UNIVERSITY OF HAWAIʻI SYSTEM
ʻŌNAEHANA KULANUI O HAWAIʻI

Legislative Testimony
Hōʻike Manaʻo I Mua O Ka ʻAhaʻōlelo

Testimony Presented Before the
House Committee on Judiciary & Hawaiian Affairs
March 17, 2026 at 2:00 p.m.
By
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SB 2312 SD1 – RELATING TO GOVERNMENT CONTRACTS.

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

The University of Hawaiʻi (UH) opposes SB 2312 SD1 which among other things, amends the Uniform Information Practices Act (UIPA) to require private entities who contract with any unit of government in the State (an "agency") to be subject to the requirements of the UIPA. Specifically, SB 2312 SD1 requires those contracting with an agency to perform an agency function to retain records following the retention schedule of that agency and to provide the agency access to the records upon request. It also establishes that all records retained by an agency function contractor shall be deemed government records for the purposes of the UIPA.

Applying UIPA requirements and record-keeping mandates to private contractors immediately raises legal, administrative, and cost concerns. The definition of "agency function" is limitless, and it is difficult to understand how the public is served by treating private contractors' internal records (including correspondence) as "government records." This bill will increase the cost of government services, as private entities will pass on the costs of administering such a program.

The bill is not clear regarding what protections, exceptions or exemptions would apply, including those existing in HRS Sections 92F-13, 92F-14 and 92F-19. Even if all of these protections are intended to apply to private entities' records, stronger exemptions for trade secrets and confidential commercial information would be needed for the private entities to participate willingly in this program.

Existing UIPA laws already cover records for contracted services, provided the agency either manages those records or has the legal right to access them under the contract. For these reasons, UH feels that this bill is unnecessary at this time.

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