

# OFFICE OF INFORMATION PRACTICES

STATE OF HAWAII  
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EMAIL: oip@hawaii.gov

To: House Committee on Judiciary

From: Cheryl Kakazu Park, Director

Date: January 26, 2016, 2:00 p.m.  
State Capitol, Conference Room 325

Re: Testimony on H.B. No. 369  
Relating to Open Government

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Thank you for the opportunity to submit testimony on this bill. The Office of Information Practices (“OIP”) has both practical and technical concerns and thus opposes this bill.

First, OIP notes that the bill would amend the purpose and intent provisions of both the Sunshine Law, part I of chapter 92, HRS, and the Uniform Information Practices Act (“UIPA”), chapter 92F, HRS. Those provisions, section 92-1 and 92F-2, HRS, are currently identical, but the proposed amendments in bill sections 1 and 4 (bill page 1, lines 13-16 and page 4, lines 9-10) would change the language of the respective provisions so that they were no longer identical. It is not clear what the purpose of these changes would be, or whether and how it would change current interpretations of the respective laws’ substantive provisions that are based on the purpose sections in their current form. Further, to the extent that court or OIP decisions relating to the interplay between the Sunshine Law and the UIPA have taken note of the fact that they both serve identical legislative purposes, it is not clear what the intended effect would be of changing the purposes to be similar but not identical. OIP respectfully suggests that any changes to the purpose

sections of the UIPA and Sunshine Law be carefully thought out to address specific problems. OIP further asks that if the purpose sections are amended so as to no longer be identical, the reason for the distinction between the two be explained in a Committee Report. Alternatively, **if no compelling reason is found for changing purpose sections that have been the basis for decades of court and OIP interpretations of the respective laws, OIP would suggest that bill sections 1 and 4 be deleted to prevent unintended consequences.**

Second, the proposal at bill page 2, lines 16-20, to require boards to provide all (1) “documents, reports, or proposals under consideration at the meeting” and (2) “at the time the agenda is made available to the public,” *i.e.*, filed, **could create a substantial administrative burden, jeopardize the confidentiality of protected materials, and create a new deadline for boards.** Boards may not have the staff to do the new work required, especially with limited time before the meeting. In actuality, the proposal would require boards to scan into ADA accessible format what could be hundreds of pages of board materials, including some provided by third parties. Furthermore, this language would apparently require boards to disclose what might be confidential materials intended to be considered in executive session, or draft reports that would not be required to be disclosed under the UIPA until a board discussed and adopted them. **OIP is concerned that the proposed new requirement would be overly burdensome for boards and would frustrate the purpose of the Sunshine Law’s executive session provisions** by requiring boards to disclose labor or personnel matters, settlement or public property acquisition negotiations, or other confidential matters that could otherwise be discussed in executive session. **The language would also create a new deadline by requiring boards to have all written materials it intended to consider in final form at the time of filing**

**notice. If boards fail to meet their new obligations, the procedural failures may become the basis for potential liability and substantial litigation seeking to overturn the boards' action.**

Third, the proposal to require boards to hear testimony on not just agenda items but also on any “other item within the jurisdiction of the board” (bill page 2 line 21 to page 3 line 1) **would make it difficult or impossible for boards to control the length of meetings and conduct an organized meeting based on a published agenda and for the public to participate in government.**

Currently, a board must accommodate everyone wishing to testify on any agenda item, so if a board plans to discuss a controversial issue of high public interest, it can plan to have only that item on the agenda and can plan for a meeting that will run for many hours. The board can then focus on less highly charged topics at a different meeting, where only those items will be discussed and the board is not required to hear testimony on issues beyond those items. If a county council planned for a one hour meeting to discuss minor technical changes to a transportation bill, that meeting could be hijacked by a large group coming in to testify about genetically modified organisms or vacation rentals or other issues, and the county council would be required to hear them all out under the proposed language, even though the county council members themselves could not even discuss the issues not on the agenda under the notice requirement of section 92-7, HRS. Effectively, boards would lose their ability to set their own agendas and schedule under this proposal. Members of the public, as well as board members, may also become reluctant to sit through lengthy public hearings on matters not listed on the agenda, thus reducing public participation at hearings and willingness to serve on boards. OIP thus has serious concerns about the impact this proposal

would have on boards' ability to do business as well as the public's willingness to participate in government.

Fourth, the proposal to change when public testimony is given, at bill page 3, lines 3-4, is contrary to the nature and purpose of public testimony as currently understood and reflected in court and OIP decisions. **Currently, oral testimony on an agenda item must be taken before a board's discussion of that item, but this proposal would specify that public testimony must instead be taken after a board's discussion of an item and before any vote on the item.** Under the current law, OIP has opined that the purpose of testimony is to give the public a chance to provide information and express their views, which the board can then potentially consider during its discussion. Although the bill would still allow written testimony to be submitted, the new requirement to hear oral testimony only after the board has already discussed an item would mean that the public have a reduced opportunity to affect that discussion and board members' inclination to vote on a matter. **This proposal would represent a philosophical change to the understanding of what public testimony means under the Sunshine Law and would disadvantage both board members and members of the public.** Members of the public would no longer have the right to raise issues and concerns ahead of time for board members to consider in the course of their discussion, but instead would be commenting on the board's discussion that had already taken place. Effectively, oral testimony would become an after-the-fact critique of the board's already-completed discussion, albeit before the actual vote was taken, instead of being a means for the public to provide information or opinions to inform and influence a board's discussion. Although the public's oral testimony would be allowed after the discussion and before the vote, the process could become more argumentative than informative and may lead to less open

discussion by board members of their reasons for ultimately voting a particular way. Moreover, it is unclear whether the proposal allows the board to discuss the oral testimony before taking its vote, as the proposal requires the oral testimony to be presented after the board has already discussed the matter.

Fifth, OIP finds unclear the proposed amendment limiting reasonable administration of oral testimony by rule to “when the number of people wishing to testify may have a significant impact on the time for board deliberations,” at bill page 3, lines 5-9. **OIP currently advises that boards wanting to adopt a reasonable time limit policy must do so in advance at a prior meeting before applying it to limit oral testimony.** The proposed amendment, however, could be read to only allow the board’s adoption of a rule at the meeting being impacted by the number of testifiers, which would mean that the public would have no prior notice that a time limit would be applied to testimony at that meeting. It is also unclear as to what number of potential testifiers “may have a significant impact on the time for board deliberations.” OIP respectfully suggests that the language be clarified if this Committee wishes to change OIP’s current advice or provide more specific guidance to the rules that boards must adopt if they wish to set time limits or otherwise reasonably administer oral testimony.

Finally, regarding the proposed amendments in bill section 3, at bill page 3, lines 12-13, OIP notes that “video or sound recordings made by the board” are not actually minutes as the proposed language would suggest, since **minutes are required to be written pursuant to section 92-9(a), HRS. Thus, the inclusion of video or sound recordings is confusing.** OIP further notes that it is **not necessary to amend this section to provide that video or sound recordings of a public meeting are public records, because current law already provides for their disclosure.** Section 92F-12(a)(16) of the state’s

Uniform Information Practices Act (Modified) (“UIPA”) already makes clear that “information contained in or compiled from a transcript, minutes, report, or summary of a proceeding open to the public” is public record, and boards therefore cannot withhold access to video or sound recordings of an open meeting since the information therein is “information contained in . . . a transcript . . . of a proceeding open to the public.” The proposal amendment specifying that minutes are public record after 30 days “regardless of whether the board has formally reviewed or approved the minutes” at bill page 3, lines 14-15, is likewise unnecessary, as the **current Sunshine Law does not require boards to approve or review minutes and OIP has consistently opined that the current law requires disclosure of public meeting minutes after 30 days regardless of whether the board considers them to be in draft form.** Because the substance of the proposed amendments in bill section 3 are unnecessary under current law and OIP opinions and the new reference to “video or sound recordings” technically and confusingly conflicts with section 92-9(a)’s requirement that minutes be “written,” OIP recommends against adopting this change.

In summary, numerous clarifications would be needed before OIP could support any version of this bill because the proposed changes to the Sunshine Law and the UIPA would create significant new administrative burdens and potential liability for boards, would discourage public participation in government, would impair the public’s ability to orally testify before board discussions, and would create confusion regarding the interpretation of the purpose sections of both laws as well as a board’s ability to reasonably regulate testimony by rule and what qualifies as “minutes.”

Thank you for the opportunity to testify.



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

**LATE**

DAVID Y. IGE  
GOVERNOR

LUIS P. SALAVERIA  
DIRECTOR

MARY ALICE EVANS  
DEPUTY DIRECTOR

No. 1 Capitol District Building, 250 South Hotel Street, 5th Floor, Honolulu, Hawaii 96813  
Mailing Address: P.O. Box 2359, Honolulu, Hawaii 96804  
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Telephone: (808) 586-2355  
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Written Statement of  
**LUIS P. SALAVERIA**  
Director  
Department of Business, Economic Development and Tourism  
before the  
**HOUSE COMMITTEE ON JUDICIARY**  
Tuesday, January 26, 2016  
2:00 PM  
State Capitol, Conference Room 325

in consideration of  
**HB 369**  
**RELATING TO OPEN GOVERNMENT.**

Chair Rhoads, Vice Chair Buenaventura and Members of the Committee.

The Department of Business, Economic Development and Tourism (DBEDT) has comments with concerns on HB 369. This bill would encourages public participation in open meetings.

While DBEDT encourages public participation at all board meetings, DBEDT has concerns with Section 2 of the bill, which would require board material to be made available at the time the agenda is made available to the public. Many times for a number of various reasons, material may not be available at the time the agenda is filed, which is six days prior to the board meeting. This would be burdensome to the staff of these agencies.

Another concern that we have is allowing the public to present "testimony on an agenda item following discussion of each item, but before a decision is made or a vote is taken." In this context, it appears that board members would not be able to have any further discussion or present any rebuttal on any testimony that is presented by the public.

Thank you for the opportunity to offer these comments.

DAVID Y. IGE  
GOVERNOR OF HAWAII



**STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

**SUZANNE D. CASE**  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

**KEKOA KALUHIWA**  
FIRST DEPUTY

**JEFFREY T. PEARSON P.E.**  
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

**Testimony of  
SUZANNE D. CASE  
Chairperson**



**Before the House Committee on  
JUDICIARY**

**Tuesday, January 26, 2016  
2:00 PM  
State Capitol, Conference Room 325**

**In Consideration of  
HOUSE BILL 369  
RELATING TO OPEN GOVERNMENT**

House Bill 369 provides measures to facilitate public participation and input into public meetings by making meeting documents available to the public. **The Department of Land and Natural Resources (Department) acknowledges the intent of the bill but has concerns with regard to the proposed language in Section 92-3, Hawaii Revised Statutes, which may make it difficult to run efficient meetings, and in some cases may make meetings less transparent.**

The Department is concerned that the requirement to “afford all interested persons an opportunity to view, either electronically or in hard copy, documents, reports, or proposals under consideration at the meeting at the time the agenda is made available to the public” could be interpreted to mean that the Department would be required to provide hard copies upon request. This goes against the Ige Administration’s support of paperless processing, which is intended to increase efficiency and transparency in government while decreasing costs to the state.

The Department currently makes available hard copies of agenda submittals at all of the main Department offices statewide for public viewing. In addition, copies of the Board of Land and Natural Resources (Land Board) meeting agendas are provided to 47 people who request hard copies be mailed to them. The potential cost of mailing additional documents to these 47 people is outlined in the following table:



Pages	Packets	Meetings	Copy costs	Postage	Total
250	47	22	.5		\$129,250
	47	22		6.00	\$ 6,204
Total					\$135,454

Based on this analysis, it would cost almost \$3,000 to mail a full year’s worth of packets to an individual, or \$131 per meeting. The additional costs outweigh the benefits when compared to posting materials on the web.

The Department’s second area of concern is the requirement to “afford all interested persons an opportunity to submit data, views, or arguments, in writing, on any agenda item, or **other item within the jurisdiction of the board.**” This could be interpreted to mean that members of the public can submit in writing any item within the board’s jurisdiction at a meeting, even if the item is not on the agenda. It is unclear how this would increase public participation, as a board would not be able to act on these items, as doing so may be a violation of the sunshine law.

Finally, the Department is concerned about language allowing “interested persons an opportunity to present oral testimony on any agenda item following discussion of each item, but before a decision is made or a vote is taken.” The Land Board currently accepts public testimony prior to the Board’s discussion and vote on an agenda item. The Department believes this process incorporates public input in a practical manner, while allowing board members the opportunity to explain their positions in voting for or against an agenda item after receiving public input but prior to voting.



**LATE**

**Department of Land and Natural Resources  
Aha Moku Advisory Committee  
State of Hawaii  
Post Office Box 621  
Honolulu, Hawaii 96809**

Testimony of  
Leimana DaMate  
Executive Director

Before the House Committee on  
JUDICIARY

Tuesday, January 26, 2016  
2:00 p.m.  
State Capitol, Conference Room 325

**In Consideration of  
HOUSE BILL 369  
RELATING TO OPEN GOVERNMENT**

The intent of HB 369 is to ensure that the policies regarding open government are broadened to include greater public participation, input, and access to documents, reports, and proposals under consideration at public meetings, with certain limitations. **The Aha Moku System, which includes the Aha Moku Advisory Committee acknowledges the intent of the bill but expresses its concerns with regards to the proposed language in §92-3, Hawaii Revised Statutes, which may make it difficult to run efficient meetings within the Aha Moku System.**

The Aha Moku System (AMS) which includes its State Board, The Aha Moku Advisory Committee (AMAC), encompasses the eight main Hawaiian Islands, which in turn is comprised of 47 moku and 607 ahupua'a. The focus of the Aha Moku System, as expressed by this Legislature is to assist the State in the protection and sustainability of its unique natural and cultural resources by bringing forward Native Hawaiian generational and traditional resource methodology that together with scientific expertise may further protect our natural assets. To do that, open meetings and transparency is critically important so all have an opportunity to participate in ahupua'a meetings.

Currently, as we continue to reach out to each of the island ahupua'a through agendized community meetings which adhere to Sunshine Law, we have observed that the communities in each ahupua'a want to be involved in the well-being of the places where they live. We believe that is proper. All meetings are open to the public and reports of these meetings are posted on our Aha Moku website. Hard copies of agenda items are available and distributed at the meetings. For Aha Moku, with its limited funding and only one staff, it would be very difficult to adhere to the mandates of HB 369 as it is currently written.

Thank you for the opportunity to offer comments on this important bill.

From: mailinglist@capitol.hawaii.gov  
Sent: Tuesday, January 26, 2016 1:21 PM  
To: JUDtestimony  
Cc: Leimana.K.Damate@hawaii.gov  
Subject: Submitted testimony for HB369 on Jan 26, 2016 14:00PM

**HB369**

Submitted on: 1/26/2016

Testimony for JUD on Jan 26, 2016 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Leimana DaMate	Aha Moku Advisory Committee	Comments Only	Yes

Comments: Testimony of Leimana DaMate Executive Director Before the House Committee on JUDICIARY Tuesday, January 26, 2016 2:00 p.m. State Capitol, Conference Room 325 In Consideration of HOUSE BILL 369 RELATING TO OPEN GOVERNMENT The intent of HB 369 is to ensure that the policies regarding open government are broadened to include greater public participation, input, and access to documents, reports, and proposals under consideration at public meetings, with certain limitations. The Aha Moku System, which includes the Aha Moku Advisory Committee acknowledges the intent of the bill but expresses its concerns with regards to the proposed language in §92-3, Hawaii Revised Statutes, which may make it difficult to run efficient meetings within the Aha Moku System. The Aha Moku System (AMS) which includes its State Board, The Aha Moku Advisory Committee (AMAC), encompasses the eight main Hawaiian Islands, which in turn is comprised of 47 moku and 607 ahupua'a. The focus of the Aha Moku System, as expressed by this Legislature is to assist the State in the protection and sustainability of its unique natural and cultural resources by bringing forward Native Hawaiian generational and traditional resource methodology that together with scientific expertise may further protect our natural assets. To do that, open meetings and transparency is critically important so all have an opportunity to participate in ahupua'a meetings. Currently, as we continue to reach out to each of the island ahupua'a through agendized community meetings which adhere to Sunshine Law, we have observed that the communities in each ahupua'a want to be involved in the well- being of the places where they live. We believe that is proper. All meetings are open to the public and reports of these meetings are posted on our Aha Moku website. Hard copies of agenda items are available and distributed at the meetings. For Aha Moku, with its limited funding and only one staff, it would be very difficult to adhere to the mandates of HB 369 as it is currently written. Thank you for the opportunity to offer comments on this important bill.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

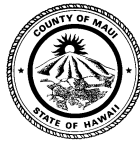
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Riki Hokama

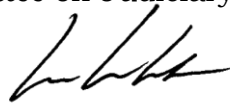


Director of Council Services  
David M. Raatz, Jr., Esq.

**COUNTY COUNCIL**  
COUNTY OF MAUI  
200 S. HIGH STREET  
WAILUKU, MAUI, HAWAII 96793  
www.MauiCounty.us

January 25, 2016

TO: The Honorable Karl Rhoads, Chair  
House Committee on Judiciary

FROM: Mike White  
Council Chair 

SUBJECT: **HEARING OF JANUARY 26, 2015; TESTIMONY IN OPPOSITION TO  
HB 369, RELATING TO OPEN GOVERNMENT**

Thank you for the opportunity to testify in **opposition** to this bill. The purpose of this measure is to amend certain policies regarding the facilitation of public participation and input.

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

I oppose this measure for the following reasons:

1. The Maui County Council invests in tools to promote open government in ways that benefit Lanai, Maui, and Molokai residents. For instance, the Council maintains offices in Hana, Kaunakakai, and Lanai City to allow residents living in remote areas to provide live testimony without needing to travel to the County Building in Wailuku. In addition, the Council has initiated a program to make legislation, reference documents, video live streams, and video archives available online. Other boards could consider similar programs, as warranted. Additional State-imposed requirements are not needed or beneficial.
2. Under the current Sunshine Law, testimony is intended to be in response to items listed on meeting agendas. Everyone has an equal opportunity to evaluate agenda items and consider the submission of testimony, either in writing or in person. If testimony is allowed in response to deliberations, as provided in this measure, lobbyists and others who are paid to attend meetings will have an unfair advantage.
3. This measure imprudently burdens State agencies and the counties with unfunded mandates.

For the foregoing reasons, I **oppose** this measure.

THE CIVIL BEAT  
LAW CENTER FOR THE PUBLIC INTEREST

700 Bishop Street, Suite 1701  
Honolulu, HI 96813

Office: (808) 531-4000  
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info@civilbeatlawcenter.org

House Committee on Judiciary  
Honorable Karl Rhoads, Chair  
Honorable Joy A. San Buenaventura, Vice Chair

**RE: Testimony Supporting H.B. 369, Relating to Open Government**  
Hearing: January 26, 2016 at 2:00 p.m.

Dear Chair and Members of the Committee:

My name is Brian Black. I am the Executive Director of the Civil Beat Law Center for the Public Interest, a nonprofit organization whose primary mission concerns solutions that promote government transparency. Thank you for the opportunity to submit testimony on H.B. 369. The Law Center strongly supports this bill.

The Law Center encourages the Committee to incorporate language from S.B. 475 H.D. 2 to further modernize the Sunshine Law. S.B. 475 H.D. 2 had unanimous support in the House last year, but failed to pass out of Conference Committee. The Senate had first reading on a measure that does just that—combining the ideas of H.B. 369 and S.B. 475 H.D. 2. That new bill (S.B. 2293) was introduced by Senators Keith-Agaran, Baker, Kidani, Shimabukuro, and Nishihara.

H.B. 369 would codify many concepts that the State of Hawai'i Office of Information Practices (OIP) has recognized as implicit in the current language of the Sunshine Law:

- The Sunshine Law protects not only public access to, but encourages public participation in open meetings. *E.g.*, OIP Op. No. 03-06 at 5 (Sunshine protects “the public’s right to participate in the governmental process”).
- Board rules limiting testimony cannot be overly restrictive. *E.g.*, OIP Op. No. 02-02 at 5-11 (rules cannot require advance registration to testify, but time limits may be reasonable depending on the circumstances).
- Minutes and other recordings of a Sunshine meeting must be publicly accessible after 30 days, irrespective of any board approval. *E.g.*, OIP Op. No. 02-06 at 18.

If this Committee declines to incorporate the language of S.B. 475 H.D. 2, minor revisions may be appropriate regarding the disclosure of board materials before a Sunshine meeting.

Thank you again for the opportunity to testify.



49 South Hotel Street, Room 314 | Honolulu, HI 96813  
[www.lwv-hawaii.com](http://www.lwv-hawaii.com) | 808.531.7448 | [voters@lwv-hawaii.com](mailto:voters@lwv-hawaii.com)

## HOUSE COMMITTEE ON JUDICIARY

Tuesday, January 26, 2016, 2 pm, House Conference Room 325  
HB 369 RELATING TO OPEN GOVERNMENT  
TESTIMONY

Douglas Meller, Legislative Committee, League of Women Voters of Hawaii

Chair Karl Rhoads, Vice-Chair Joy San Buenaventura, and Committee Members:

**The League of Women Voters of Hawaii supports HB 369 which broadens and strengthens Sunshine Law policies for public participation at and public monitoring of board meetings.**

HB 369 would resolve chronic public complaints about boards which:

1. require the public to present testimony on all agenda items before the public has opportunity to review board submittals to be discussed.
2. delay public disclosure of board submittals until after completion of board meetings at which the submittals are discussed.
3. hold closed executive sessions for discussions or decisions which should have taken place at public board meetings.
4. procrastinate preparation or approval of board minutes beyond 30 days.

Minor bill amendments are desirable so that HB 369 does not establish an unworkable statutory deadline for public disclosure of board submittals which require redaction. Otherwise, we strongly support HB 369. Thank you for the opportunity to submit testimony.



House Judiciary Committee  
Chair Karl Rhoads, Vice Chair Joy San Buenaventura

Tuesday 01/26/2016 at 2:00 PM in Room 325  
HB369 – Relating to Open Government

TESTIMONY — SUPPORT  
Carmille Lim, Executive Director, Common Cause Hawaii

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Dear Chair Rhoads, Vice Chair San Buenaventura, and members of the House Judiciary Committee:

**Common Cause Hawaii** supports HB369 which improves Hawaii's sunshine law by allowing for greater public participation, input, and access to documents, reports, and proposals under consideration at public hearings.

HB369 offers the following improvements which we have long supported and advocated for:

- Allows interested members of the public to review documents which the board may consider during the public hearing, prior to the hearing
- Allows interested members of the public to offer comments to the board after an agenda item has been heard (but before the board has voted on it)
- Clarifies that board minutes, and any video and sound recordings, should be made available to the public within 30 days after a meeting – regardless of if the minutes or recordings are finalized or still in draft form

We applaud this bill and the steps it takes toward improving the sunshine law to facilitate public access to meetings.

Thank you for the opportunity to offer testimony **supporting HB369**.



SIERRA CLUB OF HAWAII  
MĀLAMA I KA HONUA. *Cherish the Earth.*

HOUSE JUDICIARY COMMITTEE

Tuesday, January 26, 2016 2:00 PM Room 325

In **SUPPORT** **HB369** Relating to Open Government

**LATE**

Aloha Chairperson Rhoads and members of the House Judiciary Committee,

On behalf of our 12,000 dues-paying members and supporters, the Sierra Club of Hawai'i supports HB369 which improves Hawai'i's sunshine law by allowing for greater public participation, input, and access to documents, reports, and proposals under consideration at public hearings.

By offering the public timely access to minutes and recordings of meetings and providing more opportunity for public testimony before decision-making, HB369 will encourage more government transparency and foster public trust in government.

Thank you for the opportunity to offer testimony supporting HB369.

Mahalo,

Marti Townsend  
Director





# HAWAI'I EDUCATIONAL POLICY CENTER

## Testimony

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HOUSE COMMITTEE ON JUDICIARY

**LATE**

DATE: Tuesday, January 26, 2016  
TIME: 2:00 p.m.  
PLACE: Conference Room 325

HEPC supports the bill, with one amendment.

HB 369 RELATING TO OPEN GOVERNMENT.

Broadens the policies regarding open government to include greater public participation, input, and access to documents, reports, and proposals under consideration at meetings, with certain limitations.

HEPC has observed and experienced many instances when crucial documents on an agenda were not made available at the time the agenda was posted. This makes it very difficult to intelligently and thoughtfully provide input.

As a policy research institution, providing input is not a spur of the moment oral comment, but rather a well-researched, analytical contribution relating to a proposed policy and its implications. In this age of electronic communications, there is no good reason not to require sufficient planning by a board or commission to require its staff to post relevant documents and presentations. IF copies are not available electronically, in essence, they are not available at all.

HEPC suggests an amendment to section 2: “view ~~either~~ both electronically ~~or~~ and in hard copy.”

Thank you for your consideration of this testimony.

**REP. KARL RHOADS, CHAIR  
REP. JOY A SAN BUENAVENTURA, VICE CHAIR  
COMMITTEE ON JUDICIARY**

**ALICE CLAY  
HUI MALAMA O HALE  
1314 KALAKAUA AVE STE 1204  
HONOLULU, HI. 96826**

**RE: HB 369**

**ALOHA KAKOU,**

**I STAND IN FAVOR OF MY TESTIMONY SENT EARLIER IN FAVOR OF  
HB369 AND WOULD LIKE TO EXTEND MY MAHALO TO ALL THE  
COMMITTEE MEMBERS WHO SUPPORT THIS BILL.**

**AS A CONDO OWNER WE FALL UNDER SELF- GOVERNANCE AND  
LIKE OUR GOVERNMENT, CONDO OWNERS SHOULD HAVE THE  
SAME DEMOCRACY APPLY TO ALL CONDOMINIUMS.**

**AGAIN, MAHALO FROM THE HUI MALAMA O HALE COALITION.**

**ALICE CLAY  
HUI MALAMA O HALE**

**LATE**

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, January 26, 2016 8:56 AM  
**To:** JUDtestimony  
**Cc:** lila.mower@gmail.com  
**Subject:** Submitted testimony for HB369 on Jan 26, 2016 14:00PM

**HB369**

Submitted on: 1/26/2016

Testimony for JUD on Jan 26, 2016 14:00PM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Lila Mower	Hui `Oia`i`o	Support	No

Comments: Informed consent is only assured if the citizenry has access--even before decisions are made--to government documents and records and defines what makes a government a successful democracy.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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Jeanne Y. Ohta

To: Rep. Karl Rhoads, Chair,  
Rep. Joy San Buenaventura, Vice Chair, and  
Members of the Committee on Judiciary

From: Jeanne Ohta

RE: HB 369 Relating to Open Government

I write in support of HB 369 Relating to Open Government in order for the public to have more substantive input in public meetings. It is my belief that when some boards and commissions only allow for public input before all agenda items have been discussed or reported on, the public cannot provide input that is meaningful. I have personally been extremely frustrated when this situation occurs.

It would also be very helpful if meeting documents or reports are available at the time of the publishing of the agenda, so that the public can view them prior to providing their views or suggestions.

Commissions and board should be respectful of public input and not exclude the public over the expediency of conducting meetings.

Thanks you for this opportunity to testify.

TO: Members of the Committee on Judiciary

FROM: Natalie Iwasa  
Honolulu, HI 96825  
808-395-3233

HEARING: 2 p.m. Thursday, January 26, 2016

SUBJECT: HB 369 Relating to Open Government - **SUPPORT**

Aloha Chair and Committee Members,

Thank you for allowing me the opportunity to provide testimony on HB 369, which would require boards to provide the public with meeting materials at the time the agenda is available. It also clarifies when public testimony should be received. I support this bill.

There have been a number of times at recent public meetings when meeting materials were only available at the meeting or up to a week later. It is important the public be afforded the opportunity to review meeting materials *prior* to meetings, so we may provide meaningful input.

It is not clear whether this change would apply to the legislature. During budget briefings, meeting materials were not available to the public until the day of the hearing. While public testimony is not allowed, withholding information in that manner also hinders public participation. If this bill currently does not include meetings of the legislature, please amend it so that it does.

Please vote "yes" on Bill HB 369.

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Friday, January 22, 2016 5:56 PM  
**To:** JUDtestimony  
**Cc:** alohaaclay@hawaii.rr.com  
**Subject:** Submitted testimony for HB369 on Jan 26, 2016 14:00PM

**HB369**

Submitted on: 1/22/2016

Testimony for JUD on Jan 26, 2016 14:00PM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Alice Clay	Individual	Support	Yes

Comments: Government should be open to all the people. Government is for the people and by the people. Therefore, all underscore sections in HB369 should be approved and passed and take effect upon approval.

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Friday, January 22, 2016 1:21 PM  
**To:** JUDtestimony  
**Cc:** mkhan@hawaiiantel.net  
**Subject:** Submitted testimony for HB369 on Jan 26, 2016 14:00PM

**Categories:** Yellow Category

**HB369**

Submitted on: 1/22/2016

Testimony for JUD on Jan 26, 2016 14:00PM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Leimomi Khan	Individual	Support	No

Comments: Aloha, Chair Rhoads, Vice Chair San Buenaventura, and members of the Committee on Judiciary. I definitely support HB369. The public looks to our government to be open and transparent, thus, any policy that would enable that transparency is merited. In these days of modern technology, costs for reproduction of materials is minimized when documents are posted on websites available for downloading by those interested. Thank you to all of the legislators who introduced this bill. Best wishes on its adoption and more importantly, its implementation. Respectfully, Leimomi Khan

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## JUDtestimony

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From: d2w2 <dale\_w@hotmail.com>  
Sent: Monday, January 25, 2016 10:57 AM  
To: JUDtestimony  
Subject: HB 369

provided that the removal of any person or persons who wilfully [~~disrupts~~] disrupt a meeting to prevent and compromise the conduct of the meeting shall not be prohibited.

What kind of wordy gibberish is this.

Simple and direct rewrite

Any person or persons who attempts to disrupt or compromise a meeting by refusing to follow the orders of the chair shall be removed if the chair so orders.

Thank You,  
Dale White



**LATE**

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, January 25, 2016 3:26 PM  
**To:** JUDtestimony  
**Cc:** ata.ynotaustin@gmail.com  
**Subject:** \*Submitted testimony for HB369 on Jan 26, 2016 14:00PM\*

**HB369**

Submitted on: 1/25/2016

Testimony for JUD on Jan 26, 2016 14:00PM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
ANTHONY TONY AUSTIN	Individual	Support	No

Comments:

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**LATE**

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, January 25, 2016 7:29 PM  
**To:** JUDtestimony  
**Cc:** blockard@iname.com  
**Subject:** Submitted testimony for HB369 on Jan 26, 2016 14:00PM

**HB369**

Submitted on: 1/25/2016

Testimony for JUD on Jan 26, 2016 14:00PM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Brodie Lockard	Individual	Support	No

Comments: Chair Rhoads, Vice Chair San Buenaventura, Committee Members, I write in support of HB369. What is a democracy when citizens lack access to the information being weighed by its deliberative bodies? What is a democracy when citizens cannot share their own information and points of view with those bodies? Of course the public should have access to the items mentioned in HB369, at appropriate times. Of course the public should be allowed to give input. HB369 strengthens our democratic process. Please vote for it. Thank you for your time. Brodie Lockard Kailua

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**LATE**

JUDtestimony

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From: Linda Wong <leiahi@me.com>  
Sent: Monday, January 25, 2016 11:23 PM  
To: JUDtestimony  
Subject: In Support of HB 369 Jan. 26, 2016; 2 pm

Dear Judiciary Chair and Committee,

I would like to testify as an individual I support of HB 369 which I feel will broaden the policies regarding open government to include greater public participation, input, and access to documents, reports, and proposals under consideration at meetings, with certain limitations.

Mahalo,  
Linda Wong  
also Vice Chair Diamond Neighborhood Board #5