the public's right to know. That's something we in the news business take very seriously.

This is why we respectfully oppose SB2219 and SB2233, and request that you hold this bill in committee.

The Maui News

Founded in 1900

February 2, 2012

Ladies and Gentlemen::

Please accept this letter as an expression of opposition to SB2219/SB2233.

It is my firm belief that public notices are not simply solicitations for bid by governmental entities nor are postings of new or changed legislation simply for the benefit of insiders. The founders of our republic believed in the widest possible dissemination of the workings of government.

A governmental website does not do that.

Newspapers of general circulation have long been the medium for that wide dissemination. Certainly the residents of our state and county do not search governmental websites for news. *The Maui News* has the largest audience on Maui and our readers rely on us as a source of information. Public notices are an important part of that information.

In closing, please reject SB2219/SB2233 for the following reasons:

- Publication on a governmental website will obscure the information from a vast majority of the citizenry;
- Newspapers are not an arm of government and publication of governmental workings in an independent forum is essential in a free society;
- Printed pages provide a permanent record of the notice;
- Public notice laws and newspapers have always shared common goals – to keep an informed electorate and make sure governmental actions are transparent.

For those reasons, please reject SB2219/SB2233.

Respectfully submitted,



Joe Bradley
Publisher
The Maui News

West Hawaii Today

75-5580 Kuakini Highway, Kailua-Kona, HI 96740 Phone (808) 329-9311, Fax (808) 329-3659
www.westhawaii.com

February 1, 2012

I am writing to express our disapproval of SB2219/SB2233 that would allow legal notices to be published electronically on state or county government websites.

The clear intention of publishing legal notices in an adjudicated publication that reaches the majority of residents in a community is to ensure the information is presented to as many of those citizens as possible. This is accomplished with the publication of those notices in the dominant information source that is the local newspaper. Notification of legal and government actions is paramount to government transparency and accountability. When this information is not made easily available to the public in an independent and prominent manner, government actions have the potential to move forward without the critical check and balance system required for an open society.

Online postings will deprive citizens of a permanent record of the notice as electronic listings are subject to deletion or revisions. The printed notice is protected and offers a reliable history with a clear date attached. The newspaper is also accessible to all citizens while government websites require an online connection and computer. Many citizens do not have the equipment or skills to access the internet. For those readers who prefer to get information online, the legal notices are provided on the newspaper's website expanding the total number of citizens reached. The important difference, however, is that the notice is provided in a variety of formats reaching many more people who are reading for a variety of reasons. This offers the best potential for the notices to be read by the majority of our citizens while the government website would severely limit this potential.

Newspapers are the primary source for news in a community and citizens rely on them to provide this credible information. They are delivered every day to millions of homes. The required government notices are presented to readers who pay to receive information in a format that is "pushed" to them rather than having to hunt online through a complex government site.

It is critical at this time to reduce government costs but citizens' rights should never be sacrificed for these reductions. Awareness of government processes and actions is of utmost importance and must be protected and the current system of independent and widespread publication of these processes and actions is essential. For this reason and those listed above, we strongly oppose SB2219/SB2233.

Respectfully submitted,

Tracey Fosso
Publisher
West Hawaii Today

PETER L. FRITZ
414 KUWILI STREET, #104
HONOLULU, HAWAII 96814
TELEPHONE: (808) 426-0000
E-MAIL: PLFLEGIS@FRITZHQ.COM

**THE SENATE
THE TWENTY-SIXTH LEGISLATURE
REGULAR SESSION OF 2012**

COMMITTEE ON ECONOMIC DEVELOPMENT AND TECHNOLOGY

**COMMITTEE ON PUBLIC SAFETY, GOVERNMENT OPERATIONS, AND MILITARY
AFFAIRS**

COMMITTEE ON JUDICARY AND GOVERNMENT AFFIARS

**Hearing: Friday, February 3, 2012
Testimony on S.B. 2233
(Relating to Electronic Information)**

Chairs Fukunaga, Espero, and Hee, Vice-Chairs Wakai, Kidani, and Shimabukuro; and Members of the Committee, my name is Peter Fritz. I am an individual with a disability, past member and Chair of the State Rehabilitation Committee, member and past Chair of the Disability and Communications Access Board and an attorney. I am testifying in my individual capacity **in Opposition to S.B. 2233.**

This measure would require government agencies to disseminate publications of notice of notice electronically on the State of Hawaii website for statewide publication or by electronic or online publication on the website of the affect county for county-wide publication. It also provides the option of additional supplemental notice in newspapers as appropriate. The measure also appropriates funds for the Office of Information Management Technology. The electronic notice requirement is effective January 1, 2013.

The enactment of this measure would have an adverse impact on the access to such notices by the disabled and visually impaired because:

- The Office of Information Management Technology, in their September 28, 2011 report stated that one of the "Key IT Initiatives and Opportunities/Challenges" was "Need language accessible services and disability access."
- Access to electronic publications is still a problem notwithstanding that in 1998, the Rehabilitation Act of 1998 required Federal agencies and state agencies that receive certain federal funds to make their electronic and information technology accessible to people with disabilities. Section 508 was enacted to eliminate

barriers in information technology, to make available new opportunities for people with disabilities, and to encourage development of technologies that will help achieve these goals. The law applies to all Federal agencies when they develop, procure, maintain, or use electronic and information technology. Under Section 508 (29 U.S.C. § 794d), agencies must give disabled employees and members of the public access to information that is comparable to the access available to others.

- The Office of Information Management Technology, in their September 28, 2011 report recognized the accessibility problem when it stated on page 179 of their report that “Key IT Initiatives and Opportunities/Challenges” included a “Need language accessible services and disability access.”
- Hawaii has a long way to go to acquire the software and hardware to provide accessibility for individuals with disabilities and an effective date of January 1, 2013 may not be sufficient time to acquire the software and/or hardware. The following are just a few examples of the lack of accessibility:
 - On February 1, 2011, I was unable to access all portions of the calendar posted at Hawaii.gov using ZoomText. The calendar was accessible using JAWS, another program that is used by individuals with visual disabilities.
 - The Hawaii Civil Rights Commission recently held a hearing on Proposed Amendments to Chapter 12-46 Subchapter 9, Hawaii Administrative Rules, employment discrimination rules. Prior to the hearing, a copy of the proposed amendments was posted on their website THAT WAS NOT ACCESSIBLE using JAWS or ZoomText. This meant that individuals with visual impairments were excluded from participation at the hearing held by the HCRC on the proposed rules. The HCRC was informed of this problem; however, they chose not to hold the hearing and submit the proposed amendments to the Governor for his signature. If the agency responsible for enforcing disability rules cannot get it right, what hope is there for other agencies?
 - The PDF copy of the Statewide Plan for Disabilities was not accessible using ZoomText and was difficult to read using JAWS. The document was published by the Department of Vocational Rehabilitation.
 - The PDF copy of the Statewide Plan for Independent Living was not accessible using ZoomText and was difficult to access using JAWS.
- Standards will need to be developed in rules by Office of Information Management Technology for posting of electronic notices. Currently, it can be very difficult to find notices of agencies that have chosen to publish notices on

their website. Penalties need to be developed for failure to comply with these rules and provisions added to the powers of the Office of Information Practices to enforce violations. If this measure is to be passed, it should have an effective date that go into effect after rules are adopted. Some areas that need to be addressed are:

- Where such notices are to be placed on the Agency's website. Examples of current problems are:
 - Notices for meetings of the Tax Review Commission ("Tax Review Commission") are not posted on the page for the Tax Review Commission but are posted on another page on the Department of Taxation's website. Someone looking for the notice of a meeting of the TRC that "Goggles" the Hawaii Tax Review Commission, clicks on the address for the TRC and goes directly to the page would not be informed of a meeting. There is no separate telephone number to call the TRC to request information.
 - The Statewide Independent Living Council publishes notices of meetings under "Forums." It is not posted under "News and Events." Many people have been unable to find the notices of meetings because they do not expect such notices to be filed under Forums.
- The suggestion that individuals with disabilities have access because they could file a request pursuant to Hawaii Revised Statute § 92-7(e) for an agency to mail notices to them probably violates the Americans with Disabilities Act as well as is inadequate based on my experience because agencies forget to mail such notices or put time frames for requesting accommodations that are too short for an individual to respond. Some recent examples are:
 - I sent a letter on October 26, 2011 to the Tax Review Commission requesting to receive notice of the TRC's meetings. Pursuant to Hawaii Revised Statute § 92-7(e), notices should be mailed out six calendar days prior to the meeting. The TRC scheduled a meeting on December 22, 2011. The Commission forgot to mail such notice to me.
 - The time frame for requesting accommodations is often too short when notices of meeting are mailed. For example, The TRC usually holds its meeting on a Thursday. Six calendar days prior to the meeting is a Friday. The TRC used to say that it required five business days advanced notice by an individual requesting an accommodation which meant that if the

notice was mailed on a Friday, that there were not five business days to request an accommodation.

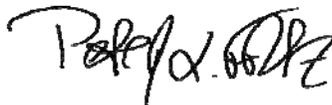
- Another significant problem is that many disabled people do not have computers. The National Institute on Disability and Rehabilitation Research (NIDRR) disability data did a study in 2000 and their data was 23.9% of people with disabilities had access to a computer at home compared to 51.7% of non-disabled counterparts, see http://dsc.ucsf.edu/publication.php?pub_id=6. The whole report from 2000 can be found at <http://dsc.ucsf.edu/pdf/report13.pdf>.

There is more current data from the 2009 census which shows 68.7% households with computer/internet access. It would be reasonable to extrapolate the same difference between disabled and non-disabled and this would suggest about 35% of people with disabilities who have access to a computer/internet at home in 2009 or 65% do not.

If this measure is to be passed, it should be passed with an effective date that goes into effect 90 days after rules providing standards for publication of notices and ensuring accessibility become effective. Furthermore, this measure should provide enforcement powers for the Office of Information Practices and provide for a civil remedy for individuals that allows or recovery of attorney fees by an individual who brings their own action to enforce this law.

Thank you for the opportunity to testify.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Peter L. Fritz". The signature is stylized and cursive.

PETER L. FRITZ