

HB 2139 HD1

RELATING TO PUBLIC AGENCY MEETINGS.

Allows the members of public agency boards to jointly attend meetings or presentations without violating the sunshine laws if the meeting or presentation is in Hawaii and free to the public, and authorizes the members of a county council to attend in unlimited numbers. Requires that such members of a county provide individual reports of the meeting or presentation. (HB2139 HD1)

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 Committee on Public Safety, Intergovernmental
and Military Affairs

From: Cheryl Kakazu Park, Director

Date: March 11, 2014, at 2:50 p.m.
State Capitol, Conference Room 224

Re: Testimony on H.B. No. 2139, H.D. 1
Relating to Public Agency Meetings.

Thank you for the opportunity to submit testimony on this bill. The Office of Information Practices (“OIP”) opposes this bill in its current form, which would amend subsection 92-2.5(e), HRS, to allow any number of county council members to attend a community meeting, convention, conference, or other type of informational meeting or presentation, so long as the meeting or presentation was in-state and free to the public.

The H.D. 1 took the approach of amending the existing permitted interaction in section 92-2.5(e), which currently allows less than a quorum of a board to attend informational meetings or presentations, including another group’s meeting, a legislative hearing, convention, seminar, or community meeting, with specific requirements including the requirement to report their attendance and the matters discussed at the next board meeting. The amendment would add special provisions applicable only to county councils, but also create for all boards the new limitation that events must be in-state and free to the public. In effect, the H.D. 1 would remove the currently-existing ability for less than a quorum of members of

Sunshine Law boards to attend seminars, conventions, or other events that are out of state or have an admission fee; yet, H.D. 1 would still allow **council members only** to attend events in any number, including the full membership of the council, without public notice or the requirement to keep minutes, so long as those events were in-state and free to the public. The H.D. 1 thus manages to both take away a useful form of permitted interaction applicable to boards in general, particularly those whose members need continuing professional education in the field their board is responsible for, while still leaving a big Sunshine Law loophole for county councils.

The permitted interaction in section 92-2.5(e) to attend informational meetings or presentations, which was added in 2012, is currently limited to less than a quorum of members, to preclude the possibility that the board's discussion in the course of an outside event would crystallize the board's decision on an issue to the point where its eventual vote at a noticed board meeting would be a mere formality. As OIP observed in 2012, when only a minority of members could have attended an outside event, their report to the full board as required by this permitted interaction needs to be sufficiently detailed if they wish to influence any decision on the issues discussed at the event. When a majority of board members has attended an event, they will not have that same need to present a detailed report to convince those members who weren't there, and while the H.D. 1 would add a requirement that council members individually report their attendance and the matters discussed instead of reporting as a group, it would not actually require any additional detail.

OIP's recommendation to this Committee when it previously heard this bill was to hold the bill. However, as this Committee was sympathetic to the Maui Council members' situation as elected at-large members with a need to hear and respond to community concerns from throughout Maui County, it asked OIP

to draft language that would allow the council members to attend community meetings without restricting their numbers to less than a quorum, but also without having to take public testimony and limit discussion to items on a filed agenda, as would be required if a community group's event were noticed as a regular Council meeting.

In response to PSM's request, OIP provided the attached language, which creates a "guest meeting" as a type of limited meeting, and PSM voted on February 11 to pass S.B. 2962, S.D. 1, based on that language. While OIP drafted the language at PSM's previous request and **OIP itself is not advocating for the Sunshine Law to be amended** in the proposed manner, OIP believes that it is ultimately a policy decision for the Legislature to decide whether county council members should be permitted to attend community meetings in unlimited numbers without noticing those meetings as regular council meetings. The attached language would not affect the ability for board members in general to send less than a quorum of members to a relevant professional conference or seminar under section 92-2.5(e), and it would provide greater protections for the public than the H.D. 1 or the bill as originally filed, including requirements to notice and keep minutes of "guest meetings" and videotape them unless the requirement is waived, a prohibition on making a decision at a "guest meeting," a prohibition on holding such a meeting outside Hawaii, a restriction on how often a council can be the guest of the same group, and a general prohibition against using such meetings to circumvent the spirit of the Sunshine Law. It would also sunset after four years, allowing an opportunity to assess how the "guest meeting" was used in practice.

While this Committee largely followed OIP's suggestions, S.B. 2962, S.D. 1 contains significant differences. On page 2, the S.D. 1 amendments to Sec. 92-3.1(3)(b) contradict what is stated in subsection (1) below it, by confusingly stating that notice of a limited meeting is not required but shall be provided. Instead, OIP

recommends using the attached language for these amendments, to state as follows:

(b) A county council may hold a limited meeting open to the public as the guest of a board or community group holding its own meeting, and the council shall not be required to have a quorum of its members in attendance or accept oral testimony, provided that:

(1) Notice of the limited meeting is provided in accordance with section 92-7, except that the notice shall indicate the board or community group whose meeting the council is attending and need not include an agenda.

If it is the Legislature's policy decision to allow more than a quorum of county council members to attend community meetings, then OIP's suggested language would do so by providing a requirement for notice of a limited meeting without the need for an agenda describing what will be discussed at the community meeting that the council members will be attending as guests. Note, too, that because limited meetings normally require a quorum of members to attend, the suggested language removes this requirement and would allow any number of council members to attend as guests of another board or community group that is holding its own meeting.

In closing, OIP opposes H.B. 2139, H.D., 1, in its current form, but if it is this Committee's intent to allow more than a quorum of county council members to attend community meetings, OIP would not oppose a bill based on the attached language, similar to what this Committee had adopted in S.B. 2962, S.D. 1.

Thank you for the opportunity to testify.

SECTION 1. County councils are the elected legislative bodies for the counties, and are subject to the Sunshine Law, part I of chapter 92, Hawaii Revised Statutes. Council members have claimed that they are unduly hampered in communicating with constituents and understanding community concerns because the Sunshine Law restricts the number of members permitted to attend and discuss council business at community groups' meetings or similar events, and that their constituents often do not understand that the limited number of council members attending is due to the law's restriction rather than to a lack of interest by members. At the same time, members of the public have expressed strong reservations about the potential for abuse of the public's right to know and participate in the policy-making process if the Sunshine Law's protections are removed.

The purpose of this bill is to balance these opposing interests and allow greater communication with the public, subject to appropriate limitations. This bill creates a "guest meeting" as a special form of limited meeting, at which any number of county council members could attend a community group's meeting as guests of the community group to discuss council business there, provided that no decisions or commitments to vote are made by the council members. Public notice of the council's intent to hold a guest meeting must be given and a videotape or minutes of the guest meeting must be prepared, but the council is not required to provide an agenda, limit discussions to items on an agenda, or take public testimony. If the community group is already subject to the Sunshine Law, that group would still be required to follow the Sunshine Law's requirements for notice, agenda, testimony, and minutes.

This bill includes a sunset date four years from the present year, in order to allow assessment of how the guest meetings work in practice before any final decision is made as to their permanent placement in the Sunshine Law.

SECTION 2. Section 92-3.1, Hawaii Revised Statutes, is amended to read as follows:

"§92-3.1 Limited meetings. (a) If a board determines that it is necessary to meet at a location that is dangerous to health or safety, or if a board determines that it is necessary to conduct an on-site inspection of a location that is related to the board's business at which public attendance is not practicable, and the director of the office of information practices concurs, the board may hold a limited meeting at that location that shall not be open to the public; provided that at a regular meeting of the board prior to the limited meeting:

(1) The board determines, after sufficient public deliberation, that it is necessary to hold the limited meeting and specifies the reasons for its determination that the location is dangerous to health or safety or that the on-site inspection is necessary and public attendance is impracticable;

(2) Two-thirds of all members to which the board is entitled vote to adopt the determinations required by paragraph (1); and

(3) Notice of the limited meeting is provided in accordance with section 92-7.

(b) A county council may hold a limited meeting open to the public as the guest of a board or community group holding its own meeting, and the council shall not be required to have a quorum of its members in attendance or accept oral testimony, provided that:

(1) Notice of the limited meeting is provided in accordance with section 92-7, except that the notice shall indicate the board or community group whose meeting the council is attending and need not include an agenda;

(2) If the board or community group whose meeting the council is attending is subject to part I of chapter 92, Hawaii Revised Statutes, then that group shall comply with the notice, agenda, testimony, minutes, and other requirements of that part;

(3) No more than one limited meeting per month shall be held by the council for any one board or community group;

(4) No limited meeting as provided in this subsection shall be held outside the state of Hawaii;
and

(5) Meetings allowed under this section shall not be used to circumvent the spirit of the Sunshine Law.

~~[(b)]~~(c) At all limited meetings, the board shall:

(1) Videotape the meeting, unless the requirement is waived by the director of the office of information practices, and comply with all requirements of section 92-9;

(2) Make the videotape available at the next regular meeting; and

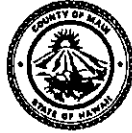
(3) Make no decisions at the meeting. "

SECTION 3. This Act shall take effect upon its approval; provided that on June 30, 2018, section 2 of this Act shall be repealed and section 92-3.1, Hawaii Revised Statutes, shall be reenacted in the form in which it read on the day before the effective date of this Act.

Council Chair
Gladys C. Baisa

Vice-Chair
Robert Carroll

Council Members
Elle Cochran
Donald G. Couch, Jr.
Stacy Crivello
Don S. Guzman
G. Riki Hokama
Michael P. Victorino
Mike White



Director of Council Services
David M. Raatz, Jr., Esq.

COUNTY COUNCIL
COUNTY OF MAUI
200 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793
www.mauicounty.gov/council

March 10, 2014

TO: Honorable Will Espero, Chair
Senate Committee on Public Safety, Intergovernmental and Military Affairs

FROM: Robert Carroll
Council Vice Chair

A handwritten signature in cursive script that reads "Robert Carroll".

DATE: Tuesday, March 11, 2014

SUBJECT: **SUPPORT OF HB 2139 H.D. 1, RELATING TO PUBLIC AGENCY MEETINGS**

I support HB 2139 HD1 for the reasons cited in testimony submitted by the Maui County Council Chair, and urge you to support this measure.

James R. Smith
P.O. Box 790403
Paia, Maui, Hawaii 96779

March 10, 2014

Chairperson, Senator Will Espero , and Members
Senate Committee on Public Safety, Intergovernmental and Military Affairs

WRITTEN TESTIMONY

(corrected)

Subject: Hearing of March 11, 2014; Testimony in opposition to HB 2139, HD1

Dear Chairperson Espero, and Members,

I have served as an elections Precinct Official in Haiku, Maui, religiously, since 1986. At a primary election, a father brought his son and as he entered the booth I heard him say, "this is the one time and place you are equal."

Our Sunshine Law affirms and validates this principle. Promoters of this legislation fail to see this important relationship.

Our County Charter makes this point in two provisions: Article 1, Section 1 where it proclaims that the basis for incorporation is to confirm equal worth and dignity of every individual; and, Article 13-9 (2) where it states that all meetings of Boards shall be held in the County building or other publicly owned place. I believe both provisions are negatively affected by the proposed bill HB 2139.

The proposed legislation negates the official status of an elected public official representing my geographical region, on the argument that it can be more responsive to other citizens needs. This is contrived, please consider that my elected representative, Council Member Mike White is valued for the independence of judgment exhibited in reaching a decision; and the law provides that not only can I see and hear him; if I chose, I have an equal opportunity to participate in that decision-making.

Our Maui County Council is the legislative branch of a political structure set forth in our charter, not waiters and waitresses; it matters that I hear facts they are influenced by. And so this political environment is managed by General Law, so that I may dispute alleged facts, if I disagree, a time and place where I am equal in status. The issue of whether and how and when this matters is currently before the Office of Information Practices as S Appeal 13-1 (See attached flyer promoting the event as Attachment 1)

The Council has the ability to hold district meets and it has. (See Attachment 2) It doesn't need pupu's and atmosphere created by a wealth community association to make independent judgment and this legislation provides authority to attend unlimited numbers of such meetings, during an election cycle, if wanted. I feel, it negates my status as an equal part of this "body politic".

The proposed bill denies me, in a practical way, equal access to government decision-making. This, in effect, damages public perception of our Sunshine Law's purpose and spirit. And, it seems to change the structure of our political system in the relationship of citizen to public official, so that compliance with State General Law becomes a formality, and legislative oversight unnecessary; and at least in Maui County it does so without giving citizen "notice" that its Charter will be changed.

Please note that promoters did not present officially decided policy, and that Members of the House do not appear to have been presented facts establishing a public outcry for greater access. It's not a problem.

Rather, more like an opportunity, and in this instance change for change sake. One that can only harm respect and trust in our political system.

Mahalo

Jim Smith

Subject: Re: Fwd: Kula Community Meeting 7pm Tuesday, Feb 19

Date: 2/18/2013 1:12 PM

Begin forwarded message:

From: "Kula Community Association"
<kulacommunityassociation@earthlink.net>
Date: February 17, 2013 12:09:55 AM HST
To: <kulacommunityassociation@earthlink.net>
Subject: Kula Community Meeting 7pm Tuesday, Feb 19

Kula Community Association

<http://kulamaui.com> PO Box 417

Kula, HI 96790 -- email: info@kulamaui.com

COMMUNITY MEETING 7pm - 9 pm Please come!

THIS Tuesday, February 19 @ Kula Community Center

ALL members of our community are welcome at the meeting which will be both an educational and pleasant evening with your neighbors! Please come.

COUNTY GOVERNMENT MEETS UPCOUNTRY MAUI RESIDENTS

The meeting will begin with presentations by four county government officials:

Mayor Alan Arakawa, upcountry resident and our new County Council Chair Gladys Baisa,

recently elected from Molokai Councilmember Stacy Crivello (Chair - Housing, Human

Services, & Transportation Committee), and from Kahului Councilmember Don Guzman

(Chair - Economic Development, Energy, Agriculture, & Recreation Committee).

The speakers have been asked to discuss issues of interest to Upcountry residents: water

availability and source development; water meters and rates; the Maui Bus route through

Kula; road repairs; upcountry infrastructure proposals in the County budget; etc.

The four presentations will be followed by a question and answer period, and then an

opportunity for more personal discussions as the four county officials sit down and talk

with community residents.

The usual great refreshments will be served. Phone 283-4376 for information.

UPDATE: Kula Community Association's recent activities:

- Lobbied for the extension of the Maui Bus service through our Kula community; and worked with County's Department of Transportation to establish the bus route and address safety concerns.
- Testified before the County Charter Commission, giving input that current method of electing County Council members by "residential" district does not best reflect the will of the community.
- Worked w/ Ulupalakua wind farm developers on community traffic concerns during construction.
- Prepared position statements and testified on the Maui Island Plan's growth boundaries and text.
- Worked w/ Makawao, Haiku and Olinda communities to establish the Upcountry Greenway Master Plan.

2013 Kula Community Association will be following these and other issues:

- Further Extension of the new Maui Bus Route through Kula.
- Kula Hospital Needs Assessment and possible management changes at Maui Memorial Medical Center.
- County Budget -- infrastructure projects for Kula and the Upcountry region.
- Water Source Development Plans by the Water Supply Department.

- Proposed Water Rate changes, Conservation Efforts, and the use of Hamakuapoko water.
- Solar Telescope Project on Haleakala and the Traffic Impact in Kula.
- Safety on our streets - Bikes, Pedestrians, sidewalks, etc.
- Proposed "Home Business" Ordinance, now before the County Council.
- Maui Island Plan's Implementation chapter and proposed upcountry infrastructure projects.
- Proposed Geo-thermal wells in Ulupalakua.

Kula Community Association

The vision of the Kula Community Association is to preserve open space, support agriculture, maintain a rural residential atmosphere, and to work together as a community. The specific purpose of this association is to improve the quality of life for the residents of Kula, to promote civic welfare, and generally to benefit the community of Kula.

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Year 2013 KCA Membership Form

If you haven't joined or renewed, send your dues with this form to: KCA, PO Box 417, Kula, HI 96790

Or bring this form to our meeting. Dues: \$10-Individual \$30-Business Donations are welcome!

NAME: _____

ADDRESS: _____

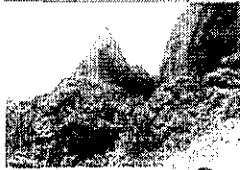
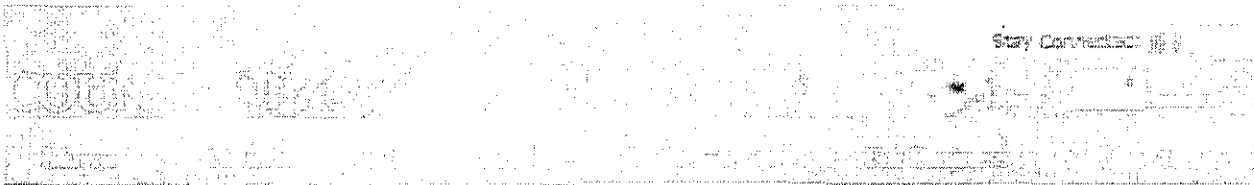
PHONES: _____

EMAIL: _____

Emails alert you to meetings and special upcountry issues.

The KCA keeps your contact information strictly confidential and will not share this information.

Visit our website: www.kulamaui.com for more information.

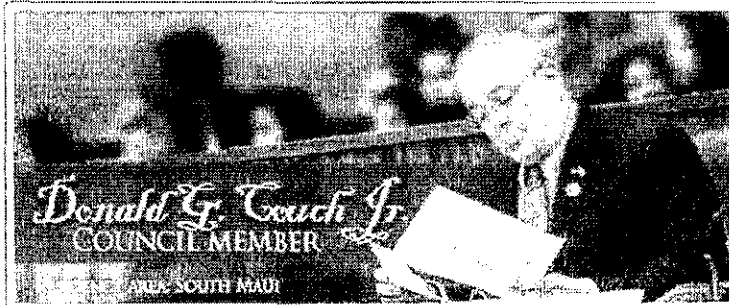


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Councilmember Blog



Councilmember Don Couch

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Planning Committee to hold district meetings to receive input on Home Business Bill

Published on October 15, 2013 at 12:00 AM by Office of Council Services

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For immediate release: Oct. 15, 2013

Press Release by:
 Councilmember Donald G. Couch, Jr.
 Chair, [Planning Committee](#)

Planning Committee to hold district meetings to receive input on Home Business Bill

WAILUKU, Hawaii – The Planning Committee will hold six public meetings from Oct. 28 to Dec. 3 to receive input on the pending [Home Business Bill](#), Councilmember Don Couch announced today.

Councilmember Couch, who chairs the committee, said the Council is considering legislation to permit and regulate home-based businesses in certain zoning districts. He said the committee will review and discuss allowable types of home businesses and develop appropriate regulations for particular operations.

"I want to encourage entrepreneurship and support residents who want to earn a living from home," Councilmember Couch said. "However, we need to address what constitutes a 'nuisance' or other inappropriate commercial activities that potentially impact community character and quality of life for neighbors."

PLANNING COMMITTEE



**DISTRICT MEETINGS
SCHEDULE ON PROPOSED
#HOMEBUSINESS BILL**

SOUTH MAUI

Monday, Oct. 28, 6 p.m.
Kihei Community Center
303 East Lipoa St., Kihei

CENTRAL MAUI

Thursday, Nov. 14, 6 p.m.
Council Chamber, 8th F
200 S. High St., Wailuku

UPCOUNTRY

Wednesday, Oct. 30, 6 p.m.
Mayor Hannibal Tavares
Community Center
91 Pukalani St., Pukalani

MOLOKAI

Wednesday, Nov. 20, 6 p.m.
Mitchell Paule Center
90 Ainoa St., Kaunakakai

EAST MAUI

Tuesday, Nov. 5, 6 p.m.
Helene Social Hall
150 Keawa Pl., Hana

WEST MAUI

Tuesday, Dec. 3, 6 p.m.
Lahaina Civic Center
1840 Honoapiʻiani Hwy., Lahaina



INQUIRIES:
DON COUCH
COMMITTEE CHAIR
PALANOMANULELE
800 PULU 200 S. HIGH ST.
WAILUKU, HI 96793
(808) 270-7108
pc.committee@mauicounty.us

**A COPY OF THE BILL IS
AVAILABLE AT:**
[WWW.MAUICOUNTY.GOV/
COMMITTEES/PC](http://WWW.MAUICOUNTY.GOV/COMMITTEES/PC)

Maui County Council
Grandma County

The meetings are scheduled to begin at 6 p.m.

Meeting dates and locations are as follows:

- Monday, Oct. 28, Kihei Community Center, Main Hall, 303 East Lipoa Street, Kihei, Maui
- Wednesday, Oct. 30, Mayor Hannibal Tavares Community Center Hall, 91 Pukalani St., Pukalani, Maui
- Tuesday, Nov. 5, Helene Social Hall, 150 Keawa Pl., Hana, Maui
- Thursday, Nov. 14, Council Chamber, 8th Floor, 200 S. High St., Maui
- Wednesday, Nov. 20, Mitchell Paule Center, Main Hall, 90 Ainoa Kaunakakai, Molokai
- Tuesday, Dec. 3, Lahaina Civic Center, Social Hall, 1840 Honoapiʻiani Hwy., Lahaina, Maui

Residents from Lanai may contact the Lanai District office at (808) 5 for assistance in submitting testimony.

The public is encouraged to attend. Meeting agendas and the bill are on the Planning Committee website at www.mauicounty.gov/commit

For more information, please contact Councilmember Couch's office 270-7108 or via e-mail at pc.committee@mauicounty.us.

Other sources:

AGENDA: <http://www.mauicounty.gov/ArchiveCenter/ViewFile/Item/18410>
PROPOSED BILL:
<http://www.mauicounty.gov/ArchiveCenter/ViewFile/Item/18410>

Tag(s): Work from home, Planning Committee, Home business, district community meeting

Comments

You must [log in](#) before leaving your comment

Larry Geller
Honolulu, HI 96817

COMMITTEE ON PUBLIC SAFETY,
INTERGOVERNMENTAL AND
MILITARY AFFAIRS
Senator Will Espero, Chair
Senator Rosalyn H. Baker, Vice Chair

HB2139
PSM
Tuesday, March 12, 2014
2:50 p.m.
Room 224

March 10, 2014

Re: HB2139 Allows the members of public agency boards to jointly attend meetings

In Opposition

When the Sunshine Law was adopted in 1975, the legislature envisioned that the law would be a “stringent open meeting bill that meets the demands and the concerns of the general public regarding the decision-making process.” 1975 House Journal, at 778 (statement of Rep. Roehrig). The hope was that “[g]overnment decision-making before the public will mean that everyone will have equal opportunity to become involved in the process.”—*Supreme Court of the State of Hawaii, Kanahale vs. Maui County Council and County of Maui, 08-Aug-2013*

Dear Senator Espero, Senator Baker and members of the Committee:

The counties have long sought exemption from state open meetings laws. I personally viewed a video, now several years old, which appeared to show members of the Kauai County Council debating whether they would follow the Sunshine Law or not.

The Legislature should not create an exemption to a valuable law when there are workable alternatives available. In this case, it is easy to see how allowing unlimited numbers of council members to meet may be **abused** as soon as HB2139 should become law: simply put, there would be nothing to prevent an instantly-created and un-noticed sub-meeting from taking place before, during or after the external informational briefing. There is no watchdog that would prevent such a meeting or discussion.

Instead of an exemption, should members of a county council desire to attend an external informational meeting, **they have simply to give notice under current law** and document their attendance in their minutes. This keeps them accountable, fulfills the sunshine requirements of the law, and assures the public that nothing is happening outside of their view.

If there is a question about the workability of this approach and the need for new law, it should be carefully debated by this Legislature.

--Larry Geller

Council Chair
Gladys C. Baisa

Vice-Chair
Robert Carroll

Presiding Officer Pro Tempore
Michael P. Victorino

Council Members
Elle Cochran
Donald G. Couch, Jr.
Stacy Crivello
Don S. Guzman
G. Riki Hokama
Mike White



Director of Council Services
David M. Raatz, Jr., Esq.

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WAILUKU, MAUI, HAWAII 96793
www.mauicounty.gov/council

March 10, 2014

TO: The Honorable Will Espero, Chair
Senate Committee on Public Safety, Intergovernmental and Military Affairs

FROM: Gladys C. Baisa
Council Chair *Gladys C. Baisa*

SUBJECT: **HEARING OF MARCH 11, 2014; TESTIMONY OFFERING CLARIFYING
COMMENTS ON HB 2139, HD 1, RELATING TO PUBLIC AGENCY MEETINGS**

Thank you for the opportunity to **clarify my intent** in requesting Representative Kyle Yamashita introduce this important measure. 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.

The purpose of this measure was originally to increase interaction between elected officials and the public and to broaden access to educational opportunities as they arise. Open participation in informational meetings or presentations by elected officials will increase transparency and help to ensure responsiveness of council members to the public they serve.

As amended, the measure would support this goal by allowing an unlimited number of members of a county council to attend an informational meeting or presentation relating to official board business, without violating the Sunshine Law, provided the meeting or presentation is not specifically and exclusively organized for or directed toward members of the board.

However, the measure is counterproductive in limiting attendance opportunities to meetings or presentations that are held in Hawaii and free to the public. These aspects of the measure reduce, rather than enhance, a council member's responsiveness to constituents and opportunities for education and outreach. I would urge, respectfully, that the amendments adding Sections 92-2.5(e)(1) and (2) be removed.

I would like to also offer the following comments:

1. Council members often give up opportunities or feel discouraged to attend such events due to the risk of violating the Sunshine Law. Council work is similar to the work done by the State legislature, which is able to meet without restriction. Like you, council members want to be able to interact with their constituents and understand their concerns.
2. Council members attend educational conferences held outside of the State of Hawaii such as the American Water Works Association conference and the Western Interstate Region conference. The in-state limitation would disallow a majority of the members from benefiting from such educational events. The state in which a meeting is held should have no bearing on a member's conduct or adherence to Sunshine Law principles.

March 10, 2014
Page 2

3. Some events held in Hawaii that charge a fee are educational events such as energy conventions, sister-city summits, and the annual Hawaii Congress of Planning Officials conference. Rather than a restriction on meetings being “free” to the public, I would urge instead a restriction that meetings be “open” to the public, and that a meeting fee be allowed.
4. The existing reporting requirement that applies to all Sunshine Law boards should suffice for purposes of disclosing to the public all informational meetings or presentations attended by more than two council members. A requirement that each council member report individually is cumbersome and risks an inadvertent Sunshine Law violation if all members who attended the event are unable to attend the next meeting of the Council. In addition, requiring up to nine individual reports on the same event is unduly burdensome.

For the foregoing reasons, I urge you to reconsider the existing form of the bill.

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Senator Will Espero, Chair
Senator Rosalyn H. Baker, Vice Chair

Committee on Public Safety, Intergovernmental and Military Affairs

Senate of the State of Hawai'i

Lance D. Collins, Ph.D
Law Office of Lance D Collins

Tuesday, March 11, 2014
Oppose HB No. 2139, HD1, Relating to Public Agency Meetings

My name is Lance D. Collins. I am an attorney in private practice and testify on my own behalf. I **strongly oppose** this bill.

Under current law, Council members, in unlimited number, may attend informational meetings or presentations on matters relating to official board business. However, they are subject to all requirements in Sections 92-3 and 92-7, HRS. This bill is an attempt to allow a majority of council members to meet without complying with any of the requirements of Sections 92-3 and 92-7, HRS.

Although I believe the present proposal should not be approved, there is no reason why a meeting at which a majority of council members will be attending cannot comply with the notice requirements of Section 92-7, HRS, or the openness requirements of Section 92-3, HRS. That is, if a majority of council members will be attending an "informational meeting", the council must "file the notice in ... the appropriate county clerk's office, 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[]" and that the meeting must "be open to the public and all persons [must] be permitted to attend any meeting[.]"

Finally, if a majority of council members attend an "informational meeting," the council should be obligated to keep written minutes of said meeting pursuant to Section 92-9, HRS – not just provide personal summaries or "reports." Minutes, like your own committee reports and Senate journal, provide invaluable insight into how legislation is developed and is especially valuable for those not able to attend.

Thank you for this opportunity to provide testimony on this measure. Mahalo.

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