

# LATE TESTIMONY

## OFFICE OF INFORMATION PRACTICES

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To: Senate Committee on Public Safety, Intergovernmental  
and Military Affairs

From: Cheryl Kakazu Park, Director

Date: February 17, 2015, 1:05 p.m.  
State Capitol, Conference Room 229

Re: Testimony on S.B. No. 723  
Relating to Community Meetings

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Thank you for the opportunity to submit testimony on this bill, which would allow all members of a county council to jointly attend community meetings or presentations. The Office of Information Practices ("OIP") opposes this bill. The new limited meeting provision signed into law in 2014 already allows all members of a county council to jointly attend community meetings with appropriate safeguards for the public interest, and this proposal would essentially strip away those safeguards and render the existing limited meeting provision moot.

In 2014, based on council members' expressed concerns that the Sunshine Law did not provide them a workable method to attend community meetings or presentations at which any number of council members might want to attend, a variety of topics might be raised, and it would not be practical to follow a set agenda or take public testimony, the Legislature passed H.B. 2139, H.D. 1, S.D. 1, C.D. 1, signed into law as Act 221, creating a new type of limited meeting in section 92-3.1, HRS, for any number of county council members attending a meeting open to the public as the guest of a board or community group. Under this limited

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meeting provision, the council's notice of the limited meeting is not required to include an agenda, and unless the hosting community group is itself a Sunshine Law board, there is no requirement to take oral testimony at the meeting. The Legislature included safeguards such as the requirement that no limited meeting of this sort be held outside Hawaii; that only one such meeting per community group per month be held, and that no decisions be made at the meeting. In addition, the general limited meeting requirement to videotape the meeting (unless waived by OIP) applies. The Legislature included a sunset date of June 30, 2016, for this new limited meeting provision.

To the best of OIP's knowledge, no county council has yet used this new limited meeting provision. The permitted interaction proposed by this bill would effectively render the new limited meeting provision moot by allowing any number of county council members to attend a community meeting without the safeguards built into the limited meeting provision the Legislature created last year. OIP respectfully suggests that the Legislature should wait until the county councils have had practical experience with the limited meeting provision created to address just this situation before considering alternative approaches, especially given that the 2016 sunset date means that the question of whether it should be extended and/or amended is likely to be raised in the 2016 session. Thus, OIP recommends that this Committee hold this bill.

Thank you for the opportunity to testify.



LATE TESTIMONY

Senate Public Safety, Intergovernmental and Military Affairs Committee  
Chair Will Espero, Vice Chair Rosalyn H. Baker

Tuesday 02/17/15 at 1:05PM in Room 229  
SB723 Relating to Community Meetings

TESTIMONY IN STRONG OPPOSITION  
Carmille Lim, Executive Director, Common Cause Hawaii

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Dear Chair Espero, Vice Chair Baker, and members of the Committee:

**Common Cause Hawaii strongly opposes SB723.** This bill creates a loophole in Hawaii's Sunshine Laws, which are meant to promote transparency and openness in our state.

SB723 would allow "members of a county council to jointly attend and speak at certain community meetings or presentations; provided that the meetings or presentations are events open to the public."

However, SB723 broadens existing sunshine law to allow council quorum to attend "informational meetings" or "presentations" WITHOUT requiring:

- public notice (of which council members are attending);
- minutes;
- written or oral testimony from the public.

Further, these descriptions within SB273 -- "informal meeting or presentation of another entity" in which "the public has been invited" or is "open to the public" -- are overly broad. For example: meetings or events held on the mainland or require an entrance fee would be included in this.

Hawaii's sunshine laws act as a safeguard and are in place to 1) prevent private discussions among council members and the organizations that represent issues council members vote on and 2) prevent decisions made on issues without public input and public notice.

In 2014, the Hawaii State Legislature already passed HB2139 (Act 221), which authorizes a limited meeting where any number of county council members may attend a board's or community group's meeting to discuss council business, if certain requirements are met. Act 221 would sunset on June 30, 2016.

Act 221 already broadened Hawaii's sunshine laws. SB723 will weaken our sunshine laws even further. For this reason we urge you to hold SB723.

**Thank you for the opportunity to testify on SB723.**