

OFFICE OF INFORMATION PRACTICES

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To: Senate Committee on Public Safety, Intergovernmental,
and Military Affairs

From: Cheryl Kakazu Park, Director

Date: February 12, 2019, 1:45 p.m.
State Capitol, Conference Room 229

Re: Testimony on S.B. No. 684
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 was 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 12, 2019
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consider creating a broad new permitted interaction for full councils to discuss board business outside a Sunshine Law meeting.

Thank you for considering OIP's testimony.

THE CIVIL BEAT
LAW CENTER FOR THE PUBLIC INTEREST

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

RE: Testimony Opposing S.B. 684, Relating to Community Meetings
Hearing: February 12, 2019 at 1:45 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. 684**. 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 5 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.



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SENATE COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL, AND MILITARY AFFAIRS

Tuesday, February 12, 2019, 2:45 PM, Conference Room 229

SB 684, 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 684. SB 684 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 684 would exempt council quorums that attended any “informational meeting or presentation” from most Sunshine Law requirements which apply to council meetings. Under SB 684, 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 684, an “informational meeting or presentation” 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 684 would even allow a council quorum to attend an “informational” event at Disneyland.

Under SB 684, 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 684 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 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.

Thank you for the opportunity to present testimony.

SB-684

Submitted on: 2/10/2019 2:50:21 PM

Testimony for PSM on 2/12/2019 1:45:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Stirling Morita	Testifying for Hawaii Chapter Society of Professional Journalists	Oppose	No

Comments:

SB-684

Submitted on: 2/11/2019 1:36:55 PM

Testimony for PSM on 2/12/2019 1:45:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Antya Miller	Individual	Support	No

Comments:

Aloha,

The Sunshine Law should be repealed until the State Legislature makes itself subject to the same rules everyone else must follow.

I was on a Neighborhood Board for at least 10 years and following the Sunshine Law was very onerous . I was told I could "never take my Neighborhood Board hat off." This meant that I could not attend meetings representing my employer at the time.

I think the law needs to be changed to simply require notice of meetings. If you, as legislators, are not willing to follow the rules, then it should not be a law. Clarify what the purpose of the law is and make it applicable to everyone, especially yourselves,

Sincerely,

Antya Miller, Haleiwa resident

808-342-8557

COUNTY COUNCIL

Arryl Kaneshiro, Chair
Ross Kagawa, Vice Chair
Arthur Brun
Mason K. Chock
Felicia Cowden
Luke A. Evslin
KipuKai Kualii



OFFICE OF THE COUNTY CLERK

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

Telephone: (808) 241-4188
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Council Services Division
4396 Rice Street, Suite 209
Lihu'e, Kaua'i, Hawai'i 96766

February 11, 2019

TESTIMONY OF FELICIA COWDEN
COUNCILMEMBER, KAUAI COUNTY COUNCIL
ON
SB 684, RELATING TO COMMUNITY MEETINGS
Senate Committee on Public Safety, Intergovernmental, and Military Affairs
Tuesday, February 12, 2019
1:45 p.m.
Conference Room 229

Dear Chair Nishihara and Members of the Committee:

Thank you for this opportunity to provide testimony in support of SB 684, Relating to Community Meetings. My testimony is submitted in my individual capacity as a Member of the Kaua'i County Council.

I enthusiastically support SB 684. The limitations on Councilmembers being in the presence of each other during essential public opportunities for learning, listening, and brainstorming solutions is a strong impediment towards developing public policy, as well as building community trust.

Thank you again for this opportunity to provide testimony in support of SB 684. Should you have any questions, please feel free to contact me or Council Services Staff at (808) 241-4188.

Sincerely,

FELICIA COWDEN
Councilmember, Kaua'i County Council

AMK:dmc

Common Cause Hawaii • 307A Kamani St. • Honolulu, HI 96813 • 808.275.6275

To: The Senate Committee on Public Safety, Intergovernmental,
and Military Affairs
From: Brodie Lockard, for the Board of Common Cause Hawaii
Date: Tuesday, February 12, 2019, 1:45 pm

In opposition to SB 684

Dear Chair Nishihara, Vice Chair Wakai and Committee Members—

Common Cause Hawaii opposes SB 684.

The Sunshine Law prohibits government officials from gathering outside of official meetings for good reason. The public and public interest groups like Common Cause Hawaii need to be able to perform our watchdog duties in open public spaces where we can see and hear interactions between lawmakers. Any venue where lawmakers can meet and share information out of public view provides opportunities to circumvent the intent of the Sunshine Law, and is inappropriate.

It is irrelevant whether the venue is an informational meeting or presentation, legislative hearing, convention, seminar, or community meeting. Though these events may be open to the public, the public cannot observe lawmakers' interactions that might occur on the sidelines of the event.

Please respect the intent of and adherence to the Sunshine Law and vote against SB 684.

Thank you for the opportunity to testify.

Brodie Lockard
Board of Common Cause Hawaii

SB-684

Submitted on: 2/11/2019 9:09:47 PM

Testimony for PSM on 2/12/2019 1:45:00 PM

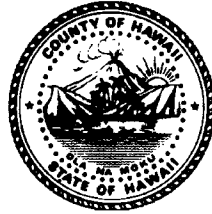
LATE

Submitted By	Organization	Testifier Position	Present at Hearing
Ashley L. Kierkiewicz	Individual	Support	No

Comments:

Harry Kim
Mayor

LATE



Wil Okabe
Managing Director

Barbara J. Kossow
Deputy Managing Director

County of Hawai'i Office of the Mayor

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February 11, 2019

Senator Clarence K. Nishihara, Chair
Committee on Public Safety, Intergovernmental, and Military Affairs

Dear Chair Nishihara and Committee Members:

RE: SB 684 Relating to Community Meetings

I am a strong believer in sunshine. I also am a strong believer in the need to have an effective and efficient government, whose elected officials are knowledgeable and well-informed about the issues that relate to their official business.

It seems to me that SB 684 strikes a much better balance than exists under current law. Preventing elected Council members from attending public meetings creates a barrier to their education and public service that is counter-productive. Their attendance at public gatherings should be encouraged, not outlawed.

I ask for your favorable action on SB 684.

Respectfully Submitted,


Harry Kim
MAYOR