



# HAWAII STATE ETHICS COMMISSION

State of Hawaii • Bishop Square, 1001 Bishop Street, ASB Tower 970 • Honolulu, Hawaii 96813

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February 18, 2014

The Honorable Sylvia Luke, Chair  
The Honorable Scott Y. Nishimoto, Vice Chair  
The Honorable Aaron Ling Johanson, Vice Chair  
Honorable Members  
House Committee on Finance  
Hawaii State Capitol, Room 308  
415 South Beretania Street  
Honolulu, Hawaii 96813

Re: **Testimony on HB No. 2378, H.D. 1, Relating to Training**

Hearing: February 19, 2014, 10:00 a.m.  
State Capitol, Conference Room 308

Testimony From: Hawaii State Ethics Commission

The Honorable Sylvia Luke, Chair; The Honorable Scott Y. Nishimoto, Vice Chair;  
The Honorable Aaron Ling Johanson, Vice Chair; and The Honorable Members of the  
House Committee on Finance:

Thank you for this opportunity to testify on H.B. No. 2378, H.D. 1, Relating to  
Training. The Hawaii State Ethics Commission ("Commission") supports the intent of this  
bill but is concerned that it may lack the resources to carry out the training mandated by  
the bill.

H.B. No. 2378, H.D. 1, requires the Office of Information Practices and the  
Commission to hold mandatory training sessions for all members of boards,  
commissions, or committees subject to Senate confirmation under Hawaii Revised  
Statutes (HRS) section 26-34. The Commission takes no position on those portions of  
H.B. No. 2378, H.D. 1, that apply to the Office of Information Practices, but is generally  
supportive of those portions of the bill that mandate training in the State Ethics Code.

The Commission offers ethics training sessions to all state officials and  
employees, including members of boards and commissions. These sessions are held  
throughout the year. In addition, the Commission has created a training video for board  
and commission members that is housed on the Governor's website. The Commission  
agrees that it is important that board and commission members receive training in the  
State Ethics Code.



The Honorable Sylvia Luke, Chair  
The Honorable Scott Y. Nishimoto, Vice Chair  
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Honorable Members of the House Committee on Finance  
February 18, 2014  
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The Commission is, however, seriously concerned that its limited resources will not be able to accommodate the extensive training mandated in this bill. The Commission estimates that this bill would require the initial training of approximately 1,000 individuals and the annual training of newly confirmed individuals. It would require a considerable amount of Commission staff time and resources to conduct such extensive training, to schedule the training, and to track and communicate with those individuals who must attend the training. Failure to attend the training would be a violation of the State Ethics Code. The Commission would have to devote further resources to address any violations of the mandatory training law. Violations of the State Ethics Code may be punished by fines of up to \$500 per violation.

In addition, there are considerable logistical problems that would be difficult to address. The bill is aimed at members of boards, commissions, and committees. The Commission believes that many or most of these individuals are volunteers who have full-time jobs in the private sector. Scheduling all of these individuals for mandatory training could be extremely difficult. Numerous make up sessions would further strain the resources of the Commission. Further, a number of these individuals live on neighbor islands. This adds to the logistical difficulties. The Commission has very limited funds available for neighbor island travel. While video conferencing may be a possibility, this too creates logistical difficulties.

We appreciate the opportunity to testify on H.B. 2378, H.D. 1, Relating to Training. We would like to thank the Committee for its consideration of our testimony.



House Finance Committee  
Chair Sylvia Luke, Vice Chair Scott Nishimoto, Vice Chair Aaron Johanson

Wednesday 02/19/14 at 10:00AM in Room 308  
HB2378 HD1– Relating to Training

Testimony of Support  
Carmille Lim, Executive Director, Common Cause Hawaii

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Dear Chair Luke, Vice Chair Nishimoto, Vice Chair Johanson, and members of the Committee:

**Common Cause Hawaii supports HB2378** which requires all members of boards, commissions, and committees to complete training in public agency meetings and information practices within six months of each member's confirmation to the board or commission by the Senate. This bill also establishes a public agency meetings and information practices training course to be administered by the office of information practices in person or in an online format.

We believe that it is extremely important for all board and commission members to have the same level of training and understanding of state sunshine and ethics laws.

The HD1 version of this bill has taken an idea that we support, and made it more practical by: 1) addressing resource concerns and allowing the Office of Information practice to determine which trainings they will conduct in person and online, 2) deleting the language requiring that board and commission members take lobbying training from the ethics commission, which is irrelevant to their appointed positions.

Thank you for the opportunity to testify in support of HB2378 HD1.



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COMMITTEE ON FINANCE

Wednesday, February 19, 2014 Conference Room 308  
HB2378 HD 1, RELATING TO TRAINING

TESTIMONY

Janet Mason, League of Women Voters of Hawaii

Chair Luke, Vice-Chairs Nishimoto and Johanson, and Committee Members:

**The League of Women Voters of Hawaii supports HB2378 HD 1 requiring all members of boards and commissions to complete training in ethics, public agency meetings and information practices in a timely manner.**

We appreciate the many, many citizens who serve on Boards and Commissions statewide and think that training on ethics, public agency meeting, and information laws is essential. This allows these volunteer members of Board or Commission to conduct their business with confidence.

The training has been shown to be possible with online training and confirmation. This should facilitate timely training. We note that the issue of cost to provide in-person training has been raised and we concur that an appropriate amount be provided if absolutely essential for such in-person training. However, we believe that a reasonable solution would emphasize extensive online training without substantial additional funding.

The amendments made by the LGM Committee are acceptable to the League of Women Voters except we ask that the effective date be changed to July 1, 2014.

We urge you to pass this bill as amended. Thank you for the opportunity to submit testimony.



**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, February 18, 2014 8:50 AM  
**To:** FINTestimony  
**Cc:** lynnehi@aol.com  
**Subject:** Submitted testimony for HB2378 on Feb 19, 2014 10:00AM

**HB2378**

Submitted on: 2/18/2014  
 Testimony for FIN on Feb 19, 2014 10:00AM in Conference Room 308

Submitted By	Organization	Testifier Position	Present at Hearing
lynne matusow	Individual	Support	No

Comments: The City and County has an ordinance requiring that members of boards and commissions (including the neighborhood boards) be trained in the sunshine law. There are provisions for continued training after several years. I have taken the training. What is really important are questions and answers, and those taking the training seem to either not understand what the Sunshine Law is about or are trying to find loopholes. This is a much needed provision for those on state boards and commissions and should be approved. Thank you for the opportunity to submit testimony. lynne matusow 60 n. beretania, #1804 honolulu, hi 96817 531-4260

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## OFFICE OF INFORMATION PRACTICES

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To: House Committee on Finance  
From: Cheryl Kakazu Park, Director  
Date: February 19, 2014 at 10:00 a.m.  
State Capitol, Conference Room 308  
Re: Testimony on H.B. No. 2378, H.D. 1  
Relating to Training

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Thank you for the opportunity to submit testimony on this bill, as amended, which seeks to ensure that members of boards are trained on chapter 92, HRS. Assuming the bill seeks training on the Sunshine Law and the Uniform Information Practices Act (UIPA), then the Office of Information Practices (“OIP”) **is already providing the desired training online and believes that the requirements of this bill, as amended, would be more costly, less efficient, and less accessible to the public.**

This bill requires OIP to arrange for and present training to all new members of boards and commissions subject to section 26-34, HRS, in January and July of each year. The courses of at least two hours, including question and answer sessions, must cover the Uniform Information Practices Act (“UIPA”), chapter 92F, HRS, and chapter 92, HRS. Note, however, that OIP administers only Part I of chapter 92, which is the Sunshine Law, and not the rest of the chapter’s various provisions. **Therefore, if Sunshine Law training is desired, then the bill must be amended to reflect the correct statutory provisions, Part I of chapter 92. Additionally, it is unclear why board members must be trained**

**on the UIPA when they do not typically handle requests for government records.**

While OIP is unaware of any definitive list of all boards in the state and county governments, OIP's conservative estimate is that there are more than 350 boards subject to the Sunshine Law, and OIP is currently provides advice and education for all of them regarding the Sunshine Law. Even assuming that this bill's requirements apply only to state boards, and only those whose members are appointed by the governor, the bill would still require in-person training for over 170 boards on five different islands. In response to OIP's concerns that it lacked the staff or travel budget to provide in-person training, especially in January when OIP and the government boards and agencies are busy with the legislative session, the Committee on Legislative Management amended the bill to provide that the training could be provided in an online format.

OIP appreciates that Committee's recognition of the impossibility of providing in-person training for that number of boards, but **OIP remains concerned about the bill language at page 2, line 3, to page 3, line 20, which sets out detailed statutory requirements for what the training must cover, when the training must be offered, and how OIP is to administer the trainings. OIP already provides more extensive training than called for by this bill.** OIP is not aware of complaints that its currently available training is insufficiently thorough. In contrast to the ethics training being proposed, this bill contains **very detailed** requirements for how OIP must conduct its training; at the same time, the bill is **ambiguous** as to what are the "relevant internal policies" (page 2, line 10) for which OIP must provide training. Consequently, the bill **could result in complaints or litigation, justified or not**, if someone felt one of the proposed training elements was inadequately addressed, which would interfere with

OIP's work as well as the bill's intent. The bill may also be construed as requiring an **increase in staffing**, as it calls for "members of its legal staff to conduct the public agency meetings and information practices training course" that is made mandatory for every board, commission, or committee member. (H.D. 1 at pages 2, lines 21-22.) Moreover, **if technology or training needs change over time, the statute must be amended.** In the absence of any demonstrated need for standards to govern OIP's training, **OIP would prefer to retain the ability to design and administer trainings as it finds most suitable given the needs of those being trained and the workload and scheduling constraints of the office.**

OIP notes also that the bill as amended leaves in the **requirement for a question and answer participatory session in every training**, which appears to preclude the possibility of doing the trainings entirely by prerecorded video despite the amended definition of "online format" (page 3, lines 13-14). Even if the question and answer session could be done over the internet, that requirement by itself **would require substantial staff time** to schedule and conduct the question and answer sessions, **and would incur financial costs** to subscribe to a webinar service through which the interactive sessions could be conducted. A subscription to the most basic level of gotowebinar.com, allowing webinars of up to 100 people including the trainers, would run \$99.00 per month, and a subscription allowing larger numbers of attendees would be \$399.00 per month. **Rather than incur this cost, OIP provides pre-recorded and written training on its website at [oip.hawaii.gov](http://oip.hawaii.gov), which incurs no additional cost and is freely accessible 24/7 not just to board members, but also to state and county employees and the general public.** Additionally, through its Attorney of the Day service, OIP has a staff attorney available every work



**day to answer questions and give same-day general advice on the Sunshine Law and the UIPA.**

Besides a two-hour **video training** on the Sunshine Law and a two-hour video training on the UIPA and accompanying guides and written materials, OIP has numerous **additional training materials available on its website, such as “Quick Reviews”** on various subjects, including how to prepare meeting agendas; how to respond to complex record requests; how to respond to personal record requests; and how to redact confidential information. Because of the current requirements for some board members (such as Neighborhood Board members) to certify that they have taken Sunshine Law training, OIP has also created an **online self-certification quiz**, which will automatically certify that a person took the quiz and achieved the stated score (70% or higher is a passing score); OIP could create a similar self-certification quiz for the UIPA. In addition, OIP frequently sends out **What’s New emails** concerning current events. Furthermore, OIP has created **continuing legal education programs**, which are of particular interest to the government attorneys who advise the many boards, in order to keep these key advisors abreast of the latest developments regarding the UIPA and Sunshine Law. **By already providing four hours of basic UIPA and Sunshine Law training online, OIP has been able to utilize its limited resources more efficiently and effectively to provide this greater range of services to more people without additional cost to the State. OIP still provides in-person training, but it can now use its resources to tailor the presentations to the particular needs and interests of the audience, which are not just boards.** For example, OIP has twice provided training on the UIPA to the House staff in recent years and focused these courses on how the UIPA applied to the Legislature.

Consequently, to achieve the bill's intent and address OIP's concerns, **OIP recommends that it be further amended to apply only to the Sunshine Law (part I of chapter 92, the Sunshine Law) and remove the specific requirements for what each training must include and how and when OIP must administer the trainings.** OIP has attached suggested language to create a training requirement allowing for online training and certification at each new board member's convenience.

Thank you for the opportunity to testify.

In bill section 1, replace the proposed section to be added to chapter 92F, HRS, with the following:

**“§ 92F-\_\_\_ Mandatory training on open meetings and information practices; boards and commissions.** Each member of a board, commission, or committee subject to section 26-34 shall complete a training course on open meetings and on information practices administered by the office of information practices within six months of being confirmed by the senate pursuant to section 26-34, and the office of information practices shall provide certification that the member has an adequate understanding of the material presented; provided that the training course and certification may be administered either in-person or by pre-recorded video or automated online test or other electronic means at the option of the office of information practices.”