

OFFICE OF INFORMATION PRACTICES

STATE OF HAWAII
NO. 1 CAPITOL DISTRICT BUILDING
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To: Senate Committee on Government Operations

From: Carlotta Amerino, Director

Date: January 28, 2025, 3:00 p.m.
State Capitol, Conference Room 225

Re: Testimony on S.B. No. 270
Relating to the Sunshine Law

Thank you for the opportunity to submit testimony on this bill, which would amend section 92-2.5(e), HRS, to allow all members of a Sunshine Law board, not just the current requirement of less than a quorum of members, to jointly attend and discuss their own board business in the course of an informational meeting, a legislative hearing, a professional conference, or a similar event, with no requirement to report their attendance or otherwise notify the public that they did so. The Office of Information Practices (OIP) opposes this bill.

Hawaii government board members are required under the Sunshine Law to only discuss their board's business at a properly noticed meeting, unless a "permitted interaction" in section 92-2.5, HRS, applies. There is a permitted interaction that allows board members to attend other boards' meetings, legislative hearings, conferences, and similar events together, but it balances this board member flexibility with the Sunshine Law's statutory purpose in section 92-1, HRS, of opening up the discussions and decisions of government boards to the public. This bill would remove the two vital public protections the Sunshine Law currently provides when board members jointly attend and discuss board business in the

course of an informational meeting or similar event: the limitation to less than a quorum of members, and the requirement to report their attendance to the public at a subsequent board meeting.

The events to which this could apply include not just meetings of other boards or legislative hearings, but conventions, conferences, seminars, and similar events not open to the general public and with periods of time where attendees can eat lunch together or speak during breaks. The effect would be to allow a majority of board members to discuss their own board business at length at such an event to the point where they had effectively crystallized their decision on an issue, so long as they stopped just short of formally making that decision or committing their votes. The public would in many cases know nothing about it, as the board members would have no obligation to let the public know that they had been talking about board business at another event or events.

This bill would create a substantial loophole in the Sunshine Law under which any number of board members could discuss their board business together in relative privacy in contravention of the spirit of the Sunshine Law, so OIP respectfully recommends that this Committee hold this bill.

Thank you for considering OIP's testimony.

Council Chair
Alice L. Lee

Vice-Chair
Yuki Lei K. Sugimura

Presiding Officer Pro Tempore
Tasha Kama

Councilmembers
Tom Cook
Gabe Johnson
Tamara Paltin
Keani N.W. Rawlins-Fernandez
Shane M. Sinenci
Nohelani U'u-Hodgins



Director of Council Services
David M. Raatz, Jr., Esq.

Deputy Director of Council Services
Richelle K. Kawasaki, Esq.

COUNTY COUNCIL
COUNTY OF MAUI
200 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793
www.MauiCounty.us

January 27, 2025

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

FROM: Alice L. Lee
Council Chair 

SUBJECT: **HEARING OF JANUARY 28, 2025; TESTIMONY IN SUPPORT OF SB270, RELATING TO THE SUNSHINE LAW**

Thank you for the opportunity to testify in **support** of this important measure to authorize Sunshine Law board members to attend informational meetings and presentations that are not directed toward board members.

I support this measure for the following reasons:

1. As a Councilmember, I value transparency, accountability, and meaningful community engagement. SB270 supports these values by removing barriers to effective governance and public access.
2. The current law restricts more than two Councilmembers from attending the same informational or community meetings. This limitation prevents us from collectively gathering critical information on issues we must decide and frustrates constituents who expect and assume broader attendance at such events. SB270 allows all board members to attend, ensuring we have consistent and comprehensive access to vital information.
3. Allowing all members to participate fosters better collaboration and alignment on complex issues, leading to more informed and effective decisions. SB270 eliminates the requirement for reporting attendance and discussion details for these events. This change reduces unnecessary administrative work, enabling Councilmembers to focus on their responsibilities and strengthen connections with the community.

For the foregoing reasons, I **support** this measure.

COUNTY COUNCIL

Mel Rapozo, Chair
KipuKai Kualii, Vice Chair
Addison Bulosan
Bernard P. Carvalho, Jr.
Felicia Cowden
Fern Holland
Arryl Kaneshiro



OFFICE OF THE COUNTY CLERK

Jade K. Fountain-Tanigawa, County Clerk
Lyndon M. Yoshioka, Deputy County Clerk

Telephone: (808) 241-4188
Facsimile: (808) 241-6349
Email: cokcouncil@kauai.gov

Council Services Division
4396 Rice Street, Suite 209
Lihu'e, Kaua'i, Hawai'i 96766

January 24, 2025

**TESTIMONY OF ADDISON BULOSAN
COUNCILMEMBER, KAUAI COUNTY COUNCIL
ON
SB 254, RELATING TO PROCUREMENT AND
SB 270, RELATING TO THE SUNSHINE LAW
Senate Committee on Government Operations
Tuesday, January 28, 2025
3:00 p.m.
Conference Room 225
Via Videoconference**

Dear Chair McKelvey and Members of the Committee:

Thank you for this opportunity to provide testimony in SUPPORT of SB 254, Relating to Procurement and SB 270, Relating to the Sunshine Law. My testimony is submitted in my individual capacity as a member of the Kaua'i County Council.

I wholeheartedly support the intent of SB 254 and SB 270, which would greatly affect the Kaua'i community.

Thank you again for this opportunity to provide testimony in support of SB 254 and SB 270. Should you have any questions, please feel free to contact me or Council Services Staff at (808) 241-4188 or via email to cokcouncil@kauai.gov.

Sincerely,

ADDISON BULOSAN
Councilmember, Kaua'i County Council

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COUNTY COUNCIL

Mel Rapozo, Chair
KipuKai Kualii, Vice Chair
Addison Bulosan
Bernard P. Carvalho, Jr.
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Lihu'e, Kaua'i, Hawaii 96766

January 27, 2025

**TESTIMONY OF FERN HOLLAND
COUNCILMEMBER, KAUAI COUNTY COUNCIL
ON
SB 270, RELATING TO THE SUNSHINE LAW
Senate Committee on Government Operations
Tuesday, January 28, 2025
3:00 p.m.
Conference Room 225
Via Videoconference**

Dear Chair McKelvey and Members of the Committee:

Thank you for this opportunity to provide testimony in SUPPORT of SB 270, Relating to the Sunshine Law. My testimony is submitted in my individual capacity as a Councilmember of the Kaua'i County Council.

As a Councilmember, it can be challenging to access all the pertinent information needed to make informed decisions, particularly when unable to attend informational or community meetings and presentations. The current Sunshine Law restricts more than two of our seven members from attending such events together, which not only limits our ability to gather critical information but also creates frustration among constituents.

Community members often expect and assume that as many Councilmembers as possible will be present at these events, and it can be difficult to explain the restrictions on our attendance. To be effective in our roles and meet public expectations, it is essential that we have the ability to attend informational and community meetings that address the significant issues we are tasked with deciding.

Thank you again for this opportunity to provide testimony in support of SB 270. Should you have any questions, please feel free to contact me or Council Services Staff at (808) 241-4188 or via email to cokcouncil@kauai.gov.

Sincerely,

FERN HOLLAND
Councilmember, Kaua'i County Council

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Senate Committee on Government Operations

Tuesday, January 28, 2025 3 PM Hearing in Conference Room 225 on
SB 270, Relating to the Sunshine Law

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 strongly opposes SB 270.

The Sunshine Law currently requires that boards 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 board quorum. SB 270 would exempt board quorums that attended any "informational meeting or presentation" from most Sunshine Law requirements which apply to board meetings. Under SB 270, when a board quorum attended an "informational meeting or presentation", no public notice or report of board attendance would be required, no board minutes would be prepared, and the public would not have the right to submit oral testimony to the board. Under SB 270, 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 board decisions. SB 270 would even allow a board quorum to attend an "informational" event at Disneyland.

Under SB 270, if a private special interest group which wished to influence board decisions invited a board to attend an "informational meeting or presentation" about pending board matters, SB 270 would authorize a board quorum to attend and discuss those pending board matters with that private group and with each other. Basically, the Sunshine Law would be "neutered".

Since 2014 the Sunshine Law has authorized a county council quorum, or even all council members, 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.



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

RE: Testimony in Opposition to S.B. 270, Relating to the Sunshine Law
Hearing: January 28, 2025 at 3:00 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 opposition to S.B. 270**. This bill proposes to amend chapter 92 to allow entire boards to attend entirely secret meetings.

The Kauai County Council's concern appears to be based on a misunderstanding of existing law. In introducing Resolution 2025-10, Chair Rapozo noted, "This proposal is to basically ask the Legislature to consider amending the Sunshine Law to allow us the opportunities to attend community meetings by more than two (2) of us." [12/18/24 Minutes](#) at 23. Chair Rapozo explained further, "If we have a Kilauea Neighborhood Association meeting . . . I show up, and two (2) Members are there, I cannot go. I need to turn around and go home. I cannot even sit in there and listen, which is ridiculous."

HRS § 92-2.5(e) addresses the specific scenario raised by Chair Rapozo. It permits "[t]wo or more members of a board, but less than the number of members that would constitute a quorum for the board" to attend meetings organized by other entities, like community associations. For Kauai County Council, where four members constitutes a quorum, up to *three* members may attend these types of meetings.

But, more importantly, if the *full Council* wanted to attend a community association meeting, it could. That is precisely what HRS § 92-3.1(b) authorizes, subject to reasonable guardrails to ensure that the public remains informed.

Whatever legitimate concerns the Council has are addressed by the special exception that the Legislature granted county councils in 2016 through HRS § 92-3.1(b). It is not apparent that the Council has made any effort to use that exception. *See* HRS § 92-3.1(d) (requiring annual report regarding effectiveness of the council exception). Before the Legislature effectively guts the heart of the Sunshine Law across the State, the Council should see whether it can address its concerns by using the special exception that already exists for county councils.



Senate Committee on Government Operations
January 28, 2025
Page 2

Moreover, the Council's proposal goes far further than needed to address any purported concern. This bill would create a gaping exception to the Sunshine Law for all government boards – not just county councils – to attend secret meetings with no accountability.

Public First has successfully worked with county councils in the past when concerns arose about specific issues. *E.g.*, 2022 Haw. Sess. Laws Act 264. We would welcome the opportunity to work with the Kauai County Council during the interim. But this bill is unsupportable.

Thank you again for the opportunity to testify in opposition to S.B. 270.

SB-270

Submitted on: 1/26/2025 11:58:12 AM

Testimony for GVO on 1/28/2025 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
lynne matusow	Individual	Oppose	Written Testimony Only

Comments:

Board members must understand that they cannot operate as private businesses. There are reasons for current laws, openness, fairness, etc. which will be eroded if this bill is passed. I remember years ago when members of a state board were at a restaurant, possibly on Molokai, and they were overheard discussing items before the board. That did not go over too well.

I suggest instead that you amend this bill to subject the legislature to the Sunshine Law. That would create real openness instead of eroding the law, which is the intent of the language of the proposed bill.

JOSH GREEN, M.D.
GOVERNOR



ELAINE YAMASHITA
CHAIRPERSON



STATE OF HAWAII
Early Learning Board

2759 South King Street, Room C6
HONOLULU, HAWAII 96826

January 27, 2025

Aloha Honorable Chair McKelvey, Vice-chair Gabbard and members of the Government Operations Committee:

As the new chair of the state Early Learning Board (ELB), I am in support of SB 270.

Allowing board members to attend informational meetings, hearings, conventions, seminars, or community meetings without worrying about the number of board members in attendance would greatly increase the opportunities for the board to learn about the early learning community and the diverse families that are served. It can only increase the effectiveness of the board as it creates policy related to early learning.

Mahalo,

/s/Elaine Yamashita

ELB Chair Elaine Yamashita
elb@eoel.hawaii.gov



Testimony of the Hawai'i State Association of Counties

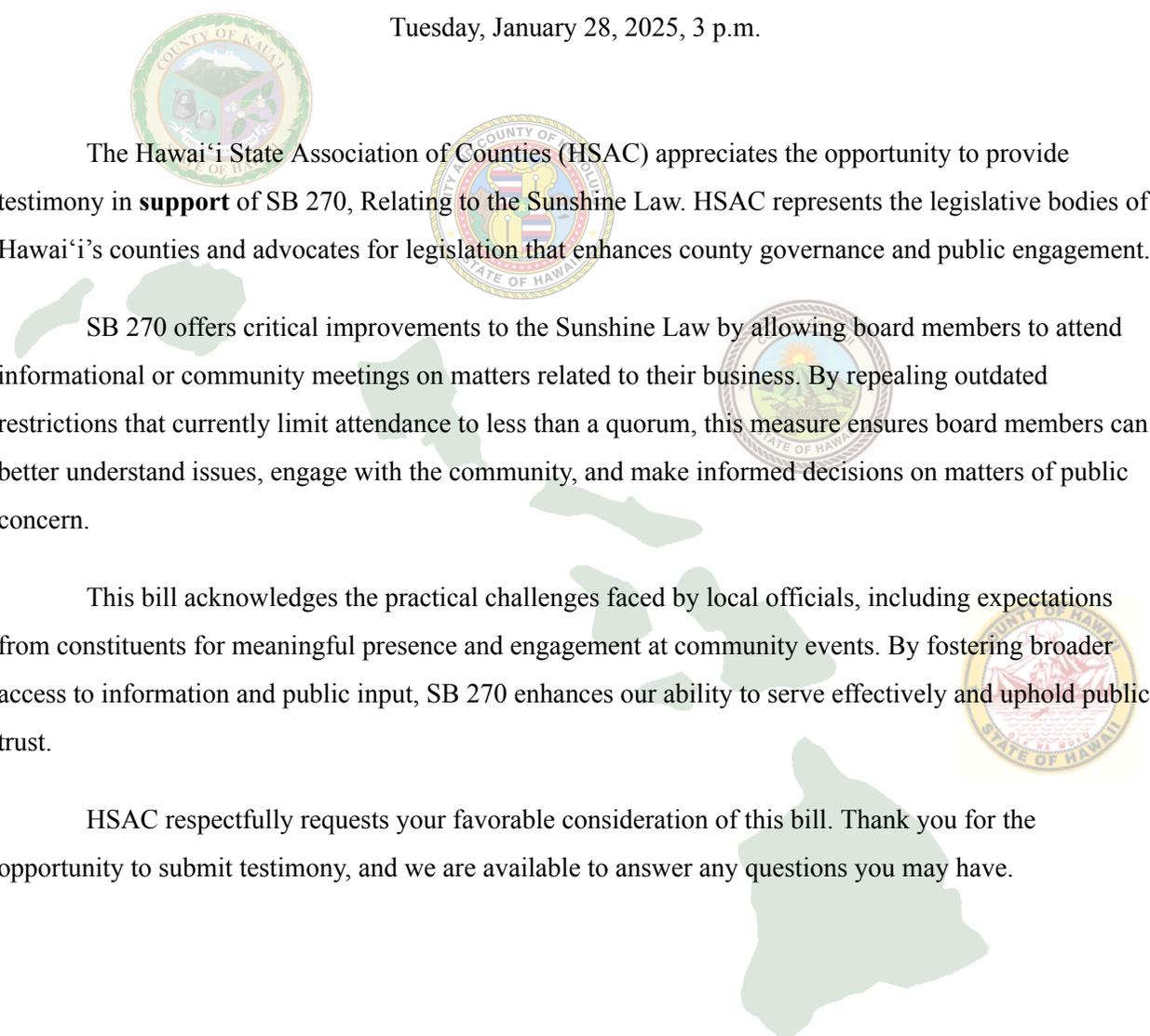
S.B. No. 270 - Support



Relating to the Sunshine Law

Committee on Government Operations

Tuesday, January 28, 2025, 3 p.m.



The Hawai'i State Association of Counties (HSAC) appreciates the opportunity to provide testimony in **support** of SB 270, Relating to the Sunshine Law. HSAC represents the legislative bodies of Hawai'i's counties and advocates for legislation that enhances county governance and public engagement.

SB 270 offers critical improvements to the Sunshine Law by allowing board members to attend informational or community meetings on matters related to their business. By repealing outdated restrictions that currently limit attendance to less than a quorum, this measure ensures board members can better understand issues, engage with the community, and make informed decisions on matters of public concern.

This bill acknowledges the practical challenges faced by local officials, including expectations from constituents for meaningful presence and engagement at community events. By fostering broader access to information and public input, SB 270 enhances our ability to serve effectively and uphold public trust.

HSAC respectfully requests your favorable consideration of this bill. Thank you for the opportunity to submit testimony, and we are available to answer any questions you may have.