



HAWAI‘I CIVIL RIGHTS COMMISSION

830 PUNCHBOWL STREET, ROOM 411 HONOLULU, HI 96813 · PHONE: 586-8636 FAX: 586-8655 TDD: 568-8692

February 22, 2019
Rm. 016, 9:00 a.m.

To: The Honorable Karl Rhoads, Chair
The Honorable Glenn Wakai, Vice-Chair
Members of the Senate Committee on Judiciary

From: Linda Hamilton Krieger, Chair
and Commissioners of the Hawai‘i Civil Rights Commission

Re: S.B. No. 335, S.D. 1

The Hawai‘i Civil Rights Commission (HCRC) has enforcement jurisdiction over Hawai‘i’s laws prohibiting discrimination in employment, housing, public accommodations, and access to state and state funded services (on the basis of disability). The HCRC carries out the Hawai‘i constitutional mandate that no person shall be discriminated against in the exercise of their civil rights. Art. I, Sec. 5.

S.B. No. 335, S.D. 1, amends H.R.S. Section 92-7 regarding posting of notices for meetings and emergency meetings of boards. The amendments require public meeting notices to include instructions regarding accommodations for persons with disabilities, and also require boards to post a notice in the board’s office six days prior to a meeting and file a copy with the office of the lieutenant governor. Further requirements regarding emergency meeting agendas are included.

The HCRC supports Section 2 of the bill, amending HRS 92-7(a) to require that postings include instructions on requesting an auxiliary aid or service. All community members should have equal access to open government meetings and forums. The HCRC also supports accessible postings. The HCRC defers to other government agencies, such as DCAB and OIP, regarding retention of proof of filing with the lieutenant governor and the other requirements of the measure.

The HCRC supports the accessibility requirements of S.B. No. 335, S.D. 1.

DAVID Y. IGE
GOVERNOR OF HAWAII



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

**Testimony of
SUZANNE D. CASE
Chairperson**

**Before the Senate Committee on
JUDICIARY**

**Friday, February 22, 2019
9:00 AM
State Capitol, Conference Room 016**

**In consideration of
SENATE BILL 335, SENATE DRAFT 1
RELATING TO PUBLIC MEETINGS**

Senate Bill 335, Senate Draft 1 proposes to make changes to the Sunshine Law to ensure persons with disabilities have access to hard copies of the agendas of state boards and commissions, either by request through the mail, or through postings at the Office of the Lieutenant Governor, or at the office of the board or commission. **The Department of Land and Natural Resources (Department) is in support of this measure and offers the following comment.**

The Governor has mandated all state agencies to go paperless and last year significant changes were made to the Sunshine Law to allow agendas and submittals to be posted electronically. While the vast majority of people interested in meetings held by the boards and commissions of the Department get their information on line, 38 people still request hard copies of the Board of Land and Natural Resources meetings. The Department suggests that the Office of the State Auditor develop a survey as to why people still rely on paper agendas, focused on how we can more effectively structure sunshine requirements to meet their needs and at the same time reduce government waste. The questionnaire could be sent to all people who still request paper agendas.

Thank you for the opportunity to comment on this measure.

SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT K. MASUDA
FIRST DEPUTY

KALEO MANUEL.
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

OFFICE OF INFORMATION PRACTICES

STATE OF HAWAII
NO. 1 CAPITOL DISTRICT BUILDING
250 SOUTH HOTEL STREET, SUITE 107
HONOLULU, HAWAII 96813
TELEPHONE: 808-586-1400 FAX: 808-586-1412
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To: Senate Committee on Judiciary

From: Cheryl Kakazu Park, Director

Date: February 22, 2019, 9:00 a.m.
State Capitol, Conference Room

Re: Testimony on S.B. No. 335, S.D. 1
Relating to Public Meetings

Thank you for the opportunity to submit testimony on this bill, which in its current form would amend the Sunshine Law, part I of chapter 92, HRS, to (1) require boards to include instructions for requesting an accommodation in their meeting notices, (2) require boards to retain a copy of a proof of filing with the Lieutenant Governor or County Clerk, and (3) require a board seeking to hold an emergency meeting to file notice with the Lieutenant Governor or County Clerk and post notice in the board's office in addition to posting it electronically. **The Office of Information Practices (OIP) supports the intent of this bill to require a board's notice to include instructions for requesting an accommodation, but prefers the language in H.B. 1076, H.D. 1.**

The Sunshine Law's notice requirements were substantially reworked by Act 64 of 2017, which only became effective July 1, 2018. Prior to that date, the Sunshine Law required paper filings with the Lieutenant Governor or the appropriate County Clerk, and postal mail notice to persons on the board's mailing list, by the deadline of six days prior to the meeting, with the meeting required to be canceled if the board failed to timely file or mail out the paper notice. (The

Sunshine Law also required, and still requires, posting a copy of the notice at the board's office and, if practicable, at the meeting site.) The Sunshine Law did not require any form of electronic notice, either on a state or county calendar or through an email list, so although boards commonly did post online notice and keep email lists, any failure to timely post online or email the notice was not enforceable under the Sunshine Law.

Act 64 changed the primary form of Sunshine Law notice from paper filing to electronic filing on a state or county online calendar, and added email notice to postal notice as a legally enforceable option for persons on the board's mailing list. The failure to timely post online or timely send email or postal mail notice to the mailing list now requires cancellation of the meeting. Act 64 kept the requirement for boards to provide a copy of the notice to the Lieutenant Governor or County Clerk, but to avoid essentially doubling the number of ways a board could be tripped up and required to cancel its upcoming meeting, it also specified that a failure to meet the paper filing requirement would not require cancelling the meeting (although it would still be a Sunshine Law violation). The year's delay in the effective date for Act 64 was intended to give boards time to learn the new notice requirements and other new Sunshine Law requirements before they became legally enforceable, and boards have now been following these new requirements for the past seven months.

OIP had several concerns with this bill as introduced; however, the S.D. 1 version of this bill removed language OIP found concerning that would have (1) required OIP to enforce accessibility requirements as part of the Sunshine Law and (2) created a form of double jeopardy for boards in which an error in any one of multiple filings would require cancellation of a meeting. The S.D. 1 still retains some changes to the still-new Sunshine Law notice scheme beyond the requirement

to include instructions on requesting an accommodation, as it would also (1) add a requirement for boards to retain a proof of filing with the Lieutenant Governor or County Clerk, and (2) add a requirement that emergency meeting filings include not just the electronic posting and contacting persons on the board's notification list, but also filing with the Lieutenant Governor or County Clerk and posting at the board's office. **While OIP supports the intent of this bill, the Legislature may wish to avoid significant changes to the Sunshine Law's notice scheme until the newly effective notice scheme has had time to be used so that the Legislature can better assess how well it is working in practice, which is why OIP prefers the language of H.B. 1076, H.D. 1** that adds only one new requirement for a meeting notice to include instructions for requesting an accommodation.

Thank you for the opportunity to testify.

SB-335-SD-1

Submitted on: 2/20/2019 4:57:26 PM

Testimony for JDC on 2/22/2019 9:00:00 AM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|--|---------------------------|---------------------------|
| Leimomi Khan | Testifying for Oahu County Committee, Affirmative Action Committee | Support | No |

Comments:

The Affirmative Action Committee of the Oahu County Committee, Democratic Party of Hawaii supports SB335 SD1. This bill will help create greater access to government for all people, including but not limited to those with disabilities. While some of these advance notice deadlines may appear to give an extra-large cushion for the average able-bodied citizen, it really does make a difference for those with disabilities who need to request accommodations. For example, if someone needs a sign language interpreter, that person needs time to arrange to have the interpreter. If someone needs a printed document converted into an alternative format, that process may take a little time, as well. People with disabilities will benefit from this notice, but able-bodied people will, too. We all deserve to benefit from the contributions that people with disabilities can make in the political process since they are residents of our state and are affected by the same issues, like climate change, that affect everyone else. We need them to be involved because many hands make light work, and diverse perspectives help us to be informed.

Respectfully, LEIMOMI KHAN, Chair. OCC AA Committee



O`ahu County Committee on Legislative Priorities

COMMITTEE ON JUDICIARY
Senator Karl Rhoads, Chair
Senator Glenn Wakai, Vice Chair

LATE

DATE: Friday, February 22, 2019
TIME: 9:00 a.m.
PLACE: Conference Room 016
State Capitol

RE: SB 335, SD 1 Relating to Public Meetings

To the Honorable Karl Rhoads, Chair; the Honorable Glenn Wakai, Vice Chair; and Members of the Committee on Judiciary:

I am Melodie Aduja, Chair of the O`ahu County Committee on Legislative Priorities of the Democratic Party of Hawai`i. Mahalo for this opportunity to submit testimony on SB 335, SD 1. The O`ahu County Committee on Legislative Priorities ("OCCLP") hereby submits its testimony in **SUPPORT of SB 335, SD 1, relating to Public Meetings.**

SB 335, SD 1, requires public meeting notices to include instructions regarding accommodations for persons with disabilities. It requires boards to post public meeting notices on an electronic calendar on a state-maintained website, file a copy with the office of the lieutenant governor or the appropriate county clerk's office, retain a copy of proof of filing, and post a notice in the board's office. It requires the office of the lieutenant governor or the appropriate clerk's office to timely post paper or electronic copies of all meeting notices in a central location in a public building. It further requires that a meeting has to be canceled when the written public notice is posted on an electronic calendar less than six days prior to the meeting. It requires an emergency meeting agenda to be filed with the office of the lieutenant governor or the appropriate county clerk's office and posted in the board's office.

By analogy to voting, it is a core principle of the Democratic Party to maximize [citizen] participation for all Americans. Our democracy suffers when nearly two thirds of our citizens do not or cannot participate. Democrats believe we must make it easier, not harder [to participate] . . . and we will continue to fight against discriminatory . . . laws which disproportionately burden

young voters, diverse communities, Native Hawaiians and Pacific Islanders, low-income families, people with disabilities, the elderly, and women. *Democratic Party of Hawai`i Platform (2018)*, p. 19, ln. 21-23, 27-30.

For the foregoing reasons, i.e., that DPH will fight against discriminatory laws which disproportionately burden people with disabilities, OCCLP supports SB 335, SD 1, and urges its passage out of the Committee on Judiciary.

Mahalo nui loa
Me ka `oia`i`o

/s/ Melodie Aduja

Melodie Aduja

Chair, O`ahu County Committee on Legislative Priorities of the Democratic Party of Hawai`i

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