

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: House Committee on Judiciary

From: Cheryl Kakazu Park, Director

Date: February 7, 2017, 2:00 p.m.
State Capitol, Conference Room 325

Re: Testimony on H.B. No. 315
Relating to Community Meetings

Thank you for the opportunity to submit testimony on this bill, which would allow all members of a county council to jointly attend community meetings or presentations. The Office of Information Practices (“OIP”) **opposes this bill. The new guest meeting provision signed into law in 2014, and made permanent in 2016, already allows all members of a county council to jointly attend community meetings while continuing to protect the public interest through limited meeting safeguards, which this proposal would essentially strip away and render moot.**

In 2014, county council members expressed concerns that the Sunshine Law did not provide them a workable method to attend community meetings or presentations that any number of council members might want to attend and at which a variety of board topics might be raised, and where it would not be practical to follow a set agenda or take public testimony. Consequently, the Legislature passed H.B. 2139, H.D. 1, S.D. 1, C.D. 1, which signed into law as Act 221, SLH 2014, and created a new type of limited meeting in section 92-3.1, HRS, that allows any number of county council members to attend a meeting open to the public as

the guest of a board or community group. Under this guest meeting provision, the council's notice of the limited meeting is not required to include an agenda, and unless the hosting community group is itself a Sunshine Law board, there is no requirement to take oral testimony at the meeting. **The Legislature included safeguards** such as the requirement that no limited meeting of this sort be held outside Hawaii, that only one such meeting per community group per month be held, and that no decisions be made at the meeting. In addition, the videotaping requirement applicable to all limited meetings applies to guest meetings as well, unless waived by OIP. **The Legislature included a sunset date of June 30, 2016**, for the guest meeting provision.

In 2016, the Legislature passed S.B. 2121, S.D. 1, H.D. 1, C.D. 1, signed into law as Act 056, SLH 2016, which made the guest meeting provision permanent and required each council to report annually to the legislature on the effectiveness and application of the guest meeting provision, including any recommendations or proposed legislation. OIP is aware that the Hawaii County Council submitted the annual report required by Act 056, but has not seen reports from the other counties. So far as OIP is aware, the guest meeting provision has been only minimally used.

The permitted interaction proposed by this bill would effectively render the guest meeting safeguards moot by allowing any number of county council members to attend a community meeting without the oversight that the Legislature built into Act 221 in 2014. Without information on county councils' actual experience using the guest meeting provision and recommendations that will improve the provision for both the councils and the public, OIP respectfully suggests that **the Legislature should not consider creating a broad new permitted interaction for full councils to discuss board business outside a Sunshine Law meeting.**

House Committee on Judiciary
February 7, 2017
Page 3 of 3

Thank you for considering our recommendation.

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

February 6, 2017

TO: The Honorable Scott Nishimoto, Chair
House Committee on Judiciary

FROM: Mike White
Council Chair 

SUBJECT: **HEARING OF FEBRUARY 7, 2017; TESTIMONY IN SUPPORT OF
HB 315, RELATING TO COMMUNITY MEETINGS**

Thank you for the opportunity to testify in **support** this important measure.

The Maui County Council supports this bill and **concurs** with the testimony as provided by Hawaii State Association of Counties President Stacy Crivello.

I urge you to **support** 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



February 3, 2017

TO: The Honorable Scott Y. Nishimoto, Chair
House Committee on Judiciary

FROM: Stacy Crivello
HSAC President 

SUBJECT: **HEARING OF FEBRUARY 7, 2017; TESTIMONY IN SUPPORT OF HB 315, RELATING TO COMMUNITY MEETINGS**

Thank you for the opportunity to testify on behalf of the Hawaii State Association of Counties in **support** of this measure. The purpose of this measure is to allow members of a county council to attend informational meetings or educational presentations open to the public, without limitation on the number of attendees.

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

HSAC **supports** 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 Kauai County and Maui County, where all nine councilmembers are elected "at large" and represent ALL residents of the county.
2. Attending these public events, such as community organization meetings or forums, will not jeopardize openness in government because councilmembers do not have control over agendas, discussions, or outcomes of meetings conducted by non-councilmembers.
3. This measure is an important step toward enabling county councils the freedom to educate themselves and carry out their duties more efficiently, as state legislators now currently enjoy.

Mahalo for your consideration.

HSAC:FY2017:17Testimony:HB315a_mkz

COUNTY COUNCIL

Mel Rapozo, Chair
Ross Kagawa, Vice Chair
Arthur Brun
Mason K. Chock
Arryl Kaneshiro
Derek S.K. Kawakami
JoAnn A. Yukimura



OFFICE OF THE COUNTY CLERK

Jade K. Fountain-Tanigawa, County Clerk
Scott K. Sato, Deputy County Clerk

Telephone: (808) 241-4188
Facsimile: (808) 241-6349
E-mail: cokcouncil@kauai.gov

Council Services Division
4396 Rice Street, Suite 209
Līhu'e, Kaua'i, Hawai'i 96766

February 6, 2017

TESTIMONY OF MEL RAPOZO
COUNCIL CHAIR, KAUAI COUNTY COUNCIL
ON
HB 315, RELATING TO COMMUNITY MEETINGS
House Committee on Judiciary
Tuesday, February 7, 2017
2:00 p.m.
Conference Room 325

Dear Chair Nishimoto and Members of the Committee:

Thank you for this opportunity to provide testimony in support of HB 315, Relating to Community Meetings, which is included in the 2017 Hawai'i State Association of Counties (HSAC) Legislative Package. My testimony is submitted in my individual capacity as Council Chair of the Kaua'i County Council and as Secretary of the Hawai'i State Association of Counties.

The purpose of this measure is to allow members of a county council to attend informational meetings and educational presentations open to the public, without limitation on the number of attendees. 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 Kaua'i County and Maui County where all councilmembers are elected "at large" and represent ALL residents of the county. This measure is an important step toward enabling the county council with the freedom to educate themselves and carry out their duties more efficiently.

For the reasons stated above, I urge the House Committee on Judiciary to support this measure. Should you have any questions, please feel free to contact me or Council Services Staff at (808) 241-4188.

Sincerely,

MEL RAPOZO
Council Chair, Kaua'i County Council

AMK:lc

From: mailinglist@capitol.hawaii.gov
Sent: Saturday, February 4, 2017 1:43 PM
To: JUDtestimony
Cc: yukilei.sugimura@mauicounty.us
Subject: Submitted testimony for HB315 on Feb 7, 2017 14:00PM

Categories: Blue Category

HB315

Submitted on: 2/4/2017

Testimony for JUD on Feb 7, 2017 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Yuki Lei Sugimura	Maui County Council	Comments Only	No

Comments: HB315 RELATING TO COMMUNITY MEETINGS. I am in STRONG SUPPORT of HB315, which will allow councilmembers to attend community meetings to gather information from our constituents. This will allow us to freely attend community and educational meetings and comply with the sunshine law. I STRONGLY SUPPORT HB315 for the reasons cited in testimony submitted by HSAC President Stacy Crivello.

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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JUDtestimony

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 6, 2017 12:38 PM
To: JUDtestimony
Cc: tsakamoto1@honolulu.gov
Subject: *Submitted testimony for HB315 on Feb 7, 2017 14:00PM*

HB315

Submitted on: 2/6/2017

Testimony for JUD on Feb 7, 2017 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Councilmember Brandon Elefante	Individual	Support	No

Comments:

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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From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 6, 2017 10:44 AM
To: JUDtestimony
Cc: surf77@mac.com
Subject: Submitted testimony for HB315 on Feb 7, 2017 14:00PM

Categories: Blue Category

HB315

Submitted on: 2/6/2017

Testimony for JUD on Feb 7, 2017 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
ROBERT DUERR	Big Island Press Club Inc.	Oppose	No

Comments: STRONG OPPOSITION to House Bill 315, Relating to Community Meetings Big Island Press Club Inc. opposes HB 315, relating to community meetings. This will weaken the state's Sunshine Law, governing public meetings. We are against allowing more than a quorum of County Council members to attend and participate in a community meeting, and discuss issues among themselves, without public notice, outside the coordination of the county clerk and without official county minutes taken.

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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February 5, 2017

House Judiciary Committee

From: Nancy Cook Lauer, publisher, All Hawaii News

www.allhawaiinews.com nclauer@gmail.com 808.781.7945

STRONG OPPOSITION to House Bill 315, Relating to Community Meetings

All Hawaii News opposes HB 315, relating to community meetings, because it would weaken the state's Sunshine Law, governing public meetings, by allowing more than a quorum of County Council members to attend and participate in a community meeting, and discuss issues among themselves, without public notice, outside the coordination of the county clerk and without official county minutes taken.

Hawaii's Sunshine Law currently allows County Council members, but less than a quorum, to attend and participate in these meetings, as long as they subsequently report their attendance and the matters presented and discussed that related to official board business at the informational meeting or presentation.

All Hawaii News believes the current law covers any concerns expressed by proponents that it will make it easier for council members to engage with their constituents and learn about community issues important to them.

This expressed concern doesn't overcome the burden touted by the state Office of Information Practices website, that the law is intended to open up governmental processes to public scrutiny and participation by requiring government business to be conducted as transparently as possible while balancing personal privacy rights, in All Hawaii News' opinion.

Common Cause Hawaii, in a newspaper article (<http://westhawaii.com/news/local-news/counties-submit-wish-list-legislature>), calls the bill an attempt "to essentially create an unlimited community meetings exemption."

Please table this attempt to weaken the state's vaunted Sunshine Law. Thank you.



House Judiciary Committee
Chair Scott Nishimoto, Vice Chair San Buenaventura

02/07/2017 at 2:00 PM in Room 325
HB315 – Relating to Community Meetings

TESTIMONY — STRONGLY OPPOSE
Corie Tanida, Executive Director, Common Cause Hawaii

Dear Chair Nishimoto, Vice San Buenaventura, and members of the House Judiciary Committee:

Common Cause strongly opposes HB315. This bill creates a loophole in Hawaii's Sunshine Laws, which are meant to promote transparency and openness in our state. HB315 would significantly expand the exemption for county council members to attend outside meetings.

Hawaii's Sunshine Laws act as a safeguard, and are in place to 1) prevent private discussions among council members and the organizations that represent issues which council members vote on and 2) prevent council members' decisions on "official" issues without public input and public notice.

In 2014, the Hawaii State Legislature already passed HB2139 (Act 221), which authorizes a limited meeting where any number of county council members may attend a board's or community group's meeting to discuss council business, if certain requirements are met. To date we are unaware of any councils taking advantage of this exemption, thus we do not see the need to expand it.

Act 221 already broadened Hawaii's Sunshine Laws. HB315 will weaken our Sunshine Laws even further.

For this reason we urge you to **defer HB315**.

Thank you for the opportunity to offer testimony **opposing HB315**.



49 South Hotel Street, Room 314 | Honolulu, HI 96813
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House Committee on Judiciary
Tuesday, February 7, 2017, 2 PM, Conference Room 325
HB 315, Relating to Community Meetings

TESTIMONY

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

Chair Nishimoto and Committee Members:

The League of Women Voters of Hawaii strongly opposes HB 315. HB 315 would exempt county council quorums that attended any “informational meeting or presentation” from most Sunshine Law requirements which apply to council meetings.

The Sunshine Law currently requires that county councils conduct the public’s business in public. The law guarantees the public both advance notice and the opportunity to listen to all discussions and decisions by a county council quorum. HB 315 would exempt council quorums that attended any “informational meeting or presentation” from most Sunshine Law requirements which apply to council meetings. Under HB 315, when a council quorum attended an “informational meeting or presentation”, 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 HB 315, an “informational meeting or presentation” might not be open to the public and could include 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 private events organized by special interests to influence public opinion and council decisions. HB 315 would even allow a council quorum to attend an “informational” event at Disneyland.

Under HB 315, if a private special interest “entity” which wished to influence council decisions invited a county council to attend an “informational meeting or presentation” about pending council matters, HB 315 would authorize a council quorum to attend and discuss those pending council matters with that private “entity” and with each other. Basically, the Sunshine Law would be “neutered”.

No new legislation is needed to allow a council quorum, or even all council members, to attend a meeting hosted by a community group. Since 2014, the Sunshine Law has authorized a county council quorum to hold a “limited meeting that is open to the public, 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. These reasonable provisos recognize that private interests seeking county land use approvals, private businesses seeking county contracts, and ad hoc “NIMBY” groups commonly form “community groups” which host “informational meetings and presentations” for the purpose of advocating for or against special interest projects. To date no county council has held a “limited meeting” as the guest of another board or community group.

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

House Committee on Judiciary
Honorable Scott Y. Nishimoto, Chair
Honorable Joy A. San Buenaventura, Vice Chair

RE: Testimony Opposing H.B. 315, Relating to Community Meetings
Hearing: February 7, 2017 at 2:00 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 governmental transparency. Thank you for the opportunity to submit testimony **strongly opposing H.B. 315**. This bill should be deferred.

In 2014, the Legislature carefully balanced the ability of county councilmembers to attend community meetings against the “the potential for abuse of the public’s right to know and participate in the policy making process.” 2014 Haw. Sess. Laws Act 221. That balance was codified at HRS § 92-3.1(b). Councilmembers, however, are not using that existing exemption.

We now have almost 3 years of experience under Act 221. If that carefully balanced compromise legislation is not meeting the needs of county councils, the councils should be able to specify incidents in which the council members wished to attend an event, but were barred from doing so under Act 221. In November, the Law Center requested more information from the Hawaii State Association of Counties about any difficulties encountered by councilmembers and offered to assist in tailoring amendments to Act 221 to meet any specific difficulties. No information has been provided.

County councils do not need more exemptions to attend community meetings. If there are legitimate concerns, only narrow amendments to section 92-3.1(b) are appropriate. But the counties first need to come forward with an explanation for why existing law does not work.

Thank you again for the opportunity to testify.



Feb. 7, 2017

Rep. Scott Nishimoto
House Judiciary Committee
State Capitol
Honolulu, HI 96813

Re: House Bill 315

Chairman Nishimoto and Committee Members:

We ask you to kill this bill.

For many years, the counties have come to the Legislature to find ways to meet with various groups outside the Sunshine Law. And various attempts have been enacted.

In 2014, lawmakers came up with yet-another amendment with some limitations designed to protect the public's rights. Now the counties are asking for another exemption – for a county council to hold “informational meeting or presentation on matters relating to official board business, including a meeting of another entity, legislative hearing, convention, seminar, or community meeting.”

We fear that this measure could be used to circumvent the protections for transparency in 92-3.1(b) for limited meetings.

Passage of this bill would create confusion between provisions in 92-2.5(e) and 92-3.1(b):

92-2.5(e) A county council “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[;] open to the public; 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.

“At the next duly noticed meeting of the board, the board members shall report their attendance and the matters presented and discussed that related to official board business at the informational meeting or presentation.”

92-3.1(b) "A county council may hold a limited meeting that is open to the public, as the guest of a board or community group holding its own meeting, and the council shall not be required to have a quorum of members in attendance or accept oral testimony; provided that:

" (1) Notice of the limited meeting shall be provided in accordance with section 92-7, shall indicate the board or community group whose meeting the council is attending, and shall not be required to include an agenda;

"(2) If the board or community group whose meeting the council is attending is subject to part I, chapter 92, then that board or community group shall comply with the notice, agenda, testimony, minutes, and other requirements of part I, chapter 92;

"(3) No more than one limited meeting per month shall be held by a county council for any one board or community group;

"(4) No limited meetings shall be held outside the State; and

"(5) Limited meetings shall not be used to circumvent the purpose of part I, chapter 92."

Thank you for your attention,

A handwritten signature in black ink, appearing to read "Stirling Morita". The signature is written in a cursive, flowing style.

Stirling Morita
President
Hawaii Chapter SPJ

From: mailinglist@capitol.hawaii.gov
Sent: Friday, February 3, 2017 3:23 PM
To: JUDtestimony
Cc: mendezj@hawaii.edu
Subject: *Submitted testimony for HB315 on Feb 7, 2017 14:00PM*

Categories: Blue Category

HB315

Submitted on: 2/3/2017

Testimony for JUD on Feb 7, 2017 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Javier Mendez-Alvarez	Individual	Support	No

Comments:

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