

# **SB 723**

## **RELATING TO COMMUNITY MEETINGS**

Permits members of a county council to jointly attend and speak at certain community meetings or presentations; provided that the meetings or presentations are events open to the public.

PSM, JDL



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SENATE COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL AND MILITARY AFFAIRS  
Hearing Scheduled 1:15 pm Tuesday, February 17, 2015, Conference Room 229  
SB 723 RELATING TO COMMUNITY MEETINGS  
TESTIMONY

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

Chair Espero, Vice-Chair Baker, and Committee Members:

**The League of Women Voters of Hawaii strongly opposes SB 723** which would allow a council quorum, or even all council members, to “jointly attend and speak” at any “informational meeting or presentation of another entity” which is “open to the public”. SB 723 would also exempt a council quorum attending such an event from Sunshine Law requirements which apply to council meetings.

The Sunshine Law ensures that county councils conduct the public’s business in public. The existing law guarantees the public both advance notice and the opportunity to listen to all discussions and decisions by a county council quorum. Under 2014 Sunshine Law amendments, “A county council may hold a limited meeting ... as the guest of a board or community group holding its own meeting...”, provided that the council posts advance public notice, the public can attend the meeting without paying an admission fee or traveling out-of-state, no council voting commitments are made, and council minutes are prepared. 2014 Sunshine Law amendments recognize that private interests seeking county land use approvals, private businesses seeking county contracts, and ad hoc “NIMBY” groups commonly host meetings and presentations for the purpose of advocating for or against special interest projects.

SB 723 would exempt council quorums that attended an “informational meeting or presentation of another entity” from Sunshine Law requirements which apply to council meetings. Under SB 723, when a council quorum attended an “informational meeting or presentation of another entity”, no advance public notice of council attendance would be required, no council minutes would be prepared, and the public would not have the right to submit oral testimony to the council. Under SB 723, an “informational meeting or presentation of another entity” which is “open to the public” could include practically any event to which the “public has been invited” - - including events which charge admission, events which take place on the mainland or a foreign country, multi-day events which include both educational and recreational activities, and events which are organized by private special interests to influence council decisions. SB 723 would even apply to an “informational” event at Disneyland to which the “public has been invited”.

Under SB 723, while attending any “informational meeting of another entity” which is “open to the public”, a council quorum (or even all council members) would be allowed to “jointly attend and speak” to each other about their concerns with and about how to vote on council matters. And under SB 723, when a private “entity” which wished to influence council decisions on council matters invited the public to attend an “informational” presentation, SB 723 would authorize a council quorum, to “jointly attend and speak” about those council matters with that private entity. Basically the Sunshine Law would be “neutered”.

Thank you for the opportunity to present testimony.



P.O. Box 3141  
Honolulu, HI 96802  
Feb. 17, 2015

Senate Public Safety, Intergovernmental and Military Affairs Committee  
State Capitol  
Honolulu, HI

Senate Bill 723

Chairman Will Espero and Committee Members:

We ask you to reject SB 723.

This bill will not increase sunshine in government and could lead to more darkness by allowing board members to discuss public issues outside the regular board's meeting

We believe that subsection (e) of the law is sufficient:

(e) Two or more members of a board, but less than the number of members which would constitute a quorum for the board, may attend an informational meeting or presentation on matters relating to official board business, including a meeting of another entity, legislative hearing, convention, seminar, or community meeting; provided that the meeting or presentation is not specifically and exclusively organized for or directed toward members of the board. The board members in attendance may participate in discussions, including discussions among themselves; provided that the discussions occur during and as part of the informational meeting or presentation; and provided further that no commitment relating to a vote on the matter is made or sought."

Thank you for your time and attention.

Sincerely,

Stirling Morita  
President  
Hawaii Chapter SPJ

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Senate Committee on Public Safety, Intergovernmental and Military Affairs  
Honorable Will Espero, Chair  
Honorable Rosalyn H. Baker, Vice Chair

**RE: Testimony Opposing S.B. 723, Relating to Community Meetings**  
Hearing: February 17, 2015 at 1:05 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 S.B. 723. The Law Center opposes this bill.

In the middle of the Act 221 experiment, there is no justification to further tinker with the public's right to observe and participate in county decision-making. Last session, Act 221 carefully balanced competing public and council concerns to provide county council members the opportunity to attend community meetings and discuss council business under specified conditions.<sup>1</sup> Most importantly, that exemption was an experiment in the Sunshine Law that will sunset on June 30, 2016 unless reenacted.

Compared to Act 221, S.B. 723 is unbalanced legislation that provides no meaningful protection for the public. The public will have no notice of the topics to be addressed by the council members, no right to participate in the discussion through testimony, and no minutes of the proceedings to record the position of council members. If council members wish to communicate with constituents, respond to their concerns, and publicly express their position on council business, they have a forum to do so—a council meeting.

If this Committee will recommend passing S.B. 723, I suggest a **sunset provision and a requirement that county councils report annually to the Legislature on the use of this exception**. Reports will provide public accountability and indicate whether reenacting the exception is justified. Thank you again for the opportunity to testify.

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<sup>1</sup> Act 221 found that "county council members are hindered in communicating with constituents and understanding community concerns because they are subject to the sunshine law." 2014 Haw. Sess. Laws Act 221. This body acknowledged, however, that "members of the public are concerned about the potential for abuse of the public's right to know and participate in the policy making process if protections provided by the sunshine law are removed." *Id.*

COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL AND MILITARY AFFAIRS  
February 17, 2015 1:05 p.m. Conference Room 229

SB723 RELATING TO COMMUNITY MEETINGS

TESTIMONY FROM SUSAN DURSIN, Captain Cook, Representing herself

Chair Senator Espero, Vice Chair Senator Baker, and Committee Members:

I am testifying in opposition to SB723, which would exempt members of county councils from HRS, Chapter 92, subsection (e). I believe that the present law has worked well. While council members may feel a bit restricted, the value of the law lies in protecting the public's right to follow discussion and decision making that is open and accessible.

There is no need for a change because the law already allows considerable latitude. Two or more members of the council but fewer than a quorum may attend the same gathering. Those members report what they have learned to the entire council. In fact, county councils need not go beyond their regular meeting format to gather data. They may request presentations from anyone at any time.

If a majority of members attend a meeting, they may feel there is no need for a detailed report since most of their companions already have the information. Thus, the public will not hear the details of that meeting and cannot assess what influences the meeting may have had on council members.

It is possible that more than a quorum of members attending a meeting might come to a tacit agreement, the course of which would not be apparent to the public.

SB723 defines "public meeting" as one to which the public is invited through the media or "other methods of communication." There is no specific advance notice required, no stipulation of how widely the meeting is advertised, and certainly nothing about an agenda. Members of the public who are interested in watching their council at work and understanding how and why decisions are made cannot possibly attend every meeting at which a majority of the council members might appear, especially as there is no requirement that council members announce their intent to attend.

I believe that transparency in government is a requisite for public trust. Because it is natural for people to pay close attention to their local government and the issues that affect them most directly, transparency at the local level is key to making government work.

Please do not pass SB723 out of committee.

Thank you for considering my testimony.