

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: February 25, 2025, 2:00 p.m.
State Capitol, Conference Room 325

Re: Testimony on H.B. No. 403
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.

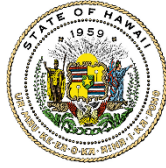
Hawaii government board members are required under the Sunshine Law to only discuss their board's business at a properly noticed meeting, unless a "permitted interaction" in section 92-2.5, HRS, applies. There is currently a permitted interaction that allows board members to attend other boards' meetings, 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.



STATE OF HAWAII
Early Learning Board
2759 South King Street, Room C6
HONOLULU, HAWAII 96826

February 22, 2025

To: Representative Tarnas, Chair
Representative Poepoe, Vice-chair
Members of the Judiciary and Hawaiian Affairs Committee

From: Elaine Yamashita, Chair
Early Learning Board

Re: HB 403 support

Honorable Chair Tarnas, Vice Chair Poepoe, and members of the committee:

The Early Learning Board (ELB) formulates statewide policy relating to early learning, as well as directing the Executive Office on Early Learning (EOEL).

As the new chair of the state Early Learning Board, I am in support of HB 403.

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 for your consideration of this bill.

Sincerely,

Elaine Yamashita
Early Learning Board Chair
elb@eoel.hawaii.gov



JOSH GREEN, M.D.
GOVERNOR

SYLVIA LUKE
LIEUTENANT GOVERNOR

STATE OF HAWAII
HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND
201 MERCHANT STREET, SUITE 1700
HONOLULU, HAWAII 96813
Oahu (808) 586-7390
Toll Free 1(800) 295-0089
www.eutf.hawaii.gov

BOARD OF TRUSTEES
RYAN YAMANE, *CHAIRPERSON*
ROBERT YU, *VICE-CHAIRPERSON*
JAMES WATARU, *SECRETARY-TREASURER*
JACQUELINE FERGUSON-MIYAMOTO
CHRISTIAN FERN
AUDREY HIDANO
WESLEY MACHIDA
SABRINA NASIR
OSA TUJ
MAUREEN WAKUZAWA

ADMINISTRATOR
DEREK M. MIZUNO

ASSISTANT ADMINISTRATOR
DONNA A. TONAKI

TESTIMONY BY DEREK MIZUNO
ADMINISTRATOR, HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND
DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE HOUSE COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS
ON HOUSE BILL NO. 403

February 25, 2025
2:00 P.m.
Conference Room 325 & Videoconference

RELATING TO SUNSHINE LAW

Chair Tarnas, Vice Chair Poepoe, and Members of the Committee:

The Hawaii Employer-Union Health Benefits Trust Fund (EUTF) Board of Trustees supports this bill. The EUTF Board believes that this is a reasonable bill that will allow more than two members of the EUTF Board to attend various informational meetings and presentations on matters not related to EUTF board business. It also will not require these board members to report on their attendance and the matters presented and discussed related to board business at the meeting. Removal of these restrictions will encourage EUTF board members to expand their knowledge base that may facilitate new, creative ideas for the EUTF.

Thank you for the opportunity to testify.

EUTF's Mission: We care for the health and well being of our beneficiaries by striving to provide quality benefit plans that are affordable, reliable, and meet their changing needs. We provide informed service that is excellent, courteous, and compassionate.

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

February 21, 2025

**TESTIMONY OF ADDISON BULOSAN
COUNCILMEMBER, KAUAI COUNTY COUNCIL
ON
HB 137, RELATING TO FIREARMS
AND
HB 403, RELATING TO THE SUNSHINE LAW
House Committee on Judiciary & Hawaiian Affairs
Tuesday, February 25, 2025
2:00 p.m.
Conference Room 325
Via Videoconference**

Dear Chair Tarnas and Members of the Committee:

Thank you for this opportunity to provide testimony in SUPPORT of HB 137, Relating to Firearms and HB 403, 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 HB 137 and HB 403, which would greatly affect the Kaua'i community.

Thank you again for this opportunity to provide testimony in support of HB 137 and HB 403. 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

AAO:slr

COUNTY COUNCIL

Mel Rapozo, Chair
KipuKai Kualii, Vice Chair
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February 24, 2025

**TESTIMONY OF FERN HOLLAND
COUNCILMEMBER, KAUAI COUNTY COUNCIL
ON
HB 403, RELATING TO THE SUNSHINE LAW
House Committee on Judiciary & Hawaiian Affairs
Tuesday, February 25, 2025
2:00 p.m.
Conference Room 325
Via Videoconference**

Dear Chair Tarnas and Members of the Committee:

Thank you for this opportunity to provide testimony in SUPPORT of HB 403, 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 HB 403. 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

AAO:ss



Senate Committee on Government Operations

Tuesday, February 25, 2025 2 PM Hearing in Conference Room 325 on
HB 403, Relating to the Sunshine Law

TESTIMONY

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

Chair Tarnas, Vice Chair Poepoe, and Committee Members:

The League of Women Voters of Hawaii strongly opposes HB 403.

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. HB 403 would exempt board quorums that attended any "informational meeting or presentation" from most Sunshine Law requirements which apply to board meetings. Under HB 403, 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 HB 403, 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. HB 403 would even allow a board quorum to attend an "informational" event at Disneyland.

Under HB 403, 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, HB 403 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.



House Committee on Judiciary & Hawaiian Affairs
Honorable David A. Tarnas, Chair
Honorable Mahina Poepoe, Vice Chair

RE: Testimony in Opposition to H.B. 403, Relating to the Sunshine Law
Hearing: February 25, 2025 at 2:00 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** H.B. 403. 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 (available at: <https://www.kauai.gov/files/assets/public/v/1/county-council/documents/council-meetings/minutes/2024-12-18-council-meeting-minutes.pdf>). 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.

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 H.B. 403.

HB-403

Submitted on: 2/24/2025 10:13:57 AM

Testimony for JHA on 2/25/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
christine morrison	Individual	Support	Remotely Via Zoom

Comments:

RE: Sunshine Law/ HB 403 Support Bill

Dear Legislators,

1. In 2025, I pay about \$15,000 in yearly fees and within 10 years it may approach over \$30,000.
2. Attached: 2025 Reserve deficit per unit is \$14,783 (\$217 a month in **double reserve fees**). My association has not done reserve studies in 8 years (former BOD statement) **and has denied my unit maintenance for years.**
3. Attached: **Association HOA Tax Scheme?** Annual meeting March 15, 2025:

EXCESS OF MEMBERSHIP INCOME OVER MEMBERSHIP EXPENSES: "Be it Resolved, that any excess of membership income over membership expenses the fiscal year ending January 31, 2025, shall be applied against the subsequent tax year member assessments as provided by IRS Ruling 70-604.

- This may include a 2024 landscape contract reduction of up to \$80,000 and an April 2024: 15- million construction defect settlement with monthly interest about \$14,000 per month?
- **For 3 years I have paid for "common element" scheduled mandated services never received and I want the excess membership income refunded to me.**

5. I have filed DCCA complaints for financial records pursuant to HRS 514 B.

PLEASE protect homeowners, not industry special interests or lobbyists. Legislators, **PLEASE SUPPORT MY REQUEST FOR INVESTIGATION.**

Respectfully,

Ms. Morrison

HB-403

Submitted on: 2/24/2025 1:34:41 PM

Testimony for JHA on 2/25/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Gregory Misakian	Individual	Oppose	Remotely Via Zoom

Comments:

I do not support HB403 and ask our legislators to please stop attempting to change sections of the Sunshine Law that will provide less transparency for the public and the Boards that these bills would impact.

The two sections you are striking out are important and part of the Sunshine Law for a reason.

~~[; but less than the number of members that would constitute a quorum for the board,]~~

and

~~[At the next duly noticed meeting of the board, the board members shall report their attendance and the matters presented and discussed that related to board business at the informational meeting or presentation.]~~

Neighborhood Boards for example have delegates that are chosen to be able to attend certain meetings, and should be providing reports back to their Boards, but this currently is not happening at the Waikiki Neighborhood Board, where the Sunshine Law seems to be an afterthought for some and not well respected.

I am submitting testimony as an individual, but I also serve on the Waikiki Neighborhood Board and ask that our legislators respect laws that have been in place for many years, and were established for a reason.

Gregory Misakian