

OFFICE OF INFORMATION PRACTICES

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To: Senate Committee on Government Operations

From: Carlotta Amerino, Director

Date: February 4, 2025, 3:05 p.m.
State Capitol, Conference Room 225

Re: Testimony on S.B. No. 1651
Relating to Public Meetings

Thank you for the opportunity to submit testimony on this bill, which would amend the deadlines under the Sunshine Law, part I of chapter 92, for a board to make its board packet available for public review in its office and to notify persons on its mailing list of the packet's availability. The Office of Information Practices (OIP) offers **comments** and proposed amendments.

The Sunshine Law's board packet law at section 92-7.5, HRS, currently sets a deadline of two business days before a meeting (or when a board packet is distributed to members, if distribution to members is earlier) for a board to make its board packet available for public inspection in its office. A board must also notify persons on its mailing list that the packet is available for public inspection, but the required time by which a board must send that notification was disputed and was the subject of a recent Sunshine Law appeal to OIP. In its recent opinion on that appeal, OIP concluded that the notification requirement is not subject to the same two business day deadline set for making the packet available for inspection. OIP further concluded that no specific deadline applies to the notification requirement, but for a notification to be effective and thus meet the statutory notification

requirement it must be sent early enough to allow those receiving it to obtain and review a board packet prior to the meeting.

This bill would amend the board packet law to set a notification deadline of two “full business days” before a meeting (or when the packet is distributed to the members if that is earlier). The bill would also change the deadline for making the packet available for public inspection to match the notification deadline of two full business days prior to a meeting. OIP has no objection to this bill’s intent of ensuring that a board packet is made available for inspection, and the board’s mailing list is notified of it, before the scheduled meeting time two business days earlier. However, to avoid further disputes over what constitutes a “full” business day and keep the deadline at a consistent time of day, OIP recommends that this Committee clarify the deadline to be a set time on the second business day before the meeting if it chooses to pass this bill out. OIP further recommends that this Committee change the notification deadline to reference the inspection deadline rather than having two separate deadlines, which although currently identical could diverge over time.

Specifically, **OIP respectfully requests the following amendments** to this bill if this Committee passes it out:

Bill page 2 lines 5-6, replace with the following: “. . . members, but no later than 7:45 a.m. on the second [~~two~~] business day [~~days~~] before the meeting, the board shall also make the board packet. . .”

Bill page 2 lines 13-15, replace with the following: “[~~that includes~~] at the time the board packet is made available for public inspection in the board’s office. The notice shall include a list of the . . .”

Thank you for considering OIP’s testimony.



Feb 4, 2025

Angus McKelvey
Senate Government Operations
State Capitol
Honolulu, HI 96813

Re: Senate Bill 1651

Chairman McKelvey and Committee Members:

We support this bill, which would clarify when public inspection board packets have to be distributed -- from 48 hours to two business days before the meeting.

This bill would clarify when packets would be available when weekends and public holidays come into play. For example, if a packet was posted Friday and the meeting was Monday, the time limit would give the public little if any time to see it.

The measure allows for distribution of public testimony to board members within two business days of the meeting.

Thank you for your time and attention,

Stirling Morita
President
Hawaii Pro Chapter SPJ



Senate Committee on Government Operations

Tuesday, February 4, 2025, 3:05 PM Hearing in Conference Room 225 on
SB 1651, Relating to Public Meetings

TESTIMONY

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

Chair McKelvey, Vice Chair Gabbard, and Committee Members:

The League of Women Voters of Hawaii supports SB 1651. Adequate time for public review of board packets is a prerequisite for meaningful public testimony at board meetings.



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

RE: Testimony in support of S.B. 1651, Relating to Public Meetings
Hearing: February 4, 2025 at 3:05 p.m.

Dear Chair and Members of the Committee:

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 in **support** of S.B. 1651.

This measure is unfortunately necessary to carry out the intent of the Legislature in passing H.B. 1598, enacted as Act 11 (2024), just last year. That law was intended to afford the public and board members *more* time to review meeting materials than the then-existing 48-hour deadline, by giving them at least two full business days to review the materials. *E.g.*, H. Stand. Comm. Rep. No. 672-24 at 1 (Bill intended to “give the general public and the government agencies ample time to review materials prior to the meeting in situations where the meeting may take place following a weekend or holiday.”); *accord* H. Stand. Comm. Rep. No. 947-22 at 2 (intent of former 48-hour requirement to allow “the public and board members to engage more meaningfully in public discourse”).

Despite this clear intent, the Office of Information Practices (OIP) has interpreted the law to provide the public and board members *less* time to review materials. OIP’s interpretation creates situations in which board members have only one business day to review board packet materials. OIP has also recently taken the position that there is no deadline for boards to notify the public about the availability of a board packet. That means a board could provide notice that its board packet is available for inspection *after* the meeting to which it pertains. That is plainly inconsistent with the law’s intent to afford the public more time to review materials in advance of public meetings.

Thank you again for the opportunity to testify in support of S.B. 1651.



PETER L. FRITZ
Attorney at Law
EMAIL: PLFLEGIS@FRITZHQ.COM

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

RE: **Testimony in Support of the Intent of SB786**
Hearing: February 4, 2025 at 3:05 p.m.

Dear Chair, Vice Chair and Members of the Committee:

I am testifying in support of SB 1651.

I am on the list of persons that are to be notified of the availability of board packets. On number of occasions, I received board packets less than 2 days prior to a meeting. One board packet was received an hour before the meeting was to start. I filed an appeal with the Office of Information Practices with the hope that it would spur OIP to issue some guidance.

Knowing that it can take 2 to 3 years to resolve an appeal, I wrote an initial version of this bill and sent it to members of the legislature for their consideration. Prior a legislator agreeing to submit the bill, OIP advised me that OIP was inclined to say that the board packet notice—for members of the public interested in the board's business—had no deadline. In other words, the board could send a notice for members of the public 5 minutes before the meeting, during the meeting, or three days after the meeting.

The bill was revised to address OIP's position make it clear that notices of the availability of board packets for members of the public are to be provided in the same timeframe packets sent to members of the board.

In addition, language was added to make it clear that board packets are to be available two full business days prior to the meeting. OIP has taken the position that a day under the Sunshine Law means any portion of the day. For example, while the notice requirement for a meeting needs to be posted 6 days prior to the meeting, under OIP's interpretation, that notice could be posted 5 days and one minute into the 6 day and be considered filed 6 days prior to the meeting.

I respectfully request that the committee move this bill forward.

I support the intent of this bill; I do not support this bill as written.

Thank you for the opportunity to testify.

LATE



HAWAII STATE - COMMISSION ON FATHERHOOD (HS-COF)

*The Hawaii State Commission on Fatherhood (HS-COF) serves
In an advisory capacity to state agencies and makes
recommendations on programs, services, contracts,
policies and laws relating to children and families.
fatherhoodcommission.hi@gmail.com*



Date: February 3, 2025 - Hearing at 3:05 PM
To: Chair Rhoads and Members of the Committee:
From: Jeff Esmond, Chair, Hawaii State Commission on Fatherhood (HS-COF)
Subject: **SB1651 - Relating to Public Meetings**

Chair's Position: HS-COF offers comments on SB1651

The Hawaii State Commission on Fatherhood (HS-COF) supports the Sunshine Law and, as Chair, I would like to submit some comments to SB1651, strictly about Section 2 'Board packet; filing; public inspection; notice''

As Chair, I prepare all agendas and board packets. Until now, HS-COF has not had the assistance of administrative staff in fulfilling the online requirements of the Sunshine Law, so I take it upon myself to fulfill the requirements.

Though SB1651 is focused on the timing of posting board packets, this testimony is focused on the real world means of posting and accessing board packets.

This bill requires board packets to be posted to a Board or Commission's website. HS-COF does not have editing control of our Commission website. If I want or need to request an addition or edit to the website, I need to email the staff at the Department of Human Services (DHS) to make the request and then wait for them to complete the request.

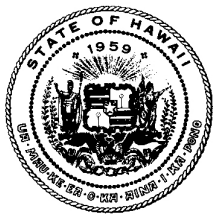
It is not uncommon for a board packet not to be ready until the last minute. This bill would put one of the Sunshine Law requirements completely out of a Board or Commission's control, because, though the DHS staff has been supportive of my requests, there is no guarantee the website will be updated timely with the board packet.

Furthermore, I believe that having meeting materials such as the agenda, posted on the State Calendar website, whereas the board packet is posted on the Commission website, meaning each is publicly available at different locations, makes it confusing and burdensome for the general public.

As such, I would offer the following suggestions:

- Add a link to State Calendar meeting announcements to allow a Board or Commission to attach and upload a board packet at a later date to the meeting announcement. Note that currently a calendar item cannot be edited within 6 days of an announced meeting.
- Require Boards and Commissions to post a link on their own websites to the State Calendar so that the public can find meeting and board packet information.

LATE



DISABILITY AND COMMUNICATION ACCESS BOARD

1010 Richards Street, Rm. 118 • Honolulu, Hawai'i 96813
Ph. (808) 586-8121 (V) • Fax (808) 586-8129 • (808) 204-2466 (VP)

February 4, 2025

TESTIMONY TO THE SENATE COMMITTEE ON GOVERNMENT OPERATIONS

Senate Bill 1651 – Relating to Public Meetings

The Disability and Communication Access Board (DCAB) supports the intent of Senate Bill 1651 – Relating to Public Meetings. This bill would require board packets to be posted a minimum of two full business days before a public meeting. However, DCAB recommends an amendment to extend the notice period to three full business days to ensure greater accessibility and transparency for the public.

DCAB believes that ensuring board packets are posted with sufficient time for review is crucial for fostering public engagement and informed participation. By extending the posting period to three full business days, rather than two, individuals would have more time to access and review materials, particularly those with accessibility needs or who are unable to attend in person. This change would help promote greater transparency and accountability in the public meeting process.

Thank you for considering our position.

Respectfully submitted,

KIRBY L. SHAW
Executive Director

LATE

SB-1651

Submitted on: 2/4/2025 12:07:35 AM

Testimony for GVO on 2/4/2025 3:05:00 PM

Submitted By	Organization	Testifier Position	Testify
Nanea Lo	Individual	Support	Written Testimony Only

Comments:

Hello Chair, Vice Chair, and esteemed members of the committee,

My name is Nanea Lo, and I am writing in **strong support of SB 1651**, which would require board packets to be posted at least two full business days before a public meeting. As a Kanaka Maoli, a lineal descendant of the Hawaiian Kingdom, and a community advocate serving on the Sierra Club of Hawai‘i Executive Committee and the board of the Hawai‘i Workers Center, I deeply understand the importance of transparency and accessibility in governance.

Ensuring that board packets are made available with adequate time before meetings is crucial for meaningful public participation. Our communities deserve the opportunity to review critical information, provide informed testimony, and engage in decisions that directly impact our lives, lands, and livelihoods. Without sufficient time to analyze and respond to meeting materials, the public is effectively shut out of the democratic process.

This issue is particularly urgent for working-class families, kūpuna, and those with limited access to rapid digital communication. Many in our communities juggle multiple responsibilities and need time to understand complex proposals that affect their homes, environment, and economic well-being. By requiring board packets to be posted at least two business days in advance, SB 1651 upholds the principles of good governance, trust, and accountability—values that should guide all decision-making processes in Hawai‘i.

I urge you to pass SB 1651 to ensure that all community members have a fair and equitable chance to participate in the governance of our home.

Me ke aloha ‘āina,

Nanea Lo

Mō‘ili‘ili, HI 96826

Sierra Club of Hawai‘i Executive Committee Member

Board Member, Hawai‘i Workers Center

Kanaka Maoli / Lineal Descendant of the Hawaiian Kingdom