

COUNCIL OF THE COUNTY OF MAUI

GOVERNMENT RELATIONS, ETHICS, AND TRANSPARENCY COMMITTEE

September 20, 2022

**Committee
Report No.** _____

Honorable Chair and Members
of the County Council
County of Maui
Wailuku, Maui, Hawaii

Chair and Members:

Your Government Relations, Ethics, and Transparency Committee, having met on August 30, 2022, and reconvened on August 31, 2022, makes reference to the following:

1. County Communication 21-44, from Council Chair Alice L. Lee, relating to the Maui County Council Legislative Package.
2. Resolution 22-199 entitled “APPROVING FOR INCLUSION IN THE 2023 MAUI COUNTY COUNCIL LEGISLATIVE PACKAGE A STATE BILL RELATING TO PUBLIC TESTIMONY AT OPEN MEETINGS.”

Resolution 22-199’s purpose is to approve for inclusion in the 2023 Maui County Council Legislative Package a proposed State bill, attached as Exhibit “A,” entitled “A BILL FOR AN ACT RELATING TO PUBLIC TESTIMONY AT OPEN MEETINGS.”

The purpose of the proposed State bill is to reduce public confusion and unfair restrictions placed upon public bodies by removing the requirement that the presentation of testimony not be limited to the beginning of a board’s agenda or meeting.

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Your Committee notes Act 264 (2022) amended the State Sunshine Law to require that testimony be taken either immediately prior to discussion of each item or prior to each category or set of agenda items, rather than allowing for all testimony to be taken at the beginning of a public meeting.

Your Committee further notes that, since its enactment on July 8, 2022, Act 264 has created public confusion, places unfair restrictions on public bodies in the conduct of its meetings, and poses challenges to meet legal deadlines.

Your Committee also notes the Hawaii State Legislature and its committees continue to operate outside the Sunshine Law with no limitations on the timing of accepting testimony.

Your Committee expressed its gratitude to the citizens of Maui County for their dedication and enthusiasm to participate in meetings of the Council and noted the proposed State bill could help to streamline the testimony process and allow for more predictability and clarity for testifiers.

Your Committee also noted streamlining the testimony process would reduce the time it takes for the Council to hear from its constituents, therefore, saving taxpayer dollars.

Your Committee agreed to amend the proposed State bill attached to Resolution 22-199 by exempting legislative bodies of each county from the requirement to receive oral testimonies at any point other than the beginning of agendas or meetings.

Your Committee voted 6-2 to recommend adoption of Resolution 22-199, CD1. Committee Chair Molina, Vice-Chair Rawlins-Fernandez, and members Kama, King, Lee, and Sinenci voted “aye.” Committee members Paltin and Sugimura voted “no.” Committee member Johnson was excused.

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Your Committee is in receipt of Resolution 22-199, CD1, incorporating your Committee's recommended revisions and nonsubstantive revisions.

Your Government Relations, Ethics, and Transparency Committee RECOMMENDS that Resolution 22-199, CD1, as revised herein and attached hereto, entitled "APPROVING FOR INCLUSION IN THE 2023 MAUI COUNTY COUNCIL LEGISLATIVE PACKAGE A STATE BILL RELATING TO PUBLIC TESTIMONY AT OPEN MEETINGS," be ADOPTED.

This report is submitted in accordance with Rule 8 of the Rules of the Council.



MICHAEL J. MOLINA, Chair

Resolution

No. 22-199, CD1

APPROVING FOR INCLUSION IN THE 2023
MAUI COUNTY COUNCIL LEGISLATIVE
PACKAGE A STATE BILL RELATING TO PUBLIC
TESTIMONY AT OPEN MEETINGS

WHEREAS, Act 264 (2022) amended the State Sunshine Law to require that testimony be taken either immediately prior to discussion of each item or prior to each category or set of agenda items, rather than allowing for all testimony at the beginning of a public meeting; and

WHEREAS, though the asserted basis for the statute was to allow members of the public to view any presentation before testimony, the Office of Information Practices had advised that that practice was acceptable under the Sunshine Law; and


WHEREAS, the statute unduly restricts public bodies' options for conducting meetings without any new benefit to the public; and

WHEREAS, the statute has only been in effect since July 8, 2022, but has already created much public confusion and unfairly restricted public bodies in the conduct of their meetings, even as the State Legislature and its committees continue to operate outside the Sunshine Law and with no limitations on the timing in which they accept testimony; now, therefore,

BE IT RESOLVED by the Council of the County of Maui:

1. That the proposed State bill, attached as Exhibit "A," relating to public testimony at open meetings, is approved for inclusion in the 2023 Maui County Council Legislative Package; and
2. That certified copies of this Resolution be transmitted to the Mayor.

INTRODUCED BY:

A handwritten signature in cursive script, appearing to read "Alice L. Lee". The signature is written in black ink and is positioned above a horizontal line.

ALICE L. LEE

____.B. NO. _____

A BILL FOR AN ACT

RELATING TO PUBLIC TESTIMONY AT OPEN MEETINGS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 92-3, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"§92-3 Open meetings.** Every meeting of all boards
4 shall be open to the public and all persons shall be
5 permitted to attend any meeting unless otherwise provided
6 in the state constitution or as closed pursuant to sections
7 92-4 and 92-5; provided that the removal of any person or
8 persons who willfully disrupts a meeting to prevent and
9 compromise the conduct of the meeting shall not be
10 prohibited. The boards shall afford all interested persons
11 an opportunity to submit data, views, or arguments, in
12 writing, on any agenda item. The boards shall also afford
13 all interested persons an opportunity to present oral
14 testimony on any agenda item at the beginning of the board's
15 agenda or meeting, provided that except for the legislative
16 body of each county, the oral testimonies of interested
17 persons shall not be limited to the beginning of a board's
18 agenda or meeting. The boards may provide for reasonable
19 administration of oral testimony by rule."

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2 SECTION 2. Statutory material to be deleted is bracketed and
3 in strikethrough.

4 SECTION 3. This Act shall take effect upon its approval.

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7 INTRODUCED BY: _____

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