

From: G Hooser
To: [Standards of Conduct](#)
Cc: [Gary Hooser](#)
Subject: Testimony from Gary Hooser relating to Consideration of Draft Bills
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COMMISSION TO IMPROVE STANDARDS OF CONDUCT

Wednesday, October 5, 2022

Testimony from Gary Hooser relating to Consideration of Draft Bills

1. Relating to Sunshine Law
2. Draft of Proposed Constitutional Amendment for Term Limits Bill

To: Chair Judge Daniel R. Foley and Members

Thank you for the ongoing work being conducted by the Commission on these important issues.

As I have not had the opportunity to properly review all measures on today's agenda, my testimony today will focus only on the two listed above.

1. Relating to Sunshine Law

The Commission is encouraged first and foremost to include in the proposed Bill's purpose clause a reference to the following contained in the Hawaii State Constitution -

Article III – The Legislature

Organization, Discipline, Rules and Procedure

Section 12. 3d paragraph

“Every meeting of a committee in either house or of a committee comprised of a member or members of both houses held for the purpose of making decision on matters referred to the committee shall be open to the public.”

As is common knowledge by virtually everyone who works in or is familiar with the current legislative process - this constitutional provision is violated routinely by the state legislature. This occurs in the standard committee process as bills undergo the public-hearing and decision-making process. This constitutional provision is similar violated regularly during the conference committee process.

To my knowledge, no legislator in a leadership position or otherwise, has ever denied this fact nor attempted to explain their ability to ignore the constitution.

In addition to referencing the constitution in the bill, the Commission is also encouraged to include in this proposed measure a requirement that ALL legislative committees including standard subject matter and finance committees, AND conference committees comply with Sunshine Law requirements - at the minimum these committees should be required to comply with the constitutional provision cited above.

2. Proposed Constitutional Amendment for Term Limits Bill:

While the Commissions willingness to propose this measure is welcome and to be applauded, I was not expecting the main provision being proposed:

“No person shall serve as a member of the legislature, whether as a member of the house of representatives, a member of the senate, or any combination thereof, for more than eight years during the person's lifetime.”

My initial research of other term limit provisions both in place locally at the Council level, and those in place for other State legislatures, have led me to expect perhaps instead a provision that:

“Limited each legislative body separately to eight years, or in essence a maximum of sixteen years during a persons lifetime if an individual served the maximum time in each body.”

It would seem that allowing the additional time to serve in each legislative body would counter concerns about the possible loss of experience, and would allow sufficient time to grow and preserve legislative expertise, while at the same time prevent the entrenchment and power consolidation that comes without term limits.

A more balanced and less severe proposal might also be more palatable to voters who ultimately have to approve the ballot initiative.

As mentioned initially, I have not had the opportunity to review, research, or discuss these proposals with others and my remarks especially with regards to the term limit proposal represent my “first reaction/impression”.

Mahalo to all for putting forth these proposals. I look forward to seeing future versions of these and other initiatives as the discussion continues.

A final note: It has been brought to my attention by others that many of the items discussed as concerns concerning legislative management - can be resolved via rule changes by either or both legislative bodies. I would encourage the Commission, if you are not already doing so, to please consider recommending such rule changes as well as the recommendations for changes in the law.

Sincerely,
Gary Hooser
<http://www.garyhooser.com>

