

OFFICE OF INFORMATION PRACTICES

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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

Re: Testimony on S.B. No. 405
Relating to Neighborhood Board Meetings

Thank you for the opportunity to submit testimony on this bill, which would expand a partial Sunshine Law exception for neighborhood boards to allow them to discuss topics not on their meeting agenda but raised in a government official's presentation, in addition to the exemption's current authorization to discuss topics not on the agenda but raised in public comments. The Office of Information Practices (OIP) offers comments.

OIP has jurisdiction over the Sunshine Law, found at part I of chapter 92, HRS. Section 92-81, HRS, which this bill amends, is not part of the Sunshine Law as it is found in part VII of chapter 92 which applies to neighborhood boards exclusively. Nonetheless, the provision comes before OIP from time to time because it is a partial Sunshine Law exception and relevant to Sunshine Law disputes involving neighborhood boards.

Sunshine Law boards generally are required to list on their meeting agendas every topic they will consider at their meetings in sufficient detail to allow the public to understand what they will be talking about well enough to decide whether to attend and testify. Thanks to the partial exception set out in section 92-81, HRS,

neighborhood board members can currently talk about issues raised in public comments even though those topics were not listed on the agenda, so long as they refrain from making any decision until a later meeting where the topic is on the agenda. For scheduled presentations by government officials, though, neighborhood boards still need to ask those officials in advance for their planned topics, and list them on the agenda, for members to be able to ask detailed questions about and otherwise discuss those topics without violating the Sunshine Law's public notice requirement. If a board does not list a topic on its agenda, the fact that it was raised by a government presenter does not currently justify the board in discussing it, since doing so would violate the Sunshine Law's requirement to list all topics considered at a meeting on the meeting agenda.

OIP is aware that rather than taking the time to ask government officials and other presenters in advance what topics they will speak on and listing those topics on the meeting agenda (thus notifying the public), neighborhood boards prefer to wait until the meeting to hear what issues government officials raise and then ask them questions. While this provides neighborhood boards with greater flexibility to respond to new issues raised at a meeting and makes it unnecessary for them to do the advance work of asking presenters for topics, it has the downside of leaving the public with no notice of the topics discussed by the board during much of the meeting. Given the unique role played by the neighborhood boards, OIP believes it is a policy matter for the Legislature to decide whether it is worth sacrificing the usual requirement for advance public notice of topics to allow neighborhood boards more flexibility to act as an open forum during which government officials can spontaneously raise issues that the neighborhood board members can thoroughly discuss, including asking substantive questions of the presenter. Thank you for considering OIP's testimony.

LATE

TO: Members of the Committee on Government Operations

FROM: Natalie Iwasa
808-395-3233

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

SUBJECT: SB405, Neighborhood Board Meetings - **OPPOSED**

Aloha Chair McKelvey and Committee Members,

Thank you for allowing the opportunity to provide testimony on SB405, which would allow neighborhood boards to discuss issues raised in third-party reports by government officials.

This would loosen our Sunshine Law with respect to neighborhood boards. The Office of Information Practices has addressed concerns recently raised by neighborhood boards with respect to issues that come up in board meetings that are not on the agenda. In some cases, it may take chairs a little more effort to put together agendas that are more comprehensive, but that does not mean we should open up the Sunshine Law for those who are not willing to try to do so.

The Sunshine law affords the public advance notice of items that will be discussed at public meetings. We should not be compromising it but rather should strengthen it by also including the state legislature.

Please vote "no" on SB405.

SB-405

Submitted on: 1/25/2025 1:07:56 PM

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

Submitted By	Organization	Testifier Position	Testify
Jacob Wiencek	Individual	Support	Written Testimony Only

Comments:

Aloha Committee Members,

As a former member of a Neighborhood Board on Oahu, I understand how frustrating the nuances of the well-intentioned Sunshine Law can be. Overly strict readings of that law lately have impeded the crucial advisory and community liaison work these Boards have. I urge the Committee to consider **SUPPORTING** this proposal to restore commonsense and sanity to Oahu's Neighborhood Board meetings.

SB-405

Submitted on: 1/27/2025 2:10:51 PM

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

Submitted By	Organization	Testifier Position	Testify
ROBERT J FINLEY	Individual	Support	Written Testimony Only

Comments:

Thank you for the opportunity to testify in favor of SB405. The Neighborhood Boards have been supporting the community for over 50 years and while there is no funding for a parliament to advise us we have done our duty to the residents by providing them information to help them understand, support or oppose things happening in the community. Our board members are expected to investigate, work with residents and others to give the best advice possible to our elected officials and with the recent restrictions from OIP we are failing to do that. This bill will help us do our elected jobs and provide our residents with the information we gather during the week and provide at our 33 to 36 hours we meet each year.

Mahalo again for allowing me to support this measure.