

# 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 Public Safety, Intergovernmental,  
and Military Affairs

From: Cheryl Kakazu Park, Director

Date: February 2, 2018, 3:00 p.m.  
State Capitol, Conference Room 414

Re: Testimony on S.B. No. 2161  
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 Sunshine Law’s guest meeting provision enacted 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 has not seen this year's annual reports and could not find them online, so OIP does not know whether any county's report recommended the legislation proposed by this bill.

**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**

Senate Committee on Public Safety, Intergovernmental, and Military Affairs  
February 2, 2018  
Page 3 of 3

**consider creating a broad new permitted interaction for full councils to discuss board business outside a Sunshine Law meeting.**

Harry Kim  
Mayor



Wil Okabe  
Managing Director

Barbara J. Kossow  
Deputy Managing Director

County of Hawai'i  
Office of the Mayor

25 Aupuni Street, Suite 2603 • Hilo, Hawai'i 96720 • (808) 961-8211 • Fax (808) 961-6553  
KONA: 74-5044 Ane Keohokālole Hwy., Bldg C • Kailua-Kona, Hawai'i 96740  
(808) 323-4444 • Fax (808) 323-4440

January 31, 2018

Senator Clarence K. Nishihara, Chair  
Committee on Public Safety, Intergovernmental, and Military Affairs  
Hawai'i State Capitol, Room 414  
Honolulu, HI 96813

Dear Chair Nishihara and Committee Members:

**Re: SB 2161 County Council members attending community meetings**  
**Hearing Date: 02/02/18 – 3:00 pm; Conference Room 414**

Thank you for this opportunity to testify in support of SB 2161, a bill similar to SB 2692.

Although this bill would have direct impact on the legislative branch of government rather than administration, I think it is right for me to weigh in because of the overall positive impact this measure would have on good governance. The principles of "sunshine" and open government are very important, but it is possible to inadvertently create inappropriate barriers to councilmembers' interaction with each other and the general public, as well as those council members' ability to gain valuable knowledge. I would suggest that present law is such a barrier, and that this bill offers a suitable remedy.

I hope you will act favorably on SB 2161 or SB 2692.

Respectfully submitted,

A handwritten signature in cursive script that reads "Harry Kim".

Harry Kim  
Mayor, County of Hawai'i

# Hawai'i State Association of Counties (HSAC)

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

74-504 Ane Keohokalole Highway, Bldg A, Kailua-Kona, HI 96740

---



January 30, 2018

TESTIMONY OF DRU KANUHA  
HSAC PRESIDENT

ON SB 2161, RELATING TO COMMUNITY MEETINGS.

Committee on Public Safety, Intergovernmental, and Military Affairs

Friday, February 2, 2018

3:00 p.m.

Conference Room 414

Aloha Chair Nishihara and Members of the Committee:

I thank you for the opportunity to testify on behalf of the Hawai'i State Association of Counties in **support** of Senate Bill 2161, relating to community meetings which is included in the 2018 Hawai'i State Association of Counties Legislative Package.

The purpose of this measure amends the Sunshine Law, part I, Chapter 92, HRS, to clarify the ability of board members to attend and speak at community, educational, or informational meetings that are open to the public, and to provide that the limitation on the number of attendees shall not apply to members of a county council.

This measure would improve councilmembers' ability to engage with the public and be informed about issues facing their district and their county. 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. 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 benefit from.

HSAC supports this measure for the reasons stated above and we urge the Committee on Public Safety, Intergovernmental, and Military Affairs to support this measure as well. Should you have any questions, please feel free to contact me at (808) 323-4267.

Mahalo for your consideration

A handwritten signature in black ink, appearing to read "Dr. Kanuha", with a long horizontal line extending to the right.

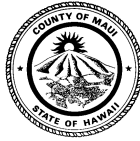
DRU KANUHA  
HSAC PRESIDENT

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



**COUNTY COUNCIL**  
COUNTY OF MAUI  
200 S. HIGH STREET  
WAILUKU, MAUI, HAWAII 96793  
[www.MauiCounty.us](http://www.MauiCounty.us)

February 1, 2018

TO: Honorable Clarence K. Nishihara, Chair  
Senate Committee on Public Safety, Intergovernmental, and Military Affairs

FROM: Stacy Crivello, Secretary  
Hawaii State Association of Counties 

SUBJECT: **HEARING OF FEBRUARY 2, 2018; TESTIMONY IN SUPPORT OF SB 2161, RELATING TO COMMUNITY MEETINGS**

Thank you for the opportunity to testify in **support** of this important measure. The purpose of this bill is to amend the Sunshine law to clarify the ability of board members to attend and speak at community, educational, or informational meetings, that are open to the public; and to provide that the limitation on the number of attendees shall not apply to members of a county council.

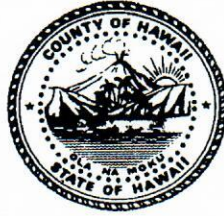
This measure is included in the Hawaii State Association of Counties' ("HSAC") Legislative Package; therefore, I offer this testimony as HSAC's Secretary.

I am aware that the President of HSAC has submitted testimony, on behalf of HSAC, in support of this measure. As Secretary, I concur with the testimony submitted by the President, and urge you to **support** this measure.

ocs:proj:legis:18legis:18testimony:sb2161\_paf18-024\_ajw

**Eileen O'Hara**  
Council Member  
Council District 4

**Chair:** Environmental  
Management Committee



**Phone:** (808) 965-2712  
**Fax:** (808) 961-8912  
**Email:** eileen.ohara@hawaiiicounty.gov

**Vice Chair:** Planning Committee and  
Agriculture, Water & Energy  
Sustainability Committee

**County of Hawaii**  
**Hawaii County Council**

25 Aupuni Street, Suite 1402 • Hilo, Hawai'i 96720

Senator Clarence K. Nishihara  
Chair, Committee on Public Safety, Intergovernmental, and Military Affairs  
Hawai'i State Senate

February 1, 2018

**Re: In Support of Senate Bill 2161, from Hawai'i County Council District 4**  
**To be heard by PSM on 02-02-18 3:00PM in conference room 414**

Aloha Chair Nishihara and Committee Members:

I'm writing to express my support of Senate Bill 2161, which amends the Sunshine Law, part I, chapter 92, HRS, to clarify the ability of board members to attend and speak at community, educational, or informational meetings that are open to the public; and to provide that the limitation on the number of attendees shall not apply to members of a county council.

The public and non-profit organizations often host events and invite all members of a particular County Council as the intent is to educate local elected officials regarding their activities in the community. This particular Sunshine Law prohibition hinders the ability of our county elected officials to accommodate these attendance requests and in turn limits the collection of information by elected officials regarding activities that may benefit their communities.

Please consider the impact this Bill will have on the ability of Hawai'i's elected officials to conduct their duties, and contact me if you have any questions about my support or knowledge of the subject.

Sincerely,

Eileen O'Hara  
Council Member  
Council District 4

**SB-2161**

Submitted on: 2/1/2018 1:33:29 PM

Testimony for PSM on 2/2/2018 3:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Councilmember Yuki Lei Sugimura	Maui County Council	Support	No

Comments:

As this measure is included in the HSAC Legislative Package, I offer my support of this bill.

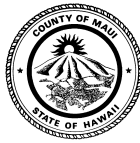


Council Chair  
Mike White

Vice-Chair  
Robert Carroll

Presiding Officer Pro Tempore  
Stacy Crivello

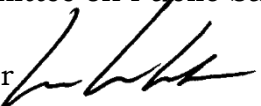
Councilmembers  
Alika Atay  
Elle Cochran  
Don S. Guzman  
Riki Hokama  
Kelly T. King  
Yuki Lei K. Sugimura



**COUNTY COUNCIL**  
COUNTY OF MAUI  
200 S. HIGH STREET  
WAILUKU, MAUI, HAWAII 96793  
[www.MauiCounty.us](http://www.MauiCounty.us)

February 1, 2018

TO: The Honorable Clarence K. Nishihara, Chair  
Senate Committee on Public Safety, Intergovernmental, and Military Affairs

FROM: Mike White  
Council Chair 

SUBJECT: **HEARING OF FEBRUARY 2, 2018; TESTIMONY IN SUPPORT OF SB 2161, RELATING TO COMMUNITY MEETINGS**

Thank you for the opportunity to testify in **support** of this important measure. The purpose of this bill is to amend the Sunshine law to clarify the ability of board members to attend and speak at community, educational, or informational meetings, that are open to the public; and to provide that the limitation on the number of attendees shall not apply to members of a county council.

This measure is included in the Hawaii State Association of Counties' Legislative Package. Therefore, I offer this testimony on behalf of the Maui County Council.

The Maui County Council **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 county. It is particularly important for Kauai County and Maui County, where all councilmembers are elected by and represent all residents.
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 external organizations.
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.

For the foregoing reasons, the Maui County Council **supports** this measure.

**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  
Lihu'e, Kaua'i, Hawai'i 96766

January 31, 2018

**TESTIMONY OF DEREK S.K. KAWAKAMI**  
**COUNCILMEMBER, KAUAI COUNTY COUNCIL**  
**ON**  
**SB 2161, RELATING TO COMMUNITY MEETINGS**  
Senate Committee on Public Safety, Intergovernmental, and Military Affairs  
Friday, February 2, 2018  
3:00 p.m.  
Conference Room 414

Dear Chair Nishihara and Members of the Committee:

Thank you for this opportunity to provide testimony in strong support of SB 2161, Relating to Community Meetings. My testimony is submitted as Vice President of the Hawai'i State Association of Counties, and in my individual capacity as a member of the Kaua'i County Council and Chair of the Council's Economic Development & Intergovernmental Relations Committee.

SB 2161, Relating to Community Meetings, is included in the 2018 Hawai'i State Association of Counties Legislative Package. This measure amends the Sunshine Law to clarify the ability of board members to attend and speak at community, educational, or informational meetings that are open to the public. More importantly, the limitation on the number of members allowed to attend these meetings does not apply to members of a county council. It is important that each Councilmember keep abreast of community issues, and being allowed to attend each and every one of the community meetings islandwide helps gain the public's trust in the important decisions that need to be made.

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

Sincerely,

**DEREK S.K. KAWAKAMI**  
Councilmember, Kaua'i County Council

AMK:mn

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 Public Safety,  
Intergovernmental, and Military Affairs  
Honorable Clarence K. Nishihara, Chair  
Honorable Glenn Wakai, Vice Chair

**RE: Testimony Opposing S.B. 2161, Relating to Community Meetings**  
Hearing: February 2, 2018 at 3:00 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 S.B. 2161**. 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 4 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. Every year that these proposals arise, the Law Center has requested more information 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, but we make the same offer this year.

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.



Senate Committee on Public Safety, Intergovernmental, and Military Affairs  
Chair Clarence Nishihara, Vice Chair Glenn Wakai

02/02/2018 3:00 PM Room 414  
SB2161 – Relating to Community Meetings

TESTIMONY / OPPOSE  
Corie Tanida, Executive Director, Common Cause Hawaii

---

Dear Chair Nishihara, Vice Chair Wakai, and members of the committee:

**Common Cause strongly opposes SB2161.** This bill creates a loophole in Hawaii's Sunshine Laws, which are meant to promote transparency and openness in our state. SB2161 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 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. SB2161 will weaken our Sunshine Laws even further.

For this reason we urge you to **defer SB2161**.

Thank you for the opportunity to offer testimony **opposing SB2161**.



Feb. 2, 2018

Sen. Clarence Nishihara  
Senate Committee on Public Safety, Intergovernmental and Military Affairs  
State Capitol  
Honolulu, HI 96813

Re: Senate Bills 2161 and 2692

Chairman Nishihara 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.”

This measure could be used to circumvent the protections for transparency in 92-3.1(b) for limited meetings:

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.”

We do not believe you should pass this bill and allow county councils to meet at any time beyond the usual spotlight of media coverage and the eyes of a regular public audience.

Thank you for your attention,

A handwritten signature in black ink, appearing to read "Stirling Morita". The signature is written in a cursive style with a large, stylized initial "S".

Stirling Morita  
President  
Hawaii Chapter SPJ



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

SENATE COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL, AND MILITARY AFFAIRS

Friday, February 2, 2018, 3 PM, Conference Room 414

SB 2161, Relating to Community Meetings

**TESTIMONY**

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

Chair Nishihara and Committee Members:

The League of Women Voters of Hawaii strongly opposes SB 2161. SB 2161 would exempt 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. SB 2161 would exempt council quorums that attended any "informational meeting or presentation" from most Sunshine Law requirements which apply to council meetings. Under SB 2161, 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 SB 2161, 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. SB 2161 would even allow a council quorum to attend an "informational" event at Disneyland.

Under SB 2161, 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, SB 2161 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 provides 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 seek county land use approvals, private businesses seek 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.

Thank you for the opportunity to present testimony.