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SENATE COMMITTEE ON JUDICIARY AND LABOR

Thursday, February 23, 2017, 9:15 AM, Conference Room 016
SB 1277, SD 1, RELATING TO PUBLIC AGENCY MEETINGS

TESTIMONY

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

Chair Keith-Agaran and Committee Members:

The League of Women Voters of Hawaii opposes SB 1277, SD 1 which would allow the minutes of public agency meetings to be kept by written or recorded means.

This bill would discourage the public from using minutes to monitor what happens at board meetings. It currently is quick and easy to read summary written minutes and determine what action was taken and how board members voted on various agenda items. It would be slow and complicated to have to listen to a recording of a prolonged board meeting to determine what action was taken and how board members voted on agenda items.

SB 1277, SD 1 provides that “. . . if the minutes are recorded . . . **a written summary** . . . shall accompany the recording”. However, SB 1277, SD 1 leaves it ambiguous what information must be included in a “**written summary**”. If the bill were further amended to require that a “**written summary**” must include all summary information which existing law requires in written minutes, this would satisfy League of Women Voters concerns. (But there would be little difference between a “**written summary**” and written minutes.) If the bill were not amended, this would imply that the Legislature intends for a “**written summary**” to omit summary information which existing law requires in written minutes. We don't foresee any way this could benefit the public.

Thank you for the opportunity to submit testimony.

THE CIVIL BEAT
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Senate Committee on Judiciary and Labor
Honorable Gilbert S.C. Keith-Agaran, Chair
Honorable Karl Rhoads, Vice Chair

RE: Testimony Opposing S.B. 1277 S.D. 1, Relating to Public Agency Meetings
Hearing: February 23, 2017 at 9:15 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. 1277 S.D. 1. The Law Center **opposes this bill because, compared to existing law, it will delay access to information about Sunshine meetings.**

Recordings of public meetings are accessible under current law shortly after the meeting itself. OIP requires that boards and commissions must disclose recordings of meetings *in less than* 30 days. *E.g.*, OIP Op. 02-06 at 9-10; OIP Op. No. 97-06 at 2-4; OIP Op. No. 92-13. The deadline for disclosure of such records would be a reasonable time not to exceed 10 business days. HAR § 2-71-13(a).

Sunshine boards, however, have 30 days to provide public access to “minutes”. HRS § 92-9(b). S.B. 1277 S.D. 1 conflates minutes and recordings. As a consequence, boards under this bill may delay access to recordings for up to 30 days while the board prepares a “written summary” to “accompany the recording.” **Thus, records that currently are available within two weeks could be delayed at least six weeks after the meeting under S.B. 1277 S.D. 1.**

Also, please note that it is unclear how “a written summary” differs from the “minutes” of a meeting. While the written minutes of some State and county boards provide more than required, the Sunshine Law is clear about the minimum needed – date, time, place of meeting; members absent/present; matters discussed and votes taken. And that current minimum would seem to be the bare minimum needed for any “summary”.

Without resolving the “summary” issue, the following revision would address the concerns about delayed access:

(a) The board shall keep written minutes of all meetings[.]; provided that if an analog or digital recording of the meeting is accessible to the public, the minutes may be a written summary of the recording. Unless otherwise required by law, neither a full transcript nor a recording of the meeting is required, but the

written minutes shall give a true reflection of the matters discussed at the meeting and the views of the participants. The minutes shall include, but need not be limited to:

- (1) The date, time and place of the meeting;
- (2) The members of the board recorded as either present or absent;
- (3) The substance of all matters proposed, discussed, or decided; and a record, by individual member, of any votes taken; and
- (4) Any other information that any member of the board requests be included or reflected in the minutes.

Thank you again for the opportunity to testify.

PETER L. FRITZ

THE SENATE THE TWENTY-NINTH LEGISLATURE REGULAR SESSION OF 2017

COMMITTEE ON JUDICIARY AND LABOR Testimony on S.B. 1277 S.D. 1 Hearing: February 23, 2017

RELATING TO PUBLIC AGENCY MEETINGS

Chair Keith-Agaran, Vice Chair Rhoads, and members of the Committee. My name is Peter Fritz. I am an individual with a disability and an advocate for the disabled. I am testifying **in opposition** to this bill. This bill will reduce government transparency because there will no longer be concise and board approved record of the actions taken at a meeting. Citizens will be required to listen long recordings of a meeting so that they can confirm that written summary, which may not be approved by the board or commission, is an accurate record of what was done at a meeting. It may also violate the Americans with Disability Act (“ADA”).

This bill allows the minutes at public agency meetings to be kept by written or recorded means. This bill provides that if minutes are kept by analog or digital means, a written summary of the recording shall accompany the recording.

Minutes are a record of what action was taken at a meeting, not a record of what was said. Roberts Rules of Order (11th ed.), p. 468, ll. 16-18. The written summary of the recorded minutes would have to contain a record of the action taken at a meeting and would essentially be the same as written minutes. However, this bill may make government less transparent for the public because the written summary may be much longer than written minutes because it contains information about what was said (e.g. reports to the board). Is it intended that this written summary be approved at a meeting if the Board of Directors as minutes currently are approved? Will the written summary have to be available within 30 days after the date of the meeting?

THE WRITTEN SUMMARY OF THE RECORDING THAT ACCOMPANIES THE RECORDING WILL NOT ELIMINATE THE NEED TO HAVE A FULL TRANSCRIPT OF THE MEETING.

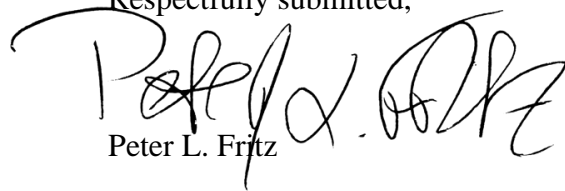
Title II of the ADA requires State and local governments provide equal access for qualified individuals with disabilities to their services. Equal access includes access in terms of hours of operation. Since the digital recordings are available to people 24 hours a day, an accessible equivalent of the recordings would have to be available for individuals with disabilities 24 hours a day, 7 days a week. This might mean having a transcript of the meeting available for the hearing disabled and/or descriptive audio for a video with exhibits for the vision disabled.

Minutes are an important governance document. Minutes are an official and concise written record of the actions taken at a meeting. Minutes provide a convenient way for a board or commission to agree about the actions taken at a prior meeting and ratify a written record. Minutes are easily accessible for everyone when compared to having to listen to a recorded transcript that may be several hours long or a read detailed written summary of the meeting that is much longer than normal corporate minutes.

I respectfully request that the Committee retain the requirement for written minutes and not allow an audio or video recording to substitute for written minutes. The video can supplement the minutes, but it should not replace written minutes approved by the board.

Thank you for the opportunity to testify.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Peter L. Fritz". The signature is stylized with a large initial "P" and a long, sweeping underline that extends to the right.

Peter L. Fritz