

OFFICE OF INFORMATION PRACTICES

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To: House Committees on Consumer Protection and Commerce
and on Judiciary

From: Cheryl Kakazu Park, Director

Date: February 4, 2015, at 2:30 p.m.
State Capitol, Conference Room 325

Re: Testimony on H.B. No. 730
Relating to Public Hearings

Thank you for the opportunity to submit testimony on this bill. The Office of Information Practices (“OIP”) has concerns regarding implementation of this bill, which would require state agencies to hold public hearings in the county, or counties, primarily impacted by the proposed adoption, amendment, or repeal of administrative rules. While allowing public hearings to be augmented by electronic transmission technology, the bill requires a public hearing on the island if the proposed rule is likely to have a significant monetary impacts on residents or communities of a particular island.

OIP is an agency required to adopt administrative rules, and as such must also amend those rules as necessary from time to time. For instance, OIP’s administrative rules regarding the fees an agency may charge for processing public record requests were adopted over 15 years ago and are due to be updated within the next few years to reflect current agency personnel costs.

Because OIP’s rules have a statewide impact for agencies and record requesters, OIP is concerned that this bill would require it to hold a public hearing

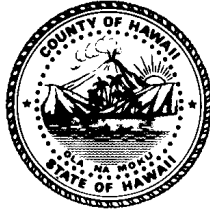
in every county whenever it adopts or amends rules. OIP is further concerned that because its rules regarding fees for processing record requests affect the cost of access to public records for residents of all islands, this bill would require it to hold a public hearing on every inhabited island when amending those rules.

As a practical matter, a requirement to hold a hearing in every county may lead to substantial costs, governmental delays, and litigation to void agency rulemaking, even when no public comments are received from other islands concerning a proposed rule change. Additionally, the proposal could make it financially impossible for OIP or other agencies to amend or adopt rules when they do not have budgets sufficient to do so. Moreover, this bill's requirement to conduct in-person hearings on every island would undercut efforts by the Legislature and Administration to enable and promote electronic transmission technologies, such as videoconferencing, throughout the state. Finally, if this bill continues to advance, then OIP suggests that a special fund be created or an ongoing appropriation be added to cover the agencies' additional costs for staff time and travel, baggage fees, facility and equipment rentals, security, public hearing notices, and other expenses necessary to plan and hold public hearings on each island.

Thank you for the opportunity to testify.

William P. Kenoi
Mayor

Walter K.M. Lau
Managing Director



BJ Leithead Todd
Director

John A. Medeiros
Deputy Director

County of Hawai'i

DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

345 Kekūanāo'a Street, Suite 41 • Hilo, Hawai'i 96720

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<http://www.hawaiicounty.gov/environmental-management/>

February 2, 2015

Representative Angus L.K. McKelvey, Chair and Members
House Committee on Consumer Protection & Commerce
Representative Karl Rhoads, Chair and Members
House Committee on Judiciary

NOTICE OF HEARING

DATE: Wednesday, February 04, 2015
TIME: 2:30pm
PLACE: Conference Room 325
State Capitol
415 South Beretania Street

RE: HB 730 Relating To Public Hearings

Testimony of Bobby Jean Leithead Todd in Support
County of Hawai'i Director of Environmental Management

Aloha Chair McKelvey, Chair Rhoads and Representatives,

The Department of Environmental Management supports HB 730. The bill acknowledges that when proposing rule changes that may have a significant financial impact on residents, it is important to give them an opportunity to have a public hearing before the public comment period closes.

This past year many residents were very concerned that while there was a statewide teleconference to allow public testimony on proposed rules changes governing cesspools, there had been no public hearing prior to the teleconference to explain the proposed changes to the public. After dozens of residents and a number of State Representatives advocated strongly for the public hearings, the Department of Health scheduled five (5) hearings throughout the state and extended the comment period.

The potential fiscal impact to individual residents ranged anywhere from \$5,000 to \$30,000 with an estimated average of \$15,000 and a statewide impact of close to a

billion dollars as the initial rule changes could have impacted a total of 90,000 cesspools.

This bill would mandate that the public hearings be scheduled automatically, thus ensuring that residents, particularly neighbor island residents would have an opportunity to become informed and provide input.

Sincerely,

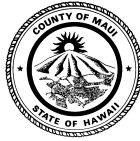
BJ Leithead Todd

Council Chair
Mike White

Vice-Chair
Don S. Guzman

Presiding Officer Pro Tempore
Michael P. Victorino

Councilmembers
Gladys C. Baisa
Robert Carroll
Elle Cochran
Don Couch
Stacy Crivello
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

February 3, 2015

TO: The Honorable Angus L.K. McKelvey, Chair
House Committee on Consumer Protection & Commerce

The Honorable Karl Rhoads, Chair
House Committee on Judiciary

FROM: Mike White
Council Chair

Handwritten signature of Mike White in black ink.

SUBJECT: **HEARING OF FEBRUARY 4, 2015; TESTIMONY IN SUPPORT OF
HB 730, RELATING TO PUBLIC HEARINGS**

Thank you for the opportunity to testify in **support** of this important measure. The purpose of this bill is to require state agencies to hold public hearings in the county, or counties, primarily impacted by the proposed adoption, amendment, or repeal of any administrative rule.

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 Council.

I support this measure for the following reasons:

1. The lack of public hearings on the neighbor islands hinders civic engagement. The Department of Health ("DOH") recently proposed amendments to cesspool rules. Although most cesspools are on neighbor islands, public hearings were only held on Oahu. This left residents facing the greatest impacts and with the most relevant knowledge, being precluded from fully engaging in the rule making process.
2. Public hearings on neighbor islands will promote informed decisions. Under pressure, the DOH agreed to hold "informational meetings" on the neighbor islands for the cesspool rules. Even through this limited opportunity for public participation, it allowed the DOH to become much better informed as to the dire impacts of the proposed rule changes.

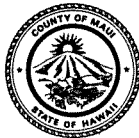
For the foregoing reasons, I **support** this measure.

Council Chair
Mike White

Vice-Chair
Don S. Guzman

Presiding Officer Pro Tempore
Michael P. Victorino

Councilmembers
Gladys C. Baisa
Robert Carroll
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February 2, 2015

TO: Honorable Angus L.K. McKelvey, Chair
Committee on Consumer Protection and Commerce

Honorable Karl Rhoads, Chair
Committee on Judiciary

FROM: Robert Carroll
Councilmember, East Maui

A handwritten signature in cursive script that reads "Robert Carroll".

DATE: Wednesday, February 4, 2015

SUBJECT: **SUPPORT OF HB 730, RELATING TO PUBLIC HEARINGS**

I support HB 730 for the reasons cited in testimony submitted by the Maui County Council Chair, and urge you to support this measure.

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 03, 2015 7:28 AM
To: CPCtestimony
Cc: stacy.crivello@mauicounty.us
Subject: Submitted testimony for HB730 on Feb 4, 2015 14:30PM

HB730

Submitted on: 2/3/2015

Testimony for CPC/JUD on Feb 4, 2015 14:30PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Councilmember Stacy Helm Crivello	Individual	Support	No

Comments: I support Maui County Council Chair Mike White who submitted a testimony in support of the measure.

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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HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE
HOUSE COMMITTEE ON JUDICIARY
Hearing Scheduled 2:30 pm Wednesday, February 4, 2015, House Conference Room 325
HB 730 RELATING TO PUBLIC HEARINGS
Douglas Meller, Legislative Committee, League of Women Voters of Hawaii

Chair McKelvey, Chair Rhoads, and Committee Members:

The League of Women Voters of Hawaii opposes HB 730. This bill requires public hearings in the county, or counties, primarily impacted by the proposed adoption, amendment, or repeal of any administrative rule and at least one public hearing on each island that a proposed rule will likely have a significant monetary impact on residents or communities of that island.

State agency rules cannot establish policy or procedures that violate federal law, federal rules, or state law. Federal laws and rules can be changed without any public hearings in Hawaii. State laws can be changed after only two public hearings on Oahu. It would be time consuming and unproductive to require a public hearing in every county and possibly a public hearing on all seven populated islands to amend state agency rules to comply with changes in federal law, federal rules, or state law. Moreover, the bill's failure to define "significant monetary impact" will inevitably result in confusion and litigation.

Thank you for the opportunity to submit testimony.