

OFFICE OF INFORMATION PRACTICES

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To: Senate Committee on Government Operations

From: Cheryl Kakazu Park, Director

Date: March 14, 2024, 3:00 p.m.
State Capitol, Conference Room 225

Re: Testimony on H.B. No. 1600, H.D. 1
Relating to Open Meetings

Thank you for the opportunity to submit testimony on this bill, which would require at least six days between the board meeting at which a permitted interaction group set up by a Sunshine Law board makes its report, and the subsequent meeting at which the full board discusses and potentially takes action on the report. The Office of Information Practices (OIP) **supports** this bill to the extent it sets a clear standard consistent with OIP's interpretation of the Sunshine Law.

Subsection 92-2.5(b)(1) of the Sunshine Law allows a government board to set up what is commonly called a permitted interaction group, or PIG, of less than a quorum of members to work together outside the context of a board meeting to investigate an issue. The investigatory PIG in this particular subsection requires three separate board meetings: the first to assign the PIG members and set the scope of their investigation and authority; the second to hear their report without board discussion or decision (at which point the PIG is effectively dissolved); and the third for the full board to discuss and perhaps take action on the issue the PIG investigated. (Note that the investigatory PIG should not be confused with a

negotiating PIG established under subsection 92-2.5(b)(2), which does not have the same requirement for three meetings and is a preferred method of providing legislative testimony in a timely manner.)

Since an investigatory PIG can conduct its work without public meetings or testimony, OIP has long interpreted this provision to require a board to provide sufficient time between the second and third meetings for the public to digest the PIG's report and then testify on it before the full board's discussion and possible action on the issue at the third meeting. Otherwise, the statutory requirement for a third meeting would be pointless and the public could be fully shut out of the process. **While a full six days as proposed by this bill may not always be necessary to allow the public to respond to a PIG's report, a meeting on the same day or the day after the report is made (as boards have occasionally proposed) is clearly insufficient time to allow the public to respond. This proposal would set a clear standard for how much time must elapse** between the meeting where a PIG reports and the one at which the board discusses and acts on the report, so as to prevent efforts to circumvent the current law's requirement. OIP therefore recommends this Committee pass out the bill.

Thank you for considering OIP's testimony.



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

Thursday, March 14, 2024, 3 pm Public Hearing in Conference Room 225 on
HB 1600, HD1 RELATING TO PUBLIC AGENCY MEETINGS

TESTIMONY

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

Chair McKelvey, Vice Chair Gabbard, and Committee Members:

The League of Women Voters of Hawaii supports HB 1600, HD1.

We are comfortable with and support HB 1600, HD1. After consulting the Public First Law Center about Sec. 92-2.5(h), Hawaii Revised Statutes, we oppose SB 2637, SD1.

Thank you for the opportunity to submit testimony.



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

RE: Testimony in Support of H.B. 1600 H.D. 1, Relating to Open Meetings
Hearing: March 14, 2024 at 3:00 p.m.

Dear Chair and Members of the Committee:

My name is Ben Creps. I am a staff attorney at the Public First Law Center, a nonprofit organization that promotes government transparency. Thank you for the opportunity to submit testimony **in strong support** of H.B. 1600 H.D. 1.

The Sunshine Law has an exception to the open meetings requirement to permit a limited number of board members (permitted interaction group or “PIG”) to investigate an issue, without complying with the Sunshine Law, and report back to the board before a discussion occurs. The statute requires *three* different meetings: (1) to identify the members and scope of the investigative group; (2) for the group to report its findings; and (3) to discuss and act on the report. HRS § 92-2.5.

Over the years, boards have tried to circumvent the legislative intent that the public (and the board) have an opportunity to digest the report before any substantive discussion by scheduling back-to-back second and third meetings. Last year, for example, the City Council attempted to schedule a meeting for a group to report back on its investigation into real property tax bills with a “separate” meeting scheduled 30 minutes later to discuss and act on the report.

H.B. 1600 H.D. 1 amends HRS § 92-2.5 to clarify that the third meeting must occur at least six days after meeting second meeting. This is consistent with the Office of Information Practices’ interpretation of existing law and will promote public access and informed decision-making, while preserving boards’ ability to conduct board business through PIGs. Simply clarifying the original legislative intent, this measure ensures the public’s right to understand what happened during closed-door investigations *before* a board discusses and acts on the information.

Thank you again for the opportunity to testify in support of H.B. 1600 H.D. 1.



HB-1600-HD-1

Submitted on: 3/11/2024 8:27:57 PM

Testimony for GVO on 3/14/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
lynne matusow	Individual	Support	Written Testimony Only

Comments:

I am in full support. This should have been the law ages ago. The Honolulu City Council has gone to lengths for short public notice.

Please delete the defective effective date.