

OFFICE OF INFORMATION PRACTICES

STATE OF HAWAII
NO. 1 CAPITOL DISTRICT BUILDING
250 SOUTH HOTEL STREET, SUITE 107
HONOLULU, HAWAII 96813
TELEPHONE: 808-586-1400 FAX: 808-586-1412
EMAIL: oip@hawaii.gov

To: Senate Committee on Judiciary and Labor

From: Cheryl Kakazu Park, Director

Date: March 3, 2015, 9:00 a.m.
State Capitol, Conference Room 016

Re: Testimony on S.B. No. 1210
Relating to Public Agency Meetings

Thank you for the opportunity to submit testimony on this bill, which would amend the Sunshine Law, Part 1 of Chapter 92, HRS, to allow any number of board members to discuss official board business outside of a public meeting so long as the number of members is less than a quorum and no commitment to vote is sought. The Office of Information Practices (“OIP”) opposes this bill.

When the Legislature adopted the Sunshine Law, the Legislature declared that “it is the policy of this State that the formation and conduct of public policy—the discussions, deliberations, decisions, and actions of government agencies—shall be conducted as openly as possible.” HRS § 92-1 (2012). This bill undermines the Sunshine Law’s primary policy and purpose by allowing ALL discussions by board members to be conducted outside of public meetings so long as the number of members discussing official board business is less than a quorum and no commitment to vote is sought.

The Sunshine Law provides that its “provisions for exceptions to the open meeting requirements shall be strictly construed against closed meetings.” HRS § 92-1 (3) (2012). Because this bill allows practically all closed meetings when

the number of members in the discussion is less than a quorum, this bill nullifies the Sunshine Law's own instruction of strict construction against closed meetings.

Currently, the Sunshine Law, in section 92-2.5, HRS, sets forth eight carefully crafted "permitted interactions" that allow board members to discuss official board business outside of public meetings only when the board members comply with the specific requirements for the applicable permitted interaction. This bill broadens one of these permitted interactions, which currently limits discussion between two board members, to any number of members less than a quorum. This bill effectively renders all the other permitted interactions meaningless since a board can merely use the overly broad permitted interaction, proposed in this bill, instead of needing to comply with the strict requirements of the other permitted interactions.

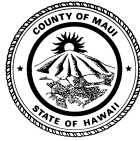
OIP recommends that your Committee decline to approve this bill.
Thank you for the opportunity to submit testimony.

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

March 2, 2015

TO: The Honorable Gilbert S.C. Keith-Agaran, Chair
Senate Committee on Judiciary and Labor

FROM: Mike White
Council Chair

A handwritten signature in black ink, appearing to read "Mike White", is written over the printed name and title.

SUBJECT: **HEARING OF MARCH 3, 2015; TESTIMONY IN SUPPORT OF SB 1210,
RELATING TO PUBLIC AGENCY MEETINGS**

Thank you for the opportunity to testify in **support** of to this important measure. The purpose of this bill is to allow more than two members of a board to discuss official board business as long as no commitment to vote is made and the number of members do not constitute a quorum.

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. This measure would improve councilmembers' ability to engage with the public and be informed about issues facing their district and their county. It is particularly important in Maui County, where all nine councilmembers are elected "**at large**" and represent **ALL** residents of the islands of Lanai, Maui and Molokai, rather than representing only a single district. Similarly, Kauai County councilmembers also represent all districts of the island of Kauai.

Because Maui County councilmembers represent the entire county, not just their district, councilmembers must be informed and able to weigh impacts of policy decisions on areas throughout the county. For this reason, all councilmembers have a valid interest in attending community group meetings throughout the county. Compliance with state law has required councilmembers to leave community meetings or decline invitations.

Attending these public meetings will not jeopardize openness in government because councilmembers do not have control over agendas, discussions, or outcomes of meetings conducted by non-councilmembers.

2. County councils have been severely inhibited in the administration of their standing committees by the Sunshine Law's prohibition against more than two members discussing official board business among themselves outside

of a board meeting. The constraint has resulted in the inability of committee chairs to meet with multiple members on administrative matters such as scheduling meetings for fear that committee members would be subject to a Sunshine Law violation, or give the appearance of inappropriate communication. This measure represents a valuable step toward enabling county councils to carry out their duties more efficiently, as it would reduce unintended administrative challenges and help boards operate more effectively, without having an effect of reducing the openness of board deliberations.

3. Amending HRS Section 92-2.5(a) to allow more than two members to discuss board business would be make the section consistent with other provisions of the chapter, such as when a Temporary Investigative Group is formed, and where the resulting findings and recommendations are presented to the board at the next official scheduled meeting. Making the sections consistent would have the effect of reducing the complexity of the statute.

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
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

March 2, 2015

TO: Honorable Gilbert S.C. Keith-Agaran, Chair
Senate Committee on Judiciary and Labor

FROM: Councilmember Gladys C. Baisa

A handwritten signature in cursive script that reads "Gladys C. Baisa".

SUBJECT: **HEARING ON MARCH 3, 2015; TESTIMONY IN SUPPORT OF SB 1210,
RELATING TO PUBLIC AGENCY MEETINGS.**

I **support SB 1210** for the reasons cited in testimony submitted by the Maui County Council Chair Mike White, and urge you to **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
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

March 2, 2015

TO: Honorable Gilbert S.C. Keith-Agaran, Chair, Senate Committee on
Judiciary and Labor

FROM: G. Riki Hokama *GRH*
Councilmember

DATE: March 3, 2015 at 9:00 a.m. in Conference Room 016, State Capitol, 415
South Beretania Street, Honolulu, Hawaii 96813

SUBJECT: **S.B . 1210 RELATING TO PUBLIC AGENCY MEETINGS**

Thank you for the opportunity to testify in support of this important measure. The purpose of this measure is allow more than two members of a board to discuss official board business as long as no commitment to vote is made and the number of members do not constitute a quorum of the board.

I support this measure, because it would allow an elected county council to operate more efficiently and facilitate the business of the board. For example, this amendment would allow two or more members but less than a quorum to discuss and coordinate scheduling of meetings; to clarify written communications and information shared with members; and to discuss current events in the community that has a bearing on the business of the county council. In my view, the ability of an elected county council to operate efficiently and responsively serves the public interest.

I understand that Maui County Council Chair Mike White has submitted testimony in support of this measure, and I concur with his testimony.

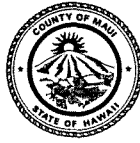
For the foregoing reasons, I support this measure.

Council Chair
Mike White

Vice-Chair
Don S. Guzman

Presiding Officer Pro Tempore
Michael P. Victorino

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



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

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

February 26, 2015

TO: Honorable Gilbert S.C. Keith-Agaran, Chair
Committee on Judiciary and Labor

FROM: ROBERT CARROLL
Councilmember, East Maui

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

DATE: Tuesday, March 3, 2015

SUBJECT: SUPPORT OF SB 1210, RELATING TO PUBLIC AGENCY MEETINGS

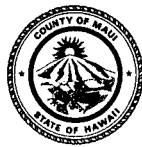
I support SB 1210 for the reasons cited in testimony submitted by the Maui County Council Chair, and urge you to support this measure.

Council Chair
Mike White

Vice-Chair
Don S. Guzman

Presiding Officer Pro Tempore
Michael P. Victorino

Councilmembers
Gladys C. Baisa
Robert Carroll
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

March 2, 2015

TO: Honorable Gilbert S. C. Keith-Agaran, Chair
House Committee on Judiciary and Labor

FROM: Stacy Crivello
Councilmember 

DATE: March 3, 2015

SUBJECT: **SUPPORT SB 1210, RELATING TO PUBLIC AGENCY MEETINGS**

I support SB 1210 for the reasons cited in testimony submitted by the Maui County Council Chair, and urge you to support this measure.



Senate Judiciary and Labor Committee
Chair Gil Keith-Agaran, Vice Chair Maile Shimabukuro

Tuesday 03/03/2015 at 9:00 AM in Room 016
SB996 Relating to Ethics

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

Dear Chair Keith-Agaran, Vice Chair Shimabukuro, and members of the Committee:

Common Cause Hawaii opposes SB1210, which would allow two or more (public) board members to discuss official board business as long as no commitment to vote is made, and the number of members involved do not constitute a board quorum.

SB1210 would water down Hawaii's Sunshine Law, which acts as a safeguard and are in place to 1) prevent private discussions among council members and the organizations that represent issues council members vote on and 2) prevent decisions made on issues without public input and public notice. Whittling away Hawaii's Sunshine Law is a step toward weakening public trust and confidence in our government.

This bill would make it easier for potential abuse of power to occur. For example, board members could discuss amongst themselves which way to vote in a public hearing, then act on that agreement.

To uphold integrity in public board decisions, Common Cause Hawaii believes that Hawaii's Sunshine Law must be preserved. To that end, public board members should only discuss public matters in a public hearing, and after adequate public notice is given, and with a guarantee that the public can weigh in, and meeting minutes will be recorded and provided as public record.

Thank you for the opportunity to offer testimony on SB1210.



49 South Hotel Street, Room 314 | Honolulu, HI 96813
www.lwv-hawaii.com | 808.531.7448 | voters@lwvhawaii.com

SENATE COMMITTEE ON JUDICIARY AND LABOR
Hearing Scheduled 9:00 am Tuesday, March 3, 2015, Conference Room 016
SB 1210 RELATING TO PUBLIC AGENCY MEETINGS
TESTIMONY
Douglas Meller, Legislative Committee, League of Women Voters of Hawaii

Chair Keith-Agaran, Vice-Chair Shimabukuro, and Committee Members:

The League of Women Voters of Hawaii opposes SB 1210. The bill would authorize various groups of board members (but less than a quorum) to engage in serial private discussions until they had “counted noses” and felt ready to vote on board matters at a public meeting.

The league does not believe that public board matters should be discussed in private, without public notice, as a series of discussions between groups of board members. The League believes that public board matters should be discussed in public, after public notice, by a quorum at board meetings.

Thank you for the opportunity to present testimony.

THE CIVIL BEAT
LAW CENTER FOR THE PUBLIC INTEREST

700 Bishop Street, Suite 1701
Honolulu, HI 96813

Office: (808) 531-4000
Fax: (808) 380-3580
info@civilbeatlawcenter.org

Senate Committee on Judiciary & Labor
Honorable Gilbert S.C. Keith-Agaran, Chair
Honorable Maile S.L. Shimabukuro, Vice Chair

RE: Testimony Commenting on S.B. 1210, Relating to Public Agency Meetings
Hearing: March 3, 2015 at 9:00 a.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 S.B. 1210. The Law Center respectfully requests that the Committee **authorize a task force to study proposals for Sunshine Law reform**, in lieu of this bill.

S.B. 1210 is a radical departure from existing law. If enacted, it will significantly redefine the principles of Hawaii's open meetings law and call into question most existing precedent regarding what qualifies as a Sunshine meeting.

I appreciate the motivation behind this legislation. Over the last 40 years, the Sunshine Law has become disconnected from its original values, increasingly technical, and confusing for the public and board members. S.B. 1210 will simplify the law in one respect. A sustainable solution, however, lies in a comprehensive review of Chapter 92 with input from stakeholders in the community and an analysis of best practices from other jurisdictions.

After four decades, it may be time to radically rethink the Sunshine Law. But it should be approached holistically and with due consideration that the Legislature worked on the original Sunshine Law for several years before it passed. *See, e.g., 1975 House Journal at 779 (remarks of Representative Poepoe) ("For about five years, Mr. Speaker, those of us sitting on this side of the aisle have been working for the passage of legislation such as the one before us today – to open meetings of State and County bodies to the people of this State.")*.

Hawai'i deserves an open meetings law that is functional for decision-making, recognizes the public's role in the policy process, and keeps government boards accountable to the people of Hawai'i. The balance among those values cannot be achieved through piecemeal legislation.

Thank you again for the opportunity to testify.

From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc:
Subject: Submitted testimony for SB1210 on Mar 3, 2015 09:00AM
Date: Sunday, March 01, 2015 7:04:19 PM

SB1210

Submitted on: 3/1/2015

Testimony for JDL on Mar 3, 2015 09:00AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Arvid Tadao Youngquist	Individual	Support	No

Comments: Chair, JDL Committee and Committee Members I support SB 1210-RELATING TO PUBLIC AGENCY MEETINGS. Report Title: Public Agency Meetings; Board Members Description: Allows more than two members of a board to discuss official board business as long as no commitment to vote is made and the number of members do not constitute a quorum of the board. Companion: Package: None Current Referral: JDL Introducer(s): Sen.KEITH-AGARAN, BAKER, & ENGLISH. I thank the co-sponsors and encourage the committee adopt this measure and ask its colleague in the chamber to support it as well. Mahalo, Arvid T. Youngquist Oahu Resident and Voter

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.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov