

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**

**Senate Committees on  
JUDICIARY AND LABOR  
and  
WAYS AND MEANS**

**Thursday, March 30, 2017  
9:50 AM  
State Capitol, Conference Room 211**

**In consideration of  
HOUSE BILL 165, HOUSE DRAFT 1, SENATE DRAFT 1  
RELATING TO PUBLIC MEETINGS**

House Bill 165, House Draft 1, Senate Draft 1 proposes to require that board packets be made available for public inspection and provide notice of the availability of the board packets, requires boards to allow oral testimony to be presented on agenda items separately, establishes notice and disclosure requirements for emergency meetings and allows for the electronic mailing of meeting notices and posting of minutes. **The Department of Land and Natural Resources (Department) opposes the bill as drafted.**

This bill is meant to provide greater access to board packets and notices to increase public participation in government. The Department has posted its agendas, board packet submittals and minutes electronically since 2007. However, the Department strongly opposes any requirement to mail board packets to members of the public upon request. In earlier testimony on this bill, the Department estimated that the costs of mailing packets to the 47 people who request hard copies of meeting agendas for the Board of Land and Natural Resources would be about \$125,000 annually.

The Department has consulted with the Department of the Attorney General and the following language on lines 9-12, page 1, can be interpreted to mean that hard copies must be provided upon request.

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

**KEKOA KALUHIWA**  
FIRST DEPUTY

**JEFFREY T. PEARSON, P.E.**  
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

When the board packets are filed in the board's office, the board shall provide reasonably prompt access to the board packet to any person upon request.

**The Department respectfully requests that the above language be deleted from the bill.**

Thank you for the opportunity to comment on this measure.

# 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  
EMAIL: oip@hawaii.gov

To: Senate Committees on Judiciary and Labor and on Ways and Means

From: Cheryl Kakazu Park, Director

Date: March 30, 2017, 9:50 a.m.  
State Capitol, Conference Room 211

Re: Testimony on H.B. No. 165, S.D. 1  
Relating to Public Meetings

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Thank you for the opportunity to submit testimony on this bill. The **Office of Information Practices (“OIP”)** supports the intent of this bill, which would **require boards to provide access to board packets** in advance of a meeting under the Sunshine Law, part I of chapter 92F, HRS, would **require that testimony be taken immediately before discussion** of each item on a board’s agenda, would **provide for electronic filing of notice of meetings**, and would require boards to **post minutes online within 40 days after the meeting**. However, OIP remains concerned about the practical impact of the board packet and testimony timing provisions, and also has a technical concern regarding a reference to minutes in recorded format.

## **Board Packets:**

With respect to bill section 1, OIP believes that greater public disclosure of board packets will serve the Sunshine Law’s policy of opening up governmental processes to public scrutiny and participation. Among other things, it would allow for more meaningful public testimony by giving interested members of

the public more of the information that is before a board at the time of its meeting. The bill, however, would have imposed upon many boards **new and substantial administrative burdens** to review and redact confidential information embedded in materials presented to their boards in the limited time before a public hearing, and to mail physical copies of lengthy board packets to hundreds of people on their mailing list. Consequently, boards have testified that they **do not have the funding or the staff to do the work** in the short timeframe before public hearings. The boards were further concerned that **if they fail to meet their new obligations or inadvertently release confidential information, the procedural failures may become the basis for potential liability and/or substantial litigation seeking to overturn the boards' action.**

S.D. 1 attempted to address these concerns by amending the bill to specifically exclude license applications, such as those considered by the Department of Commerce and Consumer Affairs' professional and vocational boards. The amended language of S.D. 1, however, has not addressed all of the boards' concerns, as they would still have to redact confidential information from disciplinary actions undertaken by licensing boards and mail out physical packets to people requesting them.

**If suitable language cannot be agreed upon during this session,** OIP believes it would be best to take the time during the interim to work out language that does adequately address the boards' administrative concerns. **OIP recommends that this Committee instead use the language from section 1 of the H.D. 1, which would create a working group, including board representatives and other affected parties, to work out practical solutions during the interim** so that board packet legislation adequately resolving administrative concerns can be introduced in the 2018 session.

### **Timing of Testimony**

The Sunshine Law currently does not specify when during a meeting a board must hear public testimony, and **OIP has opined that a board may take public testimony at any time before the board begins its discussion, so that it will have heard from the public before conducting its deliberations and decisionmaking.** OIP Op. Ltr. No. 06-01. Hearing public testimony only after the board's own discussion would not be consistent with the law, as testimony by definition must be heard prior to a decision. Like legislative hearings, the Sunshine Law does not require boards to engage in a debate with testifiers or allow testifiers to rebut others' testimony. Consequently, **OIP has long advised boards that they may hear all testimony at the beginning of the meeting, so long as each testifier is given a reasonable amount of time to speak on each item that he or she would like to testify on.** This process gives boards the flexibility to manage their meetings efficiently and allows people who may have to go to work to present testimony at the scheduled start of a meeting, without having to wait until an indefinite time, possibly hours later, to testify.

Bill section 2, however, would require testimony to be taken on each agenda item immediately before the board's discussion of the item by fixing the time for hearing public testimony at "the time the item is first brought up for discussion at the meeting." While it is ultimately a policy call for the Legislature to decide whether the timing of public testimony in board meetings should be fixed by statute, **OIP is concerned that this proposal will take away flexibility for boards to manage their meetings efficiently, would make it difficult for boards to accommodate testifiers who prefer not to remain for what could be lengthy meetings lasting hours, and may ultimately discourage people**

**from testifying at meetings. Consequently, OIP would prefer to omit this bill section entirely, as the H.D. 1 did.**

**Electronic Notice:**

The Sunshine Law's notice scheme is still essentially the same as it was when the law was first passed in 1975; it does not reference or take advantage of newer technologies such as the internet or e-mail. Pursuant to Executive Memo 11-11, however, state agencies have been posting their meeting agendas on the State Calendar, which can be found at <http://calendar.ehawaii.gov/calendar/html/event>. Bill sections 3 and 4 would amend the Sunshine Law to **make electronic notice, rather than paper filing, the required Sunshine Law method** for giving notice of a board meeting for all boards. OIP believes this switch from paper notice to electronic notice as the required and legally enforceable Sunshine Law notice is an important step to align the Sunshine Law with current technology. **Sections 3 and 4 of the S.D. 1 are the same as bill sections 2 and 3 of the H.D. 1, which OIP also supported.**

The bill does not set technical standards for the file format in which an online notice is posted, thus appropriately leaving that issue to the state or county website administrators to provide for, based on the most current technical standards. **The bill still requires boards to provide a copy of the notice to the Office of the Lieutenant Governor (OLG) or County Clerk, who would post the notices in a central location as is currently done, but a failure in this process would not require cancellation of the meeting.** The language of the amendments is also open-ended enough to allow the OLG or County Clerk to eventually post notices in a central location on a monitor showing the electronic calendar, rather than posting notices in paper format.

**This bill would also add e-mail notice as an additional option for those people who ask to receive e-mailed copies of a board's notices and agendas, without taking away the option of receiving notices and agenda by postal mail, which is the only option the current law provides.** Additionally, this bill includes provisions clarifying how the question of whether notice was timely posted online may be resolved in the event of a dispute, and adds electronic posting and notice into the notice provisions for holding an emergency meeting.

**OIP supports the amendments in sections 3 and 4 of the S.D. 1** (which are the same as bill sections 2 and 3 of the H.D. 1).

#### **Minutes Online:**

**Bill section 5** contains (1) a proposed requirement that **board minutes be publicly posted online** rather than merely "available" to the public within 30 days after the meeting, which is something not required by current law; and (2) a requirement that a "**written summary** shall accompany any minutes that are posted in a **digital or analog recording** format."

While online minutes are obviously much easier for members of the public to access, OIP notes that this requirement will **take time to implement** given that **many boards do not have their own websites** and would need to work with the State or the relevant county to figure out where their minutes should be posted, and how they can do so in a timely way. In addition, since **many boards will need to go through a departmental IT person or another third party to have minutes posted online**, and take steps to ensure that such minutes are **made ADA accessible before posting online**, boards' effective deadline for preparing meeting minutes will be earlier than it is under current law because of

the necessary delay between the date minutes are prepared and the date they are posted online. **The S.D. 1 recognizes that this change will effectively shorten the time (30 days) that boards currently have to prepare their minutes; thus, to allow boards the same amount of time to prepare minutes, the bill sets the deadline for posting minutes online at forty days after the meeting.**

With respect to the bill's reference to minutes "posted in a digital or analog recording format," OIP notes that **minutes are required by subsection 92-9(a) of the Sunshine Law to be in "written" form** and to "give a true reflection of the matters discussed at the meeting and the views of the participants." **Minutes in "recording format" as referenced in the proposed amendment to subsection 92-9(b) would not qualify as "minutes" for the purpose of subsection 92-9(a) because they would not meet the statutory requirement of being "written," so the proposed amendment makes it unclear whether minutes are, or are not, still required to include in writing the information listed in subsection 92-9(a).** OIP is also concerned that **if the statute is amended to limit the required written portion of minutes to "significant actions taken by the board including motions and votes made by the board," it will be more difficult for the public to quickly review other information currently required to be included in written minutes,** such as matters that were discussed but not acted on and what members were present or absent for the meeting.

Consequently, **OIP prefers the online minutes language found in Section 4 of the H.D. 1.**



To give the OLG, County Clerks, and boards time to adjust to the board packet requirement, electronic notice procedures, and posting of minutes online, **OIP recommends that the effective date for this bill be July 1, 2018, except that if bill section 1 is amended to instead create a board packet working group, its effective date should be upon approval.**

Thank you for considering OIP's testimony.

**From:** [mailinglist@capitol.hawaii.gov](mailto:mailinglist@capitol.hawaii.gov)  
**To:** [JDLTestimony](#)  
**Cc:**  
**Subject:** \*Submitted testimony for HB165 on Mar 30, 2017 09:50AM\*  
**Date:** Tuesday, March 28, 2017 8:12:55 AM

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**HB165**

Submitted on: 3/28/2017

Testimony for JDL/WAM on Mar 30, 2017 09:50AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Councilmember Yuki Lei Sugimura	Individual	Oppose	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

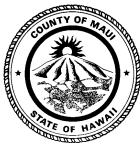
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Sandy K. Baz

**COUNTY COUNCIL**  
COUNTY OF MAUI  
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WAILUKU, MAUI, HAWAII 96793  
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March 27, 2017

TO: The Honorable Gilbert S.C. Keith-Agaran, Chair  
Senate Committee on Judiciary and Labor

The Honorable Jill N. Tokuda, Chair  
Senate Committee on Ways and Means

FROM: Mike White  
Council Chair

A handwritten signature in black ink, appearing to read "Mike White", is written over the printed name and title.

SUBJECT: **HEARING OF MARCH 30, 2017; TESTIMONY IN OPPOSITION TO HB 165,  
HD1, SD1, RELATING TO PUBLIC MEETINGS**

Thank you for the opportunity to testify in **opposition** to this measure. This bill requires boards to allow oral testimony to be presented on agenda items separately and at the time the item is first brought up for discussion at the meeting.

The Maui County Council has not had the opportunity to take a formal position on this measure. Therefore, I am providing this testimony in my capacity as an individual member of the Maui County Council.

In the bill, Section 2.92-3 is amended to read:

"The boards shall also afford all interested persons an opportunity to present oral testimony on any agenda item[.]; provided that oral testimony shall be allowed for each agenda item separately and at the time the item is first brought up for discussion at the meeting. The boards may provide for reasonable administration of oral testimony by rule."

While I appreciate the intent of the measure, the **added language under this section is not needed** and will cause unnecessary restriction to boards, such as county councils, in the conduct of their business.

For the Maui County Council, testimony on any or all agenda items is permitted at the start of each meeting with time allotted separately for each item. This offers convenience as testifiers avoid waiting through the board's discussions. The amendment may cause an unintended consequence of discouraging public participation and testimony due to time restraints.

For example, on the Maui County Council's February 17, 2017 agenda, 44 separate items were posted for discussion. If this requirement was to be implemented, the council would be required to stop and ask for testimony before all 44 items.

It is best to leave the administration of oral testimony entirely to the board, who has authority and knowledge of anticipated number of testifiers and length of time needed to cover all agenda items. If necessary, boards already have the option to take testimony item by item. However, forcing such a restriction would cause frustration and unnecessary hardship.

Mahalo for your consideration.

*ocs:proj:legis:17legis:17testimony:hb165\_hd1\_sd1\_mkz*



AMERICANS FOR DEMOCRATIC ACTION

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[www.adaaction.org](http://www.adaaction.org)

March 27 , 2017

TO: Honorable Chairs Keith-Agaran and Tokuda and Members of their Committees

RE: HB 165 HD1 SD1 Relating to Public Meetings  
Support for hearing on March 30

Americans for Democratic Action is an organization founded in the 1950s by leading supporters of the New Deal and led by Patsy Mink in the 1970s. We are devoted to the promotion of progressive public policies.

We support HB 165 HD1 SD1 as we like its key provisions:

- Public access to board packets before a meeting. The Sunshine Law encourages the public to testify on matters before a board, but does not give individuals the information necessary to truly exercise that right. People should be able to see the public records provided to board members before a meeting, so that the public can submit informed and more helpful testimony to the board.
- Testimony when agenda item called. Public testimony should be heard at the same time that the board would be discussing an agenda item. A common board practice of hearing all testimony at the beginning of a meeting indicates that the board does not care about what the public has to say.
- Electronic meeting notices. Everyone uses e-mail and the Internet, so we should be able to find out about government board meetings by checking a website or receiving e-mail notices. Using postal mail and posting at a board office reflects outdated notions of public notice.
- Minutes on the Internet. Requiring the public to ask for minutes only delays access. The public should be able to find out what happened at a board meeting without waiting two weeks for a request to be processed.
- Recordings. A Sunshine meeting is a public proceeding, and people should be able to record it by any means available. The reference to "sonic" recordings only reflects the technology readily available in 1975.

Thank you for your consideration.

Sincerely,

John Bickel  
President

**From:** [mailinglist@capitol.hawaii.gov](mailto:mailinglist@capitol.hawaii.gov)  
**To:** [JDLTestimony](#)  
**Cc:**  
**Subject:** \*Submitted testimony for HB165 on Mar 30, 2017 09:50AM\*  
**Date:** Friday, March 24, 2017 4:36:26 PM

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**HB165**

Submitted on: 3/24/2017

Testimony for JDL/WAM on Mar 30, 2017 09:50AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Cathy Goeggel	Animal Rights Hawai'i	Support	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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THE CIVIL BEAT  
LAW CENTER FOR THE PUBLIC INTEREST

700 Bishop Street, Suite 1701  
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Senate Committee on Judiciary and Labor  
Honorable Gilbert S.C. Keith-Agaran, Chair  
Honorable Karl Rhoads, Vice Chair

Senate Committee on Ways and Means  
Honorable Jill N. Tokuda, Chair  
Honorable Donovan M. Dela Cruz, Vice Chair

**RE: Testimony Supporting H.B. 165 H.D. 1 S.D. 1, Relating to Public Meetings**  
Hearing: March 30, 2017 at 9:50 a.m.

Dear Chairs and Members of the Committees:

My name is Brian Black. I am the Executive Director of the Civil Beat Law Center for the Public Interest, a nonprofit organization whose primary mission concerns solutions that promote government transparency. Thank you for the opportunity to submit testimony **strongly supporting H.B. 165 H.D. 1 S.D. 1** with one comment. Section 5 should be amended to align with the amendments in S.B. 1277 S.D. 2 (see attached proposal).

H.B. 165 H.D. 1 S.D. 1 is critical legislation to bring our open meetings law into the 21st Century. The Internet and e-mail are pervasive features of the public's everyday routine, but our open meetings law continues to have antiquated provisions about postal mail and "sonic" recordings. This bill balances the concerns previously raised by boards with the reality of our modern electronic life.

At the Senate Committee on Government Operations, DCCA stated that an exemption for license applications (as incorporated into the Senate draft) would address its concerns about the board packet requirement.<sup>1</sup> And DLNR—after misreading the board packets provision to require copying and mailing of numerous hard copy board packets—stated that it would be satisfied with a requirement to file one hard copy of

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<sup>1</sup> DCCA license applications in a board packet were exempt under the prior language, in any event, because protected from disclosure under chapter 92F. OIP Op. No. 91-01 at 1-2 ("When the DCCA has not yet issued or has denied issuance of a license to an applicant, the license application is confidential under the UIPA exception for government records which, if disclosed, would constitute a clearly unwarranted invasion of personal privacy."). The Senate draft makes that exemption explicit.

the packet in the board office for public access.<sup>2</sup> As the Senate Committee on Judiciary and Labor remarked in passing the companion legislation S.B. 312 S.D. 2, DLNR already does what is required by the board packets provision. The Legislature has studied and refined this issue for three years. It is time to update the Sunshine Law.

In S.B. 1277 S.D. 2, the Senate Committee on Judiciary and Labor astutely resolved the concern that language similar to current section 5 conflates “minutes” and “recordings.” A consequence of conflating those records was that public access to recordings would be delayed weeks longer than under existing law. The attached proposal incorporates the solution from S.B. 1277 S.D. 2. The proposal also includes the 40-day time period – requested by boards – for posting minutes on the Internet.

Thank you again for the opportunity to testify.

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<sup>2</sup> Iterations of this legislation in years past required mailing of board packets to individuals who receive meeting notices, which as DLNR and other boards observed at the time could be costly. *See, e.g.*, S.B. 475 (2015). H.B. 165 H.D. 1 S.D. 1 only requires filing one copy for public access at the board office. The Law Center explained this at the GVO hearing. That Committee stated at the hearing that it would make any amendments necessary to confirm that only one hard copy need be available.

SECTION 5. Section 92-9, Hawaii Revised Statutes, is amended to read as follows:

"(a) The board shall keep [written] minutes of all meetings[.]; provided that the minutes may be written or recorded by analog or digital means. If the minutes are recorded by analog or digital means, a written summary of the recording shall accompany the recording, and the written summary shall include any significant actions taken by the board, including motions and votes made by the board. Unless otherwise required by law, neither a full transcript nor a recording of the meeting is required, but the [written] minutes shall give a true reflection of the matters discussed at the meeting and the views of the participants. The minutes shall include, but need not be limited to:

- (1) The date, time, and place of the meeting;
- (2) The members of the board recorded as either present or absent;
- (3) The substance of all matters proposed, discussed, or decided; and a record, by individual member, of any votes taken; and
- (4) Any other information that any member of the board requests be included or reflected in the minutes.

(b) The minutes shall be made available to the public [records and shall be available] by posting on the board's website or, if the board does not have a website, on an appropriate state or county website within [thirty] forty days after the meeting except where such disclosure would be inconsistent with section 92-5; provided that minutes of executive meetings may be withheld so long as their publication would defeat the lawful purpose of the executive meeting, but no longer. If the minutes are recorded by analog or digital means, the recordings shall be available within ten days after the meeting unless disclosure is inconsistent with section 92-5; provided that analog or digital recordings of minutes of executive meetings may be withheld as long as their availability would defeat the lawful purpose of the executive meeting, but no longer. The board shall maintain reasonable care of any original or duplicate recordings of minutes that are recorded by analog or digital means.

(c) All or any part of a meeting of a board may be recorded by any person in attendance by [means of a tape recorder or] any [other] means of [sonic] reproduction, except when a meeting is closed pursuant to section 92-4; provided the recording does not actively interfere with the conduct of the meeting."





Senate Judiciary and Labor Committee / Senate Ways and Means Committee  
Chair Gilbert Keith-Agaran, Chair Jill Tokuda

03/30/2017 at 9:50 AM in Room 211  
HB165 HD1 SD1— Relating to Public Meetings

TESTIMONY — SUPPORT  
Corie Tanida, Executive Director, Common Cause Hawaii

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Dear Chair Keith-Agaran, Chair Tokuda, and members of the committees:

**Common Cause Hawaii supports HB165 HD1 SD1** which would require board packets to be made available to the public and require boards to allow oral testimony on agenda items separately and at the time the items is discussed. It would also require the electronic posting of meeting notices and establishes requirements for emergency meetings.

We believe that an educated, engaged citizenry is crucial to a thriving democracy, and making board packets available to the public prior to a board meeting, and allowing the public to provide oral testimony both separately and at the time the item is discussed at the meeting is key to fostering greater public dialog between policy makers and the public on pressing issues that affect Hawaii.

In order to strengthen this bill and reduce confusion, we humbly suggest that you amend Section 5, as the current language conflates “minutes” and “recordings”, which could delay public access to recordings. We suggest using the language for this section as found in SB1277 SD2.

Updates to our Sunshine Law are long overdue and we urge you to pass this bill to bring our open meetings law into the 21<sup>st</sup> Century.

Thank you for the opportunity to testify **in support of HB165 HD1 SD1**.



TIM VANDEVEER  
Chair

MARGARET WILLE  
SEAN SMITH  
Legislative Committee Co-Chairs

March 27, 2017

COMMITTEE ON JUDICIARY AND LABOR

Senator Gilbert S.C. Keith-Agaran, Chair  
Senator Karl Rhodes, Vice Chair

COMMITTEE ON WAYS AND MEANS

Senator Jill N. Tokuda, Chair  
Senator Donovan Dela Cruz, Vice Chair

Wed, March 30<sup>th</sup> – 9:50 a.m. - State Capitol, Conference Room 211

SUPPORT FOR HB165 HD1 SD1 – “RELATING TO PUBLIC MEETINGS”

**Submitted on Behalf of the Democratic Party of Hawaii**

The Democratic Party of Hawai‘i supports HB165 HD1 SD1 - “Relating to Public Meetings”. As you know, the Sunshine Law (open meetings) was enacted in 1975, and many of its key provisions have not been updated to address modern technology. Despite many amendments to accommodate board interests, it has been more than 30 years since the Legislature substantially amended the Sunshine Law to provide more meaningful public access. This bill will bring the Sunshine Law into the 21st Century.

**The DPH supports the above legislation based on our Platform and Resolutions and corresponding GOVERNMENT AND POLITICAL REFORM priorities including** “support (for) enforcement of sunshine laws and transparency in legislative and administrative sessions and meetings that discuss and make policy.”

Respectfully submitted,

/s/ Tim Vandeveer (tim@hawaiidemocrats.org)  
Chair of the Democratic Party of Hawai‘i

/s/ Margaret Wille (margaretwille@mac.com)  
/s/ Sean Smith (simashang@yahoo.com)  
Legislative Committee Co-Chairs

**DEMOCRATIC PARTY OF HAWAII‘I**

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**From:** [mailinglist@capitol.hawaii.gov](mailto:mailinglist@capitol.hawaii.gov)  
**To:** [JDLTestimony](#)  
**Cc:**  
**Subject:** Submitted testimony for HB165 on Mar 30, 2017 09:50AM  
**Date:** Sunday, March 26, 2017 5:04:26 PM

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**HB165**

Submitted on: 3/26/2017

Testimony for JDL/WAM on Mar 30, 2017 09:50AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Scott Foster	Hawaii Advocates For Consumer Rights	Support	No

Comments: Please hear and pass this important update to Hawaii's antiquated Sunshine law. The very idea the the use of the Internet is not yet included in this decades-old law speaks volumes about why Hawaii is perceived to be "technically still living in the Dark Ages" re the use of technology. Mahalo fpr your kokua.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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HAWAII COMMUNITY  
DEVELOPMENT AUTHORITY



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Governor

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Chairperson

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STATEMENT OF  
  
JESSE K. SOUKI, EXECUTIVE DIRECTOR  
HAWAII COMMUNITY DEVELOPMENT AUTHORITY  
  
BEFORE THE  
  
SENATE COMMITTEES ON JUDICIARY AND LABOR AND WAYS AND  
MEANS

ON

Thursday, March 30, 2017  
9:50 A.M.  
State Capitol, Conference Room 211

in consideration of  
**HB165 HD1 SD1 – RELATING TO PUBLIC MEETINGS**

Chairs Keith-Agaran and Tokuda, Vice Chairs Rhoads and Dela Cruz, and  
members of the committee.

This testimony reflects my view alone. The Hawaii Community  
Development Authority (HCDA) has not acted on this measure.

In my capacity as the HCDA Executive Director, I respectfully offer  
**comments** on HB165, HD1, SD1.

This bill has the laudable goal of making information on proposed board  
actions more available to the public.

The HCDA has adopted the practice of posting board packets to its website  
when it distributes the information to board members; however, provisions in  
earlier drafts of this bill to mandate packet distribution could have unintended  
consequences that could require additional resources and add burden to a citizen  
board. We would prefer the working group and scope of inquiry outlined in  
HB165, HD1 as a prudent approach to balancing the need for public decision-  
making and the administrative burden that works against the public's interest in  
effective government.

In addition, we agree boards should have more time to make minutes  
available as HCDA's board approves its minutes as a matter of practice; however,  
since the board meets monthly, it is administratively difficult to meet the 30 day  
deadline.

Thank you for the opportunity to provide comments on this bill.

**From:** [mailinglist@capitol.hawaii.gov](mailto:mailinglist@capitol.hawaii.gov)  
**To:** [JDLTestimony](#)  
**Cc:**  
**Subject:** Submitted testimony for HB165 on Mar 30, 2017 09:50AM  
**Date:** Sunday, March 26, 2017 4:59:39 PM

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## **HB165**

Submitted on: 3/26/2017

Testimony for JDL/WAM on Mar 30, 2017 09:50AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Scott Foster	Kupuna Caucus of the Democratic Party of Hawaii	Support	No

Comments: Hawaii's Sunshine Law was enacted in 1975 but many of its key provisions have not been updated to address modern technology. In the existing law, meeting notices are required only by postal mail and boards are only required to permit "sonic" recordings by the public. Using postal mail and posting at a board office reflect very outdated modes of giving public notice. HB165 HD1 SD1 brings the Sunshine Law into the 21st Century where people use e-mail and the Internet. The Legislature has examined this issue for three years and it is long-past the time to do these and many other updates and improvements contained in HB165 HD1 SD1. Please hear and pass this long-needed legislation.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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Senate Committee on Judiciary and Labor  
Senate Committee on Ways and Means  
Thursday, March 30, 2017, 9:50 AM, Conference Room 211  
**HB 165, HD1, SD1 Relating to Public Meetings**

**TESTIMONY**

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

Chair Keith-Agaran, Chair Tokuda, and Committee Members:

**The League of Women Voters of Hawaii strongly supports HB 165, HD1, SD1 which ensures timely electronic notice of board meetings, requires electronic posting of board minutes, and facilitates public access to board packets to be discussed at board meetings.**

HB 165, HD1, SD1 is needed to resolve chronic public complaints about boards which:

- are unwilling to provide timely electronic notice of board meetings.
- procrastinate preparation and disclosure of board minutes.
- require the public to present testimony concerning board packets before the public has an opportunity to review those board packets.
- delay public disclosure of board packets until after completion of final board action on those board packets.

Thank you for the opportunity to submit testimony.

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**To:** [JDLTestimony](#)  
**Cc:** |  
**Subject:** \*Submitted testimony for HB165 on Mar 30, 2017 09:50AM\*  
**Date:** Saturday, March 25, 2017 1:51:00 PM

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**HB165**

Submitted on: 3/25/2017

Testimony for JDL/WAM on Mar 30, 2017 09:50AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Benton	Individual	Support	No

Comments:

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**To:** [JDLTestimony](#)  
**Cc:** [C](#)  
**Subject:** Submitted testimony for HB165 on Mar 30, 2017 09:50AM  
**Date:** Friday, March 24, 2017 6:14:54 PM

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**HB165**

Submitted on: 3/24/2017

Testimony for JDL/WAM on Mar 30, 2017 09:50AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
christine trecker	Individual	Support	No

Comments: I strongly support HB165 HD1 SD1 which will help ensure that the public receives timely and electronically accessible information related to board meeting notices, packets and minutes. I applaud this "open government" bill. It is an important step in the right direction!

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**To:** [JDLTestimony](#)  
**Cc:**  
**Subject:** Submitted testimony for HB165 on Mar 30, 2017 09:50AM  
**Date:** Friday, March 24, 2017 4:28:08 PM

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**HB165**

Submitted on: 3/24/2017

Testimony for JDL/WAM on Mar 30, 2017 09:50AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Don Aweau	Individual	Support	No

Comments: In the public interest to foster transparency for public meetings. Urge committee members to pass this bill. Mahalo nui loa.

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**Cc:**  
**Subject:** Submitted testimony for HB165 on Mar 30, 2017 09:50AM  
**Date:** Monday, March 27, 2017 2:15:09 PM

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## **HB165**

Submitted on: 3/27/2017

Testimony for JDL/WAM on Mar 30, 2017 09:50AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Kim Coco Iwamoto	Individual	Support	No

Comments: Please accept this testimony in STRONG SUPPORT of HB165, HD1, SB1. Having served on various state boards that must comply with sunshine laws, I have always found it disingenuous that we only require notice of a vaguely outlined agenda without the substance of what is to be discussed. How can the board or commission reap the benefits of public testimony if testimony is normally accepted only before the formal discussion and the public has no idea of the content? I am glad you removed the requisite for a working group since the problem and solution is clear. Given technology available to all state offices, there is no reason the electronic publishing of the materials cannot be required by all boards and commission. I urge your committee to remove the "if feasible" qualifier. Thank you.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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PETER L. FRITZ  
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THE SENATE  
THE TWENTY-NINTH LEGISLATURE  
REGULAR SESSION OF 2017

COMMITTEE ON WAYS AND MEANS  
and  
COMMITTEE ON JUDICIARY AND LABOR

H.B. 165 H.D. 1, S.D. 1  
Hearing: March 30, 2017

RELATING TO PUBLIC MEETINGS

Chairs Tokuda and Keith-Agaran, Vice Chairs Dela Cruze and Rhoads and members of the Committees. My name is Peter Fritz. I am an individual with a disability. I am testifying **in support of the intent of this bill, but with proposals for needed amendments.**

Changes proposed in this bill is to change the filing requirements for board agendas and allow electronic mailing of meeting notices, and requires electronic posting of meeting notices, cancellation notices, and meeting minutes.

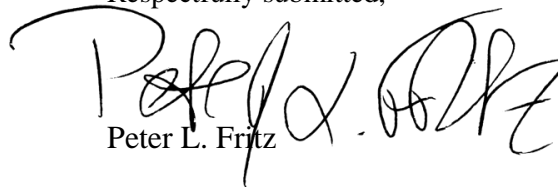
It is respectfully submitted that the time and date that the notice is filed with the Lieutenant Governor should determine if a notice of meeting and agenda was timely filed. At the present time, it does not appear that the state calendar can provide proof that a notice was filed within the prescribed time limits. I base this statement on the fact that I received an electronic notice for a meeting that said that the agenda was posted on the same day as the meeting (See attachment). Until the State calendar can provide proof of timely filing of an agenda, the current system that relies on proof of timely filing based upon receipt by the Lieutenant Governor, should be retained. Furthermore, it is easier to talk to someone at the Lieutenant Governor's office than it is to try to talk to the computer that maintains the state calendar. I am also aware that coding errors caused and electronically posted notice to be recorded with an incorrect time for the meeting. In such a situation, would the notice of the meeting need to be canceled?

This bill should be effective only after rules are promulgated to inform agencies of the need for assessable content this sfor an agenda. At the present time, some agencies do not post their agenda on the calendar, but post a link to an agenda on their website instead. Rules are necessary to clarify what actions satisfy the electronic posting requirement. Is a link, which does not satisfy the accessibility requirements, to another site sufficient or should the agenda be posted on the state calendar?

With respect to sending electronic copies of notices, rules need to be promulgated to ensure that the content of such notices is accessible to individuals with disabilities as required by the Americans with Disabilities Act which will have its 27<sup>th</sup> anniversary this year.

Thank you for the opportunity to testify.

Respectfully submitted,

  
Peter L. Fritz

## PLF at HQ

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**From:** Civil Rights Commission  
**Posted At:** Friday, March 24, 2017 2:00 AM  
**Conversation:** Hawaii Civil Rights Commission Monthly Meeting  
**Posted To:** Civil Rights Commission  
  
**Subject:** Hawaii Civil Rights Commission Monthly Meeting

Location: 830 Punchbowl St Room 410 Honolulu, HI 96813

Date: 2017/03/24

Time: 01:30 PM - 05:00 PM

March 24, 2017

...

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**From:** [R. Elton Johnson, III](#)  
**To:** [JDL Testimony](#); [WAM Testimony](#)  
**Subject:** Testimony in strong support of HB 165 HD1 SD1 (March 30, 2017, Room 211)  
**Date:** Tuesday, March 28, 2017 9:06:52 PM

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Hawai‘i’s Sunshine Law, *Hawaii Revised Statutes* Chapter 92 (1975), begins:

In a democracy, the people are vested with the ultimate decision-making power. Governmental agencies exist to aid the people in the formation and conduct of public policy. Opening up the governmental processes to public scrutiny and participation is the only viable and reasonable method of protecting the public's interest.

2017’s HB 165 outlines a much-needed update of Chapter 92, to help realize public access in an age of internet, email, and other means of connectivity that did not exist in 1975. “It is the intent of this part to protect the people’s right to know,” reads Chapter 92; “[t]he provisions requiring open meetings shall be liberally construed.”

HB 165 will help to ensure that the intent of Hawaii’s Sunshine Law is not lost in dark cul-de-sacs resulting from outdated or ill-articulated protocols for keeping the process of government open to the public. Real and timely public notice, public access to board materials, availability of minutes, and so on are critical to meaningful public participation.

The requisite update of Chapter 92 has been under consideration for years now. Please support the important measure HB 165 HD1 SD1.

Mahalo Nui,

R. Elton Johnson, III