

Amy Luke

From: Dawn.M.Shimabukuro@hawaii.gov on behalf of oip@hawaii.gov
Sent: Tuesday, February 14, 2012 1:27 PM
To: LMGtestimony
Subject: HB1611, HD1 hearing on 2/15 at 1:30 p.m. in room 423
Attachments: HB1611HD1_LTG-OIP_0-15-12_LMG.pdf

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To: House Committee on Legislative Management

From: Cheryl Kakazu Park, Director

Date: February 15, 2012, 1:30 p.m.
State Capitol, Room 423

Re: Testimony on H.B. No. 1611, H.D. 1
Relating to the Sunshine Law

Thank you for the opportunity to submit testimony in opposition to H.B. No. 1611, H.D. 1.

This bill would allow the members of a board subject to the Sunshine Law, part I of chapter 92, Hawaii Revised Statutes, to discuss board business outside a meeting either in the course of attending a public gathering or community event, or while attending professional conferences and seminars.

OIP generally supports the concepts of (1) adding a permitted interaction allowing less than a quorum of board members to attend conferences or community meeting and (2) specifically recognizing e-mail as an alternate manner of sending notices and agendas to those who have requested notification. Both of these concepts are included in one of OIP's own bills, introduced as H.B. 2597 and S.B. 2859. The House Judiciary Committee has heard and decided to hold H.B. 2597, in favor of working on the companion bill that was passed out of the Senate Judiciary Committee as S.B. 2859, S.D. 1.

Rather than contradicting the actions of another House committee and

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passing a bill with language that OIP does not support, OIP respectfully suggests that this bill be held. OIP's concerns about this bill are as follows.

Specifically, OIP believes that a permitted interaction to allow attendance at these sorts of events should also apply to legislative hearings and meetings of other boards; should be limited to less than a quorum of members, rather than allow all members to attend; should include safeguards to ensure that the event was not set up specifically for the board and that deliberation and decisionmaking are done only at a board meeting; and should require reporting back at a meeting in all cases, not just for attendance at professional seminars. OIP's proposals include these safeguards, but this bill does not. OIP is also concerned that the permitted interaction for attending public gatherings or community events does not appear to allow board members to discuss board business at such events either with other board members or with members of the public, which makes it confusing to determine what the Legislature intends to achieve by adding this permitted interaction. If board members are attending such an event but are not discussing board business, then the Sunshine Law would not apply to their participation in the event in the first place, so the bill's creation of a permitted interaction would be unnecessary.

For the e-mail notice provision, OIP's proposals add e-mail notice as an option as part of a broader set of amendments changing the official filing method from paper filing to electronic filing, which this bill would not address.

Therefore, OIP recommends that this bill be held in committee, as these concepts are progressing and will continue to be discussed in S.B. 2859, S.D.

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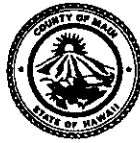
Thank you for considering OIP's testimony.

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Council Chair
Danny A. Mateo

Vice-Chair
Joseph Pontanilla

Council Members
Gladys C. Baisa
Robert Carroll
Elle Cochran
Donald G. Couch, Jr.
G. Riki Hokama
Michael P. Victorino
Mike White




Director of Council Services
Ken Fukuoka

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WAILUKU, MAUI, HAWAII 96793
www.mauicounty.gov/council

February 14, 2012

TO: The Honorable Kyle T. Yamashita, Chair
House Committee on Legislative Management

FROM: Danny A. Mateo
Council Chair 

SUBJECT: **HEARING OF FEBRUARY 15, 2012; TESTIMONY IN SUPPORT OF HB 1611,
HD1, RELATING TO THE SUNSHINE LAW**

Thank you for the opportunity to testify in support of this important measure. The purposes of this measure are to: (1) expressly allow members of a public policy deliberative body, individually or jointly, to participate in a public gathering or community event unrelated to matters currently under official deliberation or pending action, provided that the members do not engage in ex parte communications at the public gathering; (2) expressly allow members of a public policy deliberative body, individually or jointly, to participate in professional-association conferences and professional-development seminars and require the members to produce a publicly accessible report of their activities; and (3) allow notice of scheduled meetings to be delivered by electronic mail (e-mail) to interested members of the public upon request.

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. Public officials are often invited to participate in public gatherings, community events, professional-association conferences, professional-development activities, and other events. For Maui County Council members, these events may include conferences of the National Association of Counties (NACo) and the Hawaii State Association of Counties (HSAC). Currently, the Sunshine Law does not specifically address the ability of board members to attend these events.
2. Recognizing the need for more flexibility, other states, including Texas, have created similar exemptions from their open meetings laws to allow members of a board to attend social functions, conferences, or workshops, with appropriate limitations.
3. The measure will improve efficiency for both government and the public by allowing for agendas to be delivered via e-mail prior to meetings.

For the foregoing reasons, I support this measure.

Council Chair
Danny A. Mateo

Vice-Chair
Joseph Pontanilla

Council Members
Gladys C. Baisa
Robert Carroll
Elle Cochran
Donald G. Couch, Jr.
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February 14, 2012

TO: Honorable Kyle T. Yamashita, Chair
House Committee on Legislative Management

FROM: Joseph Pontanilla, Council Vice- Chair

A handwritten signature in black ink, appearing to read "J. Pontanilla", is written over the printed name.

DATE: Wednesday February 15, 2012

SUBJECT: **SUPPORT OF HB 1611, HD1 RELATING TO THE SUNSHINE LAW**

Thank you for the opportunity to testify in support of this measure. I provide this testimony as an individual member of the Maui County Council.

I support HB 1611, HD1 for the reasons cited in testimony submitted by Maui County Council Chair Danny A. Mateo and urge you to support this measure.

12:02:14:kbm/JP: HB 1611 HD1

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Council Chair
Danny A. Mateo

Vice-Chair
Joseph Pontanilla

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Director of Council Services
Ken Fukuoka

February 14, 2012

TO: Honorable Kyle T. Yamashita, Chair
House Committee on Legislative Management

FROM: Robert Carroll
Council Member, East Maui

A handwritten signature in cursive script, reading "Robert Carroll".

SUBJECT: **HEARING OF FEBRUARY 15, 2012; TESTIMONY IN SUPPORT OF HB 1611,
HD1, RELATING TO THE SUNSHINE LAW**

I SUPPORT HB 1611, HD1 for the reasons cited in testimony submitted by the Maui County Council Chair Danny Mateo, and urge you to pass this measure.

RC.mhh.12.2.14

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Council Chair
Danny A. Mateo



Director of Council Services
Ken Fukuoka

Vice-Chair
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TO: The Honorable Kyle T. Yamashita, Chair
House Committee on Legislative Management

FROM: Don Couch
Council Member, South Maui District

DATE: Tuesday, February 14, 2012

SUBJECT: **SUPPORT OF HB1611, HD1, RELATING TO THE SUNSHINE LAW**

As indicated by Maui County Council Chairman Danny Mateo, I, too, **support** the intent of this measure for the following reasons:

1. Public officials are often invited to participate in public gatherings and community events.
2. Currently, the Sunshine Law does not specifically allow two or more members of a board to attend these gatherings and events.
3. This measure will clarify that the joint participation of public officials in these gatherings and events can be permitted as long as conditions are met.

I have one concern about the measure's language. It allows for public officials to jointly attend a public gathering or community events *only* if the gathering or event "does not directly relate to any specific matter over which the board is currently exercising its adjudicatory, advisory, or legislative function." Because there are always dozens of bills and resolutions pending before county councils – and many of the bills and resolutions cover broad subject matter (such as the county general plans) – **this limitation would effectively prevent council members from attending most public gatherings and community events**, thus defeating this measure's intent. Moreover, for educational purposes (or, as Section 92-2.5(a) states "*to enable them to perform their duties faithfully*"), it is especially important for Council members to attend gatherings and events when the subject matter *does* address currently pending matters.

Therefore, I would like to propose that the text referenced above be deleted and replaced with a more appropriate limitation, using text already in use elsewhere in the Sunshine Law.

Specifically, my proposed amendment is as follows:

- Strike the following text after the semicolon in section 92-2.5(c): "provided that the public gathering or community event does not directly relate to any specific matter over which the board is currently exercising its adjudicatory, advisory, or legislative function."
- Replace the struck text with the following: "if reasonably necessary to enable them to perform their duties faithfully and as long as no commitment to vote is made or sought."

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Council Chair
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Vice-Chair
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February 14, 2012

The Honorable Kyle T. Yamashita, Chair
House Committee on Legislative Management
Hawaii State Capitol, Conference Room 423
Honolulu, Hawaii 96813

Dear Chair Yamashita:

**Re: Testimony in Support of HB 1611, HD 1 relating to the Sunshine Law
(Public Hearing on February 15, 2012 at 1:30 pm in Conference Room 423)**

As the Lana'i member on the Maui County Council, I would like to offer testimony in support of HB 1611, HD 1. This measure allows board members to attend: (1) Public gatherings and community events that are not related to any matter over which the board is currently exercising its adjudicatory, advisory, or legislative function; provided that no ex parte communications may occur; and (2) Professional-association conferences and professional-development seminars if the member produces a public report. The measure also allows notice of board meetings to be sent to persons requesting notice by e-mail

I support the proposed measure, because having elected officials and board members attend public gatherings, community events, conferences, etc. is an important part of public service to be informed about matters of interest to the community. Unfortunately, the current law has been interpreted to disallow these activities. The proposed measure would allow elected County officials and board members to better serve the community.

Thank you for the opportunity to offer this testimony in support.

Sincerely,

A handwritten signature in black ink, appearing to read "Riki Hokama", is written over a horizontal line.

Riki Hokama, Councilmember- Lana'i

cc: Council Chair Danny Mateo

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Council Chair
Danny A. Mateo

Vice-Chair
Joseph Pontanilla

Council Members
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February 14, 2012

TO: The Honorable Kyle T. Yamashita, Chair
House Committee on Legislative Management

FROM: Mike White
Council Member, Makawao - Ha'ikū - Pā'ia

SUBJECT: **HEARING OF FEBRUARY 15, 2012; TESTIMONY IN SUPPORT & COMMENTS
ON H.B. 1611 H.D. 1, RELATING TO THE SUNSHINE LAW**

Thank you for the opportunity to testify in **support** of this measure. The Maui County Council has not had the opportunity to take a formal position on this matter and therefore, I am providing this testimony in my capacity as an individual member the Council.

At the current time, members who wish to attend public or community meetings are often advised against appearing at the event if two or more members are already in attendance. The proposed amendment clarifies that multiple members are able to attend a public gathering or community event as long as it does not relate to any specific matter over which the board is currently exercising its adjudicatory, advisory or legislative function. Although the proposed language broadens permitted interactions, it **continues to restrict members from attending many events and educating themselves on pending issues.**

I believe this bill could be **improved by removing the requirement**, "...provided that the public gathering or community event does not directly relate to any specific matter over which the board is currently exercising its adjudicatory, advisory or legislative function" and replaced with "as long as no commitment to vote is made or sought and members do not participate in ex parte." This change will allow board members to **educate themselves on a broad range of issues** and interact with constituents, which is very important in Maui County where members are technically at-large.

I also support the provision in the bill allowing members of a board to individually or jointly attend professional association conferences and professional development seminars. Currently, Hawaii's Sunshine Law does not specifically address the ability of members to attend these events.

Thank you for the opportunity to support this measure.

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Feb. 14, 2012

TO: Rep. Kyle Yamashita, Chair, and James Kunane Tokioka, Vice Chair
Members of the House Committee on Legislative Management

FROM: Americans for Democratic Action/Hawaii
Barbara Polk, Legislative Chair

SUBJECT: COMMENTS ON HB 1611, HD 1

Americans for Democratic Action/Hawaii is in general support of this bill. However, we are concerned about the language on line 5, page 4, that board members may attend an event "individually or in concert," and on line 11, p. 4 that they may "individually or jointly" attend seminars or conferences. Although we doubt that it was intended by the drafter of this bill, both "in concert" and "jointly" imply that board members are attending together and acting together, which would hold potential for undermining the Sunshine law. In addition, we note that the provision for attending conferences or seminars does not include the prohibition of discussion that is invoked for public gatherings or community events.

We would like to suggest that the wording be changed as follows:

p. 4, line 5: ~~One or more~~ **Multiple** members of a board may attend ~~a the same~~ public gathering or a community event ~~individually or in concert~~

p. 4, line 11: **Multiple** members of a board may ~~individually or jointly~~ attend **the same** professional-association conferences or professional-development seminars provided **that they do not engage in discussion of board business and** that

Thank you for the opportunity to testify.

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House Committee on Legislative Management
Rep. Kyle T. Yamashita, Chair, Rep. James Kuanane Tokioka, Vice Chair

Wednesday 2/15/12 at 1:30 PM in Room 423
HB 1611, HD1 — RELATING TO THE SUNSHINE LAW

TESTIMONY

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

Chair Yamashita, Vice Chair Tokioka, and Committee Members:

The League of Women Voters supports HB 1611, H.D. 1. We are pleased that the inadequate four-day notice for public meeting has been eliminated from the earlier bill, and we are pleased that the amendment we previously offered for Section 92-2.5(c) HRS is now incorporated into the measure.

We urge you to pass this measure

Dated: February 14, 2012

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