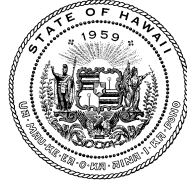


DAVID Y. IGE
GOVERNOR

SHAN TSUTSUI
LT. GOVERNOR



STATE OF HAWAII
DEPARTMENT OF TAXATION
P.O. BOX 259
HONOLULU, HAWAII 96809
PHONE NO: (808) 587-1540
FAX NO: (808) 587-1560

MARIA E. ZIELINSKI
DIRECTOR OF TAXATION

DAMIEN A. ELEFANTE
DEPUTY DIRECTOR

To: The Honorable Scott Y. Nishimoto, Chair
and Members of the House Committee on Judiciary

Date: Friday, February 24, 2017
Time: 2:00 P.M.
Place: Conference Room 325, State Capitol

From: Maria E. Zielinski, Director
Department of Taxation

Re: H.B. 165, Relating to Public Meetings

The Department of Taxation (Department) appreciates the intent of H.B. 165 and provides the following comments for your consideration.

Section 1 of H.B. 165 requires that at the time any documents are distributed to board members, the documents are also made available to the public via electronic or a hard copy to all persons requesting the information.

Sections 2 and 3 of H.B. 165 requires the meeting notice to be posted on the electronic calendar on the State's website (State's electronic calendar) or the appropriate county website, in addition to filing a notice with the Office of the Lieutenant Governor or the appropriate county clerk's office, no less than six days before the meeting. Failure to meet both filing requirements will result in cancellation of the meeting.

Section 4 of H.B. 165 requires that the minutes of board meeting be posted on the board's website maintained by the State or appropriate county within 30 days after the meeting. H.B. 165 is effective upon approval.

First, the Department notes that it provides administrative support to the Council on Revenues (COR) and the Tax Review Commission (TRC). The Department has concerns regarding the requirement set forth in Sections 3 and 4 that modifies sections 92-7(b) and (c), and 92-8 (a) and (b), Hawaii Revised Statutes, because the State's electronic calendar requires manual entry of the agendas. Manual entry of the agendas has led to non-substantive and typographical errors in the past. It seems that this new requirement to post agendas to the State's master calendar could lead to cancellation of meetings based on an error as small as a typo or a missing word.

The COR and TRC are voluntary boards, which at times has made scheduling and rescheduling meetings challenging. By statute, the COR must meet and report to the Governor and Legislature during six prescribed meeting months. The Department has concerns that a minor error to the posting of the COR's agenda would require a meeting to be cancelled and rescheduled, possibly impacting their ability to meet during a month prescribed by statute. If the Committee wishes to advance this measure, the Department requests that posting the notice to the State's electronic calendar for both the COR and the TRC, be an option, rather than a requirement.

Lastly, the Department notes that it is able to meet the requirements set forth in Sections 1 and 4 of this measure. There have been instances when board members brought documents to meetings that were not previously provided to the Department. If the Department is aware that a board member may bring other documents to the board meeting, the Department has asked that the board member bring enough copies of the materials for all attendees. Where an insufficient number of copies are brought to a meeting, the Department will make copies for the attendees in a timely manner.

Thank you for the opportunity to provide comments.

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 House Committee on
JUDICIARY**

**Friday, February 24, 2017
2:00 PM
State Capitol, Conference Room 325**

**In consideration of
HOUSE BILL 165
RELATING TO PUBLIC MEETINGS**

House Bill 165 proposes to increase transparency in government by including and encouraging electronic access to board packets, clarifying electronic notification requirements and requiring the electronic posting of board minutes. **The Department of Land and Natural Resources (Department) electronically posts its board packets, agenda and minutes and offers the following comments.**

The Department has sixteen attached boards, commissions and committees. Most meet monthly and several have extensive board packets attached to their meetings. The Department has found that electronic posting is the most efficient and cost effective way to allow broad public access to meeting materials, agendas and meeting minutes. For example, agendas and board submittals for the Board of Land and Natural Resources (Board) are available on the Department's website at <http://dlnr.hawaii.gov/meetings/blnr-meetings-2017/>. Hard copies are also posted for public viewing at the Department's main office and district land offices.

However, the Department is concerned that language in SECTION 1 could require the Board to provide hard copies of the board packets upon request. The Department has estimated that the cost of copying and mailing the average board packet is roughly \$135,000 per year (see table below). For agenda items with broad public interest, it may not be possible for the Department to provide hard copies of the board packet prior to the meeting. Therefore, such a requirement could severely hamper the Board's ability to conduct its business.

The Department notes that it is working toward meeting the Americans with Disabilities Act requirements for electronic posting.

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

The Department offers the following amendment on line 10, page 1:

At the time the board packet is distributed to the board members, the board shall file the board packet in the board's office for public inspection and provide notice to persons requesting notification pursuant to section 92-7(e) that the board packets are available. When the board packets are filed in the board's office, the board shall provide reasonably prompt **electronic** access to the board packet to any person on request.

Table showing estimated costs to mail packets to the 47 people who currently request hard copies of the Board's agenda:

| Pages | Packets | Meetings | Copy costs | Postage costs | Total cost |
|-------|---------|----------|------------|---------------|---------------|
| 250 | 47 | 22 | 0.5 | | \$ 129,250.00 |
| | 47 | 22 | | \$6 | \$ 6,204.00 |
| Total | | | | | \$ 135,454.00 |

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: House Committee on Judiciary

From: Cheryl Kakazu Park, Director

Date: February 24, 2017, 2:00 p.m.
State Capitol, Conference Room 325

Re: Testimony on H.B. No. 165
Relating to Public Meetings

Thank you for the opportunity to submit testimony on this bill. The **Office of Information Practices (“OIP”)** supports bill sections 2 and 3, which would provide for electronic filing of notice of meetings under the **Sunshine Law**, part I of chapter 92F, HRS, with proposed amendments. With respect to **bill section 1**, which would require boards to file a board packet in the board office and disclose it upon request, **OIP would recommend that this Committee consider creating a working group of affected parties to work out the practical concerns raised by boards** during the interim so that legislation accounting for those concerns can be introduced the next session. **OIP takes no position on bill section 4**, which would require boards to post minutes online, **but recommends that if such a requirement is added to the Sunshine Law, the deadline for posting minutes should be extended from 30 days to 40 days after the meeting because of the additional time that will be needed for online posting.**

Board Packets:

With respect to bill section 1, OIP recognizes that the requirement **to provide board packets** will serve the Sunshine Law's policy of opening up governmental processes to public scrutiny and participation. Among other things, this new requirement would allow for more meaningful public testimony by giving interested members of the public more of the information that is actually before a board at the time of its meeting.

At the same time, the requirement would create a new and potentially substantial administrative burden for many boards, as they will need to ensure that what could be hundreds of pages of board materials, including some provided by third parties, are **reviewed and redacted under chapter 92F**, the Uniform Information Practices Act ("UIPA"), prior to public distribution, which boards have not needed to do for the board packets they may be accustomed to sending now to board members. Boards have testified that they do not have the **staff to do the work** in the relevant timeframe. **If boards fail to meet their new obligations, the procedural failures may become the basis for potential liability and substantial litigation seeking to overturn the boards' action.**

In light of these concerns, OIP recommends that this Committee 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.

Electronic Notice:

OIP supports the electronic notice provisions in bill sections 2 and 3. 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 2 and 3 would amend the Sunshine Law to add electronic notice as a requirement for giving notice of a board meeting, without taking away any of the forms of notice that currently exist. In other words, **boards would still be required to file or post notice in all the ways they presently do, but would also be required to post electronic notice on the appropriate state or county online calendar**. 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.

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.

Boards testifying on other versions of this bill have expressed concern that adding a new official filing method, while still keeping the old one, increases the opportunities for filing errors that could require cancellation of a meeting. To address those concerns, while allowing people accustomed to checking paper notices to continue to do so, **OIP recommends amendments to this section that would have electronic notice replace paper notice as the official filing method,**

rather than being an additional official method. The proposed amendments would still require 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. OIP recommends an effective date of July 1, 2018 for the electronic notice provisions, in order to give the OLG, county clerks, and boards time to adjust to the new requirements.

Minutes Online:

Bill section 4 contains a proposed requirement that **board minutes be publicly posted online** rather than merely “available” to the public within 30 days after the meeting is something not required by current law. While online minutes are obviously much easier for members of the public to access, OIP notes that this requirement would **take time to implement** given that many boards do not have 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 also 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. **This change will effectively shorten the deadline for boards to have their minutes prepared, and OIP therefore recommends that to allow boards the same amount of time they**

currently have to prepare minutes, the deadline for posting minutes online should be “within forty days after the meeting” rather than “within thirty days after the meeting.” OIP would further recommend an effective date no earlier than July 1, 2018 to allow boards time to prepare for these statutory changes.

A proposed HD1 with OIP’s suggested amendments is attached. In summary, OIP recommends that this Committee:

(1) amend bill section 1 to instead **create a working group** to find solutions to the potential administrative burden created by a board packet disclosure requirement, so that legislation creating such a requirement can be introduced in 2018;

(2) **pass out the electronic notice provisions in bill sections 2 and 3 with amendments, effective July 1, 2018 to give the OLG, County Clerks, and boards time to adjust; and**

(3) if inclined to pass out the online minutes proposal in bill section 4, **allow boards 40 days after a meeting to post the minutes online and delay section 4’s effective date to July 1, 2018 to give the boards time to adjust to the new requirements.**

Thank you for considering OIP’s testimony.

SECTION 1. (a) There shall be convened by the speaker of the house of representatives, a board packet working group to develop board packet disclosure requirements that will meet the public's interest of greater disclosure of board meetings.

(b) The working group shall consist of the following members:

- (1) The chair of the house committee on consumer protection and commerce;
- (2) The chair of the house committee on judiciary;
- (3) The director of the office of information practices, or the director's designee;
- (4) A representative of the professional and vocational licensing division of the department of commerce and consumer affairs, appointed by the director of commerce and consumer affairs;
- (5) A representative of the department of land and natural resources, appointed by the chairperson of the board of land and natural resources;
- (6) Four members, each representing one of the four counties, appointed by the mayor of the respective county; and
- (7) One member of the public, appointed by the speaker of the house of representatives in consultation with the chair of the house committees on consumer protection and commerce and on judiciary.

(c) The working group shall not be required to vote on actions taken, shall not be subject to quorum requirements, and shall not be subject to part I of chapter 92, Hawaii Revised Statutes.

(d) The working group shall research current board packet disclosure requirements, including any concerns or issues raised by the general public regarding compliance with these requirements, and develop proposals for board packet disclosure

requirements. Proposals for board packet disclosure requirements shall take into consideration:

- (1) Public interest in the disclosure of board packets containing meeting materials and information regarding topics being given consideration at board meetings;
- (2) Information that may be withheld from inclusion in the board packets, including matters to be discussed in executive session;
- (3) Limitations of administrative burdens that would have a negative impact on the effectiveness and efficiency of the board and board meetings;
- (4) The necessity and cost of hiring additional staff to meet staffing needs for the provision of board packets;
- (5) Any other costs associated with the provision of board packets, including copying costs and administrative costs;
- (6) Any funding needs to implement the proposals; and
- (7) Any other considerations the working group deems to be relevant.

(e) The working group, with the assistance of the legislative reference bureau, shall submit a report of its findings and recommendations, including any proposed legislation, to the legislature no later than twenty days prior to the convening of the regular session of 2018.

(f) The members of the working group shall serve without compensation but shall be reimbursed for expenses, including travel expenses, necessary for the performance of their duties.

(g) No member of the working group shall be subject to chapter 84, Hawaii Revised Statutes, solely because of the member's participation in the working group.

(h) The working group shall be dissolved on June 30, 2018.

SECTION 2. Section 92-7, Hawaii Revised Statutes, is amended to read as follows:

"§92-7 Notice. (a) The board shall give written public notice of any regular, special, emergency, or rescheduled meeting, or any executive meeting when anticipated in advance. The notice shall include an agenda ~~[which]~~ that lists all of the items to be considered at the forthcoming meeting, the date, time, and place of the meeting, and in the case of an executive meeting the purpose shall be stated. If an item to be considered is the proposed adoption, amendment, or repeal of administrative rules, an agenda meets the requirements for public notice pursuant to this section if it contains a statement on the topic of the proposed rules or a general description of the subjects involved, as described in section 91-3(a)(1)(A), and a statement of when and where the proposed rules may be viewed in person and on the Internet as provided in section 91-2.6. The means specified by this section shall be the only means required for giving notice under this part notwithstanding any law to the contrary.

(b) ~~[The]~~ No less than six calendar days prior to the meeting, the board shall ~~[file the notice in the office of the lieutenant governor or the appropriate county clerk's office,]~~ post the notice on an electronic calendar on a website maintained by the State or the appropriate county and in the board's office for public inspection, ~~[at least six calendar days before the meeting]~~. The notice shall also be posted at the site of the meeting whenever feasible. The board shall provide a copy of the notice to the office of the lieutenant governor or the appropriate county clerk's office at the time the notice is posted, and the office of the lieutenant governor or the appropriate county clerk's office shall post paper or electronic copies of all meeting notices in a central location in a public building, provided that a failure to do by the board or the office of the lieutenant governor or the appropriate county clerk's office shall not require cancellation of the meeting.

(c) If the written public notice is ~~[filed in the office of the lieutenant governor or the appropriate county clerk's office]~~ electronically posted on an electronic calendar less than six calendar days before the meeting, [the lieutenant governor or the appropriate county clerk shall immediately notify the chairperson of the board, or the director of the department within which the board is established or placed, of the tardy filing of the meeting notice. The] the meeting shall be canceled as a matter of law, ~~the]~~ and shall not be

held. The chairperson or the director shall ensure that a notice canceling the meeting is posted at the place of the meeting[, and no meeting shall be held.]. If there is a dispute as to whether a notice was timely posted on an electronic calendar maintained by the State or appropriate county, a printout of the electronic time-stamped agenda shall be conclusive evidence of the electronic posting date. The board shall provide a copy of the time stamp upon request.

(d) No board shall change the agenda [~~, once filed,~~] less than six calendar days prior to the meeting, by adding items thereto without a two-thirds recorded vote of all members to which the board is entitled; provided that no item shall be added to the agenda if it is of reasonably major importance and action thereon by the board will affect a significant number of persons. Items of reasonably major importance not decided at a scheduled meeting shall be considered only at a meeting continued to a reasonable day and time.

(e) The board shall maintain a list of names and postal or electronic mail addresses of persons who request notification of meetings and shall mail or electronically mail a copy of the notice to such persons by the means chosen by such persons at their last recorded postal or electronic mail address no later than the time the agenda is [~~filed~~] required to be electronically posted under subsection (b)."

SECTION 3. Section 92-8, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

"(a) If a board finds that an imminent peril to the public health, safety, or welfare requires a meeting in less time than is provided for in section 92-7, the board may hold an emergency meeting provided that:

- (1) The board states in writing the reasons for its findings;
- (2) Two-thirds of all members to which the board is entitled agree that the findings are correct and an emergency exists;
- (3) An emergency agenda and the findings are [~~filed with the office of the lieutenant governor or the appropriate county clerk's office, and in the board's office;~~] electronically posted pursuant to section 92-

7(b); provided that the six calendar day requirement for filing and electronic posting shall not apply; and

- (4) Persons requesting notification on a regular basis are contacted by postal or electronic mail or telephone as soon as practicable.

(b) If an unanticipated event requires a board to take action on a matter over which it has supervision, control, jurisdiction, or advisory power, within less time than is provided for in section 92-7 to notice and convene a meeting of the board, the board may hold an emergency meeting to deliberate and decide whether and how to act in response to the unanticipated event; provided that:

- (1) The board states in writing the reasons for its finding that an unanticipated event has occurred and that an emergency meeting is necessary and the attorney general concurs that the conditions necessary for an emergency meeting under this subsection exist;
- (2) Two-thirds of all members to which the board is entitled agree that the conditions necessary for an emergency meeting under this subsection exist;
- (3) The finding that an unanticipated event has occurred and that an emergency meeting is necessary and the agenda for the emergency meeting under this subsection are ~~[filed with the office of the lieutenant governor or the appropriate county clerk's office, and in the board's office;]~~ electronically posted pursuant to section 92-7(b); provided that the six calendar day requirement for filing and electronic posting shall not apply;
- (4) Persons requesting notification on a regular basis are contacted by postal or electronic mail or telephone as soon as practicable; and
- (5) The board limits its action to only that action which must be taken on or before the date that a meeting would have been held, had the board noticed the meeting pursuant to section 92-7."

SECTION 4. Section 92-9, Hawaii Revised Statutes, is amended by amending subsections (b) and (c) to read as follows:

"(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.

(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 ~~[some]~~ 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."

SECTION 5. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 6. This Act shall take effect on July 1, 2018, except that section 1 shall take effect upon approval.

LATE



DAVID Y. IGE
GOVERNOR
SHAN S. TSUTSUI
LT. GOVERNOR

STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
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CATHERINE P. AWAKUNI COLÓN
DIRECTOR

JO ANN M. UCHIDA TAKEUCHI
DEPUTY DIRECTOR

**PRESENTATION OF THE
PROFESSIONAL AND VOCATIONAL LICENSING DIVISION**

TO THE HOUSE COMMITTEE ON JUDICIARY

TWENTY-NINTH STATE LEGISLATURE
Regular Session of 2017

Friday, February 24, 2017
2:00 p.m.

TESTIMONY ON HOUSE BILL NO. 165, RELATING TO PUBLIC MEETINGS.

TO THE HONORABLE SCOTT Y. NISHIMOTO, CHAIR,
AND MEMBERS OF THE COMMITTEE:

The Professional and Vocational Licensing Division ("PVLD") of the Department and Consumer Affairs ("Department") appreciates the opportunity to testify on House Bill No. 165, Relating to Public Meetings. My name is Celia Suzuki, Licensing Administrator of the PVLD/DCCA. The PVLD offers the following comments in opposition to House Bill No. 165.

The purpose of the bill is to: 1) require board packets to be filed in the board's office for public inspection and provide notice that the board packet is available to persons requesting notification of meetings and provide reasonably prompt access to

the board packet to any person upon request, and if possible, accommodate requests for electronic access to the board packet; 2) require posting of the agenda notice on an electronic calendar on a website maintained by the State or the appropriate county; and 3) clarify that the final adjudication of any dispute to determine timeliness of an agenda notice shall be the printout of the electronic time-stamped agenda.

The PVLD opposes this measure for the following reasons:

- The requirements of providing board packets to interested persons in addition to board members is a major fiscal burden as it appears the PVLD is unable to assess recipients for copying and postage fees.

There are 25 boards and commissions administratively attached to the Division which equates to more than 200 members. In addition, there are currently 380 interested persons on various board lists to whom board packets would be sent if this measure is passed which would add many thousands of dollars in material and shipping costs annually to the Division's expenses. These costs are in addition to the diversion of equally important and scarce staff time that would be required to implement this measure's proposed requirements. PLVD is currently struggling to carry out and keep pace with its large and growing list of responsibilities for managing the 25 boards and commissions and the 25 additional licensing programs that come under the Division. Thus, the Division is very concerned about the added strain the requirements in the measure would put on Division/staff resources.

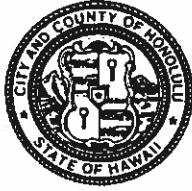
- Compliance with Hawaii Revised Statutes chapter 92F will require board staff to essentially create two separate packets; one for the general public and one for board members. This alone will add to the already taxing workload as public packets will require redaction of confidential information.
- Most of the information contained in board packets is confidential, and if sensitive information is mailed or posted in error, Boards, the Division/Department and the State are subject to major liability to which they are currently not.
- The language appears to also create a new deadline by requiring boards to have all written materials it intended to consider in final form at the time of filing the notice. Should boards fail to meet their new obligations, the procedural failures may become the basis for potential liability and substantial litigation seeking to overturn any board action or decision.

The PVLD acknowledges that the intent of the bill is to encourage public participation in government; however, the associated costs and workload demands on staff without the ability to assess recipients requesting for packets and documents will place a major strain on the Division's fiscal obligations and personnel.

For these reasons, the PVLD respectfully requests that this bill be held in Committee. Thank you for the opportunity to submit testimony in opposition to House Bill No. 165.

**LIQUOR COMMISSION
CITY AND COUNTY OF HONOLULU**

711 KAPIOLANI BOULEVARD, SUITE 600, HONOLULU, HAWAII 96813-5249
PHONE (808) 768-7300 or (808) 768-7333 • FAX (808) 768-7311
INTERNET ADDRESS: www.honolulu.gov/liq • E-MAIL: liquor@honolulu.gov



KIRK CALDWELL
MAYOR

JOSEPH V. O'DONNELL
CHAIRMAN

NARSI A. GANABAN
CO-VICE CHAIR

MALAMA MINN
CO-VICE CHAIR

DARREN Y. T. LEE
COMMISSIONER

FRANKLIN DON PACARRO, JR.
ADMINISTRATOR

ANNA C. HIRAI
ASSISTANT ADMINISTRATOR

February 22, 2017

The Honorable Scott Y. Nishimoto, Chair
The Honorable Joy A. San Buenaventura, Vice Chair
and Members of the Committee on Judiciary

Hearing: Friday, February 24, 2017
2:00 PM; Room 325

Position: Comments on HB 165, Relating to Public Meetings

Dear Chair Nishimoto, Vice Chair San Buenaventura, and Members:

The Liquor Commission, City and County of Honolulu (Commission), appreciates the opportunity to submit testimony providing comments on House Bill 165, Relating to Public Meetings.

The Commission fully supports and furthers the principles guaranteeing access for members of the public in the conduct of its weekly meetings. That said, we ask that Section 1 of House Bill 165 be clarified so as to ensure that public access will not unduly burden the licensees that comprise the Commission's stakeholder base.

The clarification requested in Section 1 is that the "reasonably prompt access" referred to in HB 165 is limited to making the board packet documents available for review. For any request for hard copy of said documents, we would presume that the copying-mailing charges authorized by HAR § 2-71-19 may be imposed on the requesting party. If, however, "access" is deemed to include provision of electronic or hard copy of the board packet documents to the requesting party, we would request confirmation that provision of either electronic or hard copy would be subject to appropriate copy and mail charges as authorized by HAR § 2-71-19.

The Liquor Commission appreciates the opportunity to provide testimony on House Bill 165, Relating to Public Meetings.

Respectfully submitted,


FRANKLIN DON PACARRO, JR.
Administrator

FDP:ACH



Feb. 24, 2017

Rep. Scott Nishimoto
House Judiciary Committee
State Capitol
Honolulu, HI 96813

Re: House Bill 165

Chairman Nishimoto and Committee Members:

We like HB 165 as a way to modernize the state Sunshine Law. We regard this bill as the most important change to the Sunshine Law for the public's benefit in a long time.

It is a good measure to keep the public notified via the Internet about government meetings and provide information to help it understand what is going on at the meetings.

The key part of the bill is providing access to materials that board members use to background themselves on agenda issues. Making these available to the public would increase transparency, understanding and participation.

HB 165 would require that board packets be posted in the board's office and make the packets available on request as soon as possible.

The bill would also call for meeting notices to be given on the Internet and by email, making use of modern technology.

The measure also requires board to post their minutes on the Internet, which would do much for public understanding of boards' actions.

Thank you for your time and attention.

Stirling Morita
President, Hawaii Chapter SPJ



49 South Hotel Street, Room 314 | Honolulu, HI 96813
www.lwv-hawaii.com | 808.531.7448 | voters@lwv-hawaii.com

House Committee on Judiciary
Friday, February 24, 2017, 2 PM, Conference Room 325
HB 165, Relating to Public Meetings

TESTIMONY

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

Chair Nishimoto and Committee Members:

The League of Women Voters of Hawaii strongly supports HB 165 which improves public notice of board meetings, public access to documents to be discussed at board meetings, and public access to board meeting minutes.

HB 165 will help to resolve chronic public complaints about boards which:

1. fail to provide timely electronic notice of board meetings.
2. require the public to present testimony on all agenda items before the public has opportunity to review board submittals to be discussed.
3. delay public disclosure of board submittals until after completion of board meetings at which the submittals are discussed.
4. procrastinate preparation and/or disclosure of board minutes beyond 30 days.

Thank you for the opportunity to submit testimony.



House Judiciary Committee
Chair Scott Nishimoto, Vice Chair Joy San Buenaventura

02/24/2017 at 2:00 PM in Room 325
HB165 – Relating to Public Meetings

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

Dear Chair Nishimoto, Vice Chair San Buenaventura, and members of the committee:

Common Cause Hawaii supports HB165 which would allow the public to access board packets, clarifies public notification requirements of board meetings, and adds emergency meetings to public meeting notice requirements.

We believe that an educated, engaged citizenry is crucial to a thriving democracy. By making information more accessible to the public, we can take a step toward fostering greater public dialog between policy makers and the public on pressing issues that affect Hawaii.

Thank you for the opportunity to offer testimony **supporting HB165**.

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House Committee on Judiciary
Honorable Scott Y. Nishimoto, Chair
Honorable Joy A. San Buenaventura, Vice Chair

RE: Testimony Supporting H.B. 165, Relating to Public Meetings
Hearing: February 24, 2017 at 2:00 p.m.

Dear Chair and Members of the Committee:

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.B. 165 is critical legislation to bring our open meetings law into the 21st Century. During the interim since last legislative session, the Law Center has worked to understand the concerns of boards and commissions to modernizing the Sunshine Law. 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.

Section 1: Board Materials

Our society cannot expect the public to participate and testify at Sunshine board meetings, unless the board educates the public—as it does its board members—concerning the matters that will be discussed at open meetings. Requiring public access to board packets before the meeting is essential. The logistics of automatically disseminating this information, however, could prove difficult in some instances. To minimize the burden on boards and commissions, H.B. 165 requires filing board packets in the board's office and making the packets *available on request as promptly as possible*.¹

Section 2 and Section 3: Notices on the Internet and by E-mail and Notice of Emergency Meetings

These sections ensure that interested persons receive timely notice of meetings using modern technology. Most, if not all, boards post meeting notices on an appropriate State or county website; for more than 5 years, it has been a requirement for all State

¹ The prompt disclosure provision is necessary to shorten the existing 10 business day response time under the State of Hawai'i Office of Information Practices regulations concerning public records, so that materials would be accessible *before* the meeting.

boards through Executive Memorandum No. 11-11. And many boards already have e-mail distribution lists for meeting notices because it is cheaper and more efficient than postal mailings.

Section 2 also provides boards more flexibility to amend agendas if filed more than six days before a meeting. Current law discourages boards and commissions from filing an agenda before the Sunshine 6-day deadline because once filed, the agenda cannot be amended absent extreme circumstances. Earlier notice of open meetings serves the public, and boards should be able to freely amend agendas as long as the public knows everything that will be discussed at least six days ahead of the meeting.

Section 4: Minutes on the Internet and Permission to Record Meetings

Boards currently must have publicly accessible minutes *on request* within 30 days of a meeting. OIP Op. No. 02-06. H.B. 165 requires that a board post that public record on the Internet, rather than wait for a request from the public. The actions of government boards should be timely accessible to interested members of the public without the need for a public records request; it is physically impossible to follow government operations by attending all board meetings in person.

Section 4 also eliminates the Sunshine Law's archaic reference authorizing the public only to make "sonic reproductions" of an open meeting.

Thank you again for the opportunity to testify.

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, February 23, 2017 12:15 PM
To: JUDtestimony
Cc: christinet54@gmail.com
Subject: Submitted testimony for HB165 on Feb 24, 2017 14:00PM

HB165

Submitted on: 2/23/2017

Testimony for JUD on Feb 24, 2017 14:00PM in Conference Room 325

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

Comments: Hawaii citizens need to have adequate, accessible and timely information regarding the work of government boards and commissions. Now that electronic technology has made open government more achievable, it is time to update the Sunshine Law. I strongly urge you to pass SB165

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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