



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-SIXTH LEGISLATURE, 2012**

ON THE FOLLOWING MEASURE:

S.B. NO. 2737, S.D. 1, RELATING TO PUBLIC MEETINGS.

BEFORE THE:

HOUSE COMMITTEE ON JUDICIARY

DATE: Thursday, March 15, 2012

TIME: 2:00 p.m.

LOCATION: State Capitol, Room 325

TESTIFIER(S): David M. Louie, Attorney General, or
Charleen M. Aina, Deputy Attorney General

Chair Keith-Agaran and Members of the Committee:

The Department of the Attorney General (The "Department") supports this bill.

The bill amends the State's Sunshine Law to allow board and commission meetings to be conducted by any form of conferencing technology that permits interaction by audio, or audio and visual means, as long as:

1. All members of a board and the public are **at least** able to interact with each other by audio communication; and
2. The public is given notice of all the locations at which board members will be participating in the meeting, **and** may join members to participate in the meeting at those locations.

The bill also specifies that an agenda item may **not** be considered if any meeting location is connected by audio only technology, and copies of all visual aids brought or used to consider an item on the agenda are not available at all meeting locations within fifteen minutes after audio only technology is being used.

Travel time to and from board meeting locations often hinders a board member from attending a board meeting. Broadening the technology that can be used to conduct board meetings from multiple sites, including allowing board meetings to be conducted by means of audio connectivity only, should reduce the instances in which a board is unable to conduct business, foreclosing the public from participating in government for lack of a quorum. All sites from which board members participate must be open to the public and capable of supporting interaction among all members of the board and the public. At a minimum, all sites must be

connected by audio communication for the duration of the meeting. These amendments to the Sunshine Law will enable members of boards, as well as the public, to participate in board meetings from locations closer to their homes, office, or where they may otherwise need to be. The Administration's purpose in proposing this measure is to raise attendance levels and participation in board meetings both by members of boards and the public.

The Senate Committee on Judiciary and Labor suggested that there be further discussion to consider whether an exception to the public access requirement should be added to address situations in which a board member is located in an area that cannot easily accommodate the public, for example, if a board member, although hospitalized, was able and wanted to attend a board meeting. Such an exception does not create any legal issues, and The Department does not oppose it.

We respectfully request that the Committee pass this bill.

OFFICE OF INFORMATION PRACTICES

STATE OF HAWAII
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HONOLULU, HAWAII 96813
TELEPHONE: 808-586-1400 FAX: 808-586-1412
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To: House Committee on Judiciary

From: Cheryl Kakazu Park, Director

Date: March 15, 2012, 2:00 p.m.
State Capitol, Room 325

Re: Testimony on S.B. No. 2737, S.D. 1
Relating to Public Meetings

Thank you for the opportunity to submit testimony in support of S.B. No. 2737, S.D. 1. The Office of Information Practices ("OIP") is charged with administration of the State's Sunshine Law (Part I of Chapter 92, Hawaii Revised Statutes) and offers the following comments to the proposed amendments to the videoconferencing section of the law.

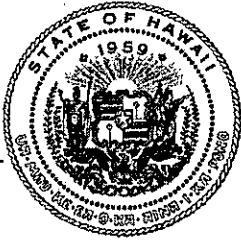
OIP recognizes that videoconferencing benefits boards by reducing costs and helping boards to make quorum, and also benefits the public by often providing easier access to a meeting site. Videoconferencing is particularly useful for our island state, as this technology permits board members and members of the public to attend a meeting that would otherwise require the time, expense, and inconveniences of interisland travel. Since the last amendments in 2006 to the videoconferencing provisions of the Sunshine Law, new forms of technology and communication have continued to evolve.

This bill would expand the videoconference provision to allow boards to hold meetings by "interactive conference technology," which is defined as "any form of audio or audio and visual conference technology, including teleconference,

videoconference, and voice over internet protocol, that facilitates interaction between the public and board members.” Although the current statute requires both audio and visual interaction to start a meeting, it permits the meeting to continue by audio communication alone if all visual aids have been provided to all meeting participants or can be readily transmitted within 15 minutes. Under this bill, boards would be given the discretion to notice and hold the entire meeting by audio conference alone, with the safeguard that the board can discuss, but not act upon agenda items for which visual aids were unavailable.

This bill provide boards with more flexibility because it can be difficult, especially for neighbor island or smaller boards, to obtain and arrange access to videoconferencing sites, equipment, and support. The bill allows for the use of modern technology and forms of communication, such as voice over internet protocol, which may be more readily available and cost effective than older forms of conference technology. However, OIP would recommend that rather than including voice over internet protocol or other specific examples of permitted technology in the definition, the definition should simply read “any form of audio or audio and visual conference technology that facilitates interaction between the public and board members.” OIP believes that, as future audio or video conference technologies become available and perhaps replace voice over internet protocol as a common form, it will be clearer that these future technologies qualify as “interactive conference technology” if the statutory definition is not in any way limited by specifying current technologies as examples of qualifying technologies. Since the bill now provides examples that did not previously exist in the law, it may be possibly implied under the legal principle of ejusdem generis that other non-specified technologies do not qualify as “interactive conference technology.” OIP’s suggested amendment would eliminate such an unintended implication.

By making it easier for boards to arrange for additional meeting sites, this bill could help to promote more open meetings and public participation in governmental discussions, deliberations, and decisions. Therefore, OIP supports this bill.



**DEPARTMENT OF BUSINESS,
ECONOMIC DEVELOPMENT & TOURISM**

NEIL ABERCROMBIE
GOVERNOR

RICHARD C. LIM
DIRECTOR

MARY ALICE EVANS
DEPUTY DIRECTOR

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Mailing Address: P.O. Box 2359, Honolulu, Hawaii 96804
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Statement of
RICHARD C. LIM
Director
Department of Business, Economic Development, and Tourism
before the
HOUSE COMMITTEE ON JUDICIARY
Thursday, March 15, 2012
2:00 PM
State Capitol, Conference Room 325

In consideration of
SB 2737 SD1
RELATING TO PUBLIC MEETINGS

Chair Keith-Agaran, Vice Chair Rhoads and Members of the House Committee on Judiciary.

The Department of Business, Economic Development, and Tourism (DBEDT) supports SB2737 SD1, Relating to Public Meetings. The purpose of this measure is to use various forms of interactive conference technology in order to increase the ability of members of state and county boards and commissions to attend board meetings.

DBEDT and its neighbor island members, in particular, would benefit from this bill. As most board members are volunteers and have other obligations that make demands on their time, this bill would allow members to attend their board meetings by either audio or audio/visual forms of communications when traveling proves to be difficult. Conducting board meetings using interactive conference technology will not only save on time but will also help to reduce expenses.

Thank you for the opportunity to testify in support of this measure.



DISABILITY AND COMMUNICATION ACCESS BOARD

919 Ala Moana Boulevard, Room 101 • Honolulu, Hawaii 96814
Ph. (808) 586-8121 (V/TDD) • Fax (808) 586-8129

March 15, 2012

TESTIMONY TO THE HOUSE COMMITTEE ON JUDICIARY

Senate Bill 2737, SD1 – Relating to Public Meetings

The Disability and Communication Access Board (DCAB) supports Senate Bill 2737, SD1 that amends the Sunshine Law to allow State and county boards to conduct meetings using interactive conference technology that permits interaction by audio, or audio and visual means.

DCAB is a Governor-appointed body and would benefit from being allowed to use all available forms of interactive conference technology to convene a meeting. There are other Governor-appointed bodies, that have members with disabilities that would also benefit from use of such technology including the State Council on Developmental Disabilities, State Council on Independent Living in Hawaii, and the State Rehabilitation Council. It would be a reasonable modification for a member with a disability to join a meeting using interactive technology on a computer from his or her home or office, consistent with the Americans with Disabilities Act (ADA). In this situation, it would not be appropriate for a member of the public to attend a meeting at the board member's home or office. The modification would only be appropriate for a board member with a disability who could not attend the meeting in person. Our office received technical assistance from the U.S. Department of Justice that they have provided at least one other state with similar technical assistance. For this situation, attending a meeting via interactive conference technology would be considered a reasonable modification of policies and practices under the ADA.

We request an amendment to the bill which will allow a reasonable modification under state law for board members with disabilities without the need to post the board member's home as a meeting location.

Thank you for the opportunity to testify.

Respectfully submitted,

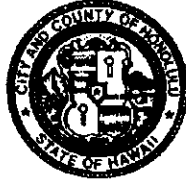
BARBARA FISCHLOWITZ-LEONG
Chairperson

FRANCINE WAI
Executive Director

DEPARTMENT OF PLANNING AND PERMITTING
CITY AND COUNTY OF HONOLULU

650 SOUTH KING STREET, 7TH FLOOR • HONOLULU, HAWAII 96813
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PETER B. CARLISLE
MAYOR



DAVID K. TANOUE
DIRECTOR,

JIRO A. SUMADA
DEPUTY DIRECTOR

March 15, 2012

The Honorable Gilbert S. C. Keith-Agaran, Chair
and Members of the Committee on Judiciary
House of Representatives
State Capitol
Honolulu, Hawaii 96813

Dear Chair Keith-Agaran and Committee Members:

**Subject: Senate Bill No. 2737, SD1
Relating to Public Meetings**

The Department of Planning and Permitting (DPP) **supports** Senate Bill No. 2737, SD1, which amends the Sunshine Law to allow use of interactive conference technology to increase the ability of members of State and county boards and commissions to attend board meetings.

The Sunshine Law, as amended several years ago, does allow boards and commissions to use video conferencing to hold meetings. However, there are several forms of interactive conference technology which are much easier and less expensive to use than video conferencing technology. These alternative formats, including teleconferences and use of voice over internet protocol, are increasingly used to support conferences and training sessions linking participants at multiple sites.

Broadening the options that boards and commissions use to conduct public meetings, will allow them to operate more efficiently, especially reducing delays due to lack of quorum.

Please pass Senate Bill No. 2737, SD1. Thank you for the opportunity to testify.

Very truly yours,

A handwritten signature in black ink, appearing to read "David K. Tanoue", is written over a horizontal line.

David K. Tanoue, Director
Department of Planning and Permitting

DKT:jmf
sb2737sd1-PublicMeetings-bs.doc



**Testimony to the House Committee on Judiciary
Thursday, March 15, 2012
2:00 p.m.
State Capitol - Conference Room 325**

RE: SENATE BILL NO. 2737 SD1 RELATING TO PUBLIC MEETINGS

Chair Keith-Agaran and Vice Chair Rhoads, and members of the committees:

The Chamber of Commerce of Hawaii supports the intent of S.B. No. 2737 SD1 which proposes to increase the ability of members of boards and commissions subject to the "Sunshine Law," part I of chapter 92, Hawaii Revised Statutes (HRS), to attend meetings by allowing boards to conduct board meetings at multiple locations by audio only interactive forms of conference technology, including teleconferencing, videoconferencing, and voice over Internet protocol.

Chamber supports this bill because it recognizes the challenges of conducting open meetings in an island state. It also recognizes the improvements in technology that make it easier and more cost effective to have a hearing/meeting at multiple locations throughout the state. As travel costs continue to increase, this is a reasonable and cost effective way to allow for greater public participation through the use of technology. While we support the intent of the Sunshine Law, based on past practices and common sense, we believe that the proposed amendments will improve public participation and allow for the Board to gain additional insight while protecting the public's right to know how decisions are made.

Thank you for this opportunity to express our views.

Written Statement of
YUKA NAGASHIMA
Executive Director & CEO
High Technology Development Corporation
before the
HOUSE COMMITTEE ON JUDICIARY
Thursday, March 15, 2012
2:00 PM
State Capitol, Conference Room 325

In consideration of
SB 2737 SD1 RELATING TO PUBLIC MEETINGS.

Chair Keith-Agaran, Vice Chair Rhoads, and Members of the House Committee on Judiciary:

The High Technology Development Corporation (HTDC) **supports SB 2737 SD1 with requested amendments.** SB 2737 SD1 allows board members to phone in to a board meeting held by teleconference provided that visual aids are provided beforehand and available to all participants in the meeting. Teleconference will make board meetings more economical, easier to convene, and likely increase participation.

The requested amendment is to revise page (2) lines (17) and (22) to read “public locations”. The purpose for the requested change is to allow board members to participate from private locations such as their office or home without making these locations available and open to the public.

Thank you for the opportunity to submit testimony on this bill.



HAWAII

AMERICANS FOR DEMOCRATIC ACTION

OFFICERS	DIRECTORS			MAILING ADDRESS
Guy Archer, President	John Bickel	Jan Lubin		PO. Box 617
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Chuck Huxel, Secretary	Nancy Bey Little	George Simson	Marsha Schweitzer (Alt)	

March 14, 2012

TO: Chair Gilbert Keith-Agaran, Vice Chair Karl Rhoads
Members of the Judiciary Committee

FROM: Barbara Polk, Legislative Chair, Americans for Democratic Action/Hawaii

RE: SB 2737 SD1 Relating to Public Meetings

Americans for Democratic Action/Hawaii is pleased to support SB 2737. Interactive conference technology is now available in a variety of easily useable forms and holds the potential of greatly increasing access for the public to official meetings. This bill is especially important for neighbor island participation, both on boards and as interested members of the public.

The bill has been carefully prepared to ensure that transparency is maintained and that all participants are included in the meeting.

We urge you to pass SB 2737 SD1

Testimony for SB2737 on 3/15/2012 2:00:00 PM

Testimony for SB2737 on 3/15/2012 2:00:00 PM

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

Sent: Tuesday, March 13, 2012 10:08 PM

To: JUDtestimony

Cc: kimokelii@aol.com

Testimony for JUD 3/15/2012 2:00:00 PM SB2737

Conference room: 325
Testifier position: Support
Testifier will be present: No
Submitted by: Kimo Kelii
Organization: Nanakuli Neighborhood Board
E-mail: kimokelii@aol.com
Submitted on: 3/13/2012

Comments:

Aloha Kakou,

PLEASE SUPPORT SB 2737

I implore the House of Representatives Judiciary Committee's Chair, G. Keith-Agaran and Vice Chair, K. Rhoads to include the committee members to please support and approve SB 2737, because as a community leader in the Waianae Coast the intention of this bill is to make sure that board officers or members have an opportunity to participate in a meeting that requires their input and feedback whereby their participation will come through the use of interactive conference technology.

Mahalo, Kimo Kelii (Waianae Coast Community Leader)