

OFFICE OF INFORMATION PRACTICES

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To: Senate Committees on Government Operations and on Public Safety and Intergovernmental and Military Affairs

From: Cheryl Kakazu Park, Director

Date: February 6, 2024, 3:00 p.m.
State Capitol, Conference Room 225

Re: Testimony on S.B. No. 2058
Relating to Neighborhood Boards

Thank you for the opportunity to submit testimony on this bill, which would define community outreach boards within part I of chapter 92 (Part I), the Sunshine Law, and would include them in the provisions of part VII of chapter 92 (Part VII), which is titled “Neighborhood Boards” and provides neighborhood boards with limited exceptions to the Sunshine Law’s usual requirements. The Office of Information Practices (OIP) offers **comments and recommends an amendment.**

Based on the purpose section, it appears the intent of this measure is to include community outreach boards in the Sunshine Law and also allow them to use the limited exceptions to the Sunshine Law that are provided for neighborhood boards in a separate part of chapter 92 specific to neighborhood boards. However, **this measure does not accomplish the bill’s intent, perhaps because it fails to distinguish between Part I (the Sunshine Law) and Part VII (Neighborhood Boards) of chapter 92.**

To begin with, this measure would add a definition of “community outreach board” to section 92-2, HRS, which lists definitions of words “as used in this part,”

i.e. as used in Part I, the Sunshine Law. But Part I does not refer to “community outreach boards” at any point, being instead focused on “boards” as defined in section 92-2, and this measure would not add references to “community outreach boards” to Part I. Instead, it would add all references to “community outreach boards” to Part VII. In other words, **the bill would define “community outreach boards” for the purpose of Part I, where that term is not used, and would not define “community outreach boards” for the purpose of Part VII, where the term would be used.**

Neighborhood boards are already included in the Sunshine Law’s provisions because they meet the Sunshine Law definition of a board. Thus, the provisions in Part VII do not have the effect of making neighborhood boards subject to the Sunshine Law, but instead have the effect of giving neighborhood boards some limited partial exceptions to the Sunshine Law to allow them more flexibility in responding to community concerns.

Similarly, if the community outreach boards addressed in this bill meet the definition of a board in the Sunshine Law, then they are already subject to the Sunshine Law and including them in the neighborhood board provisions of Part VII will ensure they, too, can use those limited exceptions. If the community outreach boards did not already meet the definition of a board in the Sunshine Law, then the addition of a definition of “community outreach board” to the Sunshine Law without using the term anywhere else in the Sunshine Law would not cause the community outreach boards to be subject to the Sunshine Law’s requirements for holding public meetings, posting notice, accepting testimony, keeping minutes, and so on.

Assuming that the community outreach boards do meet the Sunshine Law definition of a board, as the new definition suggests they do (it describes them as a particular type of “board”), **OIP recommends that the new**

definition of community outreach board be added to Part VII, where the term is used, instead of to Part I, where it is not used. This could be done by adding a new definitions section to Part VII that includes the proposed definition of “community outreach board.” The following language would do that:

“Part VII of chapter 92, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§ 92- Definitions. As used in this part:

“Community outreach board” means a board established to serve in a community advisory capacity under a county commission or a county department.””

Thank you for considering OIP’s testimony.

SB-2058

Submitted on: 2/1/2024 12:01:22 PM

Testimony for GVO on 2/6/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Brett Kulbis	Individual	Oppose	Written Testimony Only

Comments:

I believe this defeats the purpose, responsibility and authority of the Honolulu NB system, and is an attempt to circumvent the NB. There are many questions that need to answered, the most pressing in my mind is:

1. How are members of this board chosen - elected or appointed, and by whom?
2. Who does this board report to the local NB, the NCO, City Council, or the legislature?

SB-2058

Submitted on: 2/1/2024 5:33:23 PM

Testimony for GVO on 2/6/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Justin Silva	Individual	Support	Written Testimony Only

Comments:

Defines community outreach board to mean a board established to serve in a community advisory capacity under a county commission or a county department.



Nancy Pisicchio

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February 2, 2024

The Honorable Angus L.K. McKelvey, Chair
Senate Committee on Government Operations
and

The Honorable Glenn Wakai, Chair
Senate Committee on Public Safety and Intergovernmental and Military Affairs
Hawaii State Capitol, Conference Room 225
415 South Beretania Street
Honolulu, Hawaii 96813

RE: SB2058: RELATING TO NEIGHBORHOOD BOARDS.

Dear Chair McKelvey, Chair Wakai, and Committee Members,

As a member of the Kona Community Development Plan Action Committee, I am writing in support of SB 2058.

This bill serves to correct a technical problem in Chapter 92.81 hrs. which is the section of the state Sunshine Law [PART VII.] specifically related to neighborhood boards. Although this 2008 amendment to chapter 92, HRS was intended to benefit all counties in the State of Hawaii, the term “neighborhood board” does not have a definition under State law and actually refers only to a program adopted in the City and County of Honolulu. Therefore, SB 2058 includes language to accommodate the intended state-wide applicability to other similar advisory community outreach boards and committees created in other counties.

The County of Hawaii’s Community Development Plan Action Committee program was adopted in 2008 by the County Code and is overseen by the Department of Planning. Like the Neighborhood Board program in the City and County of Honolulu, these advisory committees operating around Hawaii Island strive to build communication between citizens and our government. The changes proposed in SB 2058 will vastly increase our ability to carry out this mission.

Thank you for your consideration.

Respectively,

Nancy Pisicchio
Kailua-Kona

SB-2058

Submitted on: 2/5/2024 11:23:47 AM

Testimony for GVO on 2/6/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Patricia Beekman	Individual	Oppose	In Person

Comments:

I oppose this bill. While sympathetic to the intent to give voice to the people of the island of Hawai'i, this would be better addressed by the Hawai'i County Council rather than in a bill affecting the entire state.

Senate Committee on Government Operations
Honorable Angus L.K. McKelvey, Chair
Honorable Mike Gabbard, Vice Chair

Senate Committee on Public Safety and Intergovernmental and Military Affairs
Honorable Glenn Wakai, Chair
Honorable Brandon J.C. Elefante, Vice Chair

RE: Comments on S.B. 2058, Relating to Neighborhood Boards
Hearing: February 6, 2024 at 3:00 p.m.

Dear Chairs and Members of the Committees:

My name is Ben Creps. I am a staff attorney at the Public First Law Center, a nonprofit organization that promotes government transparency. Thank you for the opportunity to submit testimony **with comments** on S.B. 2058. This measure amends part VII of chapter 92, Hawai'i Revised Statutes (HRS), to create "community outreach boards" subject to the same requirements as neighborhood boards.

We support the intent of increasing opportunities for public participation in government. As written, however, S.B. 2058 permits the circumvention of that intent by expressly allowing part VII boards to "organize" meetings, as permitted interactions, "on matters relating to official board business." This proposed addition contradicts the HRS § 92-82(a) proviso that immediately follows: "provided that the meeting . . . is not specifically and exclusively organized for or directed toward members of the board[.]" The intent behind HRS § 92-82 is to allow board members to attend informational meetings organized by *other* groups. If a meeting about board business is organized *by a board*, it should be a regular meeting, not a permitted interaction as proposed here.

S.B. 2058 also cuts against its intended impact by authorizing commissions to create community outreach boards. Commission members may already attend informational meetings organized by community groups and others under HRS § 92-2.5(e).

To clarify the intent and reduce potential abuse, we respectfully propose the following amendments (in bold) to S.B. 2058:

1. Page 2, lines 1-3:

"Community outreach board" means a board established to serve in a community advisory capacity under **[a county commission or]** a county department."



2. Page 2, lines 11 - 17:

Notwithstanding any provision in this chapter to the contrary, the provisions of this part shall apply to neighborhood boards ~~[and community outreach boards]~~ overseen by a neighborhood commission of the city and county of Honolulu, and ~~[such]~~ other neighborhood boards and community outreach boards as may be created in other counties and overseen by a county-based ~~[commission]~~ ~~[or county-based]~~ department.

3. Page 3, line 18 - Page 4, line 6:

§92-82 Permitted interactions of neighborhood board and community outreach board members. (a) Neighborhood board and community outreach board members may attend ~~[or organize]~~ meetings or presentations ~~[located on Oahu]~~ on matters relating to official board business; provided that the meeting or presentation is open to the public, does not charge a fee or require registration, and is not specifically and exclusively organized for or directed toward members of the board; and provided further that no member makes a commitment to vote on any of the issues discussed.

We further note that S.B. 2058 does not provide a process or framework for the creation of a community outreach board, nor does it set any parameters or guidance on board composition.

Thank you again for the opportunity to testify with comments on S.B. 2058.