

OFFICE OF INFORMATION PRACTICES

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To: Senate Committee on Judiciary and Labor

From: Paul T. Tsukiyama, Director

Date: Thursday, February 7, 2008, 9:00 a.m.
State Capitol, Conference Room 016

Re: Testimony on S.B. No. 3105
Relating to Public Agency Meetings.

The Office of Information Practices ("OIP") supports this bill.

With certain very limited exceptions, the Open Meetings Law (the "Sunshine Law"), part I of chapter 92, Hawaii Revised Statutes, prohibits a board from conducting a site inspection that is closed to the public. Several boards have advised the OIP of the importance of site inspections to enable these boards to be more fully informed about matters, but have complained that it is impracticable for the public to participate in certain site inspections because of difficult conditions present at the particular sites.

The OIP believes that this bill would assist boards in making more informed decisions relating to on-site inspections while ensuring that the public's business is conducted as openly as possible.

In particular, this bill allows a board to hold a limited meeting to conduct an on-site inspection closed to the public, but secures the people's right to know by placing the following limitations on the board in order for it to hold its limited meeting for this purpose: (1) at an open meeting beforehand, the board must specify its reasons for conducting the on-site inspection in a limited meeting (and must obtain the OIP director's concurrence); (2) the board must give the public notice of the limited meeting; (3) minutes must be kept in accordance with section 92-9, Hawaii Revised Statutes, (4) a videotape of the limited meeting must be made (the OIP director can waive this requirement); and (5) no decisions can be made at this limited meeting.

Thank you for the opportunity to testify.

testimony

From: Hawaii HIHITECH [hihitek@hotmail.com]
Sent: Wednesday, February 06, 2008 3:54 PM
To: testimony
Subject: Testimony in support of SB 2201, SB 2295, SB 3105

Testimony in support of SB 2201, SB 2295, SB 3105

Senator Brian T. Taniguchi
Chair
Committee on Judiciary and Labor

Senator Clayton Hee
Vice Chair
Committee on Judiciary and Labor

Aloha Members of the Senate Committee on Judiciary and Labor,

I respectfully submit the following testimony in support of the aforementioned bills.

I am the chair of the Kaneohe Neighborhood Board however the following testimony is being submitted as my own and not as the official position of Kaneohe Neighborhood Board.

As you consider the bills before you I ask that you recall that the purpose of neighborhood boards is to provide community input and advice to decision makers. Over the years, neighborhood board meetings have also become an important forum for the discussion of issues and as a means to disseminate information to the community. The purpose of the state's Sunshine Law on the other hand is to ensure that important decisions made by government officials are not made in secret or at least without public input. Neighborhood Boards and the Sunshine Law are complimentary in purpose and function, one provides a forum for the expression of the public's views and the other ensures that the public input will be received.

In recent years much has been done to strengthen the Sunshine Law. Unfortunately, interpretation of that law and how it applies to neighborhood board is affecting the ability of neighborhood boards to carry out its function to conduct public meetings and disseminate information. Each of the measures before you represents an attempt to modify the current interpretation of this law in order to enable the neighborhood boards to function as they were intended to do so.

Imagine trying to plan a party, making all the arrangements, sending out invitations, receiving RSVP's of guests both from nearby and faraway. Now imagine having to cancel the party on the day of the event because some members in the band don't show up. That is the situation that Honolulu neighborhood boards often face because of the prevailing interpretation of the state's Sunshine Law.

Many civic minded people, government officials and even members of the media expend a considerable amount of their time, effort and money, planning and making arrangements in order that neighborhood board meetings can be held. Agendas are prepared and mailed out, speakers prepare presentations, elected and government officials make time on their busy schedules, members of the public take time off from work all in order to attend these community meetings. It happens all too often, when all assembled at the appointed time and place the meeting is cancelled because one too many board members got sick or could not attend the meeting for some reason. Aside from the time, money and effort that is wasted, the public suffers because the information exchange that is supposed to take place at these meetings does not occur.

I would like to remind committee members that neighborhood boards, unlike other governmental agencies subject to the Sunshine Law, are not decision-making bodies. Their purpose is purely advisory. Board meetings provide an important forum for the public discussion and promote the exchange of ideas on governance directly to our elected

officials.

It is ironic that the Sunshine Law, which was enacted to ensure public participation in governmental decision making, is being implemented in a way that prevents that very thing from occurring.

Passage of these measures would do much to address the problems that are now being experienced without compromising the intents of the Sunshine Law.

I would urge you to pass these measures on so that their provisions may be considered for adoption.

Respectfully submitted,
Roy Yanagihara
45-139 Mahalani Circle
Kaneohe, Hawaii 96744

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THE LEAGUE OF WOMEN VOTERS OF HAWAII

TESTIMONY ON SB 3105 RELATING TO PUBLIC AGENCY MEETINGS

Committee on Judiciary and Labor
Thursday, February 7, 2008
9:00 a.m.
Conference Room 016

Testifier: Jackie Parnell
President, League of Women Voters

Chair Taniguchi, Vice Chair Hee, members of the Committee on Judiciary and Labor,
The League of Women Voters would support SB 3105 with an amendment to Section
92-3.1 (a), (l). At the end of the sentence we would like to have added the words "after
sufficient public deliberation."

What we fear is that without specific requirement for sufficient public deliberation before
the vote, the ensuing action becomes a perfunctory gesture merely to satisfy the
requirement as often the decisions to go into executive session by some boards and
committees are perceived to be by the public. What the public needs is the assurance
that the board members understand the legitimate need to exclude the public from the
activity before the vote to do so.

Thank you for this opportunity to testify on SB 3105 and urge you to include our
proposed amendment.

Susan Miyao

LATE

From: William Sager [WSAGER@hawaii.rr.com]
Sent: Wednesday, February 06, 2008 6:33 PM
To: hihitek@hotmail.com; Sen. Brian Taniguchi; Sen. Clayton Hee
Subject: RE: Testimony in support of SB 2201, SB 2295, SB 3105

Testimony in support of SB 2201, SB 2295, SB 3105

Senator Brian T. Taniguchi, Chair
Committee on Judiciary and Labor
Senator Clayton Hee
Vice Chair
Committee on Judiciary and Labor

Aloha Members of the Senate Committee on Judiciary and Labor,
I respectfully submit the following testimony in support of the
aforementioned bills. I am Bill Sager, a member of the Kaneohe
Neighborhood Board. This testimony is mine alone and does not
represent a formal Board position.

I fully support the concept of all government meetings being
open to the public. Full public discussion is necessary for our
legislators to understand issues and know how the public feels
about issues.

Unfortunately, the present interpretation of the sunshine law
hobbles that discussion.

We have had meetings where we failed to have a forum. People in
the audience wanted to speak their mind, so we held a
non-meeting in defiance of the Sunshine Law. Of course, there
was no decision making.

I have attend public talk-story meetings where there was a
quorum of neighborhood members attending. This was a violation
of the sunshine law, but to force to leave would have been a
violation of my freedom of speech.

We are trying to set up a public blog which would improve
communication between members and between the board and the
community. It has been suggested that such a blog would be a
violation of the Sunshine Law. We are waiting for an official
ruling.

These are all examples of problems relating to the sunshine law.
Decision making should be made in public and full discussion must
be allowed in our meetings. But it is also necessary for board
members to attend public meeting, hold public discussions at
meetings where there is no quorum, and be able to discuss issues
among them selves. All too often board members have voted NO
sighting there reason as not knowing enough about the subject at
hand. Board meetings by their nature are forced to minimize

2/7/2008

discussions to fit into their 3 hour schedule. Relaxing the requirement related to non-decision making discussions between board members will greatly improve the opportunities for board members to be better informed.

Bill Sager
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