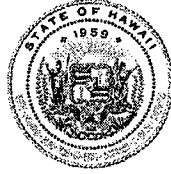


**HB 2445 HD 2**



LINDA LINGLE  
GOVERNOR

JAMES R. AIONA, JR.  
LIEUTENANT GOVERNOR

**STATE OF HAWAII**  
**OFFICE OF THE LIEUTENANT GOVERNOR**  
**OFFICE OF INFORMATION PRACTICES**

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CATHY L. TAKASE  
ACTING DIRECTOR

To: Senate Committee on Tourism  
From: Cathy L. Takase, Acting Director  
Hearing: Thursday, March 11, 2010, 2:45 p.m.  
State Capitol, Room 229  
Re: Testimony on H.B. No. 2445, H.D. 2  
Relating to the Hawaii Tourism Authority

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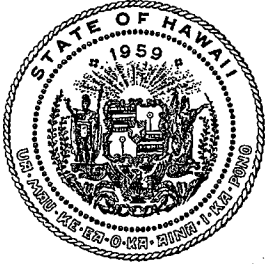
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The Office of Information Practices (OIP) takes no position on this bill, but has concerns about the breadth of certain language at section 2 of this bill and recommends amendment as described below.

OIP administers the Sunshine Law, which is part I of Chapter 92, HRS. Section 2 of this bill would allow the Hawaii Tourism Authority (HTA) to enter into an executive meeting closed to the public in order to receive “[i]nformation that is necessary to protect Hawaii’s competitive advantage as a visitor destination.”

OIP is concerned about the breadth of the current proposed language. OIP understands that HTA seeks to meet in executive session to protect the confidentiality of information such as detailed marketing plans, market intelligence and research studies, and specific marketing opportunities. OIP believes that, if the Legislature finds an exception to be appropriate, the exception provided should be more narrowly worded (or the intent of the Legislature should be made clear) to reflect that it is this specific type of information that may be discussed in a closed meeting in order to protect Hawaii’s competitive advantage.

Thank you for the opportunity to testify.



# Hawai'i Tourism Authority

Hawai'i Convention Center, 1801 Kalākaua Avenue, Honolulu, Hawai'i 96815  
Website: [www.hawaiitourismauthority.org](http://www.hawaiitourismauthority.org)

LINDA LINGLE  
Governor  
MIKE MCCARTNEY  
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Testimony of  
**Mike McCartney**  
President and Chief Executive Officer  
Hawai'i Tourism Authority  
on  
**H.B. 2445, H.D. 2**  
**Relating to the Hawai'i Tourism Authority**

House Committee on Finance  
Thursday, February 18, 2010  
10:00 a.m.  
Conference Room 308

The Hawai'i Tourism Authority (HTA) strongly supports H.B. 2445, H.D. 2, which proposes five housekeeping amendments to the Hawai'i Tourism Authority law.

#### Confidentiality of tourism research and statistics information

The amendment in Section 1 of the bill corrects an omission of Act 5, Special Session of 2009, which authorized the HTA to contract or enter into agreements for tourism research and statistics, but did not also include the provisions of the law to protect competitively sensitive information gathered by the HTA as part of its research and statistics function from disclosure, where the disclosure could place businesses at a competitive disadvantage.

#### Confidentiality of marketing information and strategy

The amendment in Section 2 of the bill authorizes the HTA Board of Directors to meet in executive session to protect the confidentiality of information, such as:

- Detailed marketing plans including advertising campaigns and promotional calendars;
- Market intelligence and research studies; and
- Marketing opportunities

that are necessary for Hawai'i to maintain its competitive advantage as a visitor destination.

HTA supports the amendment to section 201B-4, which provides for executive meetings in accordance with part I of Chapter 92, and requests the further amendment of SECTION 2, which amends section 201B-4, by amending paragraph (2) to read:

“(2) Information that is necessary to protect Hawaii's competitive advantage as a visitor destination; *provided that information relating to marketing plans and strategies may be disclosed after the execution of the marketing plans and strategies;*”.

This will clarify that the HTA may disclose the marketing plans, strategies, and research studies after the execution of the marketing campaigns and promotions.

### Measures of effectiveness

The current law directs the HTA to develop measures of effectiveness to “...*assess the overall benefits and effectiveness of the marketing plan and include documentation of the directly attributable benefits of the plan to the following:*

- (1) Hawai‘i’s tourism industry;*
- (2) Employment in Hawai‘i;*
- (3) State taxes; and*
- (4) The State’s lesser known and underutilized destinations.*

It is difficult to measure and document the “directly attributable benefits” of a marketing plan to Hawai‘i’s tourism industry, employment in Hawai‘i, state taxes, and lesser known and underused destinations.

The amendment in Section 3 of the bill provides that tourism marketing plans include program performance goals and targets that can be monitored to gauge and evaluate the HTA’s promotional programs, and requires the HTA to develop measures of effectiveness to assess the benefits and effectiveness of the marketing plan, including documentation of the progress of the marketing plan toward achieving the Authority’s strategic plan goals.

### Notification of contracts

Current law requires the HTA to provide notice to the Speaker of the House of Representatives and President of the Senate at the same time that notice is given to the Governor of any contract or agreement valued at \$25,000 and over that the Authority enters into. Currently, HTA submits, through its monthly CEO Report to the Governor, Speaker of the House of Representatives, and the President of the Senate, notice of **all** contracts and agreements entered into by the HTA. H.B. 2445, H.D. 2, requires that the HTA submit a quarterly report of contracts and agreements entered into by the Authority. The HTA would like to point out that this quarterly report will require the Authority to prepare an additional report, when the reporting requirements are being met under the current reporting practice.

HTA prefers the language in S.B. 2187, S.D. 1, which requires that the Authority periodically submit a report of the contracts and agreements entered into by the Authority. This will conform to the current practice of the HTA, without requiring preparation of an additional report.

### Repeal of sunset of HTA provisions

Act 58, SLH 2004:

- Authorized the HTA to retain independent attorneys to provide legal services in cases of contract negotiations where the attorney general lacks sufficient expertise;
- Authorized the HTA to appoint a sports coordinator;
- Exempted HTA from the supervision of accounts by the Comptroller; and
- Authorized the HTA to use up to 5 percent of the moneys in the Tourism Special Fund for administrative expenses.

Act 5, Special Session of 2009, made permanent HTA’s authority to retain independent attorneys and hire a sports coordinator.

The exemption from the supervision of accounts has allowed the HTA to execute its financial transactions more effectively, improve its operational efficiency and overall be more responsive to its stakeholders. The law still requires HTA to conduct preaudits of its payments, maintain records and documents to support disbursements, and to make deposits according to the law regulating state deposit of funds.

In addition, H.B. 2445 H.D. 2 makes permanent the limit on HTA's administrative expenses at 5 percent of moneys in the Tourism Special Fund. At the 3.5 percent, the previous limit on administrative expenses, it was difficult for HTA to fulfill all of its legislative mandates, including implementing measures to insure the accountability of its programs.

H.B. 2445, H.D. 2 makes these provisions permanent, which unless extended by the Legislature, will be repealed on June 30, 2010. HTA supports the amendments in H.B. 2445, H.D. 2, on the repeal of the sunset provisions.

We urge your favorable consideration of this measure with the amendment that we have requested relating to the reporting requirements. Thank you for the opportunity to offer these comments.



**HAWAII HOTEL & LODGING  
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32<sup>nd</sup> Anniversary  
Are You Walking???  
May 15, 2010  
(Always the 3<sup>rd</sup> Saturday in May)  
[www.charitywalkhawaii.org](http://www.charitywalkhawaii.org)

**TESTIMONY OF MURRAY TOWILL  
PRESIDENT  
HAWAII HOTEL & LODGING ASSOCIATION**

**DATE: March 11, 2010**

**RE: HB 2445 HD2 Relating to the Hawaii Tourism Authority**

Good afternoon Chairperson Nishihara and members of the Senate Committee on Tourism. I am Murray Towill, President of the Hawai'i Hotel & Lodging Association.

The Hawai'i Hotel & Lodging Association is a statewide association of hotels, condominiums, timeshare companies, management firms, suppliers, and other related firms and individuals. Our membership includes over 150 hotels representing over 48,000 rooms. Our hotel members range from the 2,680 rooms of the Hilton Hawaiian Village to the 4 rooms of the Bougainvillea Bed & Breakfast on the Big Island.

The Hawai'i Hotel & Lodging Association supports HB 2445 HD2 Relating to the Hawaii Tourism Authority. Most of the provisions in this bill refine and clarify language within the Hawaii Tourism Authority ("HTA") statute and preserve some autonomy functions scheduled to end in 2010. HB 2445 HD2 also allows HTA to keep some of its research and data private. As a public agency, HTA needs to walk a fine line on keeping information private. However, disclosure of proprietary information could reduce a competitive advantage, limit the HTA's effectiveness and impact its ability to collect data in the future. We, therefore, support this measure.

Again, mahalo for this opportunity to testify.