

SB2859



NEIL ABERCROMBIE
GOVERNOR

BRIAN SCHATZ
LT. GOVERNOR

**STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS**

335 MERCHANT STREET, ROOM 310
P.O. Box 541
HONOLULU, HAWAII 96809
Phone Number: 586-2850
Fax Number: 586-2856
www.hawaii.gov/dcca

KEALI'S. LOPEZ
DIRECTOR

DEPUTY DIRECTOR

**PRESENTATION OF THE
PROFESSIONAL AND VOCATIONAL LICENSING DIVISION**

TO THE SENATE COMMITTEE ON JUDICIARY AND LABOR

TWENTY-SIXTH LEGISLATURE
Regular Session of 2012

Thursday, February 2, 2012
9:30 a.m.

WRITTEN TESTIMONY ONLY

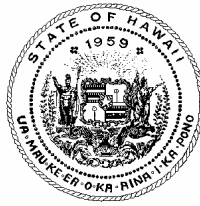
TESTIMONY ON SENATE BILL NO. 2859, RELATING TO OPEN GOVERNMENT.

TO THE HONORABLE CLAYTON HEE, CHAIR,
AND MEMBERS OF THE COMMITTEE:

My name is Celia Suzuki, Licensing Administrator for the Professional and Vocational Licensing Division ("Division"), Department of Commerce and Consumer Affairs ("Department"). The Department appreciates the opportunity to testify in support of Senate Bill No. 2859, Relating to Open Government.

The purpose of Senate Bill No. 2859 is to allow board members to hear testimony for a meeting canceled due to lack of quorum, to attend informational meetings, and to discuss board business via social media. The bill also provides for the electronic filing of meeting notices.

NEIL ABERCROMBIE
GOVERNOR



JODIE F. MAESAKA-HIRATA
DIRECTOR

Martha Torney
Deputy Director
Administration

Joe W. Booker, Jr.
Deputy Director
Corrections

Keith Kamita
Deputy Director
Law Enforcement

STATE OF HAWAII
DEPARTMENT OF PUBLIC SAFETY

919 Ala Moana Boulevard, 4th Floor
Honolulu, Hawaii 96814

TESTIMONY ON SENATE BILL 2859
RELATING TO OPEN GOVERNMENT

by

Jodie F. Maesaka-Hirata, Director
Department of Public Safety

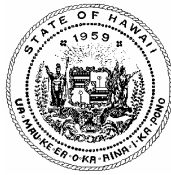
Senate Committee on Judiciary and Labor
Senator Clayton Hee, Chair
Senator Maile S.L. Shimabukuro, Vice Chair

Thursday, February 2, 2012; 9:30 A.M.
State Capitol, Room 016

Chair Hee, Vice Chair Shimabukuro, and Members of the Committee:

The Department of Public Safety (PSD) supports Senate Bill (SB) 2859 because it improves government efficiency through the use of technology. The measure will facilitate Meeting Notices to be more readily available to the public and simplifies the filing process for State Boards and Commissions. The use of electronic filings on the State's electronic calendar will support a "green initiative" by eliminating paper copies, while also improving the transparency of government. The ultimate goal is achieved by rebuilding public confidence in government through this measure.

Thank you for the opportunity to present this testimony.



STATE OF HAWAII
DEPARTMENT OF HUMAN RESOURCES DEVELOPMENT
235 S. BERETANIA STREET
HONOLULU, HAWAII 96813-2437

January 31, 2012

**TESTIMONY TO THE
SENATE COMMITTEE ON JUDICIARY AND LABOR**

For Hearing on Thursday, February 2, 2012
9:30 a.m., Conference Room 016

BY

BARBARA A. KRIEG
INTERIM DIRECTOR

Senate Bill No. 2859
Relating to Open Government

WRITTEN TESTIMONY ONLY

TO CHAIRPERSON CLAYTON HEE AND MEMBERS OF THE COMMITTEE:

Thank you for the opportunity to provide testimony on S.B. No. 2859.

The purpose of S.B. No. 2859 is to allow board members to hear testimony for a meeting canceled for lack of quorum, to attend informational meetings, and to discuss board business via social media; and to provide for electronic meeting notices.

The Department of Human Resources Development supports this bill.

We believe that the electronic notice requirement of this bill significantly enhances the ability of public agencies and boards to more widely publicize their meeting notices, which could lead to more public interest and participation in their proceedings. Posting notices electronically is also a low-cost alternative to traditional posting methods that require expenditures for paper, copying, and distribution.

In addition, the new permitted interactions allowed by this bill would:

1) communicate to the public that its time spent appearing at meetings is valued because testimony will be received even if the meeting is cancelled; and 2) enable

agency and board members to interact more with the public—via informational meetings and social media—in order to receive input outside the formalities of a duly noticed formal meetings.

S.B. No. 2859 encourages inclusive and participatory government for our citizenry. We respectfully request that this Committee move this bill forward.



STATE OF HAWAII
BOARD OF EDUCATION
P.O. BOX 2360
HONOLULU, HAWAII 96804

Senate Committee on Judiciary and Labor
Senator Clayton Hee, Chairperson
Senator Maile S.L. Shimabukuro, Vice Chairperson

Wednesday, February 2, 2012
9:30 a.m.
Hawai'i State Capitol, Room 016

Testimony in SUPPORT of SB 2859, Relating to Open Government

Thank you for the opportunity to submit testimony. The Board of Education SUPPORTS SB 2859.

The purpose of this bill is to allow board members to hear testimony for a meeting canceled due to lack of quorum, to attend informational meetings, to discuss board business via social media and to utilize electronic means for filing notices.

This bill provides the necessary safeguards to ensure the purpose of the Sunshine Law (openness and transparency in government) is maintained while recognizing changing needs.

Allowing less than a quorum of board members to attend an informational briefing supports more thorough information gathering, greater understanding of various perspectives, and ultimately, more informed decision-making.

SB 2859 also recognizes changing technology needs and the growing importance of social media by permitting less than a quorum of board members to discuss board business online.

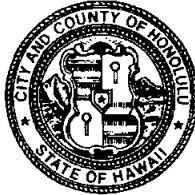
This bill also provides electronic posting methods that are feasible and that anticipate technology interruptions.

Thank you for the opportunity to provide testimony in support of SB 2859.

DEPARTMENT OF PLANNING AND PERMITTING
CITY AND COUNTY OF HONOLULU

650 SOUTH KING STREET, 7TH FLOOR • HONOLULU, HAWAII 96813
PHONE: (808) 768-8000 • FAX: (808) 768-6041
DEPT. WEB SITE: www.honolulu.dpp.org • CITY WEB SITE: www.honolulu.gov

PETER B. CARLISLE
MAYOR



DAVID K. TANOUE
DIRECTOR

JIRO A. SUMADA
DEPUTY DIRECTOR

February 2, 2012

The Honorable Senator Clayton Hee, Chair
and Members of the Committee on Judiciary and Labor
State Senate
State Capitol
Honolulu, Hawaii 96813

Dear Chair Hee and Committee Members:

**Subject: Senate Bill No. 2859
Relating to Open Government**

The Department of Planning and Permitting (DPP) **supports** Senate Bill No. 2859 with a minor amendment. This measure allows board members to hear testimony and presentations for a meeting cancelled for lack of quorum, to attend informational meetings, and to discuss board business via social media. It also provides for electronic meeting notices.

The Department supports the amendment of the Sunshine Law to allow board members to hear testimony and presentations for a meeting cancelled for lack of quorum because no important public purpose is served by delaying the testimony or presentation, and delaying the testimony to a later meeting is a waste of time of all those who came to the meeting, including the members of the board, those who were scheduled to present, and those who came to hear the presentation.

The Department also supports the amendment of the Sunshine Law to allow board members to attend informational meetings and to discuss community issues on social media websites, especially those who are members of advisory boards like the City's Neighborhood Boards which provide non-binding advice and recommendations to government.

Finally, the Department supports the amendment of the Sunshine Law to allow electronic meeting notices for City and County board meetings in lieu of publication in newspapers or posting with the City Clerk's office. Passage of this bill will reduce the cost of notices for the Department, and shorten the time required to post notices.

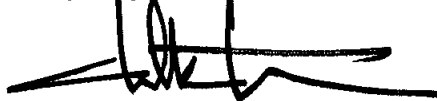
Electronic notices are increasingly more accessible to the public than posting at governmental offices or newspaper notice publication. If Senate Bill No. 2859 is amended to require that the State and county systems include the ability for interested parties to subscribe to an e-mail notice when a notice of interest is placed on the website, such a system would be

The Honorable Senator Clayton Hee, Chair
and Members of the Committee on Judiciary and Labor
State Senate
Re: Senate Bill No. 2859
February 2, 2012
Page 2

superior to the current system in which interested parties have to regularly scan the newspaper or check with a state or government office to see if a notice of interest has been published or posted. Such a system would be similar to those successfully used on the Hawaii State Legislature's website and the Honolulu City Council's website.

Please pass Senate Bill No. 2859 with the requested amendment. Thank you for the opportunity to testify.

Very truly yours

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

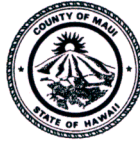
David K. Tanoue, Director
Department of Planning and Permitting

DKT: jmf
sb2859-OpenGovernment-bs.doc

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



Director of Council Services
Ken Fukuoka

COUNTY COUNCIL
COUNTY OF MAUI
200 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793
www.mauicounty.gov/council

February 1, 2012

TO: Honorable Clayton Yee, Chair
Senate Committee on Judiciary and Labor

FROM: Joseph Pontanilla, Council Vice- Chair

A handwritten signature in cursive script, reading "Joseph Pontanilla", is written over the printed name in the "FROM:" field.

DATE: Thursday February 2, 2012

SUBJECT: **SUPPORT OF SB 2859, RELATING TO OPEN GOVERNMENT**

Thank you for the opportunity to testify in support of this measure. I provide this testimony as an individual member of the Maui County Council.

I **support SB 2859** for the reasons cited in testimony submitted by Maui County Council Chair Danny A. Mateo and urge you to support this measure.

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



Director of Council Services
Ken Fukuoka

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www.mauicounty.gov/council

TO: The Honorable Clayton Hee, Chair
Senate Committee on Judiciary and Labor

FROM: Don Couch
Council Member, South Maui District

A handwritten signature in black ink, appearing to read "Don Couch", written over a horizontal line.

DATE: Wednesday, February 1, 2012

SUBJECT: **SUPPORT OF SB 2859, RELATING TO OPEN GOVERNMENT**

Thank you for the opportunity to testify in **support** of measure **SB 2859**. As indicated by Maui County Council Chairman Danny Mateo, I, too, support the intent of this measure.

The measure states that any meetings or events attended by board members not be specifically organized for nor directed to them, and that board members attending such gatherings make no commitments relating to a vote on any matter discussed. If a member's vote is not being solicited, the total number of board members attending a gathering is irrelevant.

Please remove language throughout the measure which restricts board member participation to "two or more members of a board, but fewer than the number of members necessary to constitute a quorum for the board."

It is important that as many Council members as possible attend meetings and events to avail themselves of the opportunity to gain information, ask questions and participate in discussions, in order to "perform their duties faithfully, as long as no commitment to vote is made or sought."

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



Director of Council Services
Ken Fukuoka

COUNTY COUNCIL
COUNTY OF MAUI
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WAILUKU, MAUI, HAWAII 96793
www.mauicounty.gov/council

January 31, 2012

TO: The Honorable Clayton Yee, Chair
Senate Committee on Judiciary and Labor

FROM: Danny A. Mateo
Council Chair

SUBJECT: **HEARING OF FEBRUARY 2, 2012; TESTIMONY IN SUPPORT OF SB 2859,
RELATING TO OPEN GOVERNMENT**

Thank you for the opportunity to testify in support of this important measure. The purposes of this measure are to allow board members to hear testimony for a meeting canceled for lack of quorum, to attend informational meetings on matters relating to board business, and to discuss board business via social media. The measure also provides for electronic meeting notices.

The Maui County Council has not had the opportunity to take a formal position on this measure. Therefore, I am providing this testimony in my capacity as an individual member of the Maui County Council.

I support this measure for the following reasons:

1. Allowing Council committees to receive testimony at a properly noticed meeting for which quorum is lacking honors the efforts made by members of the public to become involved in the legislative process. It strikes the appropriate balance between allowing those opinions to be voiced and restricting deliberations until a subsequent meeting can be held for which quorum is present.
2. Public officials are often invited to participate in public gatherings, community events, professional association conferences, professional development activities, and other events. For Maui County Council members, these events may include conferences of the National Association of Counties (NACo) and the Hawaii State Association of Counties (HSAC). Currently, the Sunshine Law does not specifically address the ability of board members to attend these events. The proposed measure is a step in the right direction.
3. As reliance on social media flourishes, it is critical that the Sunshine Law be adapted to address ways in which social media can promote open government. I support legislation that would recognize social media as an opportunity to provide community outreach.

For the foregoing reasons, I support this measure.

The measure could be improved by: (a) exempting County councils from the Sunshine Law, as proposed by HB 2742, relating to public agency meetings and records; (b) explicitly allowing for attendance by all County Council members at governmental conferences and meetings; (c) deleting the requirement that members attending informational meetings report on their attendance and matters presented and discussed at the next duly noticed meeting of the board; and (d) deleting the requirement that board members list their social media addresses or identifications, which may infringe on members' private communications.

The Division is responsible for implementing the licensing regulations for forty-seven (47) boards, commissions, and programs. There are twenty-five (25) boards and commissions that are administratively attached to the Department. The boards meet on a regular basis and would welcome the suggested amendments to Chapter 92, Hawaii Revised Statutes. The measure will also be very beneficial to the consuming public.

Thank you for the opportunity to testify in support of Senate Bill No. 2859.

Testimony to the Senate Committee on Judiciary and Labor
Thursday, February 2, 2012
9:30 a.m.
State Capitol - Conference Room 016

RE: SENATE BILL 2859 RELATING TO OPEN GOVERNMENT

Chair Hee, Vice Chair Shimabukuro, and members of the committee:

The Chamber of Commerce of Hawaii supports S.B. No. 2859.

The Chamber is the largest business organization in Hawaii, representing more than 1,100 businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the “Voice of Business” in Hawaii, the organization works on behalf of its members, which employ more than 200,000 individuals, to improve the state’s economic climate and to foster positive action on issues of common concern.

The Chamber supports S.B. No. 2859 which proposes to:

- Allow members of a board or commission to hear public testimony and presentations on items listed on a filed agenda at the time and place stated in the notice where the meeting, as noticed, is canceled as a matter of law due to a lack of quorum.
- Allow less than a quorum of members of a board or commission to attend informational meetings or presentations on matters relating to official board business, provided that the meeting is not specifically organized for board members and that the members report back at the next board meeting.
- Allow less than a quorum of members of a board or commission to discuss board or commission business via social media, provided that the discussion is continuously accessible for public viewing and participation.
- Require state boards to electronically file their meeting notices under part I of chapter 92, Hawaii Revised Statutes (HRS) (Sunshine Law), on the State's electronic calendar, and to allow counties to electronically file such notices on the State's calendar or their official calendars.

The Chamber supports this bill because it equitably addresses situations where members of the public, some of whom have traveled great distances to present testimony at the hearing, will be allowed to provide their testimony on the record. It also allows members to attend meetings and gain insight on issues that maybe considered by the Board/Commission. 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.

BIA-HAWAII

BUILDING INDUSTRY ASSOCIATION

"Building Better Communities"

2012 Officers

President

Dean I. Asahina
Universal Construction, Inc.

President-Elect
Greg Thielen

Complete Construction Services Corp.

Vice President

Brian Adachi
BKA Builders, Inc.

Treasurer

Timothy J. Waite
Simpson Strong-Tie Co., Inc.

Secretary

Michael J. Brant
Gentry Homes, Ltd.

Special Appointee-BUILDER

Paul D. Silen
Hawaiian Dredging Construction Co., Inc.

Special Appointee-Associate

Craig Washofsky
Servco Home & Appliance Distribution

Immediate Past President

James Byxbee
Homeworks Construction, Inc.

**Executive Vice President/
Chief Executive Officer**

Karen T. Nakamura
BIA-Hawaii

2012 Directors

Clifton Crawford

C&J Contracting, Inc.

David S. Chang

CS Design Builders

Dean Uchida

SSFM International, Inc.

Gary T. Okimoto

Honolulu Wood Treating

Guy J. Shindo

First Hawaiian Bank

James Dixon

Island Insurance Company, Ltd.

Karin L. Holma

Bays Lung Rose & Holma

Mark Kennedy

HASEKO Construction Kamakana, LLC

Marnie Koga Hursty

Mega Construction

Scotty Anderson

Pacific Rim Partners

Sunny Walsh

Hunt Building Company, Ltd.

W. Bruce Barrett

Castle & Cooke Homes Hawaii, Inc.

Testimony to the Senate Committee on Judiciary and Labor

Thursday, February 2, 2012

9:30 a.m.

State Capitol, Room 016

RE: S.B. 2859, Relating to the Open Government

Good morning Chair Hee, Vice-Chair Shimabukuro, and members of the committee:

My name is Karen Nakamura, Chief Executive Officer of the Building Industry Association of Hawaii (BIA-Hawaii). Chartered in 1955, BIA-Hawaii is a professional trade organization affiliated with the National Association of Home Builders, representing the building industry and its associates. BIA-Hawaii takes a leadership role in unifying and promoting the interests of the industry to enhance the quality of life for the people of Hawaii.

BIA-HAWAII strongly supports S.B. No. 2859 which proposes to:

- Allow members of a board or commission to hear public testimony and presentations on items listed on a filed agenda at the time and place stated in the notice where the meeting, as noticed, is canceled as a matter of law due to a lack of quorum.
- Allow less than a quorum of members of a board or commission to attend informational meetings or presentations on matters relating to official board business, provided that the meeting is not specifically organized for board members and that the members report back at the next board meeting.
- Allow less than a quorum of members of a board or commission to discuss board or commission business via social media, provided that the discussion is continuously accessible for public viewing and participation.
- Require state boards to electronically file their meeting notices under part I of chapter 92, Hawaii Revised Statutes (HRS) (Sunshine Law), on the State's electronic calendar, and to allow counties to electronically file such notices on the State's calendar or their official calendars.

BIA-Hawaii supports this bill because it equitably addresses situations where members of the public, some of whom have traveled great distances to present testimony at the hearing, will be allowed to provide their testimony on the record. It also allows members to attend meetings and gain insight on issues that maybe considered by the Board/Commission. 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.

For the foregoing reasons, BIA-Hawaii strongly supports S.B. No. 2859.

Thank you for the opportunity to testify.

Karen I. Nakamura

EVP/CEO
BIA-Hawaii



HAWAII
STRATEGIC
DEVELOPMENT
CORPORATION



Written Statement of

KARL FOOKS

President

Hawaii Strategic Development Corporation
and

Yuka Nagashima

Executive Director and CEO

High Technology Development Corporation

before the

SENATE COMMITTEE ON JUDICIARY AND LABOR

February 2, 2012

9:30 AM

State Capitol, Conference Room 016

In consideration of

SB 2859 RELATING TO OPEN GOVERNMENT.

Chair Hee, Vice Chair Shimabukuro, and Members of the Committee on Judiciary and Labor:

The Hawaii Strategic Development Corporation (HSDC) and the High Technology Development Corporation (HTDC) support SB 2859, legislation to provide greater public access to board proceedings and to improve the performance of board members.

HSDC and HTDC defer to the Office of Information Practices on the public impact of this bill.

We would like to recommend that the legislation clarify who decides whether a board meeting canceled due to lack of quorum or terminated pursuant to section 92-3.5(c) may still receive testimony and presentations. The proposed legislation does not require the board to receive testimony and presentations, but the convening board lacks a quorum for the board to decide to receive testimony or not.

We also recommend the proposed requirement to post the notice at the site of the meeting be six calendar days before the meeting be dropped in favor of the previous requirement to post the notice at the site of the meeting whenever feasible. Often meetings are held at locations where the board has no control over posted notices during the six calendar day period required by the proposed legislation.

Thank you for the opportunity to submit testimony on this bill

From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc: gshiromahi@hotmail.com
Subject: Testimony for SB2859 on 2/2/2012 9:30:00 AM
Date: Tuesday, January 31, 2012 12:03:57 PM

Testimony for JDL 2/2/2012 9:30:00 AM SB2859

Conference room: 016
Testifier position: Support
Testifier will be present: No
Submitted by: Glenn Shiroma
Organization: Individual
E-mail: gshiromahi@hotmail.com
Submitted on: 1/31/2012

Comments:

Support SB2859 to modernize the Sunshine Law, while enhancing public participation and government transparency by creating three new permitted interactions regarding cancelled meetings, attending informational and other meetings, and using social media.