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**STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS**

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Testimony of the Department of Commerce and Consumer Affairs

**Before the
Senate Committee on Judiciary
Friday, February 12, 2021
9:15 a.m.
Via Videoconference**

**On the following measure:
S.B. 1034, RELATING TO SUNSHINE LAW BOARDS**

WRITTEN TESTIMONY ONLY

Chair Rhoads and Members of the Committee:

My name is Ahlani Quiogue, and I am the Licensing Administrator of the Department of Commerce and Consumer Affairs' (Department) Professional and Vocation Licensing Division (PVL). The Department appreciates the intent of and offers comments on this bill.

The purposes of this bill are to: (1) expand board and public participation by giving boards the option, in conjunction with in-person meetings, to use interactive conference technology to remotely conduct public meetings under the Sunshine Law, even when no emergency has been declared by government authorities; (2) authorize boards to exclude the public from nonpublic locations, such as homes, where board members are physically present when remote board meetings are held by interactive conference technology, with members of the public given the option to participate either remotely or at an in-person public location; (3) establish requirements for the conduct of

remote meetings; (4) require remote meetings held by interactive conference technology to recess for a maximum prescribed period when audiovisual communication cannot be maintained by the board (not due to a member of the public's inability to maintain such communication) and allows the meeting to be reconvened even if only audio communication can be reestablished; (5) establish a new notice requirement to provide the board's contact information for the submission of written testimony by electronic or postal mail, which also applies to remote meeting agendas; (6) amend existing option to hold in-person meetings at multiple public meeting sites connected by interactive conference technology to require termination of meeting only if audio communication is lost and cannot be reestablished within an hour and the board had not provided reasonable notice of how the meeting would be continued; (7) allow for additional courtesy sites open to the public for both remote and in-person meetings held by interactive conference technology; and (8) allow for contact tracing and social distancing in a pandemic.

The Department appreciates the intent of this bill to allow the boards and commissions administratively attached to it to hold meetings virtually. This will ensure that our team and the public remain safe during emergencies declared by government authorities, as well as when no emergency exists. The PVL has, on average, 25 board, committee, or commission publicly noticed meetings a month. The ability to hold virtual meetings has provided significant cost savings on travel, per diem, and postage to mail meeting packets.

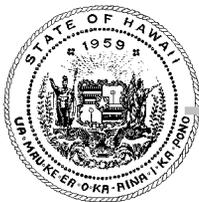
To ensure that the PVL and its staff are able to carry out the functions of holding virtual meetings, the Department offers the following comments:

- **Page 7, lines 13 through 18:** The Department appreciates the need for the public to participate in board meetings; however, it is concerned that the requirement to list additional locations for public participation would place an undue hardship on PVL staff and is not practical. For the Committee's information, each board typically has two staff members assigned to it: an executive officer and a secretary. These two staff members will not be able run the production side of the virtual meeting, take notes for meeting minutes,

address board members' comments, and act as technical support to ensure public participation. Further, the PVL does not have the equipment (e.g., additional laptops, cameras, microphones) to supply for public participation in a meeting. Currently, most staff are using their own devices to participate in virtual board meetings.

- **Page 9, line 21 to page 10, line 6:** If audio-only communication is established, the prohibition on the board's ability to act on agenda items for which visual aids are not available for all participants (members and public) is unreasonable, and it could jeopardize important decision making on items such as scope of practice and interpretations of laws and rules.
- **Page 13, line 22 through page 14, line 8:** Please refer to the comments provided for page 9, line 21 to page 10, line 6 of the measure.

Thank you for the opportunity to testify on this bill.



HAWAI‘I CIVIL RIGHTS COMMISSION

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

February 12, 2021
Videoconference, 9:15 a.m.

To: The Honorable Karl Rhoads, Chair
The Honorable Jarrett Keohokalole, Vice Chair
Members of the Senate Committee on Judiciary

From: Liann Ebesugawa, Chair
and Commissioners of the Hawai‘i Civil Rights Commission

Re: S.B. No. 1034

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. 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.

The HCRC supports S.B. No. 1034, with reservations about potential abuse of information provided for contact tracing as well as several concerns discussed below. S.B. No. 1034 allows boards to use interactive conference technology to remotely conduct public meetings under the Sunshine Law in conjunction with in-person meetings, adding two new sections to HRS chapter 92 providing for the following requirements:

- That board members be visible and audible;
- Names of participating members shall be announced and whether anyone additional is present at the non-public location;
- List one meeting location open to the public;
- Provide names and contact information of guests present at an in-person location;

- Requirements for executive sessions when remote;
- Votes shall be conducted by roll call unless unanimous;
- All meetings be recorded;
- Board notices must include the URL address of the remote meeting/electronic invitation;
- Protocol for failure of audio-visual communication;
- Provision of the board's electronic and postal contact information for submission of testimony.

We support most of these revisions, and the efforts to provide transparency and ease of access.

The Commission has serious reservations about the need for guests to provide contact information which is not currently required under the Sunshine Law. The bill does not provide details on safeguards for gathering, use, retention, and purging of this information (such as who will be provided the information, how it will be kept, and whether and when it will be destroyed).

The Commission also has concerns about the § 92-___(a)(1) requirement of at least one meeting location open to the public, and whether and how the HCRC and other boards can comply with such a mandate. While we understand that this is meant to apply to meetings in general, and not only during the pandemic, the bill is being proposed in the midst of a pandemic, and allows for the requirement of facial coverings, but not for closure of the meeting place. Many public buildings, including the State Capitol, are currently closed to the public. Will the availability of computers (for remote access) at public libraries satisfy the requirement of a public meeting location? Further, it is not clear if at the required public location, a board would have to provide technology and hardware, such as a laptop, to participants for remote access, and how it would monitor that electronic equipment if staff is using computers in their own work spaces, or in a different location, and would not be able to monitor the equipment to prevent theft, or provide help if needed. We suggest making the requirement of listing a meeting location open

to the public contingent on whether public health concerns are no longer an issue, and clarify whether libraries, which have computers for public use, will suffice as a required public meeting place. If not, this would require provision of a laptop or computer, supervision and monitoring to prevent theft, and defeat the ability of staff to participate remotely.

While generally in support of S.B. No. 1034, the HCRC opposes the mandate that meeting be recorded, and the recordings posted. This new requirement is unnecessary. Current law already requires posting of minutes within 40 days, even if not yet approved. The State of Hawai'i hiring freeze means that we, as well as other agencies, must continue to do the same work with less staff. Adding this additional requirement, when minutes will still be posted within 40 days pursuant to statute, is onerous, and implementation may be problematic for the Microsoft Teams platform used by the executive branch.

Again, the Commission believes that the amendments to Chapter 92 to aid the use of interactive technology are an important step forward, with the comments above.

The HCRC supports S.B. No. 1034 with the concerns noted above.



STATE OF HAWAII
STATE COUNCIL
ON DEVELOPMENTAL DISABILITIES
1010 RICHARDS STREET, Room 122
HONOLULU, HAWAII 96813
TELEPHONE: (808) 586-8100 FAX: (808) 586-7543
February 12, 2021

The Honorable Senator Karl Rhoads, Chair
Senate Committee on Judiciary
The Thirty-First Legislature
State Capitol
State of Hawai'i
Honolulu, Hawai'i 96813

Dear Senator Rhoads and Committee Members:

SUBJECT: SB1034 Relating to Sunshine Law Boards

The Hawaii State Council on Developmental Disabilities **SUPPORTS SB1034** which expands board and public participation by giving boards the option, in conjunction with in-person meetings, to use interactive conference technology to remotely conduct public meetings under the Sunshine Law, even when government authorities have declared no emergency.

The State Council on Developmental Disabilities holds monthly meetings. Many of our members are individuals with a developmental disability who have compromised health conditions, making them a part of the vulnerable population during this COVID-19 pandemic. Our board members are also parents who have a child with special health care needs. We are extremely concerned about our board members' health and safety and would like to keep their exposure to large groups and flying inter-island as limited as possible.

According to the CDC, individuals with developmental disabilities have a higher mortality rate if they get COVID-19 compared to the general population. We do not want to expose our vulnerable high-risk population to the possibility of catching the coronavirus.

Not only would this measure keep our individuals safe, but it would also increase the accessibility of our meetings to our community. Our council contains many individuals from neighboring islands who would attend our meetings more frequently through telecommunication as some of our individuals are unable to travel. This measure would allow individuals like this to have access to our council and our meetings without having to open their homes to strangers.

Thank you for the opportunity to submit testimony **supporting SB1034**.

Sincerely,

Daintry Bartoldus
Executive Administrator

OFFICE OF INFORMATION PRACTICES

STATE OF HAWAII
NO. 1 CAPITOL DISTRICT BUILDING
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To: Senate Committee on Judiciary

From: Cheryl Kakazu Park, Director

Date: February 12, 2021, 9:15 a.m.
Via Videoconference

Re: Testimony on S.B. No. 1034
Relating to Board Meetings

Thank you for the opportunity to submit testimony on this bill, which would allow boards to use interactive conference technology to remotely conduct Sunshine Law meetings in conjunction with one or more in-person sites, even when no state of emergency has been declared. The Office of Information Practices (OIP) supports this bill, which is an Administration proposal to expand and enhance public participation in public meetings, lower the costs of holding meetings, protect public health and safety, promote voluntary participation on boards, and avoid unnecessary and possibly burdensome travel by board members, staff, testifiers, observers, other participants, and the general public.

The COVID-19 pandemic forced the implementation of emergency measures that suspended certain requirements of Hawaii's Sunshine Law in order to allow boards to continue meeting and conducting necessary business, while protecting participants' health and safety and expanding access to public meetings throughout our island state. In lieu of traditional in-person meetings, remote meetings (popularly referred to as "virtual" meetings) connected people in different physical locations through the use of interactive conference technology (ICT) and thus safely enabled and expanded public participation by people from different islands or parts of the islands and at times when many would not otherwise be able to leave their work, homes, or schools to participate in a traditional in-person meeting.

For the first six months of this fiscal year, the State Office of Information Practices (OIP) worked with government boards and the general public on various bill drafts to amend the Sunshine Law so that public meetings can continue to be

remotely conducted by boards after the COVID-19 emergency orders are lifted. Except for stylistic or nonsubstantive changes, this bill contains OIP's proposal, which can be summarized as follows.

I. Three options to hold public meetings

The bill proposes to amend existing Sunshine Law provisions and add new sections that **essentially recognize that boards have three distinct options to conduct public meetings:**

- (1) a meeting in person at one site, as is the traditional method;
- (2) a meeting in person at multiple sites connected by interactive conference technology (ICT), without any requirement to provide remote access, as is currently allowed; or
- (3) a new type of "remote" meeting using ICT where board members and the public may either participate remotely or from the in-person site(s) listed on the notice.

In recognition of the digital divide, which may affect the general public as well as board members, all three options require at least one in-person meeting site, but this requirement may be suspended by the Governor's emergency orders if the pandemic persists or new emergencies arise.

Option one is existing law and how Sunshine Law meetings have traditionally been held in person at one physical location. OIP expects that boards without the staffing, equipment, or technical ability to conduct remote meetings will continue to favor this option, as there is no requirement for ICT connectivity.

Option two is consistent with the current law and revises HRS section 92-3.5 to expressly recognize that a public meeting may be held at multiple in-person meeting sites connected by ICT. Under option two, a board could hold a public meeting at multiple physical locations connected by ICT so that board members, testifiers, and other people from various islands or parts thereof can simultaneously participate in the same meeting held in person at different sites. As is the current practice, OIP expects that option two will be favored by boards with members or constituents on different islands (*e.g.*, Maui County Council: Maui, Molokai, and Lanai), or from different locations on the same island (*e.g.*, Hawaii County Council: Hilo, Kona, and Waimea). To successfully use option two, a board will need sufficient staffing and technological capability to use ICT to connect the multiple in-person meeting locations, which boards have

typically done through the use of existing videoconference facilities. **Option two does not require a board to provide a way for the public to attend and testify remotely from any location of the public's choice, although it also would not bar a board from accepting telephone testimony or something similar. Option two would require all board members to attend in person at one of the meeting sites, unless they are disabled and are thus allowed to participate remotely under existing provisions of HRS section 92-3.5.**

Option three is presented in a newly created section that will allow for the conduct of a remote online meeting, similar to what boards have been doing during the COVID-19 pandemic, but with enforceable public access standards appropriate for remote meetings in normal, non-emergency circumstances. **All board members as well as the public can participate via ICT from their private homes, offices, or other location of their choice, and will also have the option to attend from the in-person meeting site** provided by the board with ICT equipment and connectivity to give members of the public and board members a physical location they can go to participate and testify. Having experienced the benefits of using ICT to conduct remote meetings during the pandemic, OIP expects that most boards with the staffing and resources to do so will favor option three.

The primary difference between option three and option two is that option two is essentially an entirely in-person meeting and therefore does not require the board to provide an ICT connection for the public to remotely view and testify at the meeting. Because the public will not have the ability to remotely participate, option two likewise does not allow board members to remotely participate, unless they are disabled. Board members and the public would thus have to attend one of the official in-person meeting sites that have been connected by ICT under option two.

If the ICT connection is interrupted between the multiple in-person meeting sites under option two, or during a remote meeting held under option three, then the meeting may have to be terminated under the bill's provisions, to be discussed below.

II. Additional unofficial meeting locations

Besides the official in-person meeting sites that could be set up under option one or two, current law allows boards to set up additional unofficial in-person sites,

which OIP has been referring to as “courtesy” sites. OIP has interpreted the existing section 92-3.5, including its requirement that a meeting terminate if connection is lost to one site, to only apply to sites that are noticed as official meeting sites where board members may be present. **The current law thus allows boards the option to set up unofficial additional locations for the public’s convenience where board members will not be present and there is no requirement that the formal meeting be recessed or terminated if ICT connection to the courtesy sites fails.**

While most boards do not go through the extra effort to set up courtesy sites in locations where no board member will be present, this is a current practice of the Maui and Hawaii county councils because it allows them to improve public access to meetings in rural areas or to other islands within their county while still limiting the number of sites for which a communication failure could require cancellation of the whole meeting. The courtesy sites allow members of the public to observe the proceedings or may even allow them to testify remotely without having to travel to the nearest official meeting site, which could be a long distance away. Although the public may be able to attend remotely and the board will be required to have at least one physical meeting site available, a board may still want to accommodate members of the public who are not near that site and do not have their own broadband access, equipment, or skills to remotely attend meetings. **Despite the risk of ICT connection to the official meeting being lost and rendering them unable to observe or testify remotely, members of the public who cannot participate remotely may find it more convenient to participate from a courtesy site nearer to their home or work than to travel to the nearest official meeting site, and they can ensure that their testimony will be considered by sending in written comments as well.**

Therefore, the bill explicitly recognizes that “additional locations” (formerly called “courtesy sites”) may be provided to supplement the official in-person meeting sites required under any of the three options. In other words, the explicit statutory recognition that a board may provide additional courtesy sites would not change the board’s obligation to provide the required in-person meeting sites open to the public that must stay connected to the meeting under any of the options. **But by retaining the boards’ choice to provide for additional in-person meeting locations not held to the same connectivity guarantee, the proposal would encourage boards to expand public access in more locations by making clear that doing so will not increase the boards’ risk of having to terminate meetings early due to connectivity**

problems. The proposal would also require a board's notice to state whether an additional meeting site is one that might miss out on part of the meeting in the event of a lost connection, so members of the public would then be free to make their own informed decisions as to whether they would rather go to a more convenient "additional location" and take the risk that ICT connection might fail, or go to what may be a less convenient official meeting site with the guarantee that the meeting will not proceed without them. People are also free to submit written testimony so their views will be presented, or to call in their oral testimony to a formal meeting site where that option is available, whether or not the ICT connection to an additional location is lost.

By recognizing that boards could hold a multi-site in-person meeting (option two) as a distinct and separate option, the bill provides a way to balance statewide access to public meetings with concerns that on controversial issues Hawaii residents' voices may be drowned out by a potential worldwide onslaught of online participants. Rather than holding a remote meeting under option three that could draw a disruptively large number of participants from outside Hawaii seeking to present oral testimony, a board could choose to link its members and public participants from different islands under option two by holding a public meeting at multiple connected in-person sites, without also providing a remote option for participants who for whatever reason could not attend at an in-person site. (Such participants would, of course, still have the option to submit written testimony.) A board could further expand public participation under option two by providing additional in-person locations where no board members will be present and which will not require the recess or termination of the official meeting if ICT connection to the unofficial additional locations is interrupted or lost. This would allow a board to focus its resources on conducting the in-person meetings and provide for more orderly conduct of public meetings that would not be as vulnerable to the possibility of online disruption. Moreover, a board can provide for greater public access at additional locations, while avoiding the potential problem of having insufficient bandwidth or resources to technologically or reliably support a long meeting with an unusually large number of attendees.

Boards dealing with less controversial issues and are thus less vulnerable to a global online onslaught may also wish to expand public participation at additional locations while conducting a remote meeting under option three. Members of the public would have the opportunity to go to an additional location that has the necessary equipment, internet connection, or technical support for them to remotely

participate in a meeting, even if they do not have such skills or resources of their own.

III. Requirements to hold remote meetings under option three

A. Notice requirements

A board holding a remote meeting under option three is not required to allow members of the public to join board members in person at nonpublic locations where board members are physically present, such as their homes or private offices, or to identify those locations in the board's meeting notice. The meeting notice, however, must inform the public how to contemporaneously view the audio and video of a remote meeting and how to provide remote oral testimony, and list the required physical location linked to the meeting where the public can go in person to participate.

The notice may also list additional locations open for public participation and specify whether, if the ICT connection to an additional location is lost, the meeting will continue without that location or will be automatically recessed to restore communication to it.

B. Board member visibility and quorum requirement

During drafting, OIP received comments that were both strongly in favor and against having board members visible during remote meetings. Keeping in mind the traditional in-person meeting requirement and the importance of body language, **OIP balanced the competing views to include in the proposal that this bill was based on a requirement for a quorum of board members to be visible and all board members to be audible to the public during remote meetings,** which allows people to view board members' facial expressions and thus ensure as close to an in-person experience as possible for those watching online. In contrast to the board and in recognition of the digital divide, there is no requirement for the public or other non-board participants to be visible during online meetings, but only to allow the public to provide oral (which could be via telephone or an audio-only link) or written testimony.

This bill thus recognizes that boards may experience technical difficulties in maintaining visual connection throughout an online meeting, or their members may be subject to the digital divide themselves, so it requires a "quorum," rather than

all, of board members to be visible during a remote meeting. The digital divide is not limited to members of the public, as board members may also live in rural or underserved locations without broadband connection, or they may be uncomfortable with technology for other reasons. Based on what OIP has heard from boards, some members may not have internet access, may have trouble keeping a reliable video connection from their homes, or do not have access to or the skills to use a computer, cell phone, or other equipment to connect to an audio-video meeting. While such members will still have the option to attend in person at the public meeting site, there may be members who live at a great distance from the meeting, or who are unable to travel due to disability, caregiving responsibilities, or confinement to their homes or medical facility where they do not have video equipment or internet connection. By limiting the visibility requirement during remote meetings to a quorum of board members, the bill allows board members who are themselves disabled or caring for someone disabled, or who are technologically challenged, to participate with basic telephone connection. Thus, the bill helps to accommodate and attract as large a pool of potential board members as possible—from all communities throughout our state and from all walks of life and experience—while still recognizing the importance to the public and other participants of being able to see board members as they consider the issues before them.

OIP has advised in the past that a board member's brief absences from the room during a meeting, such as to take a five-minute restroom break, would not cause the board to lose quorum. OIP would apply the same standard of reasonableness in administering the visibility requirement and would not find that quorum has been lost due to a member's brief disappearance from camera view. If, however, a board member needed to meet the quorum requirement will be out of view for an extended period of time or will be absent during a vote, OIP would recommend that the board call for a recess until quorum can be reestablished.

Note that the visibility requirement for board members applies only to the public portion of a meeting. During an executive session closed to the public, board members can participate via telephone or audio only without being visible online. Because participants may not be visible during the executive session conducted online, **the board needs to have a record of who is participating** and can protect itself from unintentionally waiving the confidentiality of the executive session by identifying whether the participants are (1) authorized to be in the meeting and (2) not remotely transmitting the executive session to unauthorized persons. The “authorized participants” that the presiding

officer must identify at the start of an executive session would generally be anyone properly included in the closed portion of the meeting, such as board members, staff members necessary to running the meeting (e.g., technical or production staff), and in some cases, third parties whose presence is necessary to the closed meeting (e.g., applicant, witness, or attorney).

C. Meeting procedures

At the start of a remote meeting, the presiding officer must announce the names of the participating members. Unless unanimous, votes shall be conducted by roll call so that it is clear how each member voted.

Boards must record remote meetings “when practicable” and make the recording electronically available to the public as soon as practicable after the meeting and until such time as the board’s minutes are electronically posted on the board’s website. This provision recognizes that it is usually easy to record an online meeting and have it posted on a board’s website, so that people who were unable to attend the meeting can do so at another time before the minutes are posted, and doing so provides for additional public access and government transparency. However, it also allows for those unusual circumstances in which recording an online meeting presents a more significant challenge, as it requires doing so only “when practicable.” **There is no change to the Sunshine Law’s existing minutes provision, so a board could use this recording as its minutes once a written summary has also been posted.** HRS § 92-9(b). If a board opts for traditional written minutes instead, it can remove and even delete the recording once its written minutes are posted because the Sunshine Law does not require a verbatim account but does require that the minutes reflect “a true reflection of the matters discussed at the meeting and the views of the participants.” HRS § 92-9(a). For guidance as to how OIP interprets this requirement, see OIP’s [“Quick Review: Sunshine Law Requirements for Public Meeting Minutes”](#) on our Training page at oip.hawaii.gov.

D. Procedures if ICT connection is interrupted or lost

If audio-visual connection is lost during the public portion of a remote meeting by the board (though not if the connection was lost due to a member of the public's inability to maintain it), the bill requires the meeting to automatically recess while the board attempts to restore the connection. The board may reconvene with audio-only communication if

the visual link cannot be restored, and provided that additional safeguards are followed. If audio-only communication is established, then speakers must state their names prior to speaking. Also, copies of nonconfidential visual aids that are required by or brought to the meeting by board members or as part of a scheduled presentation must be made available by posting on the internet or other means to all meeting participants, otherwise agenda items with unavailable visual aids cannot be acted upon at the reconvened meeting. **If the meeting cannot be reconvened within one hour after interruption to communication, and reasonable notice of its continuance has not been provided to the public, then the meeting is automatically terminated.** (Similar procedures apply to multiple site meetings connected by ICT and held under option two.)

How a board can give notice of the continuation of a meeting has been previously discussed in [OIP's online training materials](#). For remote meetings, the board has several ways that it could give notice of continuation:

1. The board's notice of the meeting may contain a contingency provision stating that if the board loses online connection, then people should check the board's website (give address) for reconnection information. Alternatively, the notice could provide that if the connection is lost for more than one hour, then the meeting shall be continued to a specific date and time, with the new link for the continued meeting either on the agenda itself or to be provided on the board's website.
2. At the start of the online meeting, the board could announce both audibly and visually that if online connection is lost by the board, information on reconvening or continuing the meeting will be posted on its website and give the website address.
3. If possible, the board should post a visual notice of the continuation of the meeting on the screen or in the chatbox, and on the board's website. If there is audio but no visual connection, the board could audibly announce that the meeting will be continued and direct people to its website where the relevant information has been posted.
4. The board can email people on its email list with a notice of continuation of the meeting. See the training or [forms page](#) on OIP's website for a form of the notice of continuation.

Finally, please note that **there is no Sunshine Law requirement that a meeting be terminated by a scheduled time**, and OIP is **not** proposing the establishment of such a provision.

E. Accessibility

OIP notes that current ICT technology has improved and will continue to improve to provide services that are accessible by people who are blind, hard of hearing, or have other disabilities. The bill does not specify that the ICT technology utilized by a board must be accessible for people with disabilities because **accessibility requirements are already set out by other state and federal laws and should not be administered or enforced by the OIP under the Sunshine Law. No new cause of action under the Sunshine Law should be created for disability rights when there are other state and federal laws administered by other agencies that have the jurisdiction and expertise to enforce them.** OIP routinely advises boards to consult with the state Disability and Communications Access Board or Hawaii Civil Rights Commission on issues concerning the Americans with Disabilities Act (ADA) because OIP itself does not have the expertise or personnel to be able to administer those matters under the Sunshine Law. **Thus, to avoid confusion, government inefficiency, and potential conflicts between laws and agencies, OIP recommends that ADA provisions be addressed in the relevant laws by the agencies already administering them, and not in the Sunshine Law to be administered by OIP.**

IV. Provisions applicable to all meetings

A. Notice

HRS section 92-7 is being amended to require that **the meeting notice include the board's electronic and postal contact information for submission of testimony** before the meeting.

B. Contact tracing

Because the Sunshine Law currently permits people to attend public meetings anonymously, the bill adds a new section allowing a board to require people to provide their names and contact information solely for the purpose of contact tracing. This information shall not be disclosed or used for any other purpose and shall not be maintained any longer than necessary. **Additionally, the board can require the use of facial coverings, physical distancing, or other safety measures.** These provisions **apply only when the Governor has previously declared a state of emergency** for a contagious illness

and, without regard to whether the state of emergency is still in effect, **the board reasonably believes that the requirements are necessary** because of the continuing prevalence of the contagious illness for which the state of emergency was declared.

C. Procedures to prevent meeting disruptions

The Sunshine Law already allows boards to remove persons who willfully disrupt a meeting. HRS § 92-3. Therefore, a board could cut off a person creating an online disruption or could take reasonable action to prevent disruption. For example, obscene images through “zoombombing” can be avoided if the board’s meeting is conducted as a one-way live stream, while public oral testimony is presented audibly over a telephone line rather than as an interactive video feed.

V. Effective date

To give OIP time to create new training materials and communicate the Sunshine Law amendments to boards, the proposed effective date is July 1, 2021.

Thank you for considering OIP’s testimony in support of this bill.

DAVID Y. IGE
GOVERNOR



HAKIM OUANSAFI
EXECUTIVE DIRECTOR

BARBARA E. ARASHIRO
EXECUTIVE ASSISTANT

STATE OF HAWAII
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Statement of
Hakim Ouansafi
Hawaii Public Housing Authority
Before the

SENATE COMMITTEE ON JUDICIARY

Friday, February 12, 2021
9:15 AM – Via Videoconference

In consideration of
SB 1034
RELATING TO SUNSHINE LAW BOARDS

Honorable Chair Rhoads and Members of the Senate Committee on Judiciary, thank you for the opportunity to provide testimony concerning Senate Bill (SB) 1034, relating to sunshine law boards.

The Hawaii Public Housing Authority (HPHA) **supports, with amendments** the enactment of SB 1034, which allows boards to use interactive conference technology to remotely conduct public meetings under the Sunshine Law in conjunction with in-person meetings, even when no emergency has been declared by government authorities.

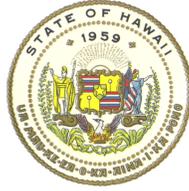
The HPHA does see a great benefit to holding remote meetings and does believe that having this ability should continue in non-emergency times. However, mandating that a quorum of Board Members be visible throughout the meeting may result in some unintended consequences if there is only a minimum number of members to make that quorum. For example, in the case of a Board Member who also acts as a caregiver to their elderly parents with dementia that may enter rooms without warning or appropriate clothing. The HPHA humbly requests the following amendments to remove the need for a quorum to be visible during the remote meeting to prevent any unintended consequences:

SECTION 2, PAGE 8, LINE 3

(2) Except as provided in subsections (c) and (d), a quorum of board members shall be visible on the remote meeting platform screen with their names and audible to other members and the public during the meeting; provided that so long as a quorum of board members is visible on the remote meeting platform screen with their names, no other meeting participants shall be required to be visible during the meeting;

The HPHA appreciates the opportunity to provide the Committee with the HPHA's testimony. We thank you very much for your dedicated support.

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 Senate Committee on
JUDICIARY**

**Friday, February 12, 2021
9:15 AM
State Capitol, Via Video Conference**

**In consideration of
SENATE BILL 1034
RELATING TO SUNSHINE LAW BOARDS**

Senate Bill 1034 proposes to authorize boards to use interactive conference technology to remotely conduct public meetings under the sunshine law in conjunction with in-person meetings, even when no emergency has been declared by government authorities, and to implement other statutory changes to expand and enhance participation in public meetings. **The Department of Land and Natural Resources (Department) supports this Administration measure.**

The Board of Land and Natural Resources (Board) conducts public meetings twice a month, except for November and December when the Board meets once a month. The Board was forced to cancel its March 27, 2020 meeting due to the COVID-19 pandemic and resulting Governor's Emergency Proclamations, but was able to pivot to virtual meetings beginning with its April 10, 2020 meeting. Interactive conference technology allowed the Board to continue to conduct its business with Board members attending remotely and members of the public testifying remotely, often via portable devices such as laptops, tablets and smart phones. The Commission on Water Resource Management and other boards and commissions under the purview of the Department similarly pivoted successfully to virtual meetings. The use of this technology reduced the State's cost of holding meetings as well as the cost to the public and time of attending in-person meetings, especially for items that would otherwise require travel by neighbor island residents to Honolulu to provide oral testimony. For these reasons, the Department believes that interactive conference technology should be made a permanent feature of public meetings in the Information Age and therefore supports Senate Bill 1034.

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-1034

Submitted on: 2/10/2021 9:44:06 PM

Testimony for JDC on 2/12/2021 9:15:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Luke Sarvis	Testifying for DLNR	Support	No

Comments:

I would like to testify on SB 1034 for DLNR. Please allow me Zoom access. Thank you.

SB-1034

Submitted on: 2/11/2021 8:32:15 AM

Testimony for JDC on 2/12/2021 9:15:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Luke Sarvis	Testifying for DLNR	Support	No

Comments:

I am available for questions. Please allow me Zoom access. Thank you.



STATE OF HAWAII
HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND
201 MERCHANT STREET, SUITE 1700
HONOLULU, HAWAII 96813
Oahu (808) 586-7390
Toll Free 1(800) 295-0089
www.eutf.hawaii.gov

BOARD OF TRUSTEES
RODERICK BECKER, *CHAIRPERSON*
DAMIEN ELEFANTE, *VICE-CHAIRPERSON*
CHRISTIAN FERN, *SECRETARY-TREASURER*
JACQUELINE FERGUSON-MIYAMOTO
AUDREY HIDANO
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CELESTE Y.K. NIP
OSA TUI
RYKER WADA
JAMES WATARU

ADMINISTRATOR
DEREK M. MIZUNO

ASSISTANT ADMINISTRATOR
DONNA A. TONAKI

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 SENATE BILL NO. 1034

February 12, 2021
9:15 a.m.
Via Videoconference

RELATING TO SUNSHINE LAW BOARD

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

The Hawaii Employer-Union Health Benefits Trust Fund (EUTF) Board of Trustees has not been able to take a position on this bill. Their next meeting is scheduled for February 16, 2021. EUTF staff would like to provide comments.

The intent of this bill is to expand board and public participation by using interactive conference technology post COVID-19 pandemic. The EUTF monthly board meetings and periodic committee meetings are currently conducted 100% via interactive conference technology during the COVID19 pandemic. Due to its success in expanding access to public meetings, it makes sense to allow boards to continue such meetings. The bill not only allows the continuance of such interactive board meetings, it also provides reasonable rules around their conduct such as:

1. Not requiring board members who are participating remotely to open their place of participation to the public.
2. Only requiring one physical location to be open to the public.

EUTF's Mission: We care for the health and well being of our beneficiaries by striving to provide quality benefit plans that are affordable, reliable, and meet their changing needs. We provide informed service that is excellent, courteous, and compassionate.

3. Allowing meetings to continue if certain persons lose audiovisual connectivity as long as: a) a quorum is maintained, b) audiovisual connectivity is maintained with the physical public locations identified in the notice that require connectivity, and c) an audio only connection is established and communicated to participants.

Thank you for the opportunity to testify.

THE CIVIL BEAT
LAW CENTER FOR THE PUBLIC INTEREST

700 Bishop Street, Suite 1701
Honolulu, HI 96813

Office: (808) 531-4000
Fax: (808) 380-3580
info@civilbeatlawcenter.org

Senate Committee on Judiciary
Honorable Karl Rhoads, Chair
Honorable Jarrett Keohokalole, Vice Chair

RE: Testimony Supporting S.B. 1034, Relating to Sunshine Law Boards
Hearing: February 12, 2021 at 9:15 a.m.

Dear Chair and Members of the Committee:

My name is Brian Black. I am the Executive Director of the Civil Beat Law Center for the Public Interest, a nonprofit organization whose primary mission concerns solutions that promote government transparency. Thank you for the opportunity to submit testimony in **strong support** of S.B. 1034.

The COVID-19 pandemic highlighted the modern innovations in remote conferencing that allowed members of the public to continue observing and participating in policy discussions at State and county boards and commissions despite physical distancing. But those conferencing options were permitted only because the Governor suspended the Sunshine Law.

The conferencing provisions of the Sunshine Law were last amended in 2012 when the only viable options were in-person videoconferencing locations. The distributed remote conferencing options offered by Zoom, WebEx, and numerous other applications have proven reliable and convenient during the pandemic. Now, citizens on Maui or the Kua`i can testify on items of interest being heard by the Land Use Commission or Office of Hawaiian Affairs even if the board members are located primarily on Oahu.

During the pandemic, the State of Hawai`i Office of Information Practices (OIP) prepared a proposal that recognized the public benefits of remote conferencing to serve the purposes of the Sunshine Law. OIP circulated its ideas to a broad group of stakeholders and modified its proposal in response to comments. H.B. 503 tracks OIP's proposal based on several iterative drafts and wide input from the community.

S.B. 1034 shines a light on a silver lining from the COVID-19 pandemic, and the Law Center hopes that boards and commissions will continue to embrace remote conferencing technology (and thus broader civic engagement) even after the emergency period lifts.

The Law Center acknowledges the disability accommodation concerns expressed in testimony on a parallel bill in the House, H.B. 503. The House Committee on Pandemic & Emergency Preparedness announced that it planned to amend that bill to specifically

provide for certain disability accommodations. *The Law Center strongly cautions against such amendments.* By incorporating such standards into the Sunshine Law, it would require the Office of Information Practices to provide guidance and rule on disability access issues, taking away from its diminished and already stretched resources for issues that are not within its expertise. The Disability Access Communications Board, as well as federal and state laws, regulations, and directives outside the Sunshine Law, already address the accommodations that must be made by public agencies for the disability community. There is no purpose served by repeating existing legal requirements in the Sunshine Law.

The Law Center also acknowledges testimony on H.B. 503 from various boards effectively opposing the bill or offering amendments to water down the provisions. On the whole, we would note that the boards do not seem to recognize that the amendments offer an *optional* method for boards to conduct meetings using remote technology. A board that is unwilling to follow the requirements set forth in the bill to preserve the public's ability to fully observe and participate in the proceedings can simply hold a normal in-person meeting.

Thank you again for the opportunity to provide **strong support** for S.B. 1034.

Statement Before The
SENATE COMMITTEE ON JUDICIARY
Wednesday, February 10, 2021
9:15 AM
Via Videoconference

in consideration of
SB 1034
RELATING TO SUNSHINE LAW BOARDS.

Chair RHOADS, Vice Chair KEOHOKALOLE, and Members of the Senate Judiciary Committee

Common Cause Hawaii supports SB 1034, which (1) expands board and public participation by giving boards the option, in conjunction with in-person meetings, to use interactive conference technology to remotely conduct public meetings under the Sunshine Law, even when no emergency has been declared by government authorities, (2) authorizes boards to exclude the public from nonpublic locations, such as homes, where board members are physically present when remote board meetings are held by interactive conference technology, with members of the public given the option to participate either remotely or at an in-person public location, (3) establishes requirements for the conduct of remote meetings. Requires remote meetings held by interactive conference technology to recess for a maximum prescribed period when audiovisual communication cannot be maintained by the board (not due to a member of the public's inability to maintain such communication) and allows the meeting to be reconvened even if only audio communication can be reestablished, (4) establishes a new notice requirement to provide the board's contact information for the submission of written testimony by electronic or postal mail, which also applies to remote meeting agendas, (5) amends existing option to hold in-person meetings at multiple public meeting sites connected by interactive conference technology to require termination of meeting only if audio communication is lost and cannot be reestablished within an hour and the board had not provided reasonable notice of how the meeting would be continued, (6) allows for additional courtesy sites open to the public for both remote and in-person meetings held by interactive conference technology, and (7) allows for contact tracing and social distancing in a pandemic.

Common Cause Hawaii is a nonprofit, nonpartisan, grassroots organization focused on upholding the core values of American democracy through increasing civic engagement and breaking down the barriers to participation in our government.

Common Cause Hawaii has been a proponent of remote testimony and SB 1034 will amend the current Sunshine Law to more easily allow for remote meetings for the benefit of board members and the public. Government meetings may be held entirely remotely, entirely in-person, or a combination of both and satellite locations may be opened to have the public, meaning those who need assistance

with remote technology and/or those without computers and/or broadband, attend to view the meeting.

Common Cause Hawaii notes that under Part II, Section 2 at page 8, lines 3-8, it appears that only a quorum of board members are required to be visible and audible during a remote meeting. All board members on a remote meeting should be visible at all time. All staff should be visible at all time as well. The public should know who the board members are and who the staff are of a board and commission. If the public is making a presentation or commenting on a matter, it is crucial that the public sees that all members and staff are paying full attention to the matter at hand to ensure that the concerns are being heard and properly received.

Common Cause Hawaii notes that under Part II, Section 2 at page 8, lines 16-17, votes do not have to be by roll call if unanimous. It is hard to discern, at times, whether there is unanimity of vote with computer lag and even phone static, on behalf of the viewer and, perhaps even, board members. To address any issues regarding this, a roll call is preferred with every vote.

Thank you for the opportunity to testify in support of SB 1034. Common Cause Hawaii reiterates its support of SB 1034 and amending the Sunshine Law to more easily allow for remote testimony. If you have questions of me, please contact me at sma@commoncause.org.

Very respectfully yours,

Sandy Ma
Executive Director, Common Cause Hawaii

NATIONAL FEDERATION OF THE BLIND OF HAWAII

Testimony before the Committee on Judiciary (JDC)
Hawaii State Senate
Thirty-First Legislature, Regular Session of 2021
February 12, 2021, 9:15 AM, hearing on SB1034

Good morning Mr. Chairman, Vice Chair, and committee members. My name is James Gashel. I am a resident of Honolulu, testifying on behalf of the National Federation of the Blind of Hawaii (NFBH).

The NFB of Hawaii supports SB1034 as essential legislation, not only in the time of a pandemic, but also at other times as described in part I of the bill. As noted in part I greater remote access to public meetings can be an important means of participation for many people for whom in-person access is often limited due to distance, time, and expense. This is the case in particular for members of NFBH who live on our neighbor islands and are simply left out unless there is a remote connection.

That said, the NFBH would also like to suggest a friendly amendment to SB1034 on behalf of our members and all people who are blind in Hawaii. Note that the bill has the term "interactive conference technology" used throughout the text and specifically defined in section 4. It is to this definition that I would like to direct your attention.

Interactive conference technology" means any form of [~~audio or~~] audio and visual conference technology, or audio conference technology where permitted under this part, including teleconference, videoconference, and voice over internet protocol, that facilitates interaction between the public and board members.

This is just fine as far as it goes, but as experienced by blind people, not all interactive conference technology is created equal.

For example, the interactive conference technology being used in the legislature this year is the Zoom platform. Zoom is an excellent platform both for people who can see and for people who can't see. Don't know who chose to use the Zoom platform here at the legislature, but those responsible get high marks from the blind of Hawaii for doing so.

On the other hand, some state agencies, perhaps most state agencies, the city and county of Honolulu, and perhaps other counties too, are using another platform called Webex; definitely not the best platform to try to use if you are blind. So the result is, we find ourselves not being able to connect and not able to participate. This is not government in the sunshine.

To address this potential for lack of access, the amendment we suggest would add language to the definition of interactive conference technology, section 4 of the bill, to say at the end of the present language: "provided that the technology shall be accessible to and usable by individuals with disabilities (including accessible for use with screen reader technology used by blind people) in accordance with state and federal laws and applicable implementation standards."

That's the amendment we suggest. Essentially any board subject to the government in the sunshine law is also subject to both state and federal disability access requirements. That's true, but in practice, too many agencies and boards don't seem to be aware of their legal obligations. This forces people such as the NFBH members into filing complaints and having to make a federal case out of an issue of lack of access that should be quickly resolved right here in Honolulu, Hilo, or anywhere else in our state; not in Washington, DC. The amendment we propose is consistent with existing laws but should serve as an essential reminder to anyone employing interactive conference technology when SB1034 becomes law.

Please pass SB1034 to enable and encourage greater use of interactive conference technology by boards and other public bodies in our state. Clearly this is the best way to ensure that the public's business is conducted in view of and with participation by the public. Also, please consider adding language to section 4 of the bill to speak directly to the access needs of people who are blind and others with disabilities that may affect their access. Mahalo.

PETER L. FRITZ

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

THE SENATE
THE THIRTY-FIRST LEGISLATURE
REGULAR SESSION OF 2021

COMMITTEE ON JUDICIARY
S.B. 1034
RELATING TO BOARD MEETINGS

February 12, 2021

Chair Rhoads, Vice Chair Keohokalole, and members of the Committee. My name is Peter Fritz. I am an individual with a disability. I am hard of hearing (“HOH”) and many of my comments are also applicable to the deaf community. **I am testifying in support** of videoconferences as a means to provide greater accessibility for individuals with disabilities; however, **I am opposed to provisions in this bill that would allow a meeting to be recessed when there are technical difficulties and continued up to 1 hour later time because an accommodation such as an American sign language interpreter (“ASL”) may not be available when the meeting resumes.** It is my experience that accommodations are reserved for a specific period of time and cannot be extended if the meeting were to continue beyond the scheduled end time.

The Sunshine Law applies to all citizens of Hawaii, including those with disabilities. The Americans with Disabilities Act (“ADA”) requires that governments make accommodations for individuals with disabilities to provide them with full access to all programs.

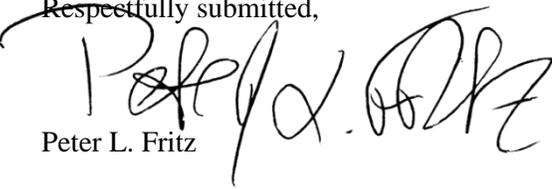
To participate in public meetings, I will request an accommodation for my disability. The accommodation is provided only for the length of time scheduled for the meeting. I am concerned that the automatic recess provisions in this bill could cause me be excluded from participation in the meeting if it resumes at a later time because the meeting will go beyond the time scheduled for my accommodation.

Proposed revision: add language that provides that any meeting that is interrupted by technical difficulties may be recessed; however, the meeting must conclude within the original scheduled time. Since it is the obligation of the agency to provide the accommodation, the agency will know the period of time that the accommodation will be available for the individual with a disability.

Another concern is that the recess provisions on page 10 of this bill allow for the meeting to continue in an audio only mode. An audio only mode would of course present problems for an individual with a hearing disability because there would be no captions available for the meeting.

Thank you for the opportunity to testify and express my concerns about this bill.

Respectfully submitted,


Peter L. Fritz



UNIVERSITY
of HAWAII
SYSTEM

**Senate Committee on Judiciary
Friday, February 12, 2021, 9:15 a.m.**

Testimony by:

Kendra Oishi, Executive Administrator and Secretary of the Board of Regents

S.B. No. 1034 – RELATING TO SUNSHINE LAW BOARDS

Chair Rhoads, Vice Chair Keohokalole, and members of the Committee:

The Office of the Board of Regents (Board Office) supports S.B. No. 1034 which provides avenues for meaningful engagement in meetings of various boards, including the Board of Regents of the University of Hawai'i (Board of Regents), through the use of interactive conference technology.

The COVID-19 pandemic has required the implementation of emergency measures suspending certain requirements of the State's Sunshine Law which allowed boards, including the Board of Regents, to conduct official business in a manner that protected public health and safety while maintaining public access to board meetings. In lieu of traditional in-person meetings, remote meetings, also referred to as virtual meetings, have connected people in different physical locations through the use of interactive conference technology and thus enabled and enhanced board and public participation.

On March 19, 2020, the Board of Regents held its first "hybrid" remote meeting, whereby some board members participated in person and some participated remotely, and subsequent meetings, including standing committees, have been conducted remotely via interactive conference technology including audio and video livestreaming. Board of Regents meetings have already incorporated many of the provisions contemplated in S.B. No. 1034. While there have been some minor technological issues, conducting Board meetings in this manner has worked well overall and the Board Office has received positive community feedback.

Although the Board attempts to hold meetings across the various campuses of the University System statewide in accordance with statutory intent under Section 304A-104, Hawai'i Revised Statutes, the Board Office believes that S.B. No. 1034 strikes a balance between providing flexibility to boards in conducting business while ensuring public access to these meetings is retained. As such, S.B. No. 1034 is worthy of further discussion and consideration and the Board Office supports this measure.

Thank you for the opportunity to testify.



**HAWAII COMMUNITY
DEVELOPMENT AUTHORITY**

547 Queen Street, Honolulu, Hawaii 96817
Telephone: (808) 594-0300 Fax: (808) 587-0299
Web site: <http://dbedt.hawaii.gov/hcda/>

DAVID Y. IGE
GOVERNOR

JOHN WHALEN
CHAIR

DEEPAK NEUPANE, P.E., AIA
EXECUTIVE DIRECTOR

Statement of
DEEPAK NEUPANE, P.E., AIA
Executive Director
Hawaii Community Development Authority
before the

SENATE COMMITTEE ON JUDICIARY

Friday, February 12, 2021

9:15 AM

Via Videoconference

In consideration of
SB 1034
RELATING TO SUNSHINE LAW BOARDS.

Chair Rhoads, Vice Chair Keohokalole, and members of the Committee. The Hawaii Community Development Authority (HCDA) **supports SB 1034**, that expands board and public participation by giving boards the option, in conjunction with in-person meetings, to use interactive conference technology.

The HCDA has a seventeen-member board and at times having quorum has been an issue for the volunteer board. Allowing members to participate remotely during the Covid-19 pandemic has proven to address this issue.

Using interactive conference technology has also allowed HCDA meetings to be more transparent, as meetings are live streamed and immediately available for viewing on the agency's YouTube page.

Thank you for the opportunity to testify.



Big Island Press Club

Since 1967, protecting the public's right to know

Big Island Press Club
P.O. Box 1920
Hilo, Hawaii 96721

CONTACT:
info@bigislandpressclub.org

February 8, 2021

To: Committee on Judiciary
From: Michael Phillips, Vice President, Big Island Press Club

In SUPPORT of SB 1034 Relating to Sunshine Law Boards

The Big Island Press Club, Hawaii's oldest press club, is in support of SB 1034 Relating to Sunshine Law Boards. As drafted, the proposed bill for an act would take advantage of the ease virtual meeting platforms provide the community and its leaders even in a post-pandemic world.

Since 1967, the Big Island Press Club has been protecting the public's right to know. Serving as a watchdog for openness and credibility for Hawaii Island, we too have facilitated virtual meetings during the COVID era to engage the community with community concerns. Last summer, we hosted a scholarship award event through our Facebook presence and featured Hawaii Supreme Court Chief Justice Mark E. Recktenwald as our guest speaker. To give the community insight into 2020 Mayoral race on the Big Island, we used social media to solicit questions from the community at large to ask the candidates. While we worked with newspapers on-island to publish responses during the primary season, we worked with television and radio stations in Hawaii to produce a virtual forum event with the final two candidates prior to Election Day. In addition to broadcasting live in traditional media, we used streaming media and platforms

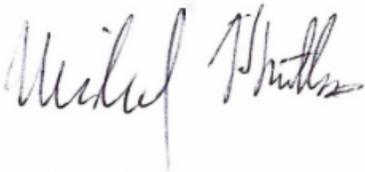
like YouTube and Facebook to connect to the community. Based on these experiences, we know first-hand that hosting a virtual event can be a highly effective way of engaging with and fostering dialog between the public and its leaders.

Based on our positive experiences, we urge you to continue to tap into the latest technology to make all board meetings open and accessible to as many people as possible, whether or not concerns related to the current COVID-19 pandemic crisis persist.

During the pandemic, we've all witnessed the tremendous benefit using platforms such as Zoom have been to keep people connected as close as possible, even in the midst of a public health crisis with social distancing concerns. While there are benefits during a pandemic, there are many benefits outside of a pandemic to keep such remote technology in place. A reduction in travel expenses and the potential environmental impacts of such travel, improved accessibility for the mobility-challenged, and the ability for individuals to participate in many meetings regardless of where they are physically all help facilitate the democratic process. Because an individual could participate in such meetings from wherever the individual has internet access, it could be more readily combined with other daily activities and obligations than a traditional in-person meeting in a government office.

I thank you for the opportunity to testify in wholehearted support of SB 1034 Relating to Sunshine Law Boards and hope you continue to support it too.

Signed,

A handwritten signature in black ink, appearing to read "Michael Phillips". The signature is written in a cursive, flowing style.

Michael Phillips
Vice President, Big Island Press Club



Feb. 12, 2021

Sen. Karl Rhoads
Senate Judiciary Committee
State Capitol
Honolulu, HI 96813

Re: Senate Bill 1034

Chairman Rhoads and Committee Members:

I must admit that when the state first allowed for remote meetings during the pandemic, I had my doubts about whether public access would be served.

Turns out that these meetings are a good thing – if properly implemented.

The procedures have actually increased public participation. People unable to personally attend meetings can now do so by logging into the meetings online. Certainly it benefits all residents, particularly those on neighbor islands, and saves in travel and other costs.

The key to this system is proper implementation. Without this, the measure bill is faulty.

In fact, we hope the Legislature will also retain this method of working in public.

This bill is a good thing.

Thank you for your time and attention,

A handwritten signature in black ink, appearing to read 'Stirling Morita'.

Stirling Morita
President. Hawaii Chapter SPJ



All Hawaii News * P.O. Box 612 * Hilo, HI 96721 * www.allhawaiinews.com

10 Feb. 2021

[Senate Committee on Judiciary](#)

From: Nancy Cook Lauer, publisher, All Hawaii News
www.allhawaiinews.com nclauer@gmail.com 808.781.7945

In STRONG SUPPORT of SB 1034 RELATING TO SUNSHINE LAW BOARDS

All Hawaii News, a state government and political news aggregate blog covering Hawaii since 2008, supports SB 1034 allowing for remote online meetings of boards and commissions.

If a global pandemic can even have a silver lining, it's this: Public access to state and local government meetings has never been easier, especially for neighbor island and rural residents.

Where previous state board meetings and press conferences were held primarily in Honolulu and accessible only to those able to be there in person, emergency response to the coronavirus pandemic has sent many of the meetings online, where the public can participate without hopping on an airplane or battling freeway traffic.

This practice should continue past the pandemic, as experience has proven it's technologically practicable and successful in increasing public participation in government.

The proposed bill carries safeguards to accommodate those on the wrong side of the digital divide by also providing in-person meeting locations where members of the public can come to observe the virtual meeting or testify in person using interactive conference technology.

Mahalo nui for supporting this bill. That enhances government transparency.

DAVID Y. IGE
GOVERNOR



STATE OF HAWAII
DEPARTMENT OF PUBLIC SAFETY

919 Ala Moana Boulevard, 4th Floor
Honolulu, Hawaii 96814

MAX N. OTANI
DIRECTOR

Maria C. Cook
Deputy Director
Administration

Tommy Johnson
Deputy Director
Corrections

Jordan Lowe
Deputy Director
Law Enforcement

No. _____

TESTIMONY ON SENATE BILL 1034
RELATING TO SUNSHINE LAW BOARDS.

by
Max N. Otani, Director

Senate Committee on Judiciary
Senator Karl Rhoads, Chair
Senator Jarrett Keohokalole, Vice Chair

Friday, February 12, 2021; 9:15 a.m.
VIA VIDEOCONFERENCE

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

The Department of Public Safety supports Senate Bill (SB) 1034, which allows boards the option to use interactive conference technology to conduct remote meetings under the Sunshine Law, while still retaining the option to conduct traditional in-person meetings at a single meeting site or at multiple meeting sites connected by interactive conference technology. This bill would enhance public participation in public meetings, lower the costs of holding meetings, protect public health and safety, promote voluntary participation on boards, and avoid unnecessary and possibly burdensome travel by board members, staff, testifiers, observers, other participants, and the general public.

Thank you for the opportunity to present this testimony.

SB-1034

Submitted on: 2/5/2021 2:41:16 PM

Testimony for JDC on 2/12/2021 9:15:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Gerard Silva	Individual	Oppose	No

Comments:

This Bill violates The 2nd Amendment. Now the United States of America in no longer a Corperation We go back to Consituional Law witch is the Highest Law in the Land.

The United States is a Republic again and any one that Violates the Consitution can be removed from Office and charged with a Felony. So any one who signed this Bill is Gullity !

The Change Happened on January 07 2021 look it Up.

SB-1034

Submitted on: 2/5/2021 3:17:45 PM

Testimony for JDC on 2/12/2021 9:15:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Dr. Jim Shon	Individual	Support	No

Comments:

Chair, Members. Strongly support. Long overdue. Suggest if any elements of virtual meetings and hearings do not yet apply to the State Legislature, they should!

Jim Shon



49 South Hotel Street, Room 314 | Honolulu, HI 96813
www.lwv-hawaii.com | 808.531.7448 | voters@lwv-hawaii.com

SENATEE COMMITTEE ON JUDICIARY
Friday, February 12, 2021, 9:15 am, Videoconference
SB 1034

Relating to Sunshine Law Boards

TESTIMONY

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

Chair Rhoads and Committee Members:

The League of Women Voters of Hawaii supports the intent of SB 1034.

When remote board meetings are routinely conducted by interactive conference technology, it will be easy and may be appropriate to limit overly long, repetitive, or crazy oral public testimony with a “mute button”. But it will also be easy to inappropriately censor oral public testimony. That is why we suggest amending SB 1034 to authorize OIP to respond to public complaints, adopt any necessary rules, and issue informal guidance concerning abuse of the “mute button”. We defer to OIP about appropriate statutory wording.

Thank you for the opportunity to submit testimony.

SB-1034

Submitted on: 2/6/2021 10:25:22 AM

Testimony for JDC on 2/12/2021 9:15:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
tlaloc tokuda	Individual	Support	No

Comments:

I am a member of Common Cause Hawaii and i agree with CCH's point of view and many issues. I have been a proponent of remote testimony and SB 1034 will amend the current Sunshine Law to more easily allow for remote meetings for the benefit of board members and the public. Government meetings may be held entirely remotely, entirely in-person, or a combination of both and satellite locations may be opened to have the public, meaning those who need assistance with remote technology and/or those without computers and/or broadband, attend to view the meeting.

I note that under Section 2 at page 8, lines 20-21 and page 9, lines 1-4, it appears that only a quorum of board members are required to be visible and audible during a remote meeting. All board members on a remote meeting should be visible at all time. All staff should be visible at all time as well. The public should know who the board members are and who the staff are of a board and commission. If the public is making a presentation or commenting on a matter, it is crucial that the public sees that all members and staff are paying full attention to the matter at hand to ensure that the concerns are being heard and properly received.

I note that under Section 2 at page 9, lines 12-14, votes do not have to be by roll call if unanimous. It is hard to discern, at times, whether there is unanimity of vote with computer lag and even phone static, on behalf of the viewer and, perhaps even, board member. To address any issues regarding this, a roll call is preferred.

Mahalo for the opportunity to testify in support of SB 1034, with suggested amendments. We reiterate again our support SB 1034 and amending the Sunshine Law to support remote testimony.

Tlaloc Tokuda

Kailua Kona, 96740

SB-1034

Submitted on: 2/6/2021 1:23:56 PM

Testimony for JDC on 2/12/2021 9:15:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Dyson Chee	Individual	Support	No

Comments:

Thank you for the opportunity to testify in support of SB1034.

SB-1034

Submitted on: 2/6/2021 3:51:57 PM

Testimony for JDC on 2/12/2021 9:15:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
lynne matusow	Individual	Support	No

Comments:

If one good thing arose from this terrible pandemic it has been the increased access to public participation via interactive technology, zoom, etc.

It appears that only a quorum of board members are required to be visible and audible during a remote meeting. That is not pono. All board members and staff on a remote meeting should be visible at all times. If the public is making a presentation or commenting on a matter, it is crucial that the public sees that all members and staff are paying full attention to the matter at hand to ensure that the concerns are being heard and properly received, just as they would see this if the meeting were in person.

Also, roll call votes should be required. Without a roll call vote, there is no way of knowing if a member has temporarily or permanently left the meeting.

Thank you for the opportunity to testify.

SB-1034

Submitted on: 2/6/2021 11:05:34 PM

Testimony for JDC on 2/12/2021 9:15:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Caroline Kunitake	Individual	Support	No

Comments:

Dear Chair Rhoads, Vice Chair Keohokalole and Committee on Judiciary,

Please support SB1034. Given the serious health risks associated with the COVID-19 pandemic, it makes practical sense to allow board meetings to be entirely remote or partially remote to maintain safe physical distance.

We have been a proponent of remote testimony and SB 1034 will amend the current Sunshine Law to more easily allow for remote meetings for the benefit of board members and the public. Government meetings may be held entirely remotely, entirely in-person, or a combination of both and satellite locations may be opened to have the public, meaning those who need assistance with remote technology and/or those without computers and/or broadband, attend to view the meeting.

We note that under Section 2 at page 8, lines 20-21 and page 9, lines 1-4, it appears that only a quorum of board members are required to be visible and audible during a remote meeting. All board members on a remote meeting should be visible at all time. All staff should be visible at all time as well. The public should know who the board members are and who the staff are of a board and commission. If the public is making a presentation or commenting on a matter, it is crucial that the public sees that all members and staff are paying full attention to the matter at hand to ensure that the concerns are being heard and properly received.

We note that under Section 2 at page 9, lines 12-14, votes do not have to be by roll call if unanimous. It is hard to discern, at times, whether there is unanimity of vote with computer lag and even phone static, on behalf of the viewer and, perhaps even, board member. To address any issues regarding this, a roll call is preferred.

Thank you for the opportunity to testify in support of SB 1034, with suggested amendments. We reiterate again our support SB 1034 and amending the Sunshine Law to support remote testimony.

Mahalo,

Caroline Kunitake

SB-1034

Submitted on: 2/7/2021 11:10:24 PM

Testimony for JDC on 2/12/2021 9:15:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Michael Golojuch Jr	Individual	Support	No

Comments:

Aloha Senators,

I support SB 1034.

Mahalo,

Michael Golojuch, Jr.

SB-1034

Submitted on: 2/8/2021 12:49:09 AM

Testimony for JDC on 2/12/2021 9:15:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Edward B Hanel Jr	Individual	Support	No

Comments:

I concur with comments submitted by Common Cause Hawaii. I urge passage of the bill with those amendments set forth in such comments.

SB-1034

Submitted on: 2/10/2021 6:06:15 AM

Testimony for JDC on 2/12/2021 9:15:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
David Anderson	Individual	Support	No

Comments:

I have found that remote testimony on the Capitol Website is easy and quite convenient and offers residents access to the legislative sessions. SB 1034 will amend the current Sunshine Law to more easily allow for remote meetings for the benefit of the public. Government meetings may be held entirely remotely, entirely in-person, or a combination of both and satellite locations may be opened to have the public, meaning those who need assistance with remote technology and/or those without computers and/or broadband, attend to view the meeting.

It appears that only a quorum of board members are required to be visible and audible during a remote meeting. All board members on a remote meeting should be visible at all time. All staff should be visible at all time as well. The public should know who the board members are and who the staff are of a board and commission. If the public is making a presentation or commenting on a matter, it is crucial that the public sees that all members and staff are paying full attention to the matter at hand to ensure that the concerns are being heard and properly received.

It is noted that votes do not have to be by roll call if unanimous. It is hard to discern, at times, whether there is unanimity of vote with computer lag and even phone static, on behalf of the viewer and, perhaps even, board member. To address any issues regarding this, a roll call is preferred.

Thank you for the opportunity to testify in support of SB 1034, with suggested amendments to improve the Sunshine Law to support remote testimony.

SB-1034

Submitted on: 2/10/2021 12:51:33 PM

Testimony for JDC on 2/12/2021 9:15:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Stacie M Burke	Individual	Support	No

Comments:

I support SB 1034

Mahalo for your time

Stacie Burke

SB-1034

Submitted on: 2/10/2021 3:04:59 PM

Testimony for JDC on 2/12/2021 9:15:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Larry Meacham	Individual	Support	No

Comments:

Testimony SUPPORTING SB 1034, allowing for more remote meetings.

Thank you for the opportunity to offer testimony.

Even before Covid, we had a problem of access for the Neighbor islands and for people who are working.

This bill allows for any mixture of remote and in-person attendance, and will give the public more opportunity to give needed information to the Legislature.

Some suggestions:

-Board members and staff should be visible at all time. (Sec 2, p. 8, lines 20-21, and page 9, lines 1-4.)

- Suggest a roll call for all decisions, since even a unanimous voice vote may not be clear to remote viewers. (Sec 2, pg 9, lines 12-14).

Thank you for the opportunity to offer testimony.

Brandon G. Young

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Kailua, HI 96734

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31st Legislature of the State of Hawaii

Senate Committee on Judiciary

SB 1034 Hearing on Friday, February 12 at 9:15 A.M.

Dear Chair and Vice-Chairs,

My name is Brandon Young, and I am a member of the National Federation of the Blind of Hawaii. I am writing in support of the SB 1034. I believe that as we live in this technological age that remote meetings will become more of the norm. These meetings will need to be able to be accessed by all people of the state of Hawaii.

As a blind person, I use a screen reader to use my computer and to write this testimony to you. A screen reader, like JAWS (Job Access with Speech), allows a blind person to use the keyboard to access the essential parts of the computer. As the State of Hawaii moves more to remote meetings, which is a practice that should have started a long time ago, the blind will need to be considered. We have found that Zoom seems to be the most accessible format for holding remote meetings. I applaud the State Legislature for choosing Zoom to hold this virtual legislative session. I am supporting this bill with the amendment that blind and other people with disabilities are considered and that the proper accommodations are made when holding remote meetings here in Hawaii. Thank you for your time and consideration of my testimony.



DISABILITY AND COMMUNICATION ACCESS BOARD

1010 Richards Street, Room 118 • Honolulu, Hawaii 96813
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LATE

FEBRUARY 12, 2021

TESTIMONY TO THE SENATE COMMITTEE ON JUDICIARY

Senate Bill 1034 – Relating to Sunshine Law Boards

The Disability and Communication Access Board (DCAB) supports Senate Bill 1034, which, among other things, expands board and public participation by giving boards the option, in conjunction with in-person meetings, to use interactive conference technology to remotely conduct public meetings under the Sunshine Law, even when no emergency has been declared by government authorities.

Individuals with disabilities have unique accessibility and accommodation needs when it comes to participating in public meetings. Since the Governor's emergency proclamation suspended provisions of the Sunshine Law, DCAB has been able to conduct meetings remotely and, as a result, meetings are more accessible to board members and members of the public with disabilities. That said, SB 1034 will be beneficial to board members and members of the public with disabilities by allowing them to participate in public meetings remotely, especially from neighbor islands or areas where accessible transportation is an issue.

Title II of the Americans with Disabilities Act requires state and local governments to provide equal access for individuals who are disabled when providing services, programs, or activities, especially persons with communication access needs. As it concerns SB 1034, it is important that auxiliary aids/services or other accommodations are provided, when requested, to ensure that meetings are equally accessible to the full spectrum of persons with disabilities. DCAB recommends inserting a notice requirement to provide information on how to request an auxiliary aid/service or other accommodation due to a disability. This recommendation is offered to ensure that all individuals have equal opportunity to participate in processes of their government.

Thank you for this opportunity to provide testimony.

Respectfully submitted,

KIRBY L. SHAW
Executive Director



The Waikiki Neighborhood Board supports the concept of the following bill: SB1034

At the February 9, 2021 Regular Meeting of the Waikiki Neighborhood Board the Board voted in favor of the concept of this bill.

As a result of the Emergency Proclamation(s) issued by Governor David Ige and follow-on Proclamation(s) by the Honolulu Mayor the official business and corporate business in Honolulu have been conducting meetings normally prohibited by HRS 92 (Sunshine Law) using various audio-teleconferencing platforms like WEBEX or Zoom.

This bill will allow future use of audio-teleconferencing to conduct official meetings in both electronic or hybrid manner following the COVID-19 or other Emergencies.

Robert J. Finley
Robert J. Finley
Chair