

# HB 1209, HD1 Testimony

**Measure Title:** RELATING TO THE LEGISLATIVE BROADCAST PROGRAM.

**Report Title:** Public Access Room; Legislative Broadcast Program; Record (§)

**Description:** Requires the legislative broadcast program to make an audio or audiovisual recording of all public hearings and informational briefings held at the State Capitol, and maintain an archive of the recordings to be made available to the public. Appropriates funds. Effective July 1, 2030. (HB1209 HD1)

**Companion:**

**Package:** None

**Current Referral:** TEC, WAM

**Introducer(s):** OSHIRO, AQUINO, HAR, JORDAN, SAY

**From:** [mailinglist@capitol.hawaii.gov](mailto:mailinglist@capitol.hawaii.gov)  
**To:** [TECTestimony](#)  
**Cc:** [Merlita Bala](#)  
**Subject:** Submitted testimony for HB1209 on Mar 19, 2013 13:25PM  
**Date:** Thursday, March 14, 2013 1:23:47 PM  
**Attachments:** [2013 HB1209 HD1 TEC & ATTACH FINAL.pdf](#)

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**HB1209**

Submitted on: 3/14/2013

Testimony for TEC on Mar 19, 2013 13:25PM in Conference Room 414

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Charlotte Carter-Yamauchi	Legislative Reference Bureau	Comments Only	No

Comments: Please see attached pdf file for comments.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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Charlotte A. Carter-Yamauchi  
Acting Director

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LEGISLATIVE REFERENCE BUREAU  
State of Hawaii  
State Capitol  
415 S. Beretania Street, Room 446  
Honolulu, Hawaii 96813

## Written Comments

### **HB1209, HD1**

### **RELATING TO THE LEGISLATIVE BROADCAST PROGRAM**

Comments by the Legislative Reference Bureau  
Charlotte A. Carter-Yamauchi, Acting Director

Presented to the Senate Committee on Technology and the Arts

Tuesday, March 19, 2013, 1:25 p.m.  
Conference Room 414

Chair Wakai and Members of the Committee:

Good afternoon Chair Wakai and members of the Committee, my name is Charlotte Carter-Yamauchi and I am the Acting Director of the Legislative Reference Bureau. Thank you for providing the opportunity to submit written comments on H.B. No. 1209, H.D. 1, Relating to the Legislative Broadcast Program.

The purpose of this bill is to:

- (1) Require the Legislative Broadcast Program to make an audio or audiovisual recording of all public hearings and informational briefings held at the State Capitol and maintain an archive of the recordings, to be made available to the public; and
- (2) Appropriate unspecified sums in general funds in fiscal years 2013-2014 and 2014-2015 to the Legislative Reference Bureau for the purchase of necessary recording equipment, archival materials, and the hiring of necessary staff.

While the Legislative Reference Bureau takes no position on this measure, we submit the following comments for your consideration.

As you know, the Legislative Broadcast Program was established pursuant to section 21G-3, Hawaii Revised Statutes. According to that law, while the Legislative Broadcast Program was established as part of the Legislature's permanent public access program, the supervision of the Legislative Broadcast Program was vested with the Joint Legislative Access Committee established pursuant to section 21D-6, Hawaii Revised Statutes.

Neither the Bureau nor the Public Access Room, which is maintained by the Bureau, has any statutory authority over, or responsibility for, the Legislative Broadcast Project. Rather, as a matter of historical practice, the Public Access Room simply implements the broadcast directives of the respective chambers. More specifically, according to the Legislative Broadcast Project contract, the Public Access Room Coordinator acts as the contract administrator of the Capitol TV program and is responsible for overseeing the contract, including system operations, fiscal agent operations, and monitoring and assessing contractor performance. In practice, the Public Access Room Coordinator primarily identifies and schedules certain legislative hearings to be recorded and broadcast, and reconciles the billing for services rendered by the contractor. (Historically, the House vests the identification, scheduling, recording, and broadcasting of its proceedings in the Vice Speaker's office.) The Bureau and the Public Access Room have no real control over the management of the Legislative Broadcast Program, nor do we have any experience with the negotiation of the contract for the services provided by Olelo and its contractor, Access Services Corporation, which conducts the actual recording of legislative proceedings.

The Bureau has historically received no moneys to execute the foregoing responsibilities delegated to it by the respective chambers for the Legislative Broadcast Project, and has not been involved in the "front end" formulation and negotiation of the parameters of Legislative Broadcast Program contract. Instead, it is our understanding that each house of the Legislature budgets approximately \$87,500 of its own moneys each year for the Legislative Broadcast Program and jointly contracts with Olelo and its contractor for the recording and broadcast services.

It is also our understanding that currently, a program to allow broad public access to recorded legislative proceedings via the Internet already exists. Since 2009 in the Senate, and 2011 in the House, all legislative proceedings that have been selected to be recorded and broadcast by the Legislative Broadcast Project have been uploaded to the Internet and are available for viewing, at any time and from any location, by the general public. The links to each chamber's recorded proceedings can be accessed from the Legislature's website and found at [http://olelo.granicus.com/ViewPublisher.php?view\\_id=13](http://olelo.granicus.com/ViewPublisher.php?view_id=13) (Senate Webstreaming) and [http://olelo.granicus.com/ViewPublisher.php?view\\_id=31](http://olelo.granicus.com/ViewPublisher.php?view_id=31) (House Webstreaming). The Bureau has had no involvement with the formulation, contracting, or execution of this pilot project to date.

In contrast, this bill, as currently drafted, seems to contemplate a physical archiving of recorded documents and a physical location (the Public Access Room) where constituents may borrow and review archived material. That would mean that if a constituent wanted to view a particular recorded legislative proceeding, the constituent would have to visit the Public Access Room in person to view it. As a practical matter, the Public Access Room and the Bureau's Library lack the physical space to house and maintain recording equipment and additional archived material. If the intent of the measure is to provide access to all legislative proceedings to as broad a constituency as possible, then this proposed method would fall well short of the audience that the existing House/Senate webstreaming pilot project potentially reaches.

In addition, we would like to note that if, in the future, these recordings are to become electronically accessible by posting the recordings on the Legislature's website, then there are certain operational and equipment issues that must first be addressed. If the recordings are to be accessed through the Legislature's website (a site that the Bureau has no control over), the additional electronic traffic could have a significant adverse impact on the speed of the Legislature's integrated computer systems (the current webstreaming project does not reside on the Legislature's system and therefore, any use of the electronic documents uploaded to the [olelo.granicus.com](http://olelo.granicus.com) site has no adverse impact on the Legislature's integrated computer systems). This issue would need to be resolved prior to moving forward with such an initiative.

Finally, since a significant portion of what this bill is seeking to accomplish is already being accomplished by an existing pilot project that reaches, at the very least, a statewide audience, it would seem more efficacious to expand the existing pilot project to include all proceedings of each chamber. We would like to note that if the pilot project is to be expanded, we estimate the cost, excluding the cost of any additional recording equipment, to be in excess of \$3,000,000. (See attached estimate.)

Thank you again for this opportunity to provide written comments.

Attachment

## **ROUGH COST ESTIMATE FOR EXPANSION OF THE EXISTING LEGISLATIVE BROADCAST PROGRAM TO INCLUDE THE RECORDING OF ALL LEGISLATIVE PROCEEDINGS AT THE STATE CAPITOL DURING A REGULAR SESSION**

The cost to expand the Legislative Broadcast Program to include the recording of all proceedings of the Legislature at the State Capitol during a given regular session, as envisioned under H.B. No. 1209, is estimated to be at just over \$3,000,000.

### **Method of Calculation**

We arrived at the figure by first dividing the \$175,000 that is appropriated under the Legislature's budget act each year and divided that amount by 350 hours of broadcast recording time that the appropriation has historically purchased from the contractor, Access Services Corporation. The product of that calculation comes out to \$500 per recorded hour.

We then determined that there are currently thirty-five standing committees for both the House and Senate. For the purposes of creating this cost estimate, we estimated that each committee would have a recording allocation of eight hours per week. Since the current regular session is approximately 15.5 weeks long, we first multiplied the number of total standing committees (35), by the allocated recording hours per week (8), and then multiplied that amount by 15.5 (weeks). That amount came out to 4,340.

We then estimated that each session day (48) would require approximately 1.5 hours of recording time. Consequently, we multiplied the two numbers and arrived at an estimate of seventy-two recording hours for all floor sessions, multiplied by two (House and Senate). That estimate came out to 144 recording hours.

We then added the total estimated committee recording hours (4,340) to the total estimated floor session hours (144) and came to the sum of 4,484 estimated recording hours. That number was multiplied by \$500 (approximate cost per recording hour), which resulted in an amount of \$2,242,000.

In the abundance of caution, we then included closed captioning costs at \$175 hour by multiplying the total estimated recording hours (4,484) by \$175, which resulted in an amount of \$784,700. We then added the total estimated recording cost (\$2,242,000) to the estimated closed captioning cost (\$784,700), which resulted in the sum of \$3,026,700.

### **Other Cost Factors**

We note that this estimate does not include any hardware costs that would need to be incurred by the contractor, Olelo, or the Department of Commerce and Consumer Affairs to purchase the necessary camera and recording equipment for the House and Senate chambers, the auditorium, and every single conference room in the State Capitol that hosts a public hearing. Those costs would probably be significant as well, but we have no information on the cost of such equipment.

Charlotte A. Carter-Yamauchi  
Acting Director

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State of Hawaii  
State Capitol  
415 S. Beretania Street, Room 446  
Honolulu, Hawaii 96813

## Written Comments

### **HB1209, HD1**

### **RELATING TO THE LEGISLATIVE BROADCAST PROGRAM**

Comments by the Legislative Reference Bureau  
Charlotte A. Carter-Yamauchi, Acting Director

Presented to the Senate Committee on Technology and the Arts

Tuesday, March 19, 2013, 1:25 p.m.  
Conference Room 414

Chair Wakai and Members of the Committee:

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In addition, we would like to note that if, in the future, these recordings are to become electronically accessible by posting the recordings on the Legislature's website, then there are certain operational and equipment issues that must first be addressed. If the recordings are to be accessed through the Legislature's website (a site that the Bureau has no control over), the additional electronic traffic could have a significant adverse impact on the speed of the Legislature's integrated computer systems (the current webstreaming project does not reside on the Legislature's system and therefore, any use of the electronic documents uploaded to the [olelo.granicus.com](http://olelo.granicus.com) site has no adverse impact on the Legislature's integrated computer systems). This issue would need to be resolved prior to moving forward with such an initiative.

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Thank you again for this opportunity to provide written comments.

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## DISABILITY AND COMMUNICATION ACCESS BOARD

919 Ala Moana Boulevard, Room 101 • Honolulu, Hawaii 96814  
Ph. (808) 586-8121 (V/TDD) • Fax (808) 586-8129

March 19, 2013

### TESTIMONY TO THE SENATE COMMITTEE ON TECHNOLOGY AND THE ARTS

#### House Bill 1209, HD1 – Relating to the Legislative Broadcast Program

The Disability and Communication Access Board (DCAB) takes no position on House Bill 1209, HD1 – Relating to the Legislative Broadcast Program but offers comments. This bill requires the legislative broadcast program to make an audio or audiovisual recording of all public hearings and informational briefings held at the State Capitol, and maintain an archive of the recordings to be made available to the public; appropriate funds; and becomes effective July 1, 2030.

House Standing Committee Report 182 contained a statement that the Committee on Legislative Management was unclear as to whether closed captioning is legally required and requested the House Committee on Finance to consider this concern. Under the Americans with Disabilities Act (ADA), the requirement under Title II is for State government to provide effective communication to programs and services for individuals with disabilities. The program or service involved is Legislative audio or audiovisual recordings. Effective communication could be:

- written transcripts for an audio recording, or
- open or closed captioning for the audiovisual recordings.

Our office is available to offer technical assistance to ensure access for individuals with disabilities utilizing material in this format.

Thank you for the opportunity to testify.

Respectfully submitted,

BARBARA FISCHLOWITZ-LEONG  
Chairperson

FRANCINE WAI  
Executive Director

**From:** [mailinglist@capitol.hawaii.gov](mailto:mailinglist@capitol.hawaii.gov)  
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**Cc:** [clim@commoncause.org](mailto:clim@commoncause.org)  
**Subject:** Submitted testimony for HB1209 on Mar 19, 2013 13:25PM  
**Date:** Monday, March 11, 2013 11:57:15 AM  
**Attachments:** [HB1209 \(TEC\) - Testimony of Support - Common Cause Hawaii.pdf](#)

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**HB1209**

Submitted on: 3/11/2013

Testimony for TEC on Mar 19, 2013 13:25PM in Conference Room 414

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Carmille Lim	Common Cause Hawaii	Support	No

Comments:

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Senate Committee on Technology and the Arts  
Chair Glenn Wakai, Vice Chair Clarence Nishihara

Tuesday 03/19/13 at 01:25PM in Room 414  
HB1209 HD1– Relating to the Legislative Broadcast Program

TESTIMONY

Carmille Lim, Executive Director, Common Cause Hawaii

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Dear Chair Glenn Wakai, Vice Chair Clarence Nishihara, and members of the Senate Committee on Technology and the Arts:

**Common Cause Hawaii supports HB1209 HD1.** This bill would allow for audio or audiovisual recording of all public hearings and informational briefings held at the state Capitol, and would maintain the recordings in archive, and make them available to the public.

Common Cause would also like to suggest that the recordings be made available for viewing on demand after a reasonable time of 72 hours, after each hearing.

We believe that this bill would be a good step toward including members of the public, who are otherwise unable to attend public hearings, in our policy-making discussions.

**Thank you for the opportunity to testify in support of HB1209 HD1.**

PETER L. FRITZ  
200 NORTH VINEYARD BOULEVARD, #430  
Honolulu, Hawaii 96817  
Telephone: 1711 Call Me: 808.568.0077  
E-mail: plflegis@fritzhq.com

THE SENATE  
THE TWENTY-SEVENTH LEGISLATURE  
REGULAR SESSION OF 2013

COMMITTEE ON TECHNOLOGY AND THE ARTS  
Hearing March 19, 2013  
Time 1:25 PM  
Conference Room 414  
Testimony on H.B. 1209 HD2

(RELATING TO THE LEGISLATIVE BROADCAST PROGRAM)

Chair Wakai, Vice Chair Nishihara and members of the Committee, my name is Peter Fritz. I am an attorney and an individual with a disability. I am **offering comments** regarding H.B. 1209 HD1.

Standing Committee Report Number 182 stated that “it is unclear whether closed captioning is legally required” for the broadcasts and archives contemplated by this bill.

I respectfully request that this Committee take notice that under Title II of the Americans with Disabilities Act (“ADA”), all state and local governments are required to take steps to ensure that their communications with people with disabilities are as effective as communications with others. (See: Department of Justice Nondiscrimination on the Basis of State and Local Government Services Regulations, 28 C.F.R. Part 35, § 35.160.)

The effective communication requirement also covers public television programs and videos produced by a public entity. (See: 28 C.F.R. §§ 35.104, 35.160, 35.161.). Accordingly, public television programs or videos must be accessible to people with disabilities. A common way of making them accessible to people who are unable to hear the audio portion of these productions is closed captioning. For persons who are blind or have low vision, detailed audio description may be added to describe important visual images.

In determining the amount of any appropriation, I would request that the Committee consider that the appropriation will need to include an amount for the costs of providing the required accommodations to ensure accessibility for individuals with disabilities. In addition, language should be added to the bill requiring compliance with the ADA.

Thank you for the opportunity to testify.

Very truly yours,

  
PETER L. FRITZ

**From:** [mailinglist@capitol.hawaii.gov](mailto:mailinglist@capitol.hawaii.gov)  
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**Cc:** [OccupyHiloMedia@yahoo.com](mailto:OccupyHiloMedia@yahoo.com)  
**Subject:** \*Submitted testimony for HB1209 on Mar 19, 2013 13:25PM\*  
**Date:** Monday, March 11, 2013 12:42:37 PM

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**HB1209**

Submitted on: 3/11/2013

Testimony for TEC on Mar 19, 2013 13:25PM in Conference Room 414

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Kerri Marks	Individual	Support	No

Comments:

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**Cc:** [TABRAHAM08@GMAIL.COM](mailto:TABRAHAM08@GMAIL.COM)  
**Subject:** \*Submitted testimony for HB1209 on Mar 19, 2013 13:25PM\*  
**Date:** Saturday, March 09, 2013 10:42:55 AM

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**HB1209**

Submitted on: 3/9/2013

Testimony for TEC on Mar 19, 2013 13:25PM in Conference Room 414

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
TROY ABRAHAM	Individual	Support	No

Comments:

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**Subject:** Submitted testimony for HB1209 on Mar 19, 2013 13:25PM  
**Date:** Friday, March 08, 2013 8:23:26 PM  
**Attachments:** [HB1209-videoconf.odt](#)

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**HB1209**

Submitted on: 3/8/2013

Testimony for TEC on Mar 19, 2013 13:25PM in Conference Room 414

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Elaine D.	Individual	Support	No

Comments:

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**elaine dunbar**  
**pob 861 lihue hawaii 96766 inunyabus@gmail.com**  
javascript: \_\_doPostBack('ctl00\$ContentPlaceHolderCol1\$LinkButtonMeasure',")

**HB1209 HD1**

**SUPPORT**