

# OFFICE OF INFORMATION PRACTICES

STATE OF HAWAII  
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TELEPHONE: 808-586-1400 FAX: 808-586-1412  
EMAIL: oip@hawaii.gov

To: House Committee on Judiciary & Hawaiian Affairs

From: Carlotta Amerino, Director

Date: April 7, 2026, 2:00 p.m.  
State Capitol, Conference Room 325

Re: Testimony on S.B. No. 2929, S.D. 1, H.D. 1  
Relating to Public Notice

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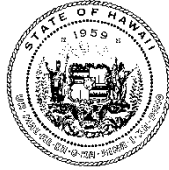
Thank you for the opportunity to submit testimony on this bill, which would allow government public notices to be done by electronic posting on government websites as an alternative to newspaper publication. The Office of Information Practices (OIP) takes no position on this bill, but offers comments.

OIP itself does not oversee notice requirements other than as set out in the Sunshine Law, part 1 of chapter 92, HRS, and does not oversee the notice requirement being amended here, so OIP is commenting only to provide information. This bill would not affect meeting notices under the Sunshine Law.

The electronic notice provided for in this bill is similar to the electronic notice used for Sunshine Law meetings, and would thus make other types of government notice more similar to Sunshine Law notice. The bill would set a notice deadline of six calendar days before the relevant action, meeting, or effective date, which matches the Sunshine Law's notice deadline. Notice under this bill would be posted either on a state or county calendar (like Sunshine Law notices) or, as an additional option, on a state or county website. The Sunshine Law does not require posting notice on a board's website, but many boards do so in addition to the required

posting on the State or county electronic calendar. Thus, the electronic notices authorized by this bill would be in places members of the public are already accustomed to checking for Sunshine Law notices. OIP notes also that a State or county website is more appropriate than a calendar for posting notice of a proposed action, as opposed to a public hearing or meeting scheduled for a specific time slot.

**JOSH B. GREEN, M.D.**  
GOVERNOR  
KE KIA'ĀINA



**BONNIE KAHAKUI**  
ADMINISTRATOR  
**DAYNA OMIYA**  
ASSISTANT ADMINISTRATOR

**STATE OF HAWAI'I | KA MOKU'ĀINA O HAWAI'I**  
**STATE PROCUREMENT OFFICE**

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<http://spo.hawaii.gov>

TESTIMONY  
OF  
BONNIE KAHAKUI, ADMINISTRATOR  
STATE PROCUREMENT OFFICE

TO THE HOUSE COMMITTEE  
ON  
JUDICIARY & HAWAIIAN AFFAIRS  
APRIL 7, 2026, 2:00 PM

SENATE BILL 2929, SD1, HD1  
RELATING TO PUBLIC NOTICE

Chair Tarnas, Vice Chair Poepoe, and members of the committee, thank you for the opportunity to submit testimony on Senate Bill 2075, SD1, HD1. The State Procurement Office (SPO) appreciates that the House Draft 1 of this bill incorporates our recommendations to reinstate the Comptroller's authority to designate a single source for public notices on each island and to exempt Hawaii Revised Statutes Chapters 103D, 103F, 127A and 523A.

Thank you for the opportunity to submit testimony on this measure.

**RICHARD T. BISSEN, JR.**  
Mayor

**JOSIAH K. NISHITA**  
Managing Director



**OFFICE OF THE MAYOR**  
COUNTY OF MAUI  
200 SOUTH HIGH STREET  
WAILUKU, MAUI, HAWAII 96793  
[www.mauicounty.gov](http://www.mauicounty.gov)

TO: Representative David A. Tarnas, Chair  
Representative Mahina Poepoe, Vice Chair  
Committee on Judiciary and Hawaiian Affairs

FROM: Richard T. Bissen, Jr., Mayor  
Layne Silva, Department of Liquor Control

DATE: April 2, 2026

SUBJECT: **SUPPORT OF SB2929 SD1 HD1, RELATING TO PUBLIC NOTICE.**

Thank you for the opportunity to testify in **SUPPORT** of this important measure which allows government agencies to satisfy public notice requirements by posting notices on official state or county websites, while retaining publication as an option. Effective 7/1/3000. (HD1)

We **SUPPORT** this measure for the following reasons:

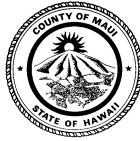
1. Mandatory newspaper publication can delay government action. Publication schedules, limited print days, and submission deadlines constrain agencies' ability to act quickly when timely notice is critical.
2. Website posting allows for immediate publication, ensuring the public is informed without delay while still preserving transparency.
3. Public notice is intended to ensure transparency, accessibility, and meaningful public awareness of government actions. SB2929 would modernize this process by aligning notice requirements with how many residents access information today.
4. Importantly, this measure does not eliminate newspaper publication. By retaining publication as an option, SB2929 preserves flexibility while giving agencies a practical, efficient, and transparent alternative for meeting public notice requirements.

Mahalo for your consideration.

Council Chair  
Alice L. Lee

Vice-Chair  
Yuki Lei K. Sugimura

Councilmembers  
Kauanoë Batangan  
Tom Cook  
Gabe Johnson  
Tamara Paltin  
Keani N.W. Rawlins-Fernandez  
Shane M. Sinenci  
Nohelani U'u-Hodgins




Director of Council Services  
David M. Raatz, Jr., Esq.

Deputy Director of Council Services  
Richelle K. Kawasaki, Esq.

**COUNTY COUNCIL**  
COUNTY OF MAUI  
200 S. HIGH STREET  
WAILUKU, MAUI, HAWAII 96793  
[www.MauiCounty.us](http://www.MauiCounty.us)

April 4, 2026

TO: The Honorable David A. Tarnas, Chair  
House Committee on Judiciary & Hawaiian Affairs

FROM: Alice L. Lee  
Council Chair 

SUBJECT: **HEARING OF APRIL 7, 2026; TESTIMONY IN SUPPORT OF SB 2929, SD1, HD1, RELATING TO PUBLIC NOTICE**

I **support** this measure to allow government agencies to satisfy public notice requirements by posting notices on official state or county websites, while retaining publication as an option.

The Maui County Council has not had the opportunity to take a formal position on this measure. Therefore, I am providing this testimony in my capacity as an individual member of the Maui County Council.

I **support** this measure for the following reasons:

1. Existing laws requiring print-only newspaper publication are outdated and do not reflect the widespread electronic access used by residents today. Electronic posting provides a more efficient and accessible means of informing the public.
2. Posting notices on official state and county websites ensures greater transparency and consistency. Furthermore, digital posting eliminates delays caused by limited newspaper publication schedules, allowing for more timely access to information.
3. Mandatory newspaper publication is often significantly more expensive than digital publication. This measure allows agencies to satisfy legal requirements while retaining traditional publication only as a necessary alternative option.

Thank you for your consideration.



[www.AlohaILHawaii.org](http://www.AlohaILHawaii.org)

Apr 7, 2026

#### MISSION

Aloha Independent Living Hawaii (AILH) dedicated to providing independent living programs and services for persons with disabilities in Hawaii.

We work together with the community and consumers to improve the quality of life through individual choices and access to services.

#### EXECUTIVE DIRECTOR

Roxanne U. Bolden

#### BOARD OF DIRECTORS

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Valerie Yamada

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##### Member

Scott Suzuki  
Sheila Castaneda  
Jennifer Hartssock

The Honorable David A. Tarnas, Chair  
House Committee on Judiciary & Hawaiian Affairs  
The Thirty-Third Legislature  
State Capitol  
State of Hawaii  
Honolulu, Hawaii 96813

**SUBJECT:** SB2929 SD1 HD1 – Relating to Public Notice

Chair and Members of the Committee:

Aloha Independent Living Hawaii (AILH) submits testimony **in support of SB2929 SD1 HD1**, which allows government agencies to satisfy public notice requirements by posting notices on official state or county websites, while retaining newspaper publication as an option. AILH is a Center for Independent Living serving people with all types of disabilities statewide, and meaningful access to public notices is essential to our consumers' ability to participate in government, protect their rights, and stay informed about decisions affecting their housing, benefits, and communities.

Moving public notices to official government websites can improve transparency, timeliness, and cost-effectiveness, but it will only advance justice if those online notices are truly accessible to disabled residents. Many of our consumers rely on screen readers, captioning, alternative input devices, plain-language formatting, and mobile-friendly sites, and some still depend on print or in-person access because of limited connectivity or digital literacy. From an Independent Living and civil rights perspective, implementation of SB2929 must therefore include accessible website design, clear navigation, readable formats, and the continued availability of alternative formats and locations where people can review notices with assistance if needed.

AILH respectfully urges that, as agencies operationalize SB2929, they treat accessibility as a core requirement of "public notice," not an afterthought.



[www.AlohaILHawaii.org](http://www.AlohaILHawaii.org)

#### **MISSION**

Aloha Independent Living Hawaii (AILH) dedicated to providing independent living programs and services for persons with disabilities in Hawaii.

We work together with the community and consumers to improve the quality of life through individual choices and access to services.

#### **EXECUTIVE DIRECTOR**

Roxanne U. Bolden

#### **BOARD OF DIRECTORS**

##### **Chair / Sec**

Valerie Yamada

##### **Vice Chair**

Zora Shove

##### **Treasurer**

Jonathan Yap

##### **Member**

Scott Suzuki  
Sheila Castaneda  
Jennifer Hartssock

We encourage this committee to emphasize compliance with disability access laws and best practices, to support training and technical assistance for agencies on accessible digital communication, and to ensure that website posting does not replace but rather complements accessible options for residents who cannot easily access online information.

Thank you for the opportunity to testify in support of SB2929 SD1 HD1 and for your commitment to public notice systems that include, rather than exclude, disabled members of our communities.

Mahalo,

Roxanne Bolden

Executive Director

**Testimony of HAWAII FILIPINO LAWYERS (HFLA)  
In SUPPORT of SB2919 SD1 HD1**

House Committee on Finance (FIN)

Chair: Rep. Chris Todd

Vice Chair: Rep. Jenna Takenouchi

Hearing Date: April 7, 2026

Dear Chair Chris Todd, Vice Chair Jenna Takenouchi, and members of the Committee on Finance,

My name is Wilfredo Tungol, HFLA Advocacy committee chair. HFLA submit this testimony in **support of SB2919 SD1 HD1**, which appropriates funds to the Office of the Public Defender for one full-time equivalent Deputy Public Defender III position. HFLA support the rights of immigrants charged with crimes with possible deportation consequences.

For immigrant defendants, the stakes of criminal proceedings extend far beyond sentencing: a conviction or even a guilty plea can trigger mandatory deportation, permanent bars to re-entry, and the loss of nearly all immigration relief options. Overburdened defenders may not have adequate time to fully advise each client before critical decisions must be made. One additional Deputy Public Defender III position is a targeted, practical investment in ensuring every client receives the constitutionally required representation — including the full immigration consequences advisement mandated by *Padilla v. Kentucky*.

The policy case for this bill has been affirmed by both the Senate and House Judiciary & Hawaiian Affairs committees. The Finance Committee's role is to confirm that this appropriation is sound and necessary — and it is. Reduced caseloads mean more time per client, stronger due process protections, and fewer wrongful outcomes for Hawai'i's most vulnerable residents. I respectfully urge the Committee to pass this bill and send it to the floor.

For these reasons, I respectfully request that the Committee **PASS SB2919 SD1 HD1**.

Mahalo for the opportunity to provide testimony.

Sincerely,

Wilfredo Tungol  
HFLA Advocacy Chair  
808-387-7412

April 7, 2026, 2 p.m.  
Hawaii State Capitol  
Conference Room 325 and Videoconference

**To: House Committee on Judiciary & Hawaiian Affairs**  
**Rep. David A. Tarnas, Chair**  
**Rep. Mahina Poepoe, Vice Chair**

**From: Grassroot Institute of Hawaii**  
**Ted Kefalas, Director of Strategic Campaigns**

RE: COMMENTS ON SB2929 SD1 HD1 — RELATING TO ADMINISTRATIVE RULES

Aloha Chair, Vice Chair and other Committee Members,

The Grassroot Institute of Hawaii offers **comments** on [SB2929 SD1 HD1](#), which would allow government agencies to satisfy public notice requirements by posting notices on official state and county websites, while retaining publication as an option.

This bill recognizes that changes in technology have limited the utility of newspaper publication as a source of public notices and proposes the long-overdue option of online posting.

However, this alternative highlights a major area of concern in government transparency: There is no central, well-maintained website where the public can easily find and access government notices.

Allowing notices to be published on a variety of state and county websites could help address some of the problems caused by the print-publication requirement, but that option comes with its own challenges. In particular, an interested individual would be forced to follow dozens of agencies' calendars and websites for periodic and non-standardized notices, creating other potential accessibility and timeliness issues.

Therefore, we recommend that the committee retain the publication option while looking into establishing a standardized system that designates a single site where all such notices can be found.

Thank you for the opportunity to testify.

Ted Kefalas  
Director of Strategic Campaigns  
Grassroot Institute of Hawaii

**SB-2929-HD-1**

Submitted on: 4/4/2026 12:01:23 AM

Testimony for JHA on 4/7/2026 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Johnnie-Mae L. Perry	Individual	Support	Written Testimony Only

Comments:

I, Johnnie-Mae L. Perry, Support

2929 SB RELATING TO PUBLIC NOTICE.

**TESTIMONY OF PETER L. FRITZ**  
House Committee on Judiciary and Hawaiian Affairs  
SB 2929, SD1, HD1, Relating to Public Notice  
Tuesday, April 7, 2026, 2:00 PM

Chair Tarnas, Vice Chair Poepoe, and Members of the Committee:

My name is Peter Fritz. I am an attorney and an individual with a disability. My practice includes work under the Americans with Disabilities Act and related state civil rights law. I have experience drafting legislation and reviewing regulatory frameworks in this area.

I am submitting these comments on SB 2929 SD1 HD1. I support the modernization of public notice requirements. Electronic posting can be one method of providing public notice. My concern is that the legislative discussion surrounding this bill has focused primarily on cost and operational convenience without addressing the legal framework necessary to make electronic notice reliable, accessible, and legally sufficient for all residents. HD1 authorizes electronic notice but does not establish the conditions under which that authorization is legally workable. My comments identify those gaps and propose a specific structural amendment that would protect both the public and government entities making the transition. A suggested HD2 reflecting that amendment is attached as Exhibit A for the committee's consideration. It has not been reviewed by the Legislative Reference Bureau and is presented as a working draft.

### **I. Current Law**

Under current law, HRS section 1-28.5 requires public notices to be published in newspapers of general circulation. Electronic posting is not currently authorized as a legally sufficient method of public notice under that section. The only electronic notice currently authorized as legally sufficient under Hawaii law is the electronic posting of public meeting agendas under chapter 92, the Sunshine Law. Section 91-2.6 of the Hawaii Administrative Procedures Act requires agencies to post proposed rulemaking actions on the Lieutenant Governor's website, but that requirement is limited to proposed administrative rules and does not constitute a general authorization for electronic public notice. Chapter 127A permits the Governor to suspend notice requirements during declared emergencies, but that is a suspension mechanism, not an authorization for electronic notice.

HD1 would be the first authorization of electronic posting as a legally sufficient method of notice outside the narrow context of chapter 92 public meeting notices. It authorizes a new method of notice for a broad category of government actions, including procurement notices, zoning proceedings, condemnation actions, and foreclosure proceedings, without establishing the infrastructure or framework necessary to make that method operational and legally reliable.

### **II. Improvements in HD1 Over SD1**

HD1 addresses several concerns raised in testimony on SD1.

It restores the exemptions for chapters 103D, 103F, 127A, and 523A, Hawaii Revised Statutes. This addresses concerns raised by the Department of the Attorney General and the State Procurement Office that removing those exemptions would create ambiguity in procurement and emergency notice contexts where procedural certainty is critical.

It adds subsection (h), a savings clause confirming that HD1 does not supersede more specific notice requirements imposed by other statutes. Where another statute imposes a more specific requirement that conflicts with this section, the more specific requirement controls.

It adds subsection (e) requiring each agency to maintain a physical copy of all public notices for public inspection during regular business hours.

It deletes the reference to Hawaii FYI, which multiple agencies identified as obsolete.

It allows agencies subject to chapters 103D and 103F to provide supplemental electronic notice, which preserves their existing notice obligations while permitting use of the new framework.

These are meaningful improvements. They reflect careful attention to concerns raised at prior hearings.

### **III. HD1 Does Not Address**

HD1 authorizes electronic notice as a legally sufficient method of public notice. It does not establish the conditions necessary to make that notice legally reliable. The following gaps remain unresolved.

No entity is designated as responsible for the electronic notice platform. Subsection (b) designates the comptroller only for the newspaper publication option. No equivalent designation exists for electronic posting.

No direction is given to any agency to adopt technical standards governing the format or accessibility of posted notices. Without a rulemaking mandate, those standards will not exist when the authorization takes legal effect. A notice posted as an image-only scanned PDF, which is incompatible with assistive technology used by individuals with visual disabilities, would satisfy HD1 as written. Those standards belong in rules, not in the statute, but HD1 does not require that rules be adopted.

No reviewing authority is designated to verify that posted notices comply with applicable law. The Office of Information Practices does not perform that function for Sunshine Law notices. Its stated role is limited to confirming that a posting occurred, not whether what was posted meets substantive legal requirements. OIP publishes some guidance on electronic notice requirements. Agencies have told me directly that the existing guidance is not helpful for practical implementation. Current postings on the State Calendar reflect that assessment.

No website failure protocol addresses what happens when the government website is inaccessible during the required six-day notice period. HD1 does not require extension of the notice period, certified timestamps, or uptime logging.

No modification prohibition prevents silent alteration of a posted notice. HD1 does not require a formal correction protocol or restart of the notice period if a notice is changed after posting.

The phrase “other electronic means” in subsection (f) remains undefined. It is unclear what platforms constitute sufficient electronic access for the public.

Calendar day is not defined. The Office of Information Practices has interpreted a day under public meetings law as any portion of a day. Under that interpretation, a notice posted one second into the sixth day before a required action satisfies the six-day requirement. HD1 does not address this.

#### **IV. The State Calendar Is Not Ready**

HD1 designates the State Calendar as a platform for electronic notice. That platform was designed for Sunshine Law meeting notices of state boards and commissions. It was not designed for legal notices of the kind HD1 would require.

The State Procurement Office has confirmed that the State Calendar would require redesign to accommodate legal notices. Searching Hawaii.gov for legal notices is operationally unworkable. Any document containing the words “legal notices” in its text would be returned in search results, producing an unmanageable volume of results.

The State Calendar operates under a contract with Tyler Hawaii, managed through the State’s internet portal under the oversight of the Access Hawaii Committee, which is established under HRS chapter 27G and administratively attached to the Office of Enterprise Technology Services. The Access Hawaii Committee has statutory authority under section 27G-4 to review and approve service level agreements negotiated by government agencies with the portal manager. Any expansion of the State Calendar to accommodate legal notices would require modification of the existing service level agreement. HD1 does not direct the Access Hawaii Committee to review whether the current agreement supports the expanded use contemplated by the bill, or to approve any modifications required to make it do so. ETS has existing statutory authority under section 27-43, Hawaii Revised Statutes, to develop and implement statewide information technology governance and technology standards applicable to all executive branch agencies, and to adopt rules pursuant to chapter 91 necessary for those purposes. That authority extends to the technical standards, platform specifications, and accessibility compliance procedures governing state electronic systems used to provide public access to government information. ETS has neither testified on this bill nor requested appropriations for platform modifications. The Legislature is being asked to authorize a new method of notice that falls squarely within ETS’s existing statutory mandate without any input from that agency. It is unknown whether the cost of those modifications has been assessed.

HD1 contains no appropriation and no request for funding to implement the required platform changes. The State Calendar requires redesign. The service level agreement with Tyler Hawaii may require modification. County websites may require upgrades to meet applicable standards. None of this is funded. It is also unknown whether counties have budgeted for these changes, intend to rely on the State to establish the infrastructure, or have any plan for implementation.

The experience of the Sunshine Law transition is directly instructive. When Hawaii last expanded electronic notice requirements under chapter 92, government boards struggled to comply despite months of advance preparation by OIP. Civil Beat reported in February 2022 that several board meetings were canceled immediately after the new requirements took effect due to non-functioning links and missing required information on posted agendas. OIP acknowledged receiving complaints. That article is available at <https://www.civilbeat.org/2022/02/government-boards-struggle-to-adapt-to-hawaiis-new-open-meetings-law/>. The Sunshine Law framework is narrower than what HD1 proposes, covers only public meeting notices, has an established oversight body, and had published guidance in place before implementation. It still produced documented compliance failures. HD1 proposes to extend electronic notice to a broader and higher-stakes category of government actions without a comparable framework in place.

Independent review of Sunshine Law notices currently posted on the State Calendar reveals that compliance problems persist. The State Calendar is the precise platform HD1 proposes to rely

upon for procurement notices, zoning proceedings, condemnation actions, and foreclosure proceedings. A defective notice in those contexts carries direct legal consequences for parties with significant financial and property interests and is substantially more likely to produce legal challenges than a defective Sunshine Law meeting notice.

## **V. Federal ADA Compliance**

New Department of Justice regulations under Title II of the Americans with Disabilities Act impose specific digital accessibility requirements on state and local governments. These regulations take effect on April 24, 2026. The committee is considering HD1 seventeen days before those requirements take effect.

The DOJ Title II regulations apply to state and local governments independently of HD1. If HD1 passes and agencies begin posting legal notices electronically, those notices will be subject to those federal requirements. Whatever effective date JHA inserts, HD1 contains no implementing framework to ensure that electronically posted notices comply with applicable federal accessibility requirements. If the bill takes effect before April 24, 2026, notices posted under it will be subject to existing ADA obligations without state guidance. If it takes effect after April 24, 2026, those notices will additionally be subject to the more specific technical standards established by the new DOJ regulations. In either case, the absence of a rulemaking mandate leaves agencies without guidance on what federal accessibility compliance requires.

Review of RFPs published on the State Procurement Office website has documented two incidents in which procurement notices were posted as image-only scanned PDFs incompatible with screen-reading software. In one case, an RFP targeting individuals with visual disabilities was posted in an inaccessible format to the very population it was intended to serve. SPO was notified of the ADA violation. The procurement continued and a contract was awarded. In a second case, SPO withdrew and corrected an identically defective posting upon notification. These cases demonstrate that agencies recognize the defect as a legal error.

HD1 contains no direction to any agency to adopt rules governing document format requirements or technical accessibility standards. Those standards belong in rules. HD1 does not require that rules be adopted. A notice posted in an inaccessible format may already constitute a violation of the ADA under existing law. Notices posted after April 24, 2026 will additionally be subject to the more specific technical standards established by the new DOJ regulations. A notice that satisfies HD1 but fails those standards may render the underlying government action legally voidable.

The physical copy requirement in subsection (e) does not cure this problem. A physical copy does not satisfy the ADA's effective communication standard for an individual who cannot read print. Digital accessibility is a legal requirement, not a convenience.

## **VI. Suggested Amendment**

I support HD1's objective. I propose that the committee amend HD1 to condition the legal sufficiency of electronic notice on the prior adoption of implementing rules. A suggested HD2 reflecting this amendment is attached as Exhibit A. This approach separates the authorization, which belongs in the statute, from the technical implementation standards, which are regulatory in nature and belong in rules adopted through a public process.

This legislative model has been adopted this session in other measures addressing digital technology and accessibility. It is the appropriate structure here for the same reasons. Technical standards, platform specifications, accessibility requirements, and compliance procedures must be capable of updating as technology and federal requirements evolve, without returning to the Legislature each time a change is needed. This is a practical advantage of the rulemaking model that is directly relevant here. Digital accessibility standards and platform capabilities are subject to ongoing federal development. Rules adopted under chapter 91, Hawaii Revised Statutes, can be amended as those standards evolve without additional legislation. Rulemaking under chapter 91 also provides the mechanism for public participation by agencies, disability advocates, county governments, and other interested parties before the standards take effect.

I recommend that the statute address two matters.

**First, confirm the authorization.** Electronic posting on an official state or county website or electronic calendar is a legally sufficient method of public notice, subject to rules adopted pursuant to this section.

**Second, direct rulemaking.** ETS, in consultation with the Access Hawaii Committee, shall adopt rules pursuant to chapter 91, Hawaii Revised Statutes, governing the implementation of electronic notice under this section before the authorization takes legal effect. ETS has existing statutory authority under section 27-43, Hawaii Revised Statutes, to develop and implement statewide information technology governance and technology standards applicable to all executive branch agencies, and to adopt rules pursuant to chapter 91 necessary for those purposes. That authority extends to the technical standards, platform specifications, document format requirements, and accessibility compliance procedures that govern state electronic systems used to provide public access to government information. The rules required to implement electronic notice under this Act are technical in nature and fall within that existing mandate. Those rules shall address document format requirements, technical accessibility standards consistent with applicable federal requirements, platform specifications and maintenance responsibilities, a review of the existing service level agreement with the portal manager to determine what modifications are required to accommodate legal notices, posting verification and certified timestamping, modification and correction protocols, website failure and notice period extension procedures, a definition of calendar day, and standards applicable to county websites. The Access Hawaii Committee shall review and approve any modifications to the service level agreement with the portal manager required to implement this section.

Document format requirements should include, as an example, a requirement that notices be posted in PDF/A format. PDF/A is an ISO-standardized format that ensures a document displays consistently regardless of the platform or software used to view it. The Senate currently posts bills in PDF/A format on the capitol website, where they are available for public review, demonstrating that PDF/A is a workable standard for official Hawaii government documents. Requiring it for electronically posted public notices through ETS rulemaking is consistent with that existing practice. Legal notices posted in formats that render differently on different computers or devices could create uncertainty about the content of the notice and undermine the legal reliability of the posting. PDF/A also supports machine-readable text, which is a prerequisite for compatibility with screen-reading software used by individuals with visual disabilities.

The statute should further provide that electronic posting constitutes legally sufficient notice only when made in compliance with rules adopted pursuant to this section.

This structure protects the public by ensuring that electronic notice meets defined standards before it is treated as legally sufficient. It protects government entities by providing clear guidance on what compliance requires before they are exposed to legal challenge. It ensures that the platform modifications necessary to make electronic notice operational are assessed, funded, and approved before the authorization takes effect. It does not prevent modernization. It conditions modernization on the adoption of the framework that makes it workable.

## **VII. Suggestions for Committee Consideration**

I support the modernization of public notice requirements. Electronic posting can be one method of providing public notice. The focus of the legislative discussion on cost and operational convenience does not address the legal framework necessary to make that method reliable for all residents, including those with disabilities, those in areas with limited internet access, and those with significant legal and financial interests in the proceedings HD1 covers.

HD1 as currently drafted authorizes electronic notice without establishing the conditions under which that authorization is legally workable. The State Calendar has documented compliance problems under its current, narrower use. ETS has not testified on this bill and has not requested appropriations for implementation. The Access Hawaii Committee has not been directed to review the existing service level agreement with the portal manager. No funding has been identified for the platform modifications the bill requires. No agency has been directed to adopt the technical standards, accessibility requirements, and compliance procedures that determine whether electronic notice is legally sufficient.

The amendment I propose does not delay modernization. It conditions the authorization on the prior adoption of rules that make electronic notice legally reliable and on the assessment and approval of the platform modifications necessary to implement it. That is the appropriate sequence. The authorization belongs in the statute. The framework that gives the authorization legal force belongs in rules adopted through a public process before implementation begins.

I am available to discuss these comments with the committee or with staff.

Respectfully submitted,

Peter L. Fritz  
T-Mobile Relay: (808) 568-0077  
Email: [plflegis@fritzhq.com](mailto:plflegis@fritzhq.com)

**EXHIBIT A**  
**SUGGESTED HD2 — WORKING DRAFT FOR COMMITTEE CONSIDERATION**  
**NOT REVIEWED BY THE LEGISLATIVE REFERENCE BUREAU**

**S.B. NO. 2929**  
**S.D. 1**  
**H.D. 2**

**A BILL FOR AN ACT**

**RELATING TO PUBLIC NOTICE.**

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

*NOTE: Bracketed and stricken material is deleted from HD1. Underscored material is new in HD2. All other material is carried forward from HD1 without change. This draft has not been reviewed by the Legislative Reference Bureau. Section numbering and subsection designations are placeholders pending LRB assignment.*

**SECTION 1.** The legislature finds that existing law requires publication of government notices in newspapers of general circulation. These requirements were adopted before widespread electronic access and no longer reflect the most efficient or accessible means of informing the public.

The legislature further finds that posting notices on official state and county websites provides greater transparency, accessibility, and timeliness. Aligning public notice requirements with the Sunshine Law will modernize state communications and ensure consistent public access to government information.

The legislature further finds that the technical standards, platform specifications, accessibility requirements, and compliance procedures necessary to implement electronic notice requirements are regulatory in nature. These matters are best addressed through administrative rulemaking, which allows for public participation by government agencies, persons with disabilities, county governments, and other interested parties, and allows for updating as technology and applicable federal requirements evolve.

The legislature further finds that the State Calendar, which serves as the existing platform for electronic posting of public meeting notices under chapter 92, Hawaii Revised Statutes, was not designed to accommodate the broader category of legal notices that would be authorized by this Act, and that the service level agreement between the State and the portal manager may require modification before the State Calendar can serve that expanded function.

The legislature further finds that the Office of Enterprise Technology Services has existing statutory authority under section 27-43, Hawaii Revised Statutes, to develop and implement statewide information technology governance and technology standards

applicable to all executive branch agencies, and to adopt rules pursuant to chapter 91 necessary for those purposes. That authority extends to the technical standards, platform specifications, document format requirements, and accessibility compliance procedures governing state electronic systems used to provide public access to government information. The rules required to implement electronic notice under this Act are technical in nature and fall within the existing statutory mandate of the Office of Enterprise Technology Services. The legislature further finds that the Access Hawaii Committee, established under chapter 27G, Hawaii Revised Statutes, has statutory authority under section 27G-4 to review and approve service level agreements with the portal manager, and that its review and approval is required before any modification to the existing state portal service level agreement may take effect.

The legislature further finds that the Department of Justice has issued final regulations under Title II of the Americans with Disabilities Act establishing specific digital accessibility requirements applicable to state and local governments, and that electronic notices posted by government agencies must comply with those requirements to be legally sufficient.

The purpose of this Act is to:

- (1) Authorize government agencies to satisfy public notice requirements by electronic posting on official state or county websites or electronic calendars, while preserving traditional publication as an option; and
- (2) Direct the Office of Enterprise Technology Services, in consultation with the Access Hawaii Committee, to adopt rules governing the implementation of electronic notice under this Act before the electronic notice authorization takes legal effect, to ensure that electronic notice is legally reliable, technically accessible, and operationally workable for all residents.

**SECTION 2.** Section 1-28.5, Hawaii Revised Statutes, is amended to read as follows:

§1-28.5 ~~[Publication of]~~ Public notice. (a) Notwithstanding any other statute, law, charter provision, ordinance, or rule to the contrary, whenever a government agency is required to give public notice or to publish notice, the notice shall be given ~~[only]~~ as follows:

- (1) For statewide ~~[publication:]~~ notice:
  - (A) ~~[In a daily or weekly publication of statewide circulation;]~~ By posting the notice on an electronic calendar or website maintained by the State, subject to rules adopted pursuant to subsection (j); or
  - (B) ~~[By]~~ In a daily or weekly publication of statewide circulation, or by publication in separate daily or weekly publications whose combined circulation is statewide; and
- (2) For county-wide ~~[publication, by]~~ notice:
  - (A) By posting the notice on an electronic calendar or website maintained by the appropriate county, subject to rules adopted pursuant to subsection (j); or

(B) By publication in a daily or weekly publication in the affected county.

(b) For purposes of this section, when an agency chooses to post public notices in a newspaper or other publication described in subsection (a)(1)(B), the comptroller pursuant to chapter 103D shall determine a publication for all government agencies to enable the public to go to one source of publication for published public notice on each island.

(c) Whenever a public notice is published in a newspaper or other publication ~~[described in subsection (a),]~~ proof of the publication shall be the affidavit of the printer, publisher, principal clerk, or business manager of the newspaper or other publication or of the designated agent of the group that published the notice.

(d) Unless otherwise provided by law, notice shall be posted or published no less than six calendar days, as defined in rules adopted pursuant to subsection (j), before the required action, meeting, or effective date.

(e) Each agency shall maintain a physical copy of all public notices in its office for public inspection during regular business hours.

(f) Additional supplemental notice may also be given through other electronic means consistent with rules adopted pursuant to subsection (j).

(g) This section shall not apply to notices required by chapters 103D, 103F, 127A, and 523A; provided that government agencies subject to those chapters may, in addition to any notice required under those chapters, provide supplemental notice by electronic posting pursuant to subsection (a), subject to rules adopted pursuant to subsection (j).

(h) Nothing in this section shall be construed to supersede, alter, or diminish any specific notice requirement imposed by any other law, including but not limited to requirements specifying the medium, frequency, duration, or manner of publication. Where another statute imposes a more specific notice requirement that conflicts with this section, the more specific requirement shall control unless that statute expressly provides otherwise.

(i) For purposes of this section, "government agency" means each department, board, commission, or officer of the State or any of its political subdivisions.

(j) Electronic notice; rulemaking; effective date.

(1) The office of enterprise technology services shall adopt rules pursuant to chapter 91, Hawaii Revised Statutes, governing the implementation of electronic notice under subsections (a)(1)(A) and (a)(2)(A). The rules shall be adopted in consultation with the Access Hawaii Committee established under chapter 27G, Hawaii Revised Statutes. In conducting rulemaking under this subsection, the office of enterprise technology services shall solicit public comment from government agencies, persons with disabilities, disability advocacy organizations, county governments, and other interested parties.

(2) The rules adopted pursuant to this subsection shall address:

(A) Document format requirements for electronically posted notices, including a requirement that notices be posted in PDF/A format, which is an ISO-standardized format that ensures documents display consistently regardless of the platform or software used to view them and that supports machine-readable text compatible with screen-reading software;

(B) Technical accessibility standards for electronically posted notices, consistent with applicable federal requirements including the web accessibility framework established by the United States Department of Justice under Title II of the Americans with Disabilities Act;

(C) Platform specifications and maintenance responsibilities for state and county electronic notice platforms;

(D) Posting verification procedures, including requirements for certified digital timestamps and records of website uptime during the notice period;

(E) Modification and correction protocols, including requirements for formal notice of correction and restart of the notice period when a posted notice is altered after posting;

(F) Website failure protocols, including requirements for extension of the notice period when an electronic notice platform is inaccessible for any portion of the required notice period;

(G) A definition of calendar day for purposes of subsection (d);

(H) Standards applicable to county electronic notice platforms to ensure consistency with state requirements; and

(I) Any other matters necessary to ensure that electronic notice posted pursuant to this section is legally sufficient and accessible to all members of the public.

(3) Prior to or concurrent with the adoption of rules under this subsection, the office of enterprise technology services shall assess whether the existing service level agreement between the State and the portal manager, as defined in chapter 27G, Hawaii Revised Statutes, requires modification to accommodate the electronic posting of legal notices pursuant to this section. Any required modification to the service level agreement shall be submitted to the Access Hawaii Committee for review and approval pursuant to section 27G-4, Hawaii Revised Statutes, before taking effect.

(4) Electronic posting pursuant to subsections (a)(1)(A) and (a)(2)(A) constitutes legally sufficient notice only when made in compliance with rules adopted pursuant to this subsection.

(5) Subsections (a)(1)(A) and (a)(2)(A) shall not take effect until the office of enterprise technology services has adopted rules pursuant to this subsection and has filed those rules with the office of the lieutenant governor in accordance with chapter 91, Hawaii Revised Statutes.”

**SECTION 3.** Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

**SECTION 4.** This Act shall take effect on July 1, 3000.

**Report Title:**

Public Notices; Electronic Posting

**Description:**

Allows government agencies to satisfy public notice requirements by posting notices on official state or county websites or electronic calendars, while retaining publication as an option. Directs the Office of Enterprise Technology Services, in consultation with the Access Hawaii Committee, to adopt rules governing the implementation of electronic notice before the authorization takes legal effect. Rules shall address document format requirements including PDF/A format, technical accessibility standards consistent with applicable federal requirements, platform specifications, posting verification procedures, modification and correction protocols, website failure protocols, a definition of calendar day, and standards applicable to county electronic notice platforms. Requires assessment and approval of any required modification to the state portal service level agreement. Provides that electronic posting is legally sufficient only when made in compliance with implementing rules, and that the electronic posting provisions do not take effect until those rules are adopted and filed. Effective 7/1/3000. (HD2)

**Drafting Notes**

First, the Ramseyer format shows only the changes between HD1 and HD2. Material carried forward from HD1 without change is shown without markup. New material added in HD2 is underscored. Material deleted from HD1 is shown in brackets with strikethrough.

Second, the principal additions in HD2 are the new findings in Section 1, the addition of the phrase “subject to rules adopted pursuant to subsection (j)” in subsections (a)(1)(A), (a)(2)(A), (d), (f), and (g), and the entirely new subsection (j) governing rulemaking, legal sufficiency, and the effective date trigger for the electronic posting provisions.

Third, the effective date of July 1, 3000 is carried forward from HD1 as a placeholder. The operative trigger for the electronic notice provisions is the adoption and filing of rules by ETS under subsection (j)(5), not the nominal effective date of the Act.

Fourth, the Legislative Reference Bureau should review section numbering, subsection designations, and incorporation by reference language before this draft is formally introduced. All designations are placeholders pending LRB assignment.

Fifth, this draft has not been reviewed by the Legislative Reference Bureau and is presented as a working document for committee consideration.