LATE TESTIMONY

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:

Cheryl Kakazu Park, Director

Date:

February 21, 2012, 2:00 p.m.

State Capitol, Conference Room 325

Re:

Testimony on H.B. 2742

Relating to Public Agency Meetings and Records

Thank you for the opportunity to submit testimony on H.B. 2742. The Office of Information Practices ("OIP") takes no position on this bill, which would exempt the county councils from the Sunshine Law.

The county councils are currently subject to the Sunshine Law. Like other state and county boards subject to the Sunshine Law, each county council is structured as a single body with a membership of no more than nine members (unlike the much larger and bicameral structure of the Legislature). Like the Legislature, which is exempt from the Sunshine Law, the county councils are legislative bodies that do their work primarily through bills and have their own rules governing their proceedings, which they currently follow in addition to the Sunshine Law. County or municipal level legislative bodies in other states are typically subject to those states' open meetings laws.

OIP believes the question of whether Hawaii's county councils should remain subject to the Sunshine Law, like similarly structured boards, or be exempted, like the Legislature, is a policy question for the Legislature to determine. For this reason OIP has not taken a position on the issue.



LATE TESTIMONY

February 21, 2012 RL: 2286

HB 2742 RELATING TO PUBLIC AGENCY MEETINGS AND RECORDS

House Committee on Judiciary
Public Hearing – Tuesday, February 21, 2012
2:00 p.m., State Capitol, Conference Room 325

By
David Penn, Environmental Center
OPPOSE

Dear Chair Keith-Agaran, Vice Chair Rhoads, and committee members,

The Environmental Center opposes House Bill 2742 and its intent to exempt the county councils from the Sunshine Law. The Sunshine Law and its applicability to county councils has been a cornerstone of our state's democratic process for the last 36 years, and the proposed measure does not explain why we should now change our interpretation of the policy and intent declared by the legislature in 1975, Act 166. If a certain aspect of the Sunshine Law is unreasonably troublesome or offensive to county councils in particular, then we suggest that the legislature consider a problem-specific remedy, rather than a wholesale exemption from the process. "Opening up the governmental processes to public scrutiny and participation is the only viable and reasonable method of protecting the public's interest." Hawaii Revised Statutes § 92-1.

Thank you for considering our testimony to oppose this proposed legislation. Please note that our testimony is advisory only and should not be construed to represent an official institutional position of the University of Hawaii.



House JUD Committee Chair Gilbert Keith-Agaran, Vice Chair Karl Rhoads

Tuesday 2/21/12 at 2:00PM in Room 325 HB 2742 – Sunshine Law

TESTIMONY

Nikki Love, Executive Director, Common Cause Hawaii

Chair Keith-Agaran, Vice Chair Rhoads, and Committee Members:

Common Cause Hawaii strongly opposes HB 2742, which exempts county councils from the Sunshine Law.

Under this proposal, county councils would no longer be required to post meeting notices six days in advance to inform citizens. Council members would be able to meet secretly on official business and make major decisions behind closed doors, away from public view and without public input.

There are huge issues at stake at the county level – such as rail, land use and development, and waste, just to name a few. These issues have proven to inspire great attention and concern by citizens, with enormous impacts on our daily lives and our wallets. It is crucial that citizens have the ability to be part of these important conversations and decisions.

We understand that the six day notice requirement may be cumbersome at times, but it is still a small amount of time from the perspective of the public. Six days is a very short period of time for citizens to think about a new issue, discuss it, prepare comments or testimony, and make personal arrangements to attend a meeting (e.g., take time off from work, plan for childcare, and arrange transportation). Without transparency and ample lead time, regular citizens are shut out, and only those who are very experienced or well-connected are able to participate effectively and have their voices heard.

We urge the Committee to hold this bill. Mahalo for the opportunity to submit testimony.

Council Chair Danny A. Mateo

Vice-Chair Joseph Pontanilla

Council Members
Gladys C. Baisa
Robert Carroll
Elle Cochran
Donald G. Couch, Jr.
G. Riki Hokama
Michael P. Victorino
Mike White



COUNTY COUNCIL

COUNTY OF MAUI
200 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96

LATE TESTIMONY

February 21, 2012

TO:

The Honorable Gilbert S.C. Keith-Agaran, Chair

House Committee on Judiciary

FROM:

Mike White

Council Member, Makawao - Ha'ikū - Pā'ia

SUBJECT:

HEARING OF FEBRUARY 21, 2012; TESTIMONY IN SUPPORT OF HB 2742,

RELATING TO PUBLIC AGENCY MEETINGS AND RECORDS

Thank you for the opportunity to testify in support of this measure. The Maui County Council has not had the opportunity to take a formal position on this matter and therefore, I am providing this testimony in my capacity as an individual member of the Council.

The purpose of this measure is to exempt the county councils from the Sunshine Law by expressly excluding them from the definition of "board" in Section 92-2, Hawaii Revised Statues.

I am aware that Maui County Council Chair Danny Mateo has submitted testimony on this measure. I concur with his statements and urge you to support this measure.

LATE TESTIMONY



76 North King Street, Suite 203 Honolulu, Hawai i 96817

Phone: 533-3454; E: henry.lifeoftheland@gmail.com

COMMITTEE ON JUDICIARY

Rep. Gilbert S.C. Keith-Agaran, Chair

Rep. Karl Rhoads, Vice Chair

DATE:

Tuesday, February 21, 2012

TIME:

2:00 PM

PLACE:

Conference Room 325

BILL:

HB 2742 Ending Sunshine at County Councils

OPPOSE

Aloha Chair Keith-Agaran, Vice Chair Rhoads and Members of the Committee

My name is Henry Curtis and I am the Executive Director of Life of the Land, Hawai'i's own energy, environmental and community action group advocating for the people and 'aina for four decades. Our mission is to preserve and protect the life of the land through sound energy and land use policies and to promote open government through research, education, advocacy and, when necessary, litigation.

At a time when public confidence in government is slipping, it is important to let the sunshine in.

Show your voters how YOU are doing a good job.

Mahalo

Henry Curtis

The Big Island Press Club P.O. Box 1920 Hilo, HI 96721

LATE TESTIMONY

February 21, 2012

The Hon. Gilbert Keith-Agaran and members of the House Judiciary Committee

Dear Chair Keith-Agaran,

The Big Island Press Club condemns and opposes House Bill 2742 as an inexcusable effort to weaken the public's right to know.

We wish to remind your committee about the purpose and need of Hawaii Revised Statutes, Chapter 92, Section 1, commonly known as the Sunshine Law:

- (1) It is the intent of this part to protect the people's right to know;
- (2) The provisions requiring open meetings shall be liberally construed; and
- (3) The provisions providing for exceptions to the open meeting requirements shall be strictly construed against closed meetings.

There is no justification to exempt the county councils of Hawaii, Honolulu, Kauai and Maui from HRS 92-1, as proposed. The people of these counties would be ill-served by the passage of this bill into law. It is a bad bill that would lead to bad policy.

Sincerely,

Peter Sur Director, Big Island Press Club

mailinglist@capitol.hawaii.gov [mailinglist@capitol.hawaii.gov]

Sent: Tuesday, February 21, 2012 10:50 AM

To: JUDtestimony

Cc: scoleman34@gmail.com

LATE TESTIMONY

Testimony for JUD 2/21/2012 2:00:00 PM HB2742

Conference room: 325

Testifier position: Oppose Testifier will be present: No Submitted by: Stuart COLEMAN Organization: Individual E-mail: scoleman34@gmail.com Submitted on: 2/21/2012

Comments:

My name is Stuart Coleman, and I am a writer and consultant in McCully. I feel this bill is yet another attempt to HB2742 is yet another attempt to exempt the county councils from the reach of the sunshine law. In an era when the people are asking for MORE transparency and participation, this bill smacks provides even less of it.

It seems to me that the councils have made repeated attempts to get out from under the open meeting requirements of the sunshine law. A quick search turned up news stories about many prior attempts, including these from 2003 and 2005. So far, the Legislature has had the good sense to kill these bills. I hope you will do the same with this bill. The people will remember your decision when elections come around in Nov. Thanks for doing the right thing and killing this bill.

Aloha, Stuart

The exemption in ${\tt HB2742}$ is actually broader than the Legislature's own exemption under existing law.

mailinglist@capitol.hawaii.gov [mailinglist@capitol.hawaii.gov]

Sent: Tuesday, February 21, 2012 10:07 AM

To: JUDtestimony

Cc: krzymurray@hotmail.com LATE TESTIMONY

Testimony for JUD 2/21/2012 2:00:00 PM HB2742

Conference room: 325

Testifier position: Oppose Testifier will be present: Yes Submitted by: Karen Murray Organization: Individual

E-mail: krzymurray@hotmail.com

Submitted on: 2/21/2012

Comments:

The Sunshine Laws protect the citizenry. To chip away at it is a crime against us all. Public officials who would circumvent transparency in public office are unfit for their jobs.

mailinglist@capitol.hawaii.gov [mailinglist@capitol.hawaii.gov]

Sent: Tuesday, February 21, 2012 9:48 AM

To: JUDtestimony

Cc: lance.duncan@live.com

LATE TESTIMONY

Testimony for JUD 2/21/2012 2:00:00 PM HB2742

Conference room: 325

Testifier position: Oppose Testifier will be present: No

Submitted by: Lance

Organization: Individual E-mail: lance.duncan@live.com

Submitted on: 2/21/2012

Comments:

Aloha,

My name is Lance Duncan and I've lived in the islands nearly two decades.

The sunshine law was put into place in order to ensure that the state and its political subdivisions provided ample opportunity and documentation for the public to be informed and participate in governmental decisions.

I can find no good reason to exempt any level of government from sunshine law. Exempting counties from the sunshine law will allow them to operate in secret. That is not a government of, for, and by the people, but a secret society.

If this legislation is passed, it will most surely outrage a public that is already frustrated with non responsive government. It will also make Hawaii a worse place to do business than it already is, because businesses adn business owners depend on getting timely information about proposed government actions in order to have input into that process as well. This is a bad law for everyone concerned.

Please do not pass this legislation.

Thank you.

Lance Duncan Pahoa, HI

mailinglist@capitol.hawaii.gov [mailinglist@capitol.hawaii.gov]

Sent: Tuesday, February 21, 2012 10:39 AM

To: JUDtestimony

Cc: musclepayne@yahoo.com LATE TESTIMONY

Testimony for JUD 2/21/2012 2:00:00 PM HB2742

Conference room: 325

Testifier position: Oppose Testifier will be present: No.

Submitted by: IKE PAYNE Organization: Individual E-mail: musclepayne@yahoo.com

Submitted on: 2/21/2012

Comments:

aloha my name is Ike Payne and i reside on the big island and originally from Oahu. and im finding what is going on with bill 2742 very disturbing. as in example by what hawaii county did with the passing of bill 270 building code bill, by making the counties of all of Hawaii exempt from the rule that are dictated by the sunshine law is very unrealistic and shady. because here on the big island people are not rich they do not have lots of excess cash to be able to build homes to the specification of the rest of the world, or fly to the state capital to be present or give testimony on things that are not being understood by the citizens due to closed meeting held behind doors by the preceding councils. we are unique and part of our hawaiian history, our culture is built on the ability to carry on traditional practices , Vetting legislation and understanding our government, once again vetting and understanding our government, showing face at public hearings and use of the materials that are at hand for us here as in what was destroyed by bill 270's building code ruling just as with that the citizens were not heard or given a chance to vett or gain a full understanding due to the councils fear of the reaction for the public and the true reality of no one wanting it ... so now if you take the sunshine law out your making the vetting process for crystal clear government look ever so shady by not allowing the people to have ample ability to read understand and ask the questions need for complete community involvement.. the fear that your trying to institute is unfair, unrealistic and out right wrong, we the people of the United States/Hawaii in order to form a more perfect union respectfully ask that you realize that by exempting the sunshine law you are shrouding our governing process with a veil of uncertainty that will surely cause the citizens of hawaii to revolt and not have the faith and respect that is needed to feel comfortable and reassured by what our governing bodies actions shall be.. i respectfully and sincerely urge you to think of your families , friends and such. for how would they feel or you your self feel is you were a citizen not in office buy represent by someone who was doing this to you say no to this bill say no to bill 2742, and say yes to our chana and the need we all share for open and crystal clear governing meetings.

aloha ahi ahi

LATE TESTIMONY

HB2742 Objections

Hugh Clark [hughjclark@yahoo.com]

Sent: Tuesday, February 21, 2012 10:55 AM

To: JUDtestimony
Cc: Rep. Clifton K. Tsuji

Chairman House Judiciary Committee and Members:

Testifier position: Oppose Testifier can be present: No

Submitted by: Hugh Clark Organization: Individual Submitted on: 02-21-12

I urge this committee to kill this outrageous bill immediately. It would undermine four decades of openness in Hawaii County. Further, it would ruin the positive impacts of the state "Sunshine Law" on all pubic agencies.

I have resided in Hilo since 1966 as a reporter and was early-day leader of the Big Island Press Club established in 1967.

I assisted two close friends, along with many others, in establishing the open meetings provision of Hawaii County's charter that took effect January 1969 after many years of public debate. Those requirements were augmented by council rules and practices and the subsequent state rules.

This was not a mere council vote but one of the entire electorate of Hawaii County that had rejected two prior charter options. This was the epitome of home role as advocated by our forefathers such as late governor John Burns and county chairman/first mayor Shunichi Kimura.

This proposal not only would potentially gut openness and degrade the county charter, it would rape the whole notion of home rule

HB2742 Objections Page 2 of 2

I agree it would defile openness as a concept and make a mockery of the legislative form of government. There is no expressed rationale for its approval. This would serve only those who would hide and debase our form of democracy.

If this was intended as a joke, I am not amused.

If it is to be further considered, I urge you to please schedule county-by-county hearings so we may express ourselves more fully.

cc:

League of Women Voters

P.S. With better notice -- I discovered this on Sunday afternoon by sheer coincidence -- I am sure there would be a greater response from Hawaii County.

Aloha, Hugh Clark POB 1956 Hilo HI 96721-1956 808-935-4322 hm

Testimony for HB2742 on 2/21/2012 2:00:00 PM_ATE TESTIMONY mailinglist@capitol.hawaii.gov [mailinglist@capitol.hawaii.gov]

Sent: Tuesday, February 21, 2012 11:18 AM

To: JUDtestimony

Cc: nina_kai@yahoo.com

Testimony for JUD 2/21/2012 2:00:00 PM HB2742

Conference room: 325

Testifier position: Oppose Testifier will be present: No Submitted by: Nina Puhipau Organization: gmo-free O`ahu E-mail: nina_kai@yahoo.com Submitted on: 2/21/2012

Comments:

I am very concerned about the Sunshine Law being modified. We seem to be moving in a very disturbing direction. We must trust in ourselves, Not in the corporations that push their agendas through payoffs that harm us.

mailinglist@capitol.hawaii.gov [mailinglist@capitol.hawaii.gov]

LATE TESTIMONY

To: JUDtestimony

Cc: hollingermike@yahoo.com

Testimony for JUD 2/21/2012 2:00:00 PM HB2742

Conference room: 325

Testifier position: Oppose Testifier will be present: No Submitted by: Michael Hollinger

Organization: Individual

E-mail: hollingermike@yahoo.com

Submitted on: 2/21/2012

Comments:

Are you kidding? Who do you work for? What occasion has been allowed that any form of council and legislation be exempt from being vetted and processed by the public in the brightest and clearest transperency possible. This goes through, there will be a reaction.

mailinglist@capitol.hawaii.gov [mailinglist@capitol.hawaii.gov] _

Sent: Tuesday, February 21, 2012 11:46 AM

To: JUDtestimony

Cc: mscheffe@gmail.com LATE TOWNY

Testimony for JUD 2/21/2012 2:00:00 PM HB2742

Conference room: 325

Testifier position: Oppose Testifier will be present: No Submitted by: Marianna Scheffer

Organization: Individual E-mail: mscheffe@gmail.com Submitted on: 2/21/2012

Comments:

Please stop this measure. Sunshine in government is essential to democracy.

mailinglist@capitol.hawaii.gov [mailinglist@capitol.hawaii.gov] ATE TESTIMONY

To: JUDtestimony

Cc: merway@hawaii.rr.com

Testimony for JUD 2/21/2012 2:00:00 PM HB2742

Conference room: 325

Testifier position: Oppose Testifier will be present: No Submitted by: Marjorie Erway Organization: Individual E-mail: merway@hawaii.rr.com Submitted on: 2/21/2012

Comments:

I urge you to oppose this bill, as County Councils need to have sunshine shown on all the meetings and discussions.

OFFICERS

DIRECTORS

MAILING ADDRESS

Guy Archer, President Juliet Begley, Vice-President Fritz Fritschel, Treasurer Chuck Huxel, Secretary John Bickel Karin Gill Tom Horton Nancy Bey Little

Jan Lubin Stephen O'Harrow Barbara Polk, George Simson

Bart Dame (Alt) Josh Frost (Alt) Marsha Schweitzer (Alt) PO. Box 617 Honolulu Hawai'i 96822

February 21, 2012

Rep. Gilbert Keith-Agaran, Chair Rep. Karl Rhodes, Vice Chair House Judiciary Committee

HB 2742 Relating to Public Agency Meetings and Records Public Hearing: Tuesday, February 21, 2012, 2:00 p.m. Conference Room 325, State Capitol

Dear Chair Keith-Agaran and Vice Chair Karl Rhodes:

The Hawaii Chapter of Americans for Democratic Action opposes HB 2742.

The very first Article I of our State Constitution entitled "Bill of Rights, Political Power" sets forth the following, basic proposition:

Section 1. All political power of this State is inherent in the people and the responsibility for the exercise thereof rests with the people. All government is founded on this authority. [Am Const Con 1978 and election Nov 7, 1978]

HB 2742 would violate this fundamental proposition by proposing to exempt all county councils from the Sunshine Law. In order for the people to exercise their political power responsibly, the people need adequate and timely notice of legislative and agency meetings as provided under existing Sunshine Laws. We believe HB 2742 is unconstitutional in its purpose and intent. Hawaii Chapter of Americans for Democratic Action seeks to preserve and uphold the political power reserved to the people and opposes HB 2742.

HB 2742 testimony

Cliff DeVries [cliffdevries@hawaii.rr.com]

Sent: Tuesday, February 21, 2012 2:36 PM

To: JUDtestimony

HB 2742 Testimony

This bill would **exempt** all county councils from the Sunshine Law -- our very important law that requires meetings to be open to the public and prohibits members from secret discussions about official business.

If this bill passes, it means that county councils would no longer be required to post meeting notices 6 days in advance to inform citizens. Council members would be able to meet secretly on official business and make major decisions behind closed doors, away from the watchful eyes of the public.

Especially given all the important matters that come up at the city and county level -- rail, land use, opala, you name it -- this proposal is a bad idea.

It is really sad that people like Rep. Say would even introduce this bill. He just lost my future votes for representative from my area, Palolo

Cliff DeVries 2543 Makaulii Pl Honolulu, HI 96816 808 737-4421

keep Sunshine law- oppose HB 2742

Jennifer Ho [j.h.simplerway@gmail.com]

Sent: Tuesday, February 21, 2012 1:56 PM

To: JUDtestimony

JUD Committee Gilbert Keith-Agaran and Vice Chair Karl Rhodes

Aloha,

I am submitting re testimony in favor of the keeping Sunshine law in all County Councils - that means I am opposed to HB 2742. The process of democracy requires participation. Either we live in a democracy or we don't. Do not support the closing of doors to public participation in government.

Mahalo, Thank You

Jennifer S.Ho 198 Hoku Street, Hilo, HI 96720

mailinglist@capitol.hawaii.gov [mailinglist@capitol.hawaii.gov]

Sent: Tuesday, February 21, 2012 1:36 PM

To: JUDtestimony

Cc: pedrot@hawaii.rr.com

Testimony for JUD 2/21/2012 2:00:00 PM HB2742

Conference room: 325

Testifier position: Oppose Testifier will be present: No

Submitted by: Pedro Tama
Organization: Individual
E-mail: pedrot@hawaii.rr.com

Submitted on: 2/21/2012

Comments:

Passing this would destroy the whole concept of transparency in government. Please vote NO.

mailinglist@capitol.hawaii.gov [mailinglist@capitol.hawaii.gov]

Sent: Tuesday, February 21, 2012 1:10 PM

To: JUDtestimony

Cc: editor@bigislandweekly.com

Testimony for JUD 2/21/2012 2:00:00 PM HB2742

Conference room: 325

Testifier position: Oppose Testifier will be present: No

Submitted by: Big Island Press Club Organization: BIg Island Press Club E-mail: editor@bigislandweekly.com

Submitted on: 2/21/2012

Comments:

The Hon. Gilbert Keith-Agaran and members of the House Judiciary Committee

Dear Chair Keith-Agaran,

The Big Island Press Club condemns and opposes House Bill 2742 as an inexcusable effort to weaken the public's right to know the actions of their government.

We wish to remind your committee about the purpose of and especially the NEED for the Sunshine Law:

" (1) It is the intent of this part to protect the people's right to know;

- (2) The provisions requiring open meetings shall be liberally construed; and
- (3) The provisions providing for exceptions to the open meeting requirements shall be strictly construed against closed meetings. Equot;

There is no justification to exempt the county councils of Hawaii, Honolulu, Kauai and Maui from HRS 92. The people of these counties would be ill-served by the passage of this bill into law. It is a bad bill that would lead to bad policy.

Sincerely,

Yisa Var, president, Big Island Press Club, on behalf of the Executive Board of the club.

mailinglist@capitol.hawaii.gov [mailinglist@capitol.hawaii.gov]

Sent: Tuesday, February 21, 2012 1:05 PM

To: JUDtestimony

Cc: mrs.reyesoda@gmail.com

Testimony for JUD 2/21/2012 2:00:00 PM HB2742

Conference room: 325

Testifier position: Oppose Testifier will be present: No Submitted by: Julie Reyes Oda Organization: Individual

E-mail: mrs.reyesoda@gmail.com

Submitted on: 2/21/2012

Comments:

I oppose exempting the counties from the Sunshine Law. If we exempt them this year...who will be next?

Margaret Wille
Attorney at Law
65-1316 Lihipali Road
Kamuela, Hawaii 96743
Tel: 808-854-6931
margaretwille@mac.com

February 21, 2012

Dear Chair Keith-Agaran Judiciary Committee

Re: HB2742

Please vehemently oppose HB 2742. HB2742 amends the Sunshine Law so that the County is no longer subject to the Sunshine Law. There may be some issues that need to be addressed regarding the Sunshine Law however this blanket exemption is unbelievable – very ill-advised. There has been no outpouring of support by residents around the state and no outpouring of support among the County Councils. This bill is contra – transparency – something we constituents value.

Speaker Say should be ashamed to have submitted this bill at the request of someone else – as if not to take responsibility for doing so. And submitting this bill on a Friday – holiday weekend makes it appear he is trying to slide this through with little opportunity for public review and comment.

Please oppose this legislation.

Sincerely

/s/ Margaret Wille

Christopter Kelinai horkeone Camavillo

There are already actions of

the government and City & Country

and State that So not like to

report to the Sonshine law. Why

would any official not want

their service to the citizens be recorded

and available.

Ladrongly oppose this bill ABZ745.

It's to ad enough the city incorporated apportion

Of Thomas Square without public coment on

vedraving the boundvies. So this bill is

tad. Kill it or vecuse yourself if

sopport this pill

428 Onion: St

Center A 21 FEB 2012