

# OFFICE OF INFORMATION PRACTICES

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To: Senate Committee on Judiciary and Labor

From: Paul T. Tsukiyama, Director

Date: Friday, February 22, 2008, 10:00 a.m.  
State Capitol, Conference Room 016

Re: Testimony on S.B. No. 2263, SD 1  
Relating to the University of Hawaii.

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Thank you for the opportunity to submit testimony on this bill. The Office of Information Practices ("OIP") has no position on the substance of the bill, but does oppose the amendment to part I of chapter 92, HRS (the "Sunshine Law") because it is inconsistent with that law and is unnecessary to effectuate the bill's purpose.

This bill seeks at section 1, page 1, lines 8 to 11, to amend section 89C-4, HRS, to require the Board of Regents (the "Board") to disclose in an open meeting for purposes of public comment proposed compensation or change in compensation for UH administrative positions filled by excluded employees under chapter 89C, HRS. The bill also seeks at section 2, page 2, lines 8 to 12, to amend section 92-5, HRS, to add similar language to an exception to the open meetings requirement under the Sunshine Law, which allows a board to meet in an executive (closed) meeting to consider, among other things, an employee's hire or evaluation in order to protect the employee's privacy interest. Haw. Rev. Stat. § 92-5(a)(2) (Supp. 2006).

First, OIP reads the proposed language to require only the announcement or written disclosure of the proposed compensation in an open meeting, not the entire

discussion and consideration of that matter. If the Committee's intent is that the Board have its entire consideration of the proposed compensation for an excluded employee in an open meeting, OIP believes that the language of the bill should make that clear, by substituting the word "considered" for the word "disclosed" at p. 1, line 11. OIP notes, however, that consideration of the entire matter in an open meeting would result in different treatment of a limited class of excluded UH employees from similarly excluded administrative employees in other agencies whose privacy would generally be protected. Further, OIP notes that the bill requires disclosure of the proposed salary or proposed salary change "in open meeting" which may not allow the public sufficient notice for the preparation of testimony. If desired, the Committee may want to provide that the Board include the proposed compensation amount in its meeting notice filed under the Sunshine Law, if the proposed amount is known at the time the notice is filed.

Second, OIP does oppose, as it uniformly does, amendment of the Sunshine Law to include provisions related to a specific board. The Sunshine Law was intended to provide general provisions so the proposed language is inconsistent with the statute's intent and the rest of its provisions. Moreover, amendment to the Sunshine Law is unnecessary if section 89C-4 is amended. **Accordingly, OIP strongly recommends deleting the proposed amendment to section 92-5(a)(2).**

Third, OIP notes that the proposed language to section 304A-105(a)(5), at page 4, lines 10 to 13, contains the same ambiguity as the proposed language to section 89C-4 because it is unclear whether the requirement that expenditures and changes be "disclosed in open meetings" requires only the announcement or written disclosure of the information in an open meeting or that the entire discussion and consideration of the matter occur in an open meeting. OIP also notes that if the

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intent of the proposed language at page 4, lines 13 to 17, is to require UH to make available "all expenditure requests, proposals, and other budgetary documents" to be utilized at an open meeting consistent with the Sunshine Law's timeframe to file notice of that open meeting, the "six day" requirement should be amended to read "six calendar days." Haw. Rev. Stat. § 92-7(b) (Supp. 2006).

Thank you for the opportunity to testify.



The Senate  
Committee on Judiciary and Labor  
February 22, 2008  
10:00 a.m.

**S.B. 2263, S.D.1      Relating to the University of Hawaii**

The University of Hawaii Professional Assembly (UHPA) has advocated for the disclosure of the salaries proposed for excluded administrators at the University of Hawaii prior to formal action by the Board of Regents. This is the second legislative session where UHPA has sought to obtain the necessary statutory changes. During this legislative session, the UH administration and UHPA have discussed this matter and exchanged appropriate views.

S.B 2263, S.D 1 contains language that UHPA can support on seeking salary disclosure. The amendments are found in Section 2 and Section 3 (a) (2). In regard to the proposed administrative salaries UHPA would request language that requires a six business day notice previous to an open meeting convened for the purpose of public comment.

Respectfully Submitted,

Kristeen Hanselman  
Associate Executive Director

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## testimony

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**From:** Joel Fischer [jfischer@hawaii.edu]  
**Sent:** Wednesday, February 20, 2008 2:17 PM  
**To:** testimony  
**Cc:** musto@uhpa.org  
**Subject:** SB2263; JDL; 2/22; 10AM; Rm 016

**Importance:** High

SB2263, SD1, Relating to the UH  
JDL; Chair, Sen Taniguchi

PLEASE PASS THIS BILL.

In earlier testimony, only the UH system testified against this bill. That is because the current BOR and President of UH are doing everything they can to end transparency at the UH. The BOR and President have demonstrated how incompetent they are at financial management -see the State Auditor's reports- and they are trying to keep the public from finding out about it.

Please pass this bill to ensure greater accountability and transparency at UH.

Thank you.

Aloha, joel

Dr. Joel Fischer, ACSW  
President, 19-3, Democratic Party

Professor  
University of Hawai'i, School of Social Work Henke Hall Honolulu, HI 96822

"It is reasonable that everyone who asks justice should DO justice."  
Thomas Jefferson

"There comes a time when one must take a position that is neither safe, nor politic, nor popular, but one must take it because one's conscience tells one that it is right."  
Dr. Martin Luther King, Jr.

"Never, never, never quit."  
Winston Churchill