

OFFICE OF INFORMATION PRACTICES

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To: House Committee on Labor & Government Operations

From: Cheryl Kakazu Park, Director

Date: January 31, 2023, 9:00 a.m.
State Capitol, Conference Room 309

Re: Testimony on H.B. No. 563
Relating to Permitted Interactions

Thank you for the opportunity to submit testimony on this bill, which would allow all members of a county council to jointly attend informational meetings or presentations. The Office of Information Practices (“OIP”) **opposes this bill. The Sunshine Law’s guest meeting provision enacted in 2014, and made permanent in 2016, already allows all members of a county council to jointly attend community meetings while continuing to protect the public interest through limited meeting safeguards, which this proposal would essentially strip away and render moot. This bill also adversely impacts the ability of other boards to attend professional conferences.**

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

the guest of a board or community group. Under this guest 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 videotaping requirement applicable to all limited meetings applies to guest meetings as well, unless waived by OIP. The Legislature included a sunset date of June 30, 2016, for the guest meeting provision.

In 2016, the Legislature passed S.B. 2121, S.D. 1, H.D. 1, C.D. 1, signed into law as Act 056, SLH 2016, which **made the guest meeting provision permanent and required each council to report annually to the Legislature** on the effectiveness and application of the guest meeting provision, including any recommendations or proposed legislation. OIP has not seen this year's annual reports, so OIP does not know whether any county's report recommended the legislation proposed by this bill.

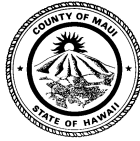
The permitted interaction proposed by this bill would effectively render the guest meeting safeguards moot by allowing any number of county council members to attend a community meeting without the oversight that the Legislature built into Act 221 in 2014. At the same time, **ironically, this proposal would limit other boards' ability to use the existing informational meeting permitted interaction to keep abreast of professional developments** relevant to their boards. Because this bill would add a requirement that informational meetings be "open to the public" at the same time it removes, for council members only, the limitation on the number of

board members who can attend an informational meeting together, other boards would still be subject to the limitation on attendance but could no longer send several members to attend a professional conference together as some do under current law, because an event with a registration fee could not be considered “open to the public.”

Without information on county councils’ actual experience using the guest meeting provision and recommendations that will improve the provision for both the councils and the public, **OIP respectfully suggests that the Legislature should not consider broadening the informational meetings permitted interaction to allow full councils to discuss board business outside a Sunshine Law meeting.**

Thank you for considering OIP’s testimony.

Council Chair
Alice L. Lee



Director of Council Services
Traci N. T. Fujita, Esq.


Councilmembers
Tom Cook
Gabe Johnson
Tasha Kama
Tamara Paltin
Keani N.W. Rawlins-Fernandez
Shane M. Sinenci
Yuki Lei K. Sugimura
Nohelani U'u-Hodgins

Deputy Director of Council Services
David M. Raatz, Jr., Esq.

COUNTY COUNCIL
COUNTY OF MAUI
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January 30, 2023

TO: The Honorable Representative Scot Z. Matayoshi, Chair, and
Members of the House Committee on Labor & Government Operations

FROM: Alice L. Lee
Chair, Maui County Council 

SUBJECT: **HEARING OF JANUARY 31, 2023; TESTIMONY IN SUPPORT OF
HB 563, RELATING TO PERMITTED INTERACTIONS**

Thank you for the opportunity to testify in **support** of this important measure. This measure would allow councilmembers to attend a public informational meeting or presentation, including a meeting of another entity, legislative hearing, convention, seminar, or community meeting, without fearing that their might violate the Sunshine Law.

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. This measure would improve councilmembers' ability to engage with the public and be informed about issues facing their district and county. It is particularly important for Kauai County and Maui County, where all councilmembers are elected by and represent all residents.
2. Attending these public events, such as community organization meetings or forums will not jeopardize openness in government because councilmembers do not have control over agendas, discussions, or outcomes of meetings conducted by external organizations.
3. This measure is an important step toward enabling county councilmembers the freedom to educate themselves and carry out their duties more efficiently, just as State legislators do.

For the foregoing reasons, I **support** this measure

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HOUSE COMMITTEE ON LABOR AND GOVERNMENT OPERATIONS
Tuesday, January 31, 2023, 9 am, State Capitol Room 309 & Videoconference
HB 563

Relating to Permitted Interactions

TESTIMONY

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

Chair Matayoshi, Vice Chair Garrett, and Committee Members:

The League of Women Voters of Hawaii strongly opposes HB 563.

The Sunshine Law currently requires that county councils conduct the public's business in public. The law guarantees the public both advance notice and the opportunity to listen to all discussions and decisions by a county council quorum. HB 563 would exempt council quorums that attended any "informational meeting or presentation ... open to the public" from most Sunshine Law requirements which apply to council meetings. Under HB 563, when a council quorum attended an "informational meeting or presentation", no advance public notice of council attendance would be required, no council minutes would be prepared, and the public would not have the right to submit oral testimony to the council. Under HB 563, an "informational meeting or presentation ... open to the public" could include events which charge admission, events which take place on the mainland or a foreign country, multi-day events which include both educational and recreational activities, and private events organized by special interests to influence public opinion and council decisions. HB 563 would even allow a council quorum to attend an "informational meeting or presentation" at Disneyland.

Under HB 563, if a private special interest group which wished to influence council decisions invited a county council to attend an "informational meeting or presentation" about pending council matters, HB 563 would authorize a council quorum to attend and discuss those pending council matters with that private group and with each other. Basically, the Sunshine Law would be "neutered".

No new legislation is needed to allow a council quorum, or even all council members, to attend a meeting hosted by a community group. Since 2014, the Sunshine Law has authorized a county council quorum to hold a "limited meeting that is open to the public, as the guest of a board or community group holding its own meeting, ...", provided that the council provides advance public notice, the public can attend the meeting without paying an admission fee or traveling out-of-state, no council voting commitments are made, and council minutes are prepared. These reasonable provisos recognize that private interests seeking county land use approvals, private businesses seeking county contracts, and ad hoc "NIMBY" groups commonly form "community groups" which host "informational meetings and presentations" for the purpose of advocating for or against special interest projects.

League of Women Voters of Hawaii
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HB-563

Submitted on: 1/30/2023 7:44:44 AM

Testimony for LGO on 1/31/2023 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Stirling Morita	Hawaii Chapter Society of Professional Journalists	Oppose	Written Testimony Only

Comments:

THE CIVIL BEAT
LAW CENTER FOR THE PUBLIC INTEREST

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House Committee on Labor & Government Operations
Honorable Scot Z. Matayoshi, Chair
Honorable Andrew Takuya Garrett, Vice Chair

RE: Testimony Opposing H.B. 563, Relating to Permitted Interactions
Hearing: January 31, 2023 at 9:00 a.m.

Dear Chair and Members of the Committee:

My name is Brian Black. I am the Executive Director of the Civil Beat Law Center for the Public Interest, a nonprofit organization whose primary mission concerns solutions that promote governmental transparency. Thank you for the opportunity to submit testimony **opposing H.B. 563**.

In 2014, the Legislature carefully balanced the ability of county councilmembers to attend community meetings against the “the potential for abuse of the public’s right to know and participate in the policy making process.” 2014 Haw. Sess. Laws Act 221. That balance was codified at HRS § 92-3.1(b). **Councilmembers, however, are not using that existing exemption.**

We now have almost 9 years of experience under Act 221. If that carefully balanced compromise legislation is not meeting the needs of county councils, the councils should be able to specify incidents in which the council members wished to attend an event, but were barred from doing so under Act 221. Every year that these proposals arise, the Law Center has requested more information about any difficulties encountered by councilmembers and offered to assist in tailoring amendments to Act 221 to meet any specific difficulties.

In 2021, for the first time, representatives from the county councils worked with the Law Center and others regarding specific concerns about the scope of Act 221. That work led to the passage of Act 264 last year.

There is no justification for this much broader exemption.

Thank you again for the opportunity to testify **opposing H.B. 563**.