

OFFICE OF INFORMATION PRACTICES

STATE OF HAWAII
NO. 1 CAPITOL DISTRICT BUILDING
250 SOUTH HOTEL STREET, SUITE 107
HONOLULU, HAWAII 96813
TELEPHONE: 808-586-1400 FAX: 808-586-1412
EMAIL: oip@hawaii.gov

To: House Committee on Judiciary

From: Paul T. Tsukiyama, Director

Date: February 15, 2008, 2:00 p.m.
State Capitol, Room 302

Re: Testimony on H.B. No. 2217
Relating to the Office of Information Practices

Thank you for the opportunity to submit testimony on H.B. No. 2217.

The Office of Information Practices ("OIP") opposes this bill for the reasons discussed below. This bill requires the OIP to issue a written opinion within sixty days from the date that a board or an agency requests the opinion under Hawaii's public records law, the Uniform Information Practices Act (Modified), chapter 92F, Hawaii Revised Statutes ("UIPA") and Hawaii's open meetings law, part I of chapter 92, Hawaii Revised Statutes ("Sunshine Law").

OIP is mandated by the UIPA and the Sunshine Law to perform a range of services in its administration of the UIPA and the Sunshine Law. What makes OIP's responsibilities under the UIPA and the Sunshine Law unique are the tremendously broad scope of subject matter over which OIP has jurisdiction, namely all government records of all State and county agencies as well as the meetings of all boards and commissions governed by the Sunshine Law.

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OIP has several concerns about this bill. First, while OIP appreciates the legislature's intent to expedite the process, OIP believes that a deadline should not be mandated by law as each case is unique and requires a different amount of time for preparation.

Also, OIP believes that this bill unfairly gives automatic priority to opinion requests from agencies and boards when OIP is also responsible for issuing opinions upon request from the public. Currently, where there an opinion request raises significant issues warranting OIP's immediate review, OIP does make the executive decision to prioritize this request and issue a written opinion. However, this bill would remove OIP's ability to prioritize based upon public policy considerations, and instead imposes a deadline based only upon considerations of whether the requester is an agency or board and the date of the opinion request.

Furthermore, OIP simply cannot fulfill the bill's imposed response time mandate unless the Legislature grants OIP the full amount of the funds for hiring the additional staff as needed in order to be capable of fulfilling this mandate. OIP does have concerns about the impact that the funding requirements of this bill will have on the Administration's supplemental budget.

Thank you for the opportunity to testify.

COUNTY COUNCIL
BILL "KAIPO" ASING, CHAIR
MEL RAPOZO, VICE CHAIR
TIM BYNUM
JAY FURFARO
SHAYLENE ISERI-CARVALHO
RONALD D. KOUCHI
JOANN A. YUKIMURA



4396 RICE STREET, ROOM 206
LIHU'E, KAUA'I, HAWAII 96766-1371
E-mail: cokcouncil@kauai.gov

OFFICE OF THE COUNTY CLERK
Council Services Division
Elections Division
Records Division
PETER A. NAKAMURA, County Clerk
ERNESTO G. PASION, Deputy County Clerk
Telephone: (808) 241-6371
Facsimile: (808) 241-6349

February 14, 2008

The Honorable Tommy Waters, Chair
& Members of the House Committee on Judiciary
State House of Representatives, 24th State Legislature
Regular Session of 2008
State Capitol, Conference Room 325
415 South Beretania Street
Honolulu, HI 96822

Dear Chair Waters & Members of the House Committee on Judiciary:

**SUBJECT: HOUSE BILL NO. 2217; RELATING TO THE OFFICE OF
INFORMATION PRACTICES**


I submit this testimony as an individual member of the Kaua'i County Council.

Thank you for the opportunity to offer my support of this important measure. The purpose of this bill is to require the State Office of Information Practices ("OIP") to provide a written opinion to a requesting agency within sixty (60) days of a written request for an advisory opinion.

I am aware that Maui Council Chair G. Riki Hokama has also submitted testimony in support of House Bill No. 2217, which is part of the 2008 Maui County Legislative Package. As an individual member of the Kaua'i County Council, I concur with the testimony submitted by Maui Council Chair Hokama, and urge you to support this bill.

Thank you for your consideration of this testimony.

Sincerely,


Mel Rapozo
Kaua'i County Council Vice Chair

JUDtestimony@Capitol.hawaii.gov

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Thank you for your consideration of this testimony.

Sincerely,


Shaylene Iseri-Carvalho
Kaua'i County Councilmember

JUDtestimony@Capitol.hawaii.gov

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AN EQUAL OPPORTUNITY EMPLOYER

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Council Chair
G. Riki Hokama

Vice-Chair
Danny A. Mateo

Council Members
Michelle Anderson
Gladys C. Baisa
Jo Anne Johnson
Bill Kauakea Medeiros
Michael J. Molina
Joseph Pontanilla
Michael P. Victorino

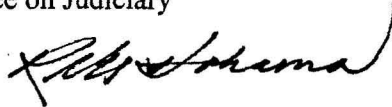


Director of Council Services
Ken Fukuoka

COUNTY COUNCIL
COUNTY OF MAUI
200 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793
www.mauicounty.gov/council

February 13, 2008

TO: Honorable Tommy Waters, Chair
House Committee on Judiciary

FROM: G. Riki Hokama 
Council Chair

SUBJECT: **HEARING OF FEBRUARY 15, 2008; TESTIMONY IN SUPPORT OF HB 2217,
RELATING TO THE OFFICE OF INFORMATION PRACTICES**

Thank you for the opportunity to testify in support of this important measure. The purpose of this measure is to require the Office of Information Practices (OIP) to provide a written opinion to a requesting agency within 60 days of a written request for an advisory opinion.

This measure is in the Maui County's Legislative Package; therefore, I offer this testimony on behalf of the Maui County Council.

The County Council supports this measure for the following reasons:

1. While the OIP's practice is to provide both verbal and written opinions at the request of an agency, current law does not provide a deadline for the OIP to submit written advisory opinions.
2. Because there is no deadline, the OIP can take months, or longer, to provide a written advisory opinion.
3. The delay of a written advisory opinion often ties the hands of government bodies and officials subject to the Sunshine Law and/or the Uniform Information Practices Act (UIPA), stalling the efficient functioning of government.
4. When a government body is unsure of how to comply with either the Sunshine Law or the UIPA, the agency needs the OIP's guidance as quickly as possible so that it can efficiently perform its functions and duties for the benefit of the people the body serves.

For the foregoing reasons, the Maui County Council supports this measure.

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Council Chair
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Danny A. Mateo

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February 14, 2008

TO: Honorable Tommy Waters, Chair
House Committee on Judiciary

FROM: Joseph Pontanilla, Treasurer
Hawaii State Association of Counties

A handwritten signature in black ink, appearing to read "Joseph Pontanilla".

SUBJECT: **HEARING OF FEBRUARY 15, 2008; TESTIMONY IN SUPPORT OF HB 2217,
RELATING TO THE OFFICE OF INFORMATION PRACTICES**

Thank you for the opportunity to testify in support of this important measure. The purpose of this measure is to require the office of information of practices to provide a written opinion to a requesting agency within 60 days of a written request for an advisory opinion.

I am aware that Council Chair, G. Riki Hokama, Maui County Council, has submitted testimony in support of this measure, which is in the 2008 Maui County Legislative Package. As the Treasurer of the Hawaii State Association of Counties, and a member of the Maui County Council, I concur with the testimony submitted by Chair Hokama, and urge you to support this measure.

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