



HAWAII STATE ETHICS COMMISSION

State of Hawaii • Bishop Square, 1001 Bishop Street, ASB Tower 970 • Honolulu, Hawaii 96813

SENATE COMMITTEE ON GOVERNMENT OPERATIONS

The Honorable Donna Mercado Kim, Chair

The Honorable Les Ihara, Jr., Vice Chair

S.B. No. 2293, Relating to Open Government

Hearing: Tuesday, February 2, 2016, 1:15 p.m.

The Hawaii State Ethics Commission (“Commission”) **supports the intent** of this bill, to increase public access to information regarding public meetings and public hearings to facilitate public participation and input; allow for electronic mailing and posting of meeting notices under the Sunshine Law, part I of chapter 92, HRS; allow for email notice to persons on a board’s mailing list; and generally supports efforts to make government more open and accessible, but **opposes the bill in its current form** for the reasons stated below.

Board Packets

S.B. No. 2293 requires a board: (1) to allow public inspection in the board’s office of the “board packet” materials for a board’s public meetings; and (2) to mail copies of the “board packet” to persons requesting notification pursuant to HRS section 92-7(e).

The “board packet” for the Commission’s public meetings typically includes hundreds of pages of materials, much of which consists of summaries and other documents that are protected attorney-client communications. The additional requirement to provide printed copies of such materials would create a substantial administrative burden on the Commission’s staff. Currently, the Commission’s staff provides members of the Commission with materials relating to public meeting agenda items in electronic (PDF) file form. In addition to the increased administrative burden that would be incurred compiling, printing and mailing printed copies of board packets, the Commission would also be required to incur the significant costs of copying hundreds of pages of materials and mailing them to persons who request notification of meetings pursuant to HRS section 92-7(e), and there is currently no appropriation in this bill to cover such costs. Therefore, the Commission strongly recommends that the board packet disclosure provisions be deleted.

Public Access to Board Minutes in Draft or Final Form within 30 Days after Board Meeting

S.B. No. 2293 amends HRS section 92-9 by requiring the minutes made by a board to be publicly posted on the board's website, or a designated website maintained by the State or appropriate county, within thirty days after the date of a board meeting, regardless of whether the board has formally reviewed or approved the minutes, except where such disclosure would be inconsistent with HRS section 92-5.

The posting of the Commission's public meeting minutes on the Commission's website, prior to review and approval by the Commission, will likely lead to questions from the public which are unnecessary or premature as the minutes may be revised during the Commission's review and approval process.

Currently, the minutes of the Commission's public meetings are posted on the Commission's website after the minutes have been reviewed and approved by the Commission, and we believe this procedure should be incorporated in the statute. Therefore, we recommend S.B. No. 2293 be amended to incorporate language that approved minutes be posted on a board's website, or a designated website maintained by the State or appropriate county, within seven days after approval by the board, and the thirty day posting requirement currently reflected in the bill be removed.

We appreciate the opportunity to testify on S.B. No. 2293, Relating to Open Government. We would like to thank this Committee for its consideration of our testimony.