

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: April 4, 2017, 9:45 a.m.
State Capitol, Conference Room 016

Re: Testimony on H.B. No. 308, S.D. 1
Relating to Public Agency Meetings

Thank you for the opportunity to submit testimony on this bill, which would amend the Sunshine Law, Part I of Chapter 92, HRS, to allow a county council member to transmit to other council members a government record created by a third party, and make a copy of the exchange available for public inspection in the council's office. **The Office of Information Practices ("OIP") supports the S.D. 1 version of this bill.**

The S.D. 1 restricts the government records that can be exchanged to those authored by third parties (not council members or staff), together with a transmittal stating what the document is and what issue before the council it pertains to. The council would be required to file the record and the transmittal in its office for public inspection on the same day the transmittal took place, at least 24 hours before discussing any relevant issues at a meeting, and provide electronic copies upon request. To avoid a situation where the same-day-filing condition was impossible to comply with (such as a transmittal happening in the evening after office hours), the bill also requires that the transmission of records between members take place only during business hours.

Senate Committee on Judiciary
April 4, 2017
Page 2 of 2

OIP believes the amendment to the Sunshine Law proposed by the S.D. 1 version of this bill would provide the county councils with additional flexibility while protecting against potential abuses, and would further provide advance public access to information being considered by the councils. Thus, OIP supports this bill.

Council Chair
Mike White

Vice-Chair
Robert Carroll

Presiding Officer Pro Tempore
Stacy Crivello

Councilmembers
Alika Atay
Elle Cochran
Don S. Guzman
Riki Hokama
Kelly T. King
Yuki Lei K. Sugimura




Director of Council Services
Sandy K. Baz

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

April 3, 2017

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

FROM: Mike White
Council Chair 

SUBJECT: **HEARING OF APRIL 4, 2017; COMMENTS ON HB 308 H.D. 1, S.D. 1,
RELATING TO PUBLIC AGENCY MEETINGS**

Thank you for the opportunity to provide comments on this measure. The original version of this bill was included in the Hawaii State Association of Counties legislative package with the intent to establish a mechanism for county councils to share documents with fellow members to better prepare for pending legislation in advance of a meeting.

The recent amendment that will cause unintended consequences is:

(h) A member of a county council may provide other members of the council **any government record open to public inspection under chapter 92F**, provided that:

(1) The record was created by a person other than an officer or employee of the county council.

This change will make the distribution of documents more restrictive and could hamper the work of county councils.

In consulting with Office of Information Practices, they assisted the Maui County Council to create a policy to allow the transmittal of legislative proposals prepared by staff with no advocacy and other informational documents to be distributed to council members and the public on the day of agenda posting, 48 hours prior to a meeting, or at the meeting itself.

This amendment will restrict this practice and will not allow proposals to be shared before a meeting. In my mind, this hampers openness rather than promoting it. If members are able to share a proposal before a meeting, at least the public has time to review the proposal. The alternative is that members must distribute proposals for the first time at a meeting where the public may not be able to properly review or provide comment on the matter.

This amendment could also severely hamper the administrative work of a council, as

Honorable Gilbert S.C. Keith-Agaran
April 3, 2017
Page 2

members would no longer be able to transmit government documents created by staff or a member, since the new provision covers any government record. This would now include procedural memos not related to pending legislation such as policy or procedures for travel or purchases.

I would suggest reverting back to the language as proposed in the original version of HB 308 instead of creating unintentional burdens for the councils.

Thank you for the opportunity to provide comments on this measure.

Hawai`i State Association of Counties (HSAC)

Counties of Kaua`i, Maui, Hawai`i and City & County of Honolulu

200 S. High Street, Wailuku, Hawaii 96793 (808) 270-7665

www.hicounties.com



April 3, 2017

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

FROM: Stacy Crivello
HSAC President

SUBJECT: **HEARING OF APRIL 4, 2017; TESTIMONY PROVING COMMENTS
ON HB 308, HD 1, SD 1 RELATING TO PUBLIC AGENCY MEETINGS**

Thank you for the opportunity to testify on behalf of the Hawaii State Association of Counties providing comments on this measure. The purpose of this measure is to allow board members to transmit government records to other board members under specified conditions.

This measure is in the 2017 Hawaii State Association of Counties Legislative Package. Therefore, I submit this testimony on HSAC's behalf.

We support most recent amendments made to the bill to strengthen government transparency as they are in line with the original intent of the measure. However, we express concerns with the following provisions:

“(h) A member of a county council may provide other members of the council any government record open to public inspection under chapter 92F, provided that:

(1) The government record was created by a person other than an officer or employee of the county council;”

HSAC provides the following comments:

1. The current amendment would will not allow county councils to provide members with **proposed legislation**, research material and other supporting documents, which are created by council officers and employees. This amendment contradicts the original intent of the measure to help receive materials in advance of a meeting.
2. The intent of this measure was also to put county councilmembers on equal footing with executive branch officials and special-interest groups, who under current law can freely disseminate information and documents to



- councilmembers and the public. If government records distributed are accessible in the designated council office, provided online and publicly available, then members and the public can be better equipped with information to provide sound testimonies and practice diligent decision-making.
3. The amendment could also hamper the administrative work of a council, as members would no longer be able to transmit government documents created by staff or a member, since the new provision covers any government record. This would now include procedural memos not related to pending legislation such as policy or procedures for travel or purchases.

I would suggest reverting back to the language as proposed in the original version of HB 308 instead of creating unintentional burdens for the councils. Mahalo for your consideration.

HSAC:FY2017:17Testimony:HB308_hd1_sd1_mkz

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 and Labor
Honorable Gilbert S.C. Keith-Agaran, Chair
Honorable Karl Rhoads, Vice Chair

RE: Testimony Supporting H.B. 308 H.D. 1 S.D. 1,
Relating to Public Agency Meetings
Hearing: April 4, 2017 at 9:45 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 governmental transparency. Thank you for the opportunity to submit testimony. The Law Center **supports H.B. 308 H.D. 1 S.D. 1.**

As amended this bill substantially advances both efficiency for county councils and public transparency.

Thank you again for the opportunity to testify.