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COMMENTS

To: House Committee on Water, Land, & Ocean Resources

From: Paul T. Tsukiyama, Director

Date: February 6, 2009, 9:15 a.m.
State Capitol, Room 325

Re: Testimony on H.B. 1543
Making an Appropriation for the University of Hawaii

Thank you for the opportunity to submit testimony on H.B. 1543.

This bill would establish a Kailua Beach Erosion Task. The Office of Information Practices ("OIP") takes no position on the substance of this bill, but has a concern about the bill's provision relating to the Task Force's meeting. OIP seeks clarification of a provision beginning at page 2, line 20, of the bill, which reads

The task force shall not be subject to chapters 91 and 92, Hawaii Revised Statutes; provided that the task force shall provide the public with thirty days notice of the date and agenda for their meetings.

The Sunshine Law is only part I of chapter 92. Parts II through IV of chapter 92 relate to non-Sunshine Law issues, such as boards' general powers and quorum requirements, copy charges for public records, and publication of legal notices. If the intent of this provision is to exempt the Task Force from the Sunshine Law, OIP recommends that the bill state that the Task Force "shall not be subject to chapter 91 and part I of chapter 92."

OIP would, however, recommend that this Committee carefully consider whether it is good policy to exempt the Task Force from the Sunshine Law in light of the express policy and intent of the statute.

In a democracy, the people are vested with the ultimate decision-making power. Governmental agencies exist to aid the people in the formation and conduct of public policy. Opening up the governmental processes to public scrutiny and participation is the only viable and reasonably method of protecting the public's interest. Therefore, the legislature declares that it is the policy of this State that the formation and conduct of public policy - the discussions, deliberations, decisions, and actions of government agencies - shall be conducted as openly as possible.

Haw. Rev. Stat. §92-1 (1993).

The issues on the issue on which the Task Force is charged with making recommendations are important to the public at large. Although the bill calls for the Task Force to give thirty days public notice of its meetings (without specifying a method for doing so), the Task Force will have no obligation under this bill to allow the public to attend its meetings or to accept public testimony. Further, there is no provision for public recourse in the event that the Task Force fails to give the thirty days' notice called for in the bill. Thus, the Task Force's formation and conduct of public policy will be conducted openly only to the extent that the Task Force wishes to do so.

Thank you for the opportunity to testify.