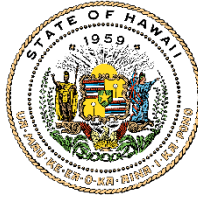


JOSH GREEN, M.D.
GOVERNOR | KE KIA'ĀINA

SYLVIA LUKE
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA



**STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAII'
DEPARTMENT OF LAND AND NATURAL RESOURCES
KA 'OIHANA KUMUWAIWAI 'ĀINA**

P.O. BOX 621
HONOLULU, HAWAII 96809

DAWN N.S. CHANG
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE
MANAGEMENT

RYAN K.P. KANAKA'OLE
FIRST DEPUTY

CIARA W.K. KAHAHANE
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE
MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES
ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

**Testimony of
DAWN N.S. CHANG
Chairperson**

**Before the Senate Committee on
GOVERNMENTAL OPERATIONS**

**Tuesday, February 4, 2025
3:05 PM
State Capitol, Conference Room 225**

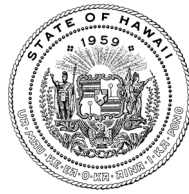
**In consideration of
SENATE BILL 786
RELATING TO GOVERNMENT RECORDS**

Senate Bill 768 proposes to (1) require all government records required to be open to public inspection under the Uniform Information Practices Act to be made available in a disability-accessible format upon request; (2) require the governor, chief justice, and mayor of each county to designate at least one agency within their respective government unit as a converting agency responsible for converting government records into a disability-accessible format upon request; and (3) establish the process by which government records shall be converted into disability-accessible format upon request. **The Department of Land and Natural Resources (Department) supports this measure.**

The Department appreciates that this bill will allocate funding to support the implementation of the conversion services.

The Department notes that the Disability and Communication Access Board updated the State of Hawaii Programs and Services Reference Manual for Persons with Disabilities, dated [July 20, 2023](#). This manual is intended to provide state agencies a consistent approach to ensuring accessibility in programs, services, and activities. Chapter 7: Printed Information, describes the process by which government records may be converted into an accessible format, which may serve as a reference for implementing this measure.

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



JOSH GREEN, M.D.
GOVERNOR

SYLVIA LUKE
LIEUTENANT GOVERNOR

LUIS P. SALAVERIA
DIRECTOR

SABRINA NASIR
DEPUTY DIRECTOR

EMPLOYEES' RETIREMENT SYSTEM
HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND
OFFICE OF THE PUBLIC DEFENDER

STATE OF HAWAII
DEPARTMENT OF BUDGET AND FINANCE
Ka 'Oihana Mālama Mo'ohelu a Kālā
P.O. BOX 150
HONOLULU, HAWAII 96810-0150

ADMINISTRATIVE AND RESEARCH OFFICE
BUDGET, PROGRAM PLANNING AND MANAGEMENT DIVISION
FINANCIAL ADMINISTRATION DIVISION
OFFICE OF FEDERAL AWARDS MANAGEMENT

TESTIMONY BY LUIS P. SALAVERIA
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
TO THE SENATE COMMITTEE ON GOVERNMENT OPERATIONS
ON
SENATE BILL NO. 786

February 4, 2025
3:05 p.m.
Room 225 and Videoconference

RELATING TO GOVERNMENT RECORDS

The Department of Budget and Finance (B&F) offers comments on this bill.

Senate Bill (S.B.) No. 786 adds a new section to Chapter 95F, HRS, by:

1) requiring all government records required to be open to public inspection under the Uniform Information Practices Act be made available in a disability-accessible format upon request; 2) requiring the Governor, Chief Justice, and Mayor of each county to designate at least one agency within their respective government unit as a converting agency responsible for converting government records into a disability-accessible format; 3) establishes the process by which government records shall be converted into disability-accessible format upon request. The bill also requires the Office of Information Practices, Judiciary, and each county to adopt rules, regulations, or ordinances, including a provision that extends the time within which an agency must respond to requests for government records by five business days for records in disability-accessible formats, with exceptions for records pertaining to board meetings. In addition, this bill appropriates unspecified general funds and 0.5 full-time equivalent (FTE) each for the designated converting agencies within the Executive Branch and

Judiciary to implement this measure and provides for a grant-in-aid to each county to support implementation of this measure.

Although most public documents can be converted to accessible documents using accessibility tools included in most document creation applications, some documents that include many tables and charts with “visual aids” may not be readily converted. As such, there will be exceptions to these requirements that may need to be addressed. The Executive Branch, Judiciary, and counties process thousands of documents each year that would require accessibility conversion to meet these vision, hearing and speech requirements. It is improbable that 0.5 FTE positions for the entirety of the Executive Branch and Judiciary would be sufficient to fulfill document accessibility requirements for even a single agency. Prior to passage of this measure, a study on the necessary resources needed to meet accessibility requirements should be conducted.

Thank you for your consideration of our comments.

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: oiip@hawaii.gov

To: Senate Committee on Government Operations

From: Carlotta Amerino, Director

Date: February 4, 2025, 3:05 p.m.
State Capitol, Conference Room 225

Re: Testimony on S.B. No. 786
Relating to Government Records

Thank you for the opportunity to submit testimony on this bill, which would amend the Uniform Information Practices Act (UIPA), chapter 92F, HRS, to require records to be made available in a disability-accessible format upon request, with a conversion process wherein records would be sent to a third-party designated conversion agency to be put into disability-accessible format. The Office of Information Practices (OIP) offers **comments**.

Under the UIPA, an agency must provide a requested public record in the format requested so long as either (1) the agency already maintains the record in that format or (2) the record can be readily converted into the requested format without unreasonable interference with the agency's functions. E.g., OIP Op. Ltr. No. 04-16. Thus, a requester can ask for paper records to be scanned using optical character recognition (making the words machine-readable, rather than just an image of the record), and the UIPA will require the agency to provide them in that form, since running paper records through a scanner is highly unlikely to present an unreasonable interference with the agency's functions (and if the volume of records is large enough the agency can provide the records incrementally over time).

The UIPA does not, however, focus on whether records are disability-accessible, since it is a general-purpose open records law and disability access requirements are set separately by other state and federal laws.

This bill would create a relatively complex new process under the UIPA in which an agency receiving a request for a record in a specified format that is disability accessible, instead of simply providing it in that format within the usual response deadline as current law requires (assuming no unreasonable interference with the agency's functions), would instead send it to a third party to have the record converted to the requested format and would have an extended response time in which to do so. Although the extended deadlines and increased complexity would delay a requester's access to records under the UIPA using the new process, the requester's right to obtain a record in a requested disability-accessible format would be absolute, rather than contingent upon whether the conversion would unreasonably interfere with the agency's functions and if so, whether another law focused on disability access required the agency to nonetheless make the requested conversion.

The bill would also require OIP to amend its existing administrative rules setting out the UIPA request process to account for the new converting agencies, set out a process and timelines for conversion requests, and extend the time for an agency to respond to a requester when it is converting a record. OIP notes that the bill on the one hand specifies that the agency responding to the request has five additional business days for its response deadline when it needs to have a record converted by a designated converting agency (which itself does not have a specific deadline for the conversion), but if the converting agency hasn't converted the record in time for the responding agency to meet that extended UIPA response deadline, the responding agency is not liable for its failure to do so. Thus, while OIP would need to change the UIPA response deadlines set out in its rules to be

consistent with the new law, neither the responding agency nor the converting agency would actually be held responsible for a failure to meet those deadlines.

Finally, OIP recommends that to avoid requiring OIP to resolve disputes over whether a record meets the standard of being disability-accessible, which is outside OIP's area of expertise and general authority, if this Committee passes this bill out, the Committee should add language to clarify that disputes over whether a converted record was in fact in a disability-accessible format are not subject to appeal to OIP. Specifically, **OIP respectfully requests that this Committee add the following sentence** to the end of proposed subsection 92F-__(g) starting at page 4, line 14:

A dispute over whether a record converted under this section met the standard of being disability-accessible shall not be appealable to the office of information practices.

Thank you for considering OIP's testimony.

PETER L. FRITZ
Attorney at Law
EMAIL: PLFLEGIS@FRITZHQ.COM

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

RE: **Testimony in Support of the Intent of SB786**
Hearing: February 4, 2025 at 3:05 p.m.

Dear Chair, Vice Chair and Members of the Committee:

My name is Peter Fritz. I am an individual with a disability, an attorney and an advocate for individuals with disabilities that has filed ADA complaints against the State. I am a former chair of the Disability and Communication Access Board (DCAB) and the Rehabilitation Advisory Council. I am testifying **in support of the INTENT of SB 786**.

I support the intent of SB 786.

The intent of this bill is to amend Hawaii's Uniform Information Practices Act (UIPA), by inserting a vague standard called "disability accessible format" and adding requirements that agencies establish a separate department to make accessible documents.

The preamble of this bill recognizes that state agencies are subject to the Americans with Disabilities Act (ADA). Title II of the ADA requires that state agencies not discriminate against individuals with disabilities like me.

An individual requesting documents from a state agency needs to specify the format for a response. The individual can request an accommodation for his or her disability. Title II of the ADA provides that the request must be reasonable. The request may not constitute an undue burden upon the agency. The Title II requirement for accessibility is that the accommodation provides effective communication. It does not require the document be provided in the exact specific format that was requested. For example, an agency might provide a recording of a document instead of providing the document in braille.

When questions arise regarding whether or not a document is accessible, the parties can look to Title II, the regulations for Title II, administrative determinations, or case law to determine if the agency's response provides effective communication.

There is no guidance with respect to the term disability accessible format. The term is vague and could result in multiple interpretations because different agencies might interpret what is a disability accessible format the differently.

An appropriate way for Hawaii to require a state wide standard that would apply to all documents would be for Hawaii to add a statute to the Hawaii Revised Statutes adopting the standards of Title II of the ADA. A statute will give standing to an individual to bring an action

in state Court. Other states, such as Florida, New Jersey, and California, have added the requirements of Title II of the ADA to their statutes.

ADA Coordinators Are Responsible for Compliance With the ADA.

What Is an ADA Coordinator?

Under the ADA, a public entity with 50 or more employees must have at least one “responsible employee” to coordinate its efforts to comply with and carry out its ongoing responsibilities under Title II. The responsible employee is called the ADA Coordinator.

The responsibilities of an ADA Coordinator are to make sure that the public entity they work for meets its Title II responsibilities. They are the lead resource for accessibility and disability nondiscrimination regulations and should work with their public entity to comply with all Title II requirements.

Title II of the ADA requires that any agency with 50 or more employees have an ADA coordinator. Since every agency has an ADA coordinator already, why is it necessary to establish a separate office and fund additional employees to perform the task that the ADA Coordinator can do.

Extra Time Should Not be Granted

This bill provides that an agency may have an extra 5 days when a document is to be provided in disability accessible format. Title II of the ADA would not provide or permit such an extension. Since the agency is required to accommodate a request for an accommodation for an individual with a disability, why is such an extension even necessary?

Act 172

With respect to claims that Act 172, Session Laws Hawaii 2022, created enforceable accessible standards, I would respond that Act 172 was a law that created a committee that recommended standards for accessibility. Those standards are not supported by or refer to any Hawaii Statute. The final report of the Act 172 committee suggests that such standards could be incorporated into an Executive or Administrative directive from the Governor. Directives from the Governor are not law and have no mechanism for enforcement by individuals. To be enforceable, these standards must be associated with a statute or added to the statutes.

I support the intent of this bill; I do not support this bill as written.

Thank you for the opportunity to testify.

JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA



RYAN I. YAMANE
DIRECTOR
KA LUNA HO'OKELE

JOSEPH CAMPOS II
DEPUTY DIRECTOR
KA HOPE LUNA HO'OKELE

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

TRISTA SPEER
DEPUTY DIRECTOR
KA HOPE LUNA HO'OKELE

February 3, 2025

TO: The Honorable Senator Angus L.K. McKelvey, Chair
Senate Committee on Government Operations

FROM: Ryan I. Yamane, Director

SUBJECT: **SB 786 – RELATING TO GOVERNMENT RECORDS.**

Hearing: February 4, 2025, 3:05 p.m.
Conference Room 225 & via videoconference, State Capitol

DEPARTMENT'S POSITION: The Department of Human Services (DHS) appreciates the intent of the measure and defers to the Department of Budget & Finance, the Disability Communication Access Board, and other government entities. DHS appreciates the extended effective date, additional time to respond to responses, and the appropriation for additional resources. DHS respectfully requests that the appropriation does not reduce or replace priorities identified in the executive budget. DHS staff will require updated training.

PURPOSE: Beginning 1/1/2027, requires all government records required to be open to public inspection under the Uniform Information Practices Act to be made available in a disability-accessible format upon request. Requires the Governor, Chief Justice, and Mayor of each county to designate at least one agency within their respective government unit as a converting agency responsible for converting government records into a disability-accessible format. Establishes the process by which government records shall be converted into disability-accessible format upon request. Allows the converting agencies to consult with the Disability Communications Access Board. Requires the Office of Information Practices, Judiciary, and

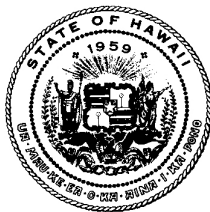
February 3, 2025

Page 2

each county to adopt rules, regulations, or ordinances, including a provision that extends the time within which an agency must respond to requests for government records by 5 business days for records in disability-accessible formats, with exceptions for records pertaining to board meetings. Appropriates funds.

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

LATE



DISABILITY AND COMMUNICATION ACCESS BOARD

1010 Richards Street, Rm. 118 • Honolulu, Hawai'i 96813
Ph. (808) 586-8121 (V) • Fax (808) 586-8129 • (808) 204-2466 (VP)

February 4, 2025

TESTIMONY TO THE SENATE COMMITTEE GOVERNMENT OPERATIONS

Senate Bill 786 – Relating to Government Records

The Disability and Communication Access Board (DCAB) supports Senate Bill 786 - Relating to Government Records. This bill requires that, starting January 1, 2027, all government records open to public inspection under the Uniform Information Practices Act be made available in a disability-accessible format upon request.

For individuals with disabilities, accessing government records can be challenging due to the lack of accessible formats such as screen-readable documents, braille, or audio. These barriers prevent individuals from fully participating in government processes and accessing important public information.

This bill would ensure that government records are available in formats that are usable by everyone, regardless of disability. By designating a converting agency within each government unit and providing a clear process for converting records upon request, SB786 helps remove barriers to accessing public information. The ability to consult with DCAB ensures that the conversion process meets the necessary accessibility standards.

DCAB supports this bill as a step toward improving access to government records for all individuals.

Thank you for considering our position.

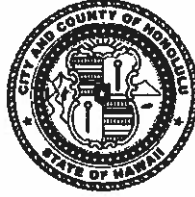
Respectfully submitted,

KIRBY L. SHAW
Executive Director

HONOLULU POLICE DEPARTMENT
KA 'OIHANA MĀKA'I O HONOLULU
CITY AND COUNTY OF HONOLULU
801 SOUTH BERETANIA STREET • HONOLULU, HAWAII 96813
TELEPHONE: (808) 529-3111 • WEBSITE: www.honoluluupd.org

LATE

RICK BLANGIARDI
MAYOR
MEIA



ARTHUR J. LOGAN
CHIEF
KAHU MĀKA'I

KEITH K. HORIKAWA
RADE K. VANIC
DEPUTY CHIEFS
HOPE LUNA NUI MĀKA'I

OUR REFERENCE **CL-DNK**

February 4, 2025

The Honorable Angus L.K. McKelvey, Chair
and Members
Committee on Government Operations
State Senate
415 South Beretania Street, Room 225
Honolulu, Hawai'i 96813

Dear Chair McKelvey and Members:

SUBJECT: Senate Bill No. 786, Relating to Government Records


I am Carlene Lau, Acting Major of the Records and Identification Division of the Honolulu Police Department (HPD), City and County of Honolulu.

The HPD supports Senate Bill No. 786, Relating to Government Records. Currently, there is no county agency that facilitates public requests for government records in accessible formats for people with disabilities. Without the proper training, it can create unintended confusion as to the correct format and method in which it can be delivered. For example, if a visually impaired person requested a police report to be converted to braille, the HPD currently does not have the ability to readily convert the reports.

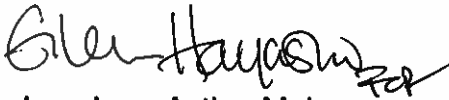
The HPD urges you to support Senate Bill No. 786, Relating to Government Records.

Thank you for the opportunity to testify.

APPROVED:


Arthur J. Logan
Chief of Police

Sincerely,


Carlene Lau, Acting Major
Records and Identification Division