



DISABILITY AND COMMUNICATION ACCESS BOARD

1010 Richards Street, Room 118 • Honolulu, Hawaii 96813
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March 21, 2019

TESTIMONY TO THE HOUSE COMMITTEE ON JUDICIARY

Senate Bill 335, SD2 - Relating to Public Meetings

The Disability and Communication Access Board (DCAB) offers comment on one portion of Senate Bill 335, SD2 - Relating to Public Meetings insofar as access to persons with disabilities is specifically addressed.

DCAB supports the proposed language that would require Sunshine Law meeting notices to include wording that provides instructions regarding a program's obligation to provide auxiliary aids or accommodations for persons with disabilities to allow them to participate in the noticed meeting. This requirement is simply to place appropriate language on the agenda and does not obligate the Office of Information Practice to determine whether the host agency, in fact followed through with the provision of, appropriateness, or adequacy of the accommodation that was requested.

DCAB has already provided guidance on such language and such language is already referenced, at least on the web, by the Office of Information Practices.

SD1 removed references of "accessible" and "accessible format" due to ambiguity in the bill. The two references are on page 3 line 19 and page 4 line 9 "accessible electronic copies." The term "accessible format" and "accessible electronic copies" are essential to accessibility for people who are blind or with low vision and use screen readers to access information on the Internet. If the original print document is scanned to create a pdf document it is not an "accessible format" but a picture that cannot be read by the user's software. The same is true for "accessible electronic copies." The word "accessible" and "accessible electronic copies" need to be included back in the bill so that whether the document is on a website or emailed to a person who is blind the document can be read by that person.

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

Respectfully submitted,

FRANCINE WAI
Executive Director



HAWAI‘I CIVIL RIGHTS COMMISSION

830 PUNCHBOWL STREET, ROOM 411 HONOLULU, HI 96813 · PHONE: 586-8636 FAX: 586-8655 TDD: 568-8692

March 21, 2019
Rm. 325, 2:05 p.m.

To: Hon. Chris Lee, Chair
Hon. Joy San Buenaventura, Vice-Chair
Members of the House Committee on Judiciary

From: Linda Hamilton Krieger, Chair
and Commissioners of the Hawai‘i Civil Rights Commission

Re: S.B. No. 335, S.D. 2

The Hawai‘i Civil Rights Commission (HCRC) has enforcement jurisdiction over Hawai‘i’s laws prohibiting discrimination in employment, housing, public accommodations, and access to state and state funded services (on the basis of disability). The HCRC carries out the Hawai‘i constitutional mandate that no person shall be discriminated against in the exercise of their civil rights. Art. I, Sec. 5.

S.B. No. 335, S.D. 2, amends H.R.S. Section 92-7 regarding posting of notices for meetings and emergency meetings of boards. The amendments require public meeting notices to include instructions regarding accommodations for persons with disabilities, and also require boards to post a notice in the board’s office six days prior to a meeting and file a copy with the office of the lieutenant governor. Further requirements regarding emergency meeting agendas are included.

The HCRC supports Section 2 of the bill, amending HRS 92-7(a) to require that postings include instructions on requesting an auxiliary aid or service. All community members should have equal access to open government meetings and forums. The HCRC also supports accessible postings. The HCRC defers to other government agencies, such as DCAB and OIP, regarding retention of proof of filing with the lieutenant governor and the other requirements of the measure.

The HCRC supports the accessibility requirements of S.B. No. 335, S.D. 2.

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: House Committee on Judiciary

From: Cheryl Kakazu Park, Director

Date: March 21, 2019, 2:05 p.m.
State Capitol, Conference Room 325

Re: Testimony on S.B. No. 335, S.D. 2
Relating to Public Meetings

Thank you for the opportunity to submit testimony on this bill, which in its current form would amend the Sunshine Law, part I of chapter 92, HRS, to (1) require boards to include instructions for requesting an accommodation in their meeting notices, (2) require boards to retain a copy of a proof of filing with the Lieutenant Governor or County Clerk, and (3) require a board seeking to hold an emergency meeting to file notice with the Lieutenant Governor or County Clerk and post notice in the board's office in addition to posting it electronically. **The Office of Information Practices (OIP) supports the intent of this bill to require a board's notice to include instructions for requesting an accommodation, but prefers the language in H.B. 1076, H.D. 1.**

The Sunshine Law's notice requirements were substantially reworked by Act 64 of 2017, which only became effective July 1, 2018. **Prior to that date**, the Sunshine Law required paper filings with the Lieutenant Governor or the appropriate County Clerk, and postal mail notice to persons on the board's mailing list, by the deadline of six days prior to the meeting, with the meeting required to be canceled if the board failed to timely file or mail out the paper notice. (The

Sunshine Law also required, and still requires, posting a copy of the notice at the board's office and, if practicable, at the meeting site.) The Sunshine Law did not require any form of electronic notice, either on a state or county calendar or through an email list, so although boards commonly did post online notice and keep email lists, any failure to timely post online or email the notice was not enforceable under the Sunshine Law.

Act 64 changed the primary form of Sunshine Law notice from paper filing to electronic filing on a state or county online calendar, and added email notice to postal notice as a legally enforceable option for persons on the board's mailing list. The failure to timely post online or timely send email or postal mail notice to the mailing list now requires cancellation of the meeting. Act 64 kept the requirement for boards to provide a copy of the notice to the Lieutenant Governor or County Clerk, but to avoid essentially doubling the number of ways a board could be tripped up and required to cancel its upcoming meeting, it also specified that a failure to meet the paper filing requirement would not require cancelling the meeting (although it would still be a Sunshine Law violation). The year's delay in the effective date for Act 64 was intended to give boards time to learn the new notice requirements and other new Sunshine Law requirements before they became legally enforceable, and boards have now been following these new requirements for the past seven months.

OIP had several concerns with S.B. 335 as introduced; however, the S.D. 1 and 2 versions of this bill removed language OIP found concerning that would have (1) required OIP to enforce accessibility requirements as part of the Sunshine Law and (2) created a form of double jeopardy for boards in which an error in any one of multiple filings would require cancellation of a meeting. The S.D. 2 still retains some changes to the still-new Sunshine Law notice scheme

beyond the requirement to include instructions on requesting an accommodation, as it would also (1) add a requirement for boards to retain a proof of filing with the Lieutenant Governor or County Clerk, and (2) add a requirement that emergency meeting filings include not just the electronic posting and contacting persons on the board's notification list, but also filing with the Lieutenant Governor or County Clerk and posting at the board's office.

While OIP supports the intent of this bill, the Legislature may wish to avoid significant changes to the Sunshine Law's notice scheme until the newly effective notice scheme has had time to be used so that the Legislature can better assess how well it is working in practice, which is why OIP prefers the language of H.B. 1076, H.D. 1 that adds only one new requirement for a meeting notice to include instructions for requesting an accommodation.

Thank you for the opportunity to testify.

DAVID Y. IGE
GOVERNOR OF HAWAII



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

**Testimony of
SUZANNE D. CASE
Chairperson**

**Before the House Committee on
JUDICIARY**

**Thursday, March 21, 2019
2:05 PM
State Capitol, Conference Room 325**

**In consideration of
SENATE BILL 335, SENATE DRAFT 2
RELATING TO PUBLIC MEETINGS**

Senate Bill 335, Senate Draft 2 proposes to make changes to the Sunshine Law to ensure persons with disabilities have access to hard copies of the agendas of state boards and commissions, either by request through the mail, or through postings at the Office of the Lieutenant Governor, or at the office of the board or commission holding the meeting. **The Department of Land and Natural Resources (Department) supports the intent of this measure and offers the following comment.**

The Governor has mandated all state agencies to go paperless and last year significant changes were made to the Sunshine Law to allow agendas and submittals to be posted electronically. While the vast majority of people interested in meetings held by the boards and commissions of the Department get their information on line, 38 people still request hard copies of the Board of Land and Natural Resources meetings.

Thank you for the opportunity to comment on this measure.

SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT K. MASUDA
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

SB-335-SD-2

Submitted on: 3/20/2019 6:38:36 AM

Testimony for JUD on 3/21/2019 2:05:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Leimomi Khan	Democratic Party of Hawaii, Oahu County Cmte, Affirmative Action Cmte	Support	No

Comments:

The Affirmative Action Committee of the Oahu Council Committee, Democratic Party of Hawaii supports SB335, SD2 to ensure equal access to notice of public meetings that would now incorporate into public meeting notices instructions on how to request an auxiliary aid or service or an accommodation due to a disability.

This bill will help create greater access to government for all people and allows for those responsible to arrange auxiliary aid or service of an accommodaton due to a disability to make such arrangements. These accommodations will empower people with disabilities to participate in the political process since they are residents of our state and are affected by the same issues as others in the state. We need their involvement because many hands make light work, and diverse perspectives help us to be informed.

Respectfully, LEIMOMI KHAN, Chair. OCC AA Committee

PETER L. FRITZ

TELEPHONE (SPRINT RELAY): (808) 568-0077
E-MAIL: PLFLEGIS@FRITZHQ.COM

HOUSE OF REPRESENTATIVES THE THIRTIETH LEGISLATURE REGULAR SESSION OF 2019

COMMITTEE ON JUDICIARY
Testimony on S.B. 335 SD2
Hearing: March 21, 2019

RELATING TO PUBLIC MEETINGS

Chair Lee, Vice Chair San Buenaventura and members of the Committee. My name is Peter Fritz. I am an attorney and an individual with a disability testifying in **support with comments** of S.B. 335 SD2.

A purpose of this bill is to conform the Sunshine Law to the non-discrimination requirements in the Americans With Disabilities Act (“ADA”). To provide transparency for all citizens, language requiring that notices posted on the state calendar be posted in an accessible format should be restored to this bill.

Accessible Notices Are Necessary to Ensure Transparency and Comply with Administrative Directives and Nondiscrimination Laws

Chapter 92, Hawaii Revised Statutes states that “[i]n a democracy, the people are vested with the ultimate decision-making power. Governmental agencies exist to aid the people in the formation and conduct of public policy. Opening up the governmental processes to public scrutiny and participation is the only viable and reasonable method of protecting the public's interest. Therefore, the legislature declares that it is the policy of this State that the formation and conduct of public policy-the discussions, deliberations, decisions, and action of governmental agencies-shall be conducted as openly as possible. When notices posted on the state calendar inaccessible, individuals with disabilities that use text-to-speech program are denied access to governmental information.

Notices Posted on the State Calendar Must Be Accessible

To comply with the with the Americans With Disabilities Act, Comptrollers Memorandums and Administrative Directive language requiring that notices posted on the state calendar be accessible should be restored. The restored language would read as follows:

(b) No less than six calendar days prior to the meeting, the board shall post the notice in an accessible format on an electronic calendar on a website maintained by the State or the appropriate county.

Departments and agencies have long been required to post documents in an accessible format.

Comptrollers Memorandum 2010-28 provides that “**the State must ensure that these web sites are accessible to persons with disabilities.**”

Administrative Directive 12-06 amplifies this requirement and states:

State websites provide access to information about programs, services, and activities to the public twenty-four hours a day, seven days a week (24/7). **Departments and agencies shall ensure such information is accessible to everyone, including individuals with disabilities** by complying with the DAGS, Information and Communication Services Division (ICSD) policy for accessibility of state department and agency websites in Comptroller's Memorandum (CM) 2010-28.

For your convenience, copies of the Administrative Directive and Comptrollers Memorandum have been attached to my testimony.

Tools are Available for Agencies to Test Electronic Documents for Accessibility and Training is Offered by Enterprise Technology Services (“ETS”)

Technical assistance is available from ETS to regarding how to create and post accessible notices of meetings. Adobe Acrobat has a tool to test the accessibility of PDF documents. Adobe Acrobat also has an Action Wizard to make PDF documents accessible. ETS recently offered training to agencies and departments regarding the creation of 's accessible documents using Microsoft Word and Adobe Acrobat. Agencies can create and post accessible documents.

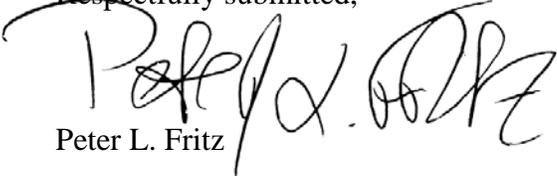
Practical Considerations for the Office of Information Practices (“OIP”)

- OIP is already required to post documents on its website in an accessible format that complies with Administrative Directive 12-06 and Controllors Memorandum 2010-28 if it is complying with The Directive, Memorandum and nondiscrimination law. OIP should already have the necessary technical know-how and tools to determine if notice is accessible and assistance is available from ETS.
- Only when a complaint is registered will OIP need to determine if a notice is inaccessible and very few inaccessible notices I been posted at this time. Furthermore, the person making the complaint would have the burden to state the reasons for their claim that a notice is inaccessible. d to review each and every notice that is published on the state calendar nor every notice filed with the Lieutenant Governor.
- Because of my efforts, almost all notices posted recently have been accessible.

I respectfully request that the language requiring that notices posted on the state calendar be accessible be restored to provide transparency for individuals with disabilities that use screen reading programs.

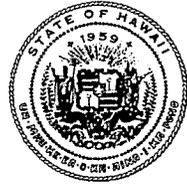
Thank you for the opportunity to testify.

Respectfully submitted,


Peter L. Fritz

DIR
C.DCAB

RECEIVED
OFFICE OF THE DIRECTOR
DEPT OF HEALTH



12 DEC 28 A 6:47

EXECUTIVE CHAMBERS
HONOLULU

NEIL ABERCROMBIE
GOVERNOR

December 18, 2012

ADMINISTRATIVE DIRECTIVE NO. 12-06

TO: All Department and Agency Heads

SUBJECT: Accessibility to State Government by Persons with Disabilities

This Administrative Directive supercedes, consolidates, and updates the previous Administrative Directives (AD) and Executive Memorandum (EM) relating to accessibility and persons with disabilities as listed below:

- AD 97-01 Responsibilities for Americans with Disabilities Act Coordination and Implementation,
- AD 97-02 Communication Access for Persons with Disabilities to Programs, Services, and Activities of the State of Hawaii,
- AD 97-03 Non-Discrimination to Programs, Services, and Activities of the State of Hawaii on the Basis of Disability,
- AD 98-01 Reasonable Accommodation for Persons with Disabilities,
- AD 98-02 Facility Access, and
- EM 06-02 Access to State Government by Persons with Disabilities.

The State of Hawai'i, as an employer and an operator of government programs, services, and activities, is committed to the needs and civil rights of individuals with disabilities through compliance with the Americans with Disabilities Act (ADA), Public Law 101-336, and the ADA Amendments Act (ADAAA), Public Law 110-325. As stated in the aforementioned Administrative Directives and Executive Memorandum, we remain committed to our legal obligation to provide equal access to employment, programs, services, and activities of State government for persons with disabilities in the State of Hawai'i. On September 15, 2010 and March 25, 2011, the U.S. Department of Justice (DOJ) and the U.S. Equal Employment Opportunity Commission (EEOC), respectively, issued new federal administrative rules relating to the ADA. The rules related to ADA Titles II and III became effective on March 15, 2011. Other portions of

12-005076

the rules relating to the 2010 ADA Standards for Accessible Design went into effect on March 15, 2012. The EEOC rules for the ADAAA became effective on May 24, 2011. This directive reaffirms the State's commitment to accessibility for individuals with disabilities set forth under the ADA, the previous directives, and highlights the changes found in the new administrative rules promulgated by the DOJ and EEOC.

Although the following sections summarize portions of the ADA, the ADA provides the broad framework for equal opportunity and access to agency programs, services and activities, including state government, for individuals with disabilities. This memorandum focuses on the following topics:

- a. Facility Access;
- b. Access to State Programs, Services, and Activities;
- c. Communication Access;
- d. Employment; and
- e. ADA Coordination.

Facility Access

Facility accessibility involves new construction and alteration of buildings, facilities, and sites by the State (or on behalf of the State), existing state facilities, state agencies occupying space in leased facilities, and a state facility that is leased to a private entity. Each type of facility shall be fully accessible to and usable by individuals with disabilities.

For new construction and alteration, the State of Hawai'i adheres to legal requirements set forth under §103-50, Hawai'i Revised Statutes (HRS) that provides for the review of state and county construction projects by the Disability and Communication Access Board (DCAB) as well as the issuance of interpretive opinions. The Americans with Disabilities Act Accessibility Guidelines (ADAAG), Federal Fair Housing Amendments Act Accessibility Guidelines (FHAG), and DCAB interpretive opinions are the guidelines reviewed under §103-50, HRS.

Each department and agency shall ensure that all plans and specifications are submitted to DCAB for timely review prior to construction consistent with Hawai'i Administrative Rules (HAR), Title 11, Chapter 216, *Disability and Communication Access Board Rules of Practice and Procedure*.

If a department or a state agency plans to lease an existing facility from a private entity for office space, the responsible party should contact the Department of Accounting and General Services (DAGS). DAGS has a checklist that will assist the agency to select a site that is accessible to individuals with disabilities. A copy of the checklist can be obtained from the DAGS, Public Works Division, Leasing Branch at (808) 586-0508.

Access to State Programs, Services, and Activities

Policies and practices of the State of Hawai'i departments and agencies shall be non-discriminatory and inclusive of the whole community (including individuals with and without disabilities). This right includes not only the opportunity to participate, but an opportunity that is equally effective as that provided to individuals without disabilities. Policies, practices, and procedures of departments and agencies shall be modified to provide equal access to individuals with disabilities, unless doing so would fundamentally alter the nature of the program, service, or activity or create undue administrative or financial burden to state government.

Programs, services, and activities of the State of Hawai'i shall be delivered in the most inclusive setting appropriate to the individual's level of need. The inclusion of individuals with disabilities is the goal of the ADA and the goal of the State of Hawai'i. In the delivery of programs, services, and activities, the State of Hawai'i departments and agencies shall not use eligibility criteria that screen out or tend to screen out individuals with disabilities unless such eligibility criteria are a necessary provision for the program, service, or activity. Access shall also be provided to ongoing programs as well as periodic events such as conferences, workshops, public hearings, and all events sponsored or co-sponsored by the state.

Departments and agencies shall not charge individuals with disabilities a fee to offset the costs associated with providing access.

State websites provide access to information about programs, services, and activities to the public twenty-four hours a day, seven days a week (24/7). Departments and agencies shall ensure such information is accessible to everyone, including individuals with disabilities by complying with the DAGS, Information and Communication Services Division (ICSD) policy for accessibility of state department and agency websites in Comptroller's Memorandum (CM) 2010-28. Creating and maintaining accessible websites allows individuals with disabilities access to information 24/7, similar to anyone in the general public using a State website.

Guidance regarding access to programs, services, and activities of State government is available in the *Programs and Services Manual for Persons with Disabilities* published by DCAB.

Communication Access

To ensure that all individuals with disabilities be they consumers, companions, or family members have equal opportunity to participate in programs, services, and activities of the State of Hawai'i, auxiliary aids and services shall be provided upon request of the qualified individual with a disability. Auxiliary aids or services may be for individuals who are deaf, hard of hearing, deaf-blind, blind, have low vision or have speech

disabilities. When the department or agency chooses an auxiliary aid or service, preference should be given to the request of the individual with a disability.

State agencies shall reference the guidelines set forth in the *Communication Access Services for Persons who are Deaf, Hard of Hearing, and Deaf-Blind*, pursuant to HAR Title 11, Chapter 218, as adopted by DCAB to follow when hiring sign language interpreters and communication assistants for persons requesting such services.

State agencies shall also ensure that all contact points where the agency interacts with the public are accessible to persons with communication access needs.

State agencies may establish reasonable timeframes for individuals to request auxiliary aids or services in order to fill those requests. For a list of Communication Access Providers (i.e., American Sign Language (ASL)/English interpreters, real-time captioners, or computer-assisted notetakers), contact DCAB at (808) 586-8121.

Employment

As a major employer, the State of Hawai'i will provide equal opportunity in State employment to qualified individuals with disabilities. This commitment includes a legal obligation to provide reasonable accommodation to facilitate the employment of qualified individuals with disabilities. Reasonable accommodation is a logical adjustment made to the application process, in the work environment to enable the person to perform the essential functions of the job, or to receive benefits of employment.

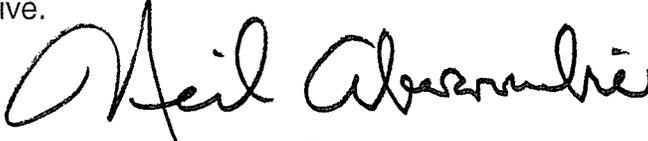
The ADAAA of 2008 expanded the definition of "disability," so that the determination about whether or not an individual has a disability does not require extensive analysis. The expanded definition adds two non-exhaustive lists to clarify the meaning of "major life activities," as well as a list defining "major bodily functions." The expanded definition overturns previous Supreme Court decisions that narrowly construed the definition of disability.

When a person with a disability is an applicant or employee of the State of Hawai'i, the department or agency with the job vacancy has the primary responsibility to provide and pay for a requested accommodation. Guidance on the provision of reasonable accommodation for State job applicants and employees is available in the *Reasonable Accommodation for State Employees with Disabilities Manual* published by DCAB.

ADA Coordination

The State of Hawai'i reaffirms its commitment to equal opportunity for individuals with disabilities by designating DCAB to coordinate ADA compliance efforts for the Executive Branch.

Each department and agency head shall continue its responsibility and effort to provide equal opportunities to individuals with disabilities in the provision of programs and services, equal access to employment, and effective communication in all aspects of State government. Each department shall designate an ADA coordinator/liaison to work with DCAB to effectuate this directive.



NEIL ABERCROMBIE



STATE OF HAWAII
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
P.O. BOX 119, HONOLULU, HAWAII 96810-0119

August 25, 2010

COMPTROLLER'S MEMORANDUM 2010-28

TO: Heads of Departments and Agencies

SUBJECT: Policy Guidance on Web Site Accessibility

The State of Hawaii, Department of Accounting and General Services, Information and Communication Services Division (ICSD), has adopted the following policy relating to web site design and access to persons with disabilities.

POLICY

The Americans with Disabilities Act (ADA) of 1990 requires, in part, that state and local government entities ensure that all programs, services, or activities be accessible to persons with disabilities. Web sites are considered to be a program or service of government utilized to disseminate information to the public. Therefore, the State must ensure that these web sites are accessible to persons with disabilities.

Because the ADA does not contain any specific standards for web site accessibility, ICSD has established standards for the departments of the Executive Branch to meet the ADA requirements as set forth in the following technical guidelines.

Each agency's home page should include contact information to allow the public an alternative means to ask questions or request additional information. At a minimum, contact information should include a phone number, fax number and general e-mail address. E-mails received by a state agency should be responded to within two (2) business days.

TECHNICAL GUIDELINES

A previous document from March 2003 to Data Processing Coordinators established the following minimum Section 508 guidelines, which are intended to ease access to State web sites and make them accessible to persons with disabilities.

All web-based intranet and internet information and applications should be designed following standards set forth in Section 508 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794d):

- (a) A text equivalent for every non-text element shall be provided.
- (b) Equivalent alternatives for any multimedia presentation shall be synchronized with the presentation.
- (c) Web pages shall be designed so that all information conveyed with color is also available without color, for example from context or markup.
- (d) Documents shall be organized so they are readable without requiring an associated style sheet.
- (e) Redundant text links shall be provided for each active region of a server-side image map.
- (f) Client-side image maps shall be provided instead of server-side image maps except where the regions cannot be defined with an available geometric shape.
- (g) Row and column headers shall be identified for data tables.
- (h) Markup shall be used to associate data cells and header cells for data tables that have two or more logical levels of row or column headers.
- (i) Frames shall be titled with text that facilitates frame identification and navigation.
- (j) Pages shall be designed to avoid causing the screen to flicker with a frequency greater than 2 Hz and lower than 55 Hz.
- (k) A text-only page, with equivalent information or functionality, shall be provided to make a web site comply with the provisions of this part, when compliance cannot be accomplished in any other way. The content of the text-only page shall be updated whenever the primary page changes.
- (l) When pages utilize scripting languages to display content, or to create interface elements, the information provided by the script shall be identified with functional text that can be read by assistive technology.

- (m) When a web page requires that an applet, plug-in or other application be present on the client system to interpret page content, the page must provide a link to a plug-in or applet that complies with §1194.21(a) through (l).
- (n) When electronic forms are designed to be completed on-line, the form shall allow people using assistive technology to access the information, field elements, and functionality required for completion and submission of the form, including all directions and cues.
- (o) A method shall be provided that permits users to skip repetitive navigation links.
- (p) When a timed response is required, the user shall be alerted and given sufficient time to indicate more time is required.

Questions about this policy should be directed to the Administrator of Information and Communication Services Division, Department of Accounting and General Services at (808) 586-1910 or by email at debra.a.gagne@hawaii.gov.


RUSS K. SAITO
State Comptroller

c: Debbra Jackson, Planner/ADA Coordinator DCAB
Cindy Omura, Planner/ADA Coordinator DCAB
Francine Wai, DOH/DCAB
Charlotte Townsend, DOH/DCAB
Access Hawaii Committee
State of Hawaii Portal Manager

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Edward H. H. Wong

March 20, 2019

Representative Chris Lee, Chair
Representative Joy A. San Buenaventura, Vice-Chair
Members of the House Committee on Judiciary

Via email: JUDtestimony@capitol.hawaii.gov

Re: Testimony in Opposition to SB 898 Relating to Land Recordation
Hearing on March 21, 2019 2:05 p.m., Conf. Room 325

Dear Chair Lee, Vice Chair San Buenaventura and Members of the Committee:

This Bill would unreasonably burden homeowners and landowners seeking to relieve themselves of the burdens of Land Court registration, in derogation of the Legislature's efforts to assist such owners.

I am a real estate attorney who regularly deals with land that has been removed or deregistered from the Land Court system. The Bill would impose a new requirement, as a condition to deregistration, for the owner to have a surveyed map prepared and recorded in the Bureau of Conveyances. The Bill's rationale is that such a map is necessary, because "there are no clear requirements or standards for the mapping and describing of deregistered lands."

That rationale is wrong. When a parcel of land is deregistered, the legal description for the parcel is not lost or disregarded. In fact, the Land Court Transfer Certificate of Title is recorded in the Bureau of Conveyances, carrying with it all of the information needed to permit the State (so long as registered) or a purchaser (after deregistration) to identify the parcel being described.

In my many years of preparing documents involving deregistered lands, there has never been an occasion when any party (including surveyors and title companies) has expressed a problem with mapping or describing deregistered lands.

As such, imposing this requirement does not solve any existing problem. It would, however, impose significant cost and delay on an owner seeking to deregister its land. In some instances, the additional cost involved would be prohibitive, especially for the average homeowner and for the owner of a large parcel. Absent some problem to be solved – and there does not appear to be any such problem – imposing such a burden is not justified.

Accordingly, I respectfully request that the Committee not advance this Bill. Alternatively, the Committee should only make the new mapping provisions optional.

Very truly yours,



David F. Andrew