

Legislature takes hard look at Sunshine Law bills

By Nancy Cook Lauer West Hawaii Today ncook-lauer@westhawaii.com

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A proposal rejected by the Hawaii County Council as unnecessarily weakening the Sunshine Law has made its way to the state Legislature, where it's getting serious consideration.

The bills, HB 2139 and SB 2962, were sponsored by state lawmakers from Maui after the Hawaii County Council struck the measure from a package the counties were sending jointly to the state Legislature under the Hawaii State Association of Counties umbrella.

The bills carve out an exception to the Sunshine Law by saying, "Members of a county council may jointly attend and speak at a community, educational or informational meeting or presentation, including a meeting of another entity, legislative hearing, convention, seminar, conference or community meeting, without limitation, provided that the meeting or presentation is open to the public."

The bills would allow a quorum of council members to attend meetings and discuss issues that could come up on future council agendas, as long as the meeting is open to the public, even if minutes are not taken for the public record and the council members in attendance make no report of their discussion.

The Senate Committee on Public Safety, Intergovernmental and Military Affairs passed the measure Tuesday after adding limitations. The House Judiciary Committee was scheduled to hear the unamended bill late Thursday. Results were not available by press time.

The only people sending testimony to the Senate committee in support of the original bill were Maui Council Chairwoman Gladys Baisa and three other Maui council members, who said merely that they supported the testimony Baisa submitted. Baisa, whose Feb. 3 testimony postdated one of the other testifiers and was on the same date as another, said the Maui County Council had not had an opportunity to take a formal position on the matter.

"This measure will increase council members' access to our constituents and to educational opportunities as they arise," Baisa said. "Allowing council members to attend such public meetings will not jeopardize openness in government or in legislative decision making. ... To the contrary, open participation in such meetings by elected officials will increase transparency and help to ensure responsiveness of council members to the public they serve."

Opposing the measure were Common Cause Hawaii, the state Office of Information Practices and the League of Women Voters of Hawaii.

"Abusive practices would be legalized if the bill became law. For example, if the bill became law, a developer could host a meeting open to the public to 'educate' a county council about his pending zoning application; a county council quorum could attend; and county council members could 'trade votes' (e.g. council members could orally promise to vote a certain way on the developer's application if other council member orally promised to vote a certain way on some other bill before the council.)," said Douglas Meller, legislative committee member for the League of Women Voters.

Opponents pointed out that even public meetings could restrict public access, by a high cover charge, for example.

The Legislature in 2012 had diluted the provisions of the Sunshine Law to allow council members to jointly attend meetings, provided they did not constitute a quorum, their discussion was during and part of a public

event and they reported their actions at the next board meeting.

The amendments by the Senate Committee on Public Safety, Intergovernmental and Military Affairs creates a so-called "limited meeting," as the guest of a board or community group holding its own meeting.

The council would not be required to provide notice of an agenda, to have a quorum of members in attendance or accept oral testimony. It restricts the meetings to one per month, requires them to be held in the state and requires the council to give notice of what function the council is attending.

The law would sunset after four years to allow the Legislature an opportunity to assess how well the limited meeting concept worked.

The Hawaii County Council late last year unanimously rejected the proposal.

South Kona/Ka'u Councilwoman Brenda Ford said she at first was "a little bit torn" on the measure, but she now opposes it. The term, "without limitation" is "fraught with evil," she said.

"This bill is poorly written," Ford said. "It is so wide open that it can be abused at any hour of any day."