

Conferees silent on budget negotiations

By Sandra S. Oshiro
Advertiser Government Bureau

House and Senate conferees met briefly yesterday to exchange written proposals on the state's two-year budget, but a "gag rule" apparently was in effect and few details surfaced about how lawmakers think the state should spend taxpayers' dollars.

The closed nature of the negotiations spurred Common Cause/Hawaii to charge that the House and Senate budget

conferees appear to have abandoned open decision-making.

In a letter to chairmen of the House-Senate conference committee, Ian Lind of Common Cause said members met only for a few minutes Monday evening to "pass papers from one side of the table to the other."

The procedure "effectively thwarts the public's right to know how and why decisions are being made," he said.

As the conferees struggled to complete the budget in time to

go home on Friday, other measures which had been tied up in the Legislature were moved along.

A bill to allow tinting on all but the front window of most passenger vehicles was approved by the Senate despite concerns that it may be successfully challenged in court.

The House measure, which now goes to the governor, would let car owners tint side and rear windows with glazing material allowing light transmittance of at least 35 percent.

Essentially, that type of tint is thin enough to allow someone outside to see inside the car under dim light conditions.

Throughout the Capitol yesterday, lawmakers reached agreement on bills that had been previously in dispute between the House and Senate.

The consumer protection committees agreed to require a no-fault insurance card to be stuck to the front right window of a vehicle to show that the driver has a valid insurance policy.

The measure would take effect in January 1984. Drivers who don't carry the proper insurance would face a \$300 fine and possible license revocation.

In the House, lawmakers sent several measures to the governor — including one requiring children 2 and younger to be placed in safety car seats. The bill also would require a 3-year-old to be placed in a safety seat or strapped into a seat belt.

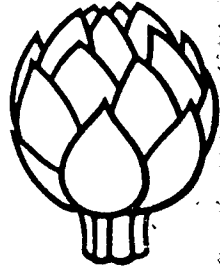
Senate President Richard Wong said last night that the budget still could be prepared and printed in time if a compromise came together early today.

But "philosophical differences" were still being worked out as midnight approached. Serious disagreements could delay a settlement and raise the threat of an extended session.

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Honolulu Star-Bulletin

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Four Sections

76 Pages

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VOL. 72, NO. 110 HONOLULU, HAWAII Wednesday, April 20, 1983

Oahu—25 Cents

• Neighbor Islands—30 Cents

House, Senate Break Budget Stalemate

By Gregg K. Kakesako
Star-Bulletin Writer

House and Senate conferees early this morning broke a deadlock on more than 100 items in the state budget, but were still working to complete their work by Friday's scheduled adjournment.

If lawmakers can move the \$2.9

billion, two-year operating budget to the floors of both houses by midnight tonight, the Legislature could end its session on time — for the first time since 1979.

However, House Finance Chairman Ken Kiyabu said that for the session to close Friday, there can be no major problems between now and then.

"We are on schedule . . . and

barring any unforeseen circumstances we should finish on Friday," Kiyabu said.

Senate Ways and Means Vice Chairman Bert Kobayashi said during a break in negotiations at 5:55 this morning: "It's going to be tight, but I think we're going to make it."

Senate Ways and Means Chairman Mamoru Yamasaki also be-

lieves lawmakers can meet the Friday deadline.

Round-the-clock budget sessions started last Thursday and continued in open sessions until Monday night when the process broke down and budget conferees resorted to negotiations by memos.

AFTER meeting all day in separate private caucuses, the break-

through finally came at 3 this morning with Yamasaki making the announcement that "a substantial agreement" had been reached.

Since Monday night House and Senate budget conferees had employed their own form of "shuttle diplomacy," avoiding face-to-face confrontations and handling the entire budget negotiations

through secret proposals.

Discussions across the bargaining table were kept to a minimum and conferees met only to trade proposals and counter-proposals. Then lawmakers scurried off to their private offices to discuss the offers.

Ian Lind, executive director of

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Budget Deadlock Broken as Deadline Approaches

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Common Cause/Hawaii, the citizen's lobby, criticized the process. "The total lack of open deliberations and discussions effectively thwarts the public's right to know how and why decisions are being made..." Lind said.

He said the budget sessions appear to be "little more than an attempt to evade the spirit and intent of Hawaii's constitutional mandate for open decision making."

It was apparent that once "sub-

stantial agreement" had been reached on the major budgetary problems, conferees decided to switch tactics and made available to the public copies of their worksheets outlining the major areas of differences between the House and Senate versions of the budget.

ONCE THAT was done it only took conferees just 30 minutes to reach a compromise on the 100 or so disputed items.

In brief, the conferees agreed

to retain the Department of Education's new computer education program — a priority item of House Chairman Clarice Hashimoto's 1983 legislative wish list.

The House had fought expansion of a Hawaiian studies program which employs "kupunas" or Hawaiian elders. But in the end, the Senate prevailed and was able to save at least 85 percent of the planned expansion.

One of the larger cuts by the conferees came in repair and maintenance programs for public schools. The House proposed \$11.6 million for this project, but budget conferees whittled that figure down to \$2 million.

Lawmakers also decided to terminate the Hawaii Crime Commission by cutting funds it requested for the fiscal year which will begin July 1.

In the public works portion of the budget, conferees appropriated \$51.9 million for a 500-bed

medium security prison in Hala-wa Valley.

Originally, the state administration requested \$70 million, but cut the amount later to \$64.9 million. Former Senate Judiciary Chairman Dante Carpenter deleted the appropriation.

BUDGET conferees also decided to delete all funding for a reliever airport on Oahu until the U.S. Transportation Department and the Pentagon decides if civilian use of military airfields is feasible. In Hawaii, joint usage has been contemplated for Barbers Point Naval Air Station, Bellows Air Station and Wheeler Air Force Base.

The budget negotiations also sparked a lively debate on the Senate floor yesterday when Democratic dissidents leader Benjamin Cayetano questioned the fiscal strategy used by budget conferees.

Cayetano said the budget is

being built around the assumption that the state will receive about \$70 million in back liquor taxes from wholesalers who are fighting the levy in the courts.

He questioned whether that was a wise decision because the state could lose the legal battle and the \$70 million in revenues.

Cayetano asked if a special session was contemplated should the liquor wholesalers' appeal be successful. If that happens lawmakers might have to meet later on this year to raise taxes to supply additional revenues.

YAMASAKI replied that speculation on such an occurrence was "premature."

Cayetano also raised the question of whether the Legislature next year may have to increase the state's gas tax from 8.5 cents to 20 cents a gallon to cover what he believes is a possible \$38 million deficit in the state highway fund.

All proceeds from the gas tax now goes into the highway fund, which is used to maintain and beautify roads. The fund has been kept afloat for the past several years by siphoning about \$20 million annually from the general fund. But that tap runs dry next year unless the law allowing the diversion of funds is renewed.

The Honolulu Advertiser

Final Edition Oahu Edition: 25c
Beyond Oahu: 30c

Aloha!

Today is Thursday,
April 21, 1983

Legislature readies budget linked to better economy

By Jerry Burris
Advertiser Politics Editor

The 1983 Legislature is set to adjourn tomorrow, arguing until the end over an 11th-hour \$2.9 billion state budget that hangs many spending details on the courts, the Hawaiian economy and the spending priorities of Gov. George Ariyoshi.

The budget was placed on legislative desks only late last night, leaving little time for formal debate or questioning of its philosophy and spending prior-

ities. There will be plenty of that informally today and formally tomorrow, during the scheduled final vote debate.

While the new budget — the key item of business for the session — manages to maintain current state services and programs without raising taxes or fees, it relies heavily on a "measured optimism" about an improving local economy and/or the successful legal conclusion of a multimillion-dollar tax argument between the state and local liquor distributors.

Should tax dollars not match up to the spending plans contained in the budget, the lawmakers said, they will let the governor make the necessary decisions about spending cuts or restrictions.

It was, in essence, the budget strategy proposed from the first by Ariyoshi when the state found itself facing, in theory, a substantial deficit due to a decline in the local economy.

Several of the "dissident" Democrats in the state Senate, however, planned to challenge

the budget on grounds they were not told where the money was coming from to bring it into technical "balance."

"If we do not know what the financial plan is, we cannot properly analyze the budget," said dissident Sen. Ben Cayetano.

The financial plan, the dissidents intimated, either does not exist or — if it does — fails to take into account the reality of the state's financial condition.

The dissident Democrats, whom Senate President Richard

Wong recently stripped of power, were turned down in their first attempt last night to gain access to documents that explain in detail how the budget was written. They intended to continue to push for the information today, joined, perhaps, by the citizen lobbying group Common Cause.

Common Cause has already protested that the "open" budget conference became effective-

See Final on Page A-4

from page one

ly closed when negotiations shifted to silent exchanges of worksheets and private discussions of the financial plan.

Unless the hassles over the budget-process mushroom into a full legal problem, the Legislature will adjourn late tomorrow night. The key was the budget agreement between Sen. Mamoru Yamasaki's Ways and Means Committee and Rep. Ken Kiyabu's Finance Committee.

And Yamasaki insisted last night that the request from the dissidents was simple "harassment" since "no one has asked for the worksheets before."

In the meantime, however, the House and Senate conferees were congratulating themselves for finishing the major item of business that brought the 1983 Legislature together: the budget.

Earlier this year lawmakers took up, and then discarded, a wide spectrum of issues ranging from legalized gambling on dog races and a state lottery through a hotel room tax, the death penalty and a hike in the drinking age from 18 years to 21 years.

Attention quickly focused on the budget and other measures that need money to make them go. As the conferees broke up last night, the picture looked this way:

The budget was written without relying on the "temporary" increase in the general excise sales tax that had been approved by the Senate. That measure would have produced in excess of \$50 million a year toward the state's overall spending plans.

Instead, legislators relied on selective cutting — although they would not say specifically what was cut — and on the expectation that the state soon would start receiving millions of tax dollars held in escrow while the state hammers out the legal dispute with liquor wholesalers.

The case is on appeal to the



Legislature '83

U.S. Supreme Court, but two-thirds of the wholesalers are not participating in the appeal and thus their taxes should be available to the state soon, negotiators said. The amount would be in the area of \$60 million.

If that isn't enough, Yamasaki and Kiyabu said, then final decisions about where cuts or spending freezes should be applied will be left to the governor.

"We didn't flag out anything," said Kiyabu. "I think essentially it is a current services budget. To go further than that would be very difficult."

On specific issues, the conferees decided to restore funds for a new prison at Halawa Valley — but at \$51.9 million, the appropriation is substantially less than the \$70-million-plus sought by the governor.

State grants to private agencies were kept at last year's level in every case, although no agency was chopped from the list. A few new agencies were added that had been approved by the appropriate state agency.

A judiciary operating budget of around \$71 million for the two years and a \$1-million-plus budget for the Office of Hawaiian Affairs also were approved.

One big change was nearly \$10 million chopped from a repairs program for public schools. The extra dollars were largely eaten up by increases in funding for the ballooning Medicaid program.

Other bills moved out of conference committee yesterday in time for a final vote include measures that would:

- Put some money and legal muscle behind the administration's highly sought "high-technology development corporation."

The bill sets up a quasi-public corporation with special powers to borrow money and set up high-tech "parks" where fast-moving electronics and computer firms could locate.

A second part of the measure sets in motion the Pacific International Center for High Technology Research — a "think tank" associated with the University of Hawaii.

The Legislature, however, wants the Pacific center located at the state-owned former Marks Estate in Nuuanu.

Some \$100,000 is set aside to start up the high-tech corporation and \$50,000 for the Pacific Center.

- Seek to attract to Hawaii some of the international banking business which now gravitates to Hong Kong, London, New York and other capitals.

The measure would legalize such "off-shore" banking operations and would exempt them from most state and county taxes, including income taxes.

The measure, which would allow Hawaii banking institutions to take deposits or make loans to foreign customers free of many federal regulations, is in line with a 1981 change of federal regulations.

- Create a 17-member commission to help the Legislature put together a system for identifying important agricultural lands in the state.

The commission is supposed to be the first step in carrying out the 1978 state constitutional mandate to conserve and protect agricultural lands. Last year, the Legislature established a commission to study the statewide water situation to carry out another constitutional mandate that water resources be protected.

- Seek to collect excise taxes

Final touches put on budget

owed but not paid by out-of-state owners of apartments and other real estate in Hawaii.

The law today requires everyone who rents to pay a 4 percent tax on income. But the state tax department finds it difficult to locate out-of-state owners without "tedious" in-person inspection of apartments combined with cross-checking of records.

The bill would have landlords file a copy of the first page of their rental collection agreement with the tax office, thus making it much easier to find out who owes taxes.

During a brief two-month intensive enforcement period in 1982, the state turned up \$200,000 in unpaid taxes, the measure says.

- Allow victims of juvenile crime to get the name and address of the juvenile and his parents or guardians if they intend to file a civil suit.

The change, authorizing the Family Court to release the information, would not apply in traffic cases and would be triggered only if there were injury, damage or death caused by the juvenile.

- Allow the Hawaii Housing Authority to borrow up to \$50 million which, in turn, would be funneled into the mortgage market used by islanders converting their leasehold lands to fee simple.

Even though the entire Land Reform Act — which uses state condemnation powers to force conversion of leasehold land to fee simple — has been questioned by federal courts, the bill is still needed, legislators say.

At least \$55 million is needed just to finance lots already converted or under short-term agreements of sale.

The measure would not produce mortgages at less than going rates, but it would help out local banks and loan institutions that have trouble selling their leasehold conversion loans to the Mainland "secondary" mortgage market.

6 Maverick Democrats Sue Senate

Star-Bulletin

NIGHT FINAL

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Bloc Seeks Details of Budget Bill

By Gregg K. Kakesako
Star-Bulletin Writer

Dissident Democratic senators — in an unprecedented action — today sued the state Senate, asking for six volumes of worksheets which are the basis for the state's proposed \$2.9 billion operating budget.

The dissidents, who were stripped of all their leadership positions several weeks ago, were denied access to the budget information late last night by Senate Ways and Means Committee Chairman Mervyn Kawasaki.



DISSIDENTS SUE—Dissident Democratic Sen. Dante Carpenter, right, answers questions from reporters this morning after he and five other senators filed a suit asking for worksheets used to draft the state's proposed budget. With Carpenter are, from left, Sens. Benjamin Cayetano, Neil Abercrombie, Charles Toguchi, Lehua Fernandes Salling and Duke Kawasaki. —Star-Bulletin Photo by Terry Luke.

Dissident Democrats Sue the State Senate

Continued from Page One

fits such as travel and full-time staff members.

Yamasaki said in his floor remarks last night that the law does not require him to surrender the worksheets to anyone at this time.

"If copies of the worksheets are made available to the dissidents," Yamasaki said, "it would have to be after adjournment because it would take too long to copy them now."

BUT CAYETANO last night said: "No one knows what really has gone into the budget."

"We have been told that the numbers don't add up and, if that is true, then the budget is defective," he said.

Dissident Charles Toguchi complained that although he knows the lump sum allotted for operating expenses of the Department of Education — \$320 million — it is "just a summary."

"I have no idea what the details are . . . how do you expect me to support the budget without information?" Toguchi asked

Wong during last night's floor debate.

Cayetano maintains that budget conferees violated the law when they failed to outline a financial plan in the budget.

Yamasaki said that such information is only needed when the budget conferees deviate from the tax projections compiled by the state Council on Revenues.

He said that he would release details of the budget conferees' financial plan when the Senate begins debate on the budget tomorrow night.

Earlier in the session, Wong prevented Lind from attending a Senate Ways and Means Committee meeting. Wong said that no decisions on the budget were made during that session.

Wong said the meeting was held behind closed doors because the committee did not want to give away the strategy it planned to use when it met with the House to draft a compromise budget.

Lind said that Common Cause yesterday sent Yamasaki and House Finance Chairman Ken Kiyabu a letter formally asking them for the worksheets.

state Senate and President Richard Wong indicated today that he wanted to start debate on the budget as early as today in an attempt to head off the dissidents' filibuster.

Dissidents Cayetano and Lehua Fernandes Salling, both of whom are lawyers and who drafted the suit, rejected the early debate idea, saying that they will reserve their comments until the time allotted for the budget debate tomorrow night.

Named as defendants in the suit are the entire Senate. Singled out were Wong and Ways and Means Yamasaki, who late last night denied the dissidents access to the budget worksheets.

All six dissidents were present when the suit was filed with the Circuit Court clerk's office.

Carpenter said both Wong and Yamasaki were named individually in the suit because they are Senate "custodians" of the budget conference report and the worksheets, which he described as "critical documents."

HE SAID THE state's 17 departments use the worksheets as a guide in implementing "the wishes of the legislature."

Without the worksheets, the budget is merely "a blank check," giving no direction to the governor or his departments, Carpenter said.

Also joining the six dissidents in their lawsuit was Common Cause/Hawaii, which was repre-

sented by Fernandes Salling.

"These documents (worksheets) are an important part of the budget and concerned members of the public need them in order to understand the draft budget now awaiting approval by the Senate," said Ian Lind, local executive director for the citizen's lobby.

Cayetano said the suit seeks to have the budget documents turned over to the dissidents and anyone else who wants them under the state's sunshine law.

In the past few years, various deputy attorneys general have told lawmakers that they are exempt from the opening meetings portion of the sunshine law, but must adhere to the public records section of the law.

In order for a document to be deemed a public record it must either be filed with a state agency or be declared as a public document by a state agency, according to a 1976 legal memorandum by former Attorney General Ronald Amemiya.

THE SENATE has no rules re-

quiring the filing of budget worksheets. Because of this it can be argued that the worksheets are not public records and therefore not subject to the records portion of the sunshine law.

The debate on the budget worksheets began last night when Yamasaki refused to give in to the dissidents' request and questioned their motives for asking for them.

During last night's Senate debate, Yamasaki described the dissidents' request as being "unreasonable" and mere "harassment."

The dissidents several weeks ago tried to reorganize the Senate and dump Yamasaki as Ways and Means chairman. But the coup failed and dissidents lost their seats on Yamasaki's committee and the right to participate in budget negotiations with the House.

The Senate purge left the dissidents without any leadership positions or other senatorial bene-

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Based on previous court decisions, the request is likely to be denied when Circuit Court Judge Tomimi Sodehani hears the suit this afternoon.

However, if the request is denied, dissident Democrat Dante Carpenter said his group will filibuster on the two-year budget tomorrow night and force the legislature to stay in session past its Friday midnight deadline.

Dissident leader Benjamin Cayetano said a legislative extension is "nothing unusual;" that it is more important to allow the time for proper review of the budget.

"If an extension is needed to give the budget right, then so be it," Cayetano said.

DISSIDENT Democrat Duke Yamasaki, who has been a member of the Senate for the past 17 years, said this is the first time he can recall when a group of lawmakers has sued the Senate for any reason.

The final vote on the budget is set for 9:07 p.m. tomorrow in the

Legislative Lawsuit Rejected

HONOLULU STAR-BULLETIN
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VOL. 72, NO. 112 HONOLULU, HAWAII Friday, April 22, 1983



LAWSUIT LOSERS—Sen. Neil Abercrombie leads the way out of the courthouse this morning after a judge rejected a suit by dissident senators seeking to make public worksheets detailing the proposed state budget. Behind Abercrombie are Sens. Dante Carpenter, left, Lehua Fernandes Salling and Benjamin Cayetano. —Star-Bulletin Photo by Terry Luke.

6 Senate Rebels Vow a Filibuster

By Gregg K. Kakesako
Star-Bulletin Writer

Six maverick senators today lost their bid to make public worksheets detailing the state's proposed budget, but the dissidents said they will proceed with a filibuster on the money package tonight — a move that could force the 1983 Legislature into overtime.

Circuit Judge Toshimi Sodeani ruled that the seven volumes of budgetary worksheets the dissidents requested are not "public documents" and, therefore, not open for public inspection.

After a 90-minute hearing this morning, dissident Democratic leader Benjamin Cayetano said he was "disappointed" by Sodeani's ruling and acknowledged that a legislative extension into next week was "a pretty darn good" possibility.

THE DEADLINE for lawmakers to complete their work this year is midnight. If the Senate is unable to pass the \$2.9 billion budget to fund the state operations for the next two years, Gov. George Ariyoshi or the two houses of the Legislature could extend the session. (The state constitution forbids weekend sessions of the Legislature.)

Dissident Big Island Sen. Dante Carpenter said a filibuster would allow time during the weekend to develop "a greater understanding" of the budget.

Two other dissidents, Charles Toguchi and Neil Abercrombie, said "there will be a lot of questions asked on the Senate floor" tonight because they now do not have the seven volumes of worksheets which they believe are crucial to their understanding of what's in the budget.

Senate President Richard Wong, throughout the week-long fight on the budget, vowed that the session will not go past its midnight deadline but will adjourn as scheduled with the money package scathed but intact.

WONG REPEATED that promise on the Senate floor yesterday when he told his colleagues that a vote will be taken on the budget tonight sometime after 9 p.m.

Wong said yesterday that he was willing to let senators debate the budget all day long if necessary but that a vote would take place before the session ends.

An extension would delay a vote on other bills whose passage is linked to the budget.

Senate Mavericks Vow to Filibuster

Continued from Page One

whether Wong is willing to risk a further rift in the Senate by calling on his 14 supporters and the five-man Republican caucus to cut off debate and force a show-down vote. It will take 17 votes to end debate.

There is no question that there is enough support in the Senate to pass the budget. The problem lies in whether Wong is willing to gag a fellow senator — an action that would be contrary to his style of leadership.

Despite criticisms from many quarters, Wong has prided himself as being "a fair person," allowing prolonged debate on issues, no matter how insignificant.

The budget battle spilled into the courts yesterday when the six dissidents asked Sodetani to force Wong and Senate Ways and Means Chairman Mamoru Yamasaki to turn over budget documents.

It was the first time in state history that the Senate has been sued by its own members.

The six — Cayetano, Lehua Fernandes Salling, Kawasaki, Abercrombie, Toguchi and Carpenter — say they needed the budget worksheets to make an intelligent decision on the budget.

BUT SODETANI this morning said the dissidents failed to show how the budget worksheets qualify as "public records."

"There is no evidence to indi-

cate that the worksheets are official entries . . . or documents received by the Senate Ways and Means Committee or the Senate for filing," Sodetani said.

He said the budget worksheets are "preliminary internal working papers" prepared by the staff of the Senate's money committee for use in legislative negotiations and as such cannot be construed as "official documents of the Senate."

Sodetani, in his oral ruling, acknowledged that Cayetano was correct in arguing that the worksheets are important to understanding the budget bill, but "the only issue is whether these documents are public records and open to public inspection."

None of the six was allowed to participate in the five days of budget negotiations with the House.

THREE WEEKS AGO, the dissidents tried to take over the Ways and Means Committee but failed. Wong punished the six by removing them as committee chairmen and from the budget talks.

The dissidents were joined in their lawsuit by Common Cause/Hawaii, the citizen's lobbying organization. Common Cause is still contemplating another lawsuit against the Legislature, seeking clarification about whether the Legislature can bar the public from strategy sessions on the budget.

During yesterday's 90-minute court hearing which was continued this morning, Dennis Goda, deputy budget director, testified that the budget worksheets are "vital" parts of the budget because they help his office determine what the Legislature allocated for certain programs and agencies.

Goda said the budgetary documents are prepared by the staff of the House Finance and the Ways and Means committees and flesh out the raw data in the budget.

Cayetano, who represented the dissidents in court, said the 159-page budget is merely a summary of numbers which are meaningless without the worksheets

BUT DON GELBER, attorney for the state Senate, argued in his memorandum that the worksheets are not part of the budget and have no legal authority. In addition, the worksheets fail to meet the criteria established for public records under the state's sunshine law because they are not filed with any state agency.

Gelber said "common sense" as well as the law dictate that the court reject the dissidents' request.

But Cayetano this morning argued that the only "public records" exempt from public disclosure are "those that invade the right of privacy of an individual or which directly pertain to criminal litigation."

These include legislation that would appropriate \$72 million for the operating expenses of the judiciary and \$1 million for the Office of Hawaiian Affairs, a \$1-per-person tax credit, \$20 million public works "pork barrel" bill, and a \$1.5 million bill to help Kauai County pay for the damages caused by Hurricane Iwa.

Wong supporters maintain that as a matter of good public relations lawmakers should finish work without an extension.

They also said they doubt the dissidents will make good their threat of a filibuster. "Simply put," one Wong supporter said, "I doubt if they are up to it."

BUT THE BIG question is
Turn to Page A-3, Col. 3

letters

Police, business, statue etc.

HPD & citizenry

Now is the right moment for citizens to tell city officials that they want and expect Honolulu's new chief of police to establish a far more just and equitable relationship between the Honolulu Police Department and the citizenry it is to serve than has existed in the recent past.

Now is the auspicious time to express these views because:

- The Honolulu Police Commission is now selecting a new chief of police.

- A relatively new City Council is deciding on a budget that calls for upgrading some HPD programs.

- The mayor has advocated implementing important HPD changes based on recommendations of an outside management study.

- A string of police brutality cases, some publicized and some not, has cost Oahu taxpayers thousands of dollars in payments for damages and in financing city or private defense attorneys for officers sued for misconduct.

The representatives of those non-partisan, public-interest organizations listed below are concerned with the department's longstanding failure to afford public accountability of its methods of operation and its procedures for internal discipline.

In particular, we are concerned about failures of the chief of police to adopt and make public those rules under which the department interfaces with the public.

We also believe rules once adopted should be made available to the public at the City Clerk's Office, but which the chief of police has failed to do.

The importance of the adoption of rules — upon which citizens have been given the opportunity to express themselves freely — cannot be taken so lightly.

This importance was noted by Justice Douglas when he observed: "It is not without significance that most of the provisions of the Bill of Rights are procedural. It is procedure that spells much of the difference between rule by law and rule by whim or caprice."

BEVERLY KEEVER,
Coordinator, Sunshine Law
Coalition of Hawaii

EMMETT CAHILL,
Hawaii Council of
Churches

ARLENE WOO,
League of Women
Voters/Honolulu

IAN LIND,
Common Cause/Hawaii

ROBERT KAMINS,
American Civil
Liberties Union

LETTERS to the Editor

Mainland Commissioners Defended

In response to the article "The Hawaii Study Commission—a Bizarre Charade," by Melody MacKerzie and Jon Van Dyke, I feel obligated to comment in defense of the Mainland members. I too attended the final two day meeting last month in Washington, D.C. and in my opinion, it was the Mainland members who tried hardest in working toward a unanimous report by the commission.

It was Carl Anderson who proposed what might have been the

perfect solution for the entire commission: "I cannot vote for this recommendation (Hawaii's substitute, as written), but I will make a motion that we recommend to the appropriate committees in both the House and Senate to study the roles and actions of the U.S. in the overthrow."

Anderson went on to say, "We could also include the statement summarized earlier by Stephen Shipley: We (the commission members) do believe that U.S. Minister Stevens, who represent-

ed the U.S., and people who occupied positions in the U.S. government (in 1893) participated in acts which led to the overthrow of the Hawaiian monarchy."

Had the Hawaii members supported Anderson's proposal, the very maximum potential of the study commission could have been attained . . . seeking Congress to address the issue of U.S. involvement in the overthrow.

As an observer and a native Hawaiian, I was shocked and disheartened when Chairwoman Kinau'u Boyd Kamali'i responded to this recommendation by cutting Anderson short! She pointed out that he was jumping ahead to the Hawaii members' second recommendation. When Vice Chairman Shipley recommended the commission review Hawaii's second recommendation . . . Kamali'i stood up and declared the subject closed and called a recess for a minority caucus!

She then made it clear that the recommendations would now be withheld to be included in a "minority report."

The remaining afternoon was most certainly a "bizarre charade" as Hawaii members took numerous breaks trying to figure a way out of their self-inflicted dilemma.

Returning home to point the finger at the "Mainlanders" is just too easy of a copout for me!

Excuses such as "the Hawaii members being more acquainted with the Island style of decision-making" rather than the "hard ball style of the Reagan appointees" is so unfair.

The setting of the recent meeting was comparable to a local legislative committee meeting. What will we do when and if we ever reach the halls of Congress? Some degree of professionalism will most naturally be required.

As a Hawaiian who deeply cares, I had to fight back tears of frustration, not over the bureaucracy of Washington, but rather the sad lack of foresight from our own Hawaii members.

Toni Auld Yardley
Editor
The Hawaiian News

Legislative Openness

Last week, Common Cause/Hawaii joined with six members of the state Senate in a law suit aimed at opening certain budget "work sheets" to public inspection.

We are, of course, disappointed by the court's decision. However, while the legal claims which we made did not immediately prevail, we firmly believe that the legislative process must eventually be opened to the people.

We are fully aware that the Legislature's long tradition of secrecy will not be easily or quickly overcome, but Common Cause remains fully committed to seeing this through to the end—that is, until sunshine is a part of business as usual at the Capitol. This, in no means a "dissident" posture. It is, instead, the simple assertion of our most basic democratic heritage.

Common Cause also noted with special interest testimony indicating that the work sheets contain the only existing record of actual decisions being considered and made in the course of the Conference Committee deliberations on the budget.

Witnesses agreed that the final budget cannot be understood by members of the Senate, much less the general public, without reference to the information contained in these work sheets.

Accordingly, Common Cause believes that Hawaii's constitutional provision for open and public decision-making requires public access to such information.

In order to guarantee the public's constitutional right to know how and why legislative decisions are being made, we will continue to press the leadership of the Legislature to establish a decision-making process which is open and publicly accessible.

Ian Y. Lind
Executive Director
Common Cause/Hawaii

'Pure' Politics

The legislative process, where it worked and where it didn't, will be discussed at a free seminar at 4:30 p.m. Wednesday at Harris United Methodist Church.

"Overview of the '83 Legislature" will feature political writer Jerry Burris; Ian Lind of Common Cause; Rhoda Miller of the League of Women Voters; Max Roffman of Kokua Council; George Takane, chief clerk of the state House of Representatives; Robert Hemphill, legislative aide to Sen. Steve Cobb; and Jane Hewitt, aide to Sen. Mary Goerge.

Rollie Smith, director of Health and Community Services Council will give a summary presentation.

Legislators Accused of Eclipsing 'Sunshine' Laws

By June Watanabe
Star-Bulletin Writer

The state's "sunshine" laws — aimed at promoting open government — are in serious trouble, according to Jan Lind, executive director of Common Cause/Hawaii and a member of the Sunshine Law Coalition of Hawaii.

In a luncheon speech to the Media Council of Hawaii yesterday, he pointed to the most recent state legislative session as containing numerous examples of how the sunshine laws are not working.

Committee reports were not made available, meeting notices were not posted as required, there were secret decision-making sessions, most notably on the final state budget package, and there was a "serious attempt" to gut the disclosure requirements

in the campaign spending report, Lind said.

"The attitude of (the legislative) leadership is profoundly negative toward sunshine," he said. "It is an attitude of 'you can't make the law tough enough that we can't get around it.'"

Lind said he doesn't believe that attitude exists because politicians are against the public good. Instead, he offered three other "reasons" for the anti-sunshine attitude.

ONE, HE said, is "The Club" mentality, wherein politicians who have survived the "rite of passage to get into office" now feel a "proprietary attitude toward their public task."

The second is "The Cabal," wherein people in "The Club" tend to define the interests of the club as being more important

than the interests of the public, he said.

The third reason is "The Campaign," in which politicians are reluctant to let the public see beyond the image projected during the election campaign, Lind said.

In other words, lawmakers are reluctant to let the public see them in bad light and this "prevents them from wholeheartedly committing themselves to sunshine," he said.

Beyond the barrier of attitudes, Lind said the problem is that the sunshine laws — especially the one passed in 1975 and known specifically as "the" sunshine law — are weak and vague.

FOR EXAMPLE, individuals do not have the power to force government groups to hold open meetings — that has to be done by the state attorney general or county prosecutors — and there

are no meaningful sanctions for violations, he said.

"But without the law," he conceded, "we could be in a lot worse shape than we're in now."

The solutions?

Lind said the public has to be reminded of the importance of such laws to a democratic government and that's why the Sunshine Coalition is undertaking a speaking campaign on that subject.

He also said it's crucial that people begin to challenge violations, something that hasn't happened too often in the past. Legal challenges will help to clear up vaguenesses in the laws, Lind said.

The membership of Common Cause will discuss sunshine law problems at a meeting at 7 p.m. next Wednesday at the Unitarian Church.

Money for lobbying

The biggest lobbyists in Washington do not represent corporate or conservative interests. They are the unions, the environmentalists, the gun-controllers and other liberal groups that are promoting big government at the expense of private enterprise and individual freedom.

One of the biggest spenders was Common Cause which supports many liberal causes and is noted for its self-righteous complaints about the amount of money businesses and political action committees spend trying to influence legislation. In the last three months of 1982 Common Cause spent \$422,537 lobbying Congress.

The other top lobbyist in Washington is Handgun Control, Inc. which spent \$356,443 for gun control legislation. The public has been led to believe that the National Rifle Association and Citizens Committee for the Right to Keep and Bear Arms are the biggest gun lobbyists.

NRA spent \$116,788 and CCRKBA, \$159,532. Handgun Control spent more than the two combined! . . .

HENRY P. THOM
Hawaii Federation of Sportsmen,

Kids, openness, etc.

Public disclosure

In a recent letter (6/23), Henry Thom criticized Common Cause for reporting large lobbying expenses while voicing "self-righteous complaints about the amount of money businesses and political action committees spend trying to influence legislation."

A few things should be noted in response.

First, Common Cause goes out of its way to comply fully with the intent of the public disclosure law, reporting fully and openly all its spending, down to the last paperclip . . .

Second, the bulk of spending reported by Common Cause goes to inform and empower individuals across the country so that they can participate more effectively in the process of democratic government. . .

Third, it must be recognized that this approach to influencing the actions of our government is very different from the direct attempts of special interests to buy congressional access and influence. Common Cause opposes sophisticated lobbying operations which combine large campaign contributions and honorariums with more traditional lobbying . . .

We do not believe that it is "self-righteous" to work for more honest and responsible government by opposing the buying of political favors by special interests.

IAN Y. LIND
Executive Director

In Hawaii...

Monday, August 8, 1983 Honolulu Star-Bulletin A-3 ●

Financial Statement Copying Considered

In response to a request by Common Cause/Hawaii, the state Ethics Commission is considering a new rule that permits the public to get copies of financial disclosure statements of Hawaii's legislative and top-appointed officials.

The citizens' lobbying organization argued that the Ethics Commission's rule, which permits public inspection of the financial disclosures but prevents copies to be made, violates the state Sunshine Law covering open government records.

Honolulu Advertiser
August 10, 1983

Ethics panel changes stand

A Common Cause/Hawaii complaint has prompted the state Ethics Commission to reconsider its ban on the photocopying of financial disclosures filed by top state officials.

Common Cause charged in May that the commission violated the state's open records laws by failing to make copies of the disclosures available on request.

Catherine Chang, the commission's executive director, agreed last week that the commission's rule "seemed to be inconsistent" with the open records laws.

The commission plans to propose a change in its rules that would give the public "greater access to, if not actual photocopies of, the information on the public disclosures," Chang said.

Hawaii Report



**don
chapman**

The Honolulu Advertiser
Wednesday, August 24, 1983 A-3

DIS AND DOT: Dick Rodby had a good reason for asking **Keith and Carmen Haugen** to perform at Kemoo Farm during brunch on Sept. 11 — it's Grandparents Day and Keith and Carmen have just become grandparents . . .



Haugen

"Hawaiian Genealogies," an important new book by **Edith Kawelohea McKinzie** with an assist from **Ishmael Stanger**, has just been published by the University of Hawaii Press and the Polynesian Cultural Center. It is the first of three volumes and makes it possible to trace a Hawaiian family name back to the year 1200 . . .

The state's sunshine law fizzled when the staffer in Lt. Gov. **John Waihee's** office who normally collects and publicly posts the agendas of all meetings of gov't agencies was forced to miss work because of an allergic reaction to a bee sting. **Ian Lind**, exec dir. of Common Cause, says he's tried but can't determine exactly how many meetings were held without the required public notice □ □ □

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A-12

Friday, Aug. 26, 1983

Loopholes in the Law on Lobbying Expenditures

Which Washington lobby organization consistently tops the list of spenders?

It's Common Cause, the good government group. Common Cause says it spent more than \$1.5 million in 1982 and already has reported nearly \$1 million for the first half of 1983.

But Common Cause claims that this unwanted distinction is a result of the lax reporting habits of other pressure groups. It is campaigning to eliminate loopholes in the federal lobby disclosure law.

That law, the 1946 Federal Regulation of Lobbying Act, is supposed to let Congress and the public know how much money special interest groups spend to influence legislation. But it is generally believed that the \$35 million reported last year in disclosure statements is far below the true figure.

For example, financial industry groups reported spending about \$500,000 on the campaign against withholding of taxes on interest and dividends. But Common Cause estimated the real figure at \$2 million.

The U.S. Chamber of Commerce does not even register itself as a lobbying organization, contending that the law does not require it to register. Individual Chamber lobbyists do file lobby spending reports, but these generally include only minimal expenses such as taxis and business lunches.

One authority on the law says "It's got loopholes everywhere. It's probably unenforceable, and it's certainly unenforced. Nobody pays much attention to it."

Hardly anybody in Congress is interested in tightening the law, either. Common Cause has stood alone in an effort to generate interest in the issue.

A lobby reporting law that is full of loopholes is probably worse than no law at all. We ought to know how much is being spent on lobbying, and that means getting rid of those loopholes.

Kauaians for Nukoli'i

GI Fri 9/23/83 A1-12
The Garden Island (Lihue, Kauai, Hawaii)

Is KFN a campaign committee?

by William LeGro

The Campaign Spending Commission has asked the attorney general for an opinion on when the Kauaians for Nukoli'i becomes a "committee" under the campaign spending law.

"The question is where do we draw the line?" CSC Executive Director Jack Gonzales told The Garden Island this morning.

SHOULD THE LINE BE DRAWN at certification of the group's petition, which occurred Tuesday? Or should it be when the County Council either approves the

petition to rezone the Nukoli'i site to resort or rejects it and places it on the ballot?

The law says a "committee" is "any organization which . . . accepts a contribution or makes an expenditure for or against . . . any question or issue which appears or which is reasonably certain to appear on the ballot at the next applicable election."

KAUAIANS FOR NUKOLI'I Chairman Bob Yotsuda wrote Gonzales earlier this month saying the KFN is not a committee because the issue is "neither certain nor 'reasonably certain' to appear on

the ballot.

Yotsuda pointed out to Gonzales the procedure the Council must follow, saying the Council might pass a law enacting the petition, "precluding the need for putting the issue on the ballot . . ."

COMMON CAUSE HAWAII, asked by Gonzales to comment, says the law is a "broader and less demanding standard than that apparently being claimed" by KFN.

In a Sept. 19 letter from Common Cause Executive Director Ian Lind, Common Cause said, "Virtually all observers now feel that the petition drive by KFN will be

successful and that the proposed initiative will qualify for the ballot . . . Thus, it would seem reasonable to conclude that Kauaians for Nukoli'i is already a committee . . ."

And it would "certainly" be a committee once the petition is certified, Lind wrote. "No knowledgeable observer expects that the Council will take it upon itself to act on the issue if this initiative has qualified for the ballot."

COUNTY ATTORNEY

(Please turn to page 12)

★ Kauaians for Nukoli'i ★ (Continued from Page 1)

MICHAEL BELLES told The Garden Island that he thinks the Supreme Court language upholding the 1980 referendum shows the Council should not by itself reverse the decision of the voters. They decided by a 2-1 margin to refuse resort zoning for the project.

Belles said former County Attorney Morris Shinsato sent the Council a memo some time ago to that effect, and Belles has told individual Council members the same thing.

All this would seem to support Common Cause's view the KFN would have to begin reporting revenues and expenses as of Sept. 20.

THE KFN EARLIER TOLD

The Garden Island it would report its financial data when the Save Nukoli'i Committee does.

Gonzales said Save Nukoli'i should have reported its contributions of \$100 or more dating from January 1980, when its own petition was certified. Gonzales said the statute of limitations -- two years -- has run out and he cannot pursue Save Nukoli'i for any possible violation.

Save Nukoli'i spokeswoman LaFrance Kapaka told The Garden Island this morning "our records are straight" and the group will report them soon. In all the time the group has existed, she said, it

received only one contribution over \$100, and that was a \$700 gift three weeks ago "from an elderly couple in Sun Village."

THE REST OF THE GROUP'S income has been from garage sales, rummage sales, Moloka'i bread sales, fundraisers, and laulau sales. "Once we made 4,000 laulaus . . . they cost two for \$3." The group got several small contributions -- \$5 and \$10 -- from tourists, she said.

Save Nukoli'i spent more on legal costs than on campaigning for its initiative, Ms. Kapaka said. Gonzales said an attorney from the group had called him early in the

campaign to ask him about the law and told him the group was on a legal, rather than political, crusade.

MS. KAPAKA SAID the group had more of a hand-to-mouth existence. "We never had an office or a paid staff." Total income and expenses came to several thousand dollars, and CPA Bert Lyons is preparing a report.

Kauaians for Nukoli'i is asking for a special election on their initiative. Ms. Kapaka said the Save Nukoli'i Committee hopes it will go on the general election ballot "because we need to start making laulaus."

Debating the shades of sunshine law

By Jerry Burris
Advertiser Politics Editor

Hawaii's "sunshine law" has enough ambiguity to permit just about as much — or as little — openness as government chooses to allow, a panel discussion on the subject agreed yesterday.

But that was almost the only major agreement as representatives of the state government, the news media and the citizen lobbying group Common Cause hashed over the state's open-government "sunshine law" before the Honolulu Community Media Council.

Representatives of the Ariyoshi administration insisted the governor and his aides have a commitment to openness — an assertion hotly contested by many on the panel and in the audience.

In fact, attorney Jeffrey Portnoy, who has represented news media clients in several open-meeting cases against the state, claimed the state actively fought to close gov-

ernment meetings in a recent case even though the major principals wanted them open.

Portnoy said a state attorney "lobbied" to close the recent Board of Agriculture hearings on Safeway's request to import milk into the Islands.

"They attempted to close the hearings," Portnoy said. "None of the parties were interested. In fact, the only entity interested in closing (the hearings) was the state."

The other participants, including local dairies and Safeway, he said, were "lobbied by the state in an attempt to close the meetings."

That stand, Portnoy contended, illustrates how the Ariyoshi administration "has taken the narrowest interpretation of" the sunshine law.

The Agriculture Department's deputy attorney general was not immediately available for comment on Portnoy's assertions.

Robert Duncan, special assistant for communications to Ariyoshi, said Portnoy and other critics con-

fuse what they'd like to see with what the law actually requires. "I, as the governor does, take exception (to the idea) that this isn't the most open of administrations," he said.

The specific subject at yesterday's meeting was the state's decision to close the doors on meetings of the governor's ad hoc advisory committee on water.

Portnoy, representing KHON-TV, filed suit challenging the closures, but Circuit Judge Wendell Huddy said the unofficial committee does not fall under the sunshine law. The case is on appeal.

Ian Lind, executive director of Common Cause/Hawaii, charged that the use of such unofficial advisory committees to conduct public business "looks pretty ominous."

"How many are being used to bypass the established channels of government?" he asked. "Could they be used whenever an issue is considered too politically hot, too politically sensitive?"

"In a sense we have a whole new branch of government that the sunshine law didn't envision."

Duncan insisted Lind and Portnoy had "mixed philosophy with what is the law . . . Maybe you can say this is a bad law, but it is the law."

Lind countered, however, that while the sunshine law may not specifically require the water committee to hold open meetings, nothing requires the meetings to be closed, either.

Later in the meeting, Duncan seemed to agree, saying: "It is a choice. And I think the state benefits from that choice. More wisdom comes out of a meeting dealing with sensitive matters that does not come under this law than if it became a circus."

Deputy Atty. Gen. Lawrence Lau said ambiguity in open meeting and privacy statutes causes problems for government lawyers. And faced with an ambiguous situation, Lau said, an attorney is all-but-obligated to take the more cautious route.

Media Council Dissects Sunshine Law

By A.A. Smyser
Star-Bulletin Contributing Editor

Here is a multiple choice quiz.

Is the Ariyoshi administration:

A—The most open the state has ever had?

B—One that often goes to bat to close meetings, rarely to open them?

C—One that abides fully by the letter of the so-called Sunshine Law requiring public notice of meetings, open meetings and public records?

D—One that violates the spirit if not the letter of the Sunshine Law by not encouraging open meetings when they are not specifically required by law?

E—One that lobbied to close the milk import hearings when all other parties wanted them open?

All of the above characterizations were laid before a lunch meeting yesterday of the Honolulu Community-Media Council at the Pacific Club.

Boasting of openness were Herbert Duncan, special assistant to

the governor for communications, and Lawrence Lau, deputy attorney general.

Critical of the administration and asserting it acts against the spirit if not the letter of the Sunshine Law were Jan Lind, executive director of Common Cause/Hawaii and Jeffrey Portnoy, a lawyer for various news media in "sunshine" cases.

THE CRUX OF the matter appeared to be that the Sunshine Law has limited application and that the state attorney general has on a number of occasions ruled or acted in support of closed meetings by agencies not specifically required to open them.

Lind says this creates an enormous and ominous loophole in the Sunshine Law. Duncan countered that there is a clear legal option to close meetings when openness is not required. Lind urged an alternative option of keeping practically all meetings open but going into executive session for portions where privacy is required.

In this connection the media

council had previously expressed concern that one section of the state law, Section 92-E, is too broad in allowing privacy on personal matters. It has agreed to look into the matter for the future.

Lau said the attorney general's office has advised state agencies on the openness law, but usually gets drawn into public view only when it fights to close meetings at the request of the agency involved.

The day's moderator was Richard Miller, dean of the University

of Hawaii Law school. He joked that he had been virtually 100 percent for sunshine laws before he became a dean. In opening the discussion he said that sunshine nourishes life and makes things grow but also causes cancer.

Lind argued that experience in other states has shown that government can be successfully conducted in the open. Lau said he would like to know if sunshine policies are effective in getting more public participation in government and better government decisions.

Initiative Supporters Meet, Eye Legislative Strategies

A-12

Honolulu Star-Bulletin Wednesday, November 16, 1983 ●

Six panelists discussed strategies to move a bill for statewide initiative out of state Rep. Kate Stanley's House Judiciary Committee during Monday's annual meeting of the Initiative Committee.

Committee president Mary-Jane McMurdo moderated the panel, which also included Debbi Glanstein of the committee; Martha Black of the American Association of University Women; Marjan Wilkins of the League of Women Voters; and Richard Port and Ian Lind, both of Common Cause. Their groups all support statewide initiative.

The Senate passed an initiative measure last session, but Stanley refused to hold hearings on the bill, because, according to Lind, Stanley and her committee members oppose initiative, but are reluctant to take that position in an open vote.

This is the third statewide initiative measure that has been approved by the Senate and then been bottled up in the House.

Initiative is a process where voters petition to have a law or an amendment to the state constitution placed on the ballot for voter approval.

The bill in Stanley's committee

calls for indirect initiative where petitions calling for a vote on a law or amendment would have to be submitted to the Legislature. Lawmakers would have to enact the proposed measure or one substantially similar within a set time or it automatically would be put on the ballot.

Port said the Democratic party is split on the subject of initiative and the Republican party favors it. The reverse had applied in the past.

The tendency is for the "people on the outs" to want initiative and those who have control to resist sharing it, Wilkins said. Initiative, however, should be looked at as way for citizens to address a subject that the Legislature doesn't want to touch, she said.

HPD rules on conduct released

The Honolulu Police Department recently released for the first time its internal rules and regulations on ethics, conduct and disciplinary procedures.

The Sunshine Law Coalition, an umbrella group of community organizations concerned about open government, sought release of the rules after learning they had not been previously available to the public.

Ian Lind, coalition coordinator and Common Cause/Hawaii executive director, hailed the city's release of the department

rules, but still plans to push for the department to adopt them formally.

Under the rules, police officers and employees cannot release information that "might be prejudicial to the interests of the state, the city or the department."

They are also barred from soliciting or accepting "gifts, gratuities, loans, fees, rewards or other things of value" and cannot use physical force, "except to the extent necessary to accomplish a police objective."

the ombudsman

Police regs obtained through city office

Honolulu Police Department's internal rules and regulations on ethics, conduct and disciplinary procedures were made public recently by the Sunshine Law Coalition. It obtained them through the city corporation counsel, according to Ian Lind,

coordinator of the group of community organizations concerned about open government. A news item yesterday said inaccurately that the police department released the rules and regulations.

Police Department Releases

★ Thursday, November 17, 1983 Honolulu Star-Bulletin A-11

Internal Rules, Regulations

By Phil Mayer
Star-Bulletin Writer

The Honolulu Police Department yesterday released 25 pages of internal rules and regulations that, according to the public interest watchdog group Common Cause, had not been made public before.

The documents contain the department's code of ethics, standards of conduct and disciplinary

procedures that apply to civilian employees as well as sworn officers.

The rules were released after the Sunshine Law Coalition asked the city Corporation Counsel's office for them.

Common Cause executive director Ian Lind said the coalition — which in addition to Common Cause includes the Hawaii chapter of the American Civil Liber-

ties Union, the Legislative Concerns Committee of the Hawaii Council of Churches, the Honolulu Community Media Council and the Honolulu unit of the League of Women Voters — was "extremely pleased" by the city's action.

He praised the city's "willingness to open the internal police rules to public scrutiny. This is apparently a change in policy as

community groups were previously told that these rules were 'not available' to the public."

"This new policy of openness is responsive to the public's right to know, and it deserves the attention and support of the community," Lind continued.

But the HPD has not properly adopted the rules, because no public hearings were ever held on them, he said.

Lind said one of the purposes

of the state Sunshine Law on open meetings and records is "to assure that agencies cannot devise 'secret laws' by implementing rules without public input and review."

Among the rules made public yesterday are those which say police officers and employees cannot:

—Release information which "might be prejudicial to the interests of the State, the City or the

department."

—Take part in any political activities except voting.

—Solicit or accept "gifts, gratuities, loans, fees, rewards or other things of value."

—Use physical force "except to the extent necessary to accomplish a police objective."

—Recommend the services of any bail bond broker, attorney or towing service.

Business major in contributions through PACs

Political action committees (PACs) representing businesses accounted for more than half of all PAC contributions to Hawaii's congressional candidates last year, according to figures compiled by Common Cause/Hawaii.

The organization, which is supporting national legislation to limit the amount candidates can receive from PACs, said business PACs gave 56 percent of the \$405,255 contributed by all PACs during the 1982 federal elections.

In the 1980 federal elections, business PACs in Hawaii accounted for 59 percent of all PAC contributions in the state.

Sunshine law exemption killed on Maui

A proposal to allow county councils exemptions from the state sunshine law was killed yesterday by the Maui County Council while the Honolulu City Council was wondering what it should do about the issue.

The proposal originated in the Maui County Council's Intergovernmental Committee and has been presented to the legislative committee of the Hawaii State Association of Counties. But it was not brought before the full Maui council until yesterday.

Maui Councilwoman Velma Santos, who initiated the proposal, said the Maui council members set other priorities and will recommend that the sunshine law amendment

be deleted from the legislative package.

Members of Honolulu's City Council wrestled with the sunshine issue yesterday at a briefing on matters planned for discussion at the counties' meeting.

Ian Lind of Common Cause, the citizen lobbying group, rose from the audience to complain that it appeared the association intended to hold an unannounced, closed meeting to decide if it wanted to ask for an exemption from the sunshine law.

"These are matters of public policy and they're being developed with public money" and should be debated in open meetings, he said.

Lind presented council members

with letters from Common Cause and the Sunshine Coalition of Hawaii opposing the proposed exemption.

Councilman George Akahane assured Lind that Honolulu council members would notify the public, and Lind specifically, of any discussion on the matter.

Isle Counties Will Assess Taxes, Budget Problems

By Susan Manuel
Star-Bulletin Writer

Taxes will be on the minds of representatives from the Hawaii State Association of Counties when they meet Wednesday through Friday in the Pacific Beach Hotel for their 1983 Mid-Year Conference.

They'll be looking at ways to finance the counties and give local governments more control over local affairs, while reducing property taxes — revenues over which the county has exclusive domain, but which are politically unpopular.

"We will be emphasizing that the present tax structure relies disproportionately on property taxes," said conference coordinator Welcome Fawcett, a Honolulu City Council member.

HSAC will also use the convention to formulate a package of bills that the counties will promote during the upcoming Legislature.

Among the proposed bills is an exemption of certain Sunshine Law provisions requested by the Maui County Council which is sure to cause considerable discussion. The Maui Council wants local government to enjoy the authority to close meetings that the Legislature does.

Honolulu city attorneys are currently looking into what those exemptions may be, but already Common Cause and the Sunshine Coalition of Hawaii have lodged protests.

HOW HSAC will choose which legislative proposals to advance has also emerged as problem, since each county council will be represented by one member at this week's convention. But each council must figure out how to hold some kind of open meeting to decide what legislation its representative will back. And it appears too little time has been scheduled for that process during the conference.

The dilemma is symptomatic of the new, more powerful role HSAC is creating for itself. Conference organizers have referred to the best-seller "Megatrends" in describing HSAC's mission. In the book, author John Naisbitt foretells the growing power of local, grassroots forms of government. And several of the legislative proposals HSAC may advance involve "home-rule" issues.

What was once a coordinating body, among the counties is taking on legislative tasks, commented City Council member Marilyn Bornhorst at a HSAC brainstorming session Friday.

Bornhorst wants to free the counties from the provision that requires any change in local tax laws be approved by all four counties. Currently, HSAC is the main vehicle to discuss such changes. But Bornhorst said

In Hawaii...

Monday, December 5, 1983

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HSAC is vulnerable to manipulation because the agenda is decided by committee.

COMMON CAUSE executive director Ian Lind protested Friday that HSAC coordinators didn't know how they will decide on their legislative package and do it in open sessions. It's ironic, Lind said, that decisions about the Sunshine Law could be made in darkness.

Bornhorst responded that no closed caucuses would go on at the HSAC convention.

Senate president Richard Wong attended Friday's session with the oft-repeated, but unpleasant news that no new financial help for the counties will come from the 1984 Legislature.

Property taxes have contributed an increasing amount to the four counties' revenues as state and federal government aid has shrunk — from 42 percent of revenues in 1977 to 50 percent in 1982. The counties are seeking to stem that escalation because the tax is unpopular, and Bornhorst complains, inflexible.

Wong told the council Friday that the arbitrators' recent decision to go with the state's wage contract offer of a 2.88 percent, two-year pay raise for firefighters may help the state budget.

"But the political realities won't let the Legislature give the counties additional taxing powers," he said.

Wong recommended instead that the counties give up some responsibilities if they feel they can't pay for them.

THE STATE should have a \$15 million surplus at the end of the 1984-85 fiscal year, Wong said; but those funds are already spoken for. Nine million dollars is reserved for grants-in-aid: \$2 million for alternative education; \$2 million for early success education; and \$1 million for taxpayer rebates, he said.

The Legislature believes the counties should make do with property taxes and raise assessments or tax rates if more revenues are needed, Wong said.

Wong's answer throws the property tax issue back to the county councils and to the HSAC conference, which will devote most of its agenda to tax discussions.

Sharing the costs of government more equitably through user fees, bond sales, cash management, contracting out services and private organization involvement will be discussed as alternatives.

The conference features speakers from state and local governments, the directors of the Tax Foundation of Hawaii and the Hawaii Tax Review Commission: Sandra Smoley, president of the National Association of Counties; financial experts from the private sector and a Washington state senator, who will speak on lotteries.

THREE OF the four county mayors will speak. Stanley Shiraki, chief budget officer for Honolulu, will represent Mayor Eileen Anderson.

The tax experts who'll speak, however, aren't of one mind on the need to change the tax structure.

They point out that Hawaii's property owners pay less property tax, proportionately, than people on the Mainland because the city and county does not administer education, health and welfare here.

The counties collect 20 percent of all taxes paid in the state and spend 20 percent of all government revenues, says Lowell Kalapa, executive director of the Tax Foundation of Hawaii.

As Jack Suydehoud, executive director of the Hawaii Tax Review Commission, points out, the city's reliance on property taxes may be high, but the amount of taxes is not, compared with the rest of the country. State income and excise taxes take a bigger chunk of most people's income.

"In a sense, we already have diversification," Suydehoud said in a recent interview. "But the property tax could be more flexible if reassessment were undertaken with more seriousness."

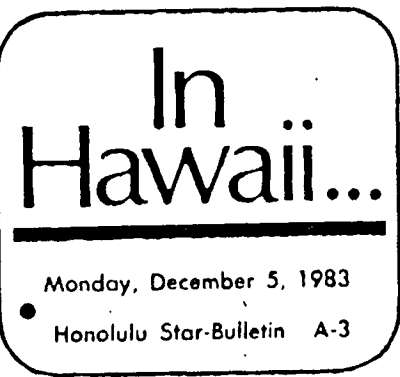
THE TAX also could be made more fair if ideas like higher exemptions for lower-income homeowners were explored, he said.

Suydehoud cites figures showing that property taxes in Hawaii account for 14.7 percent of all state and local tax revenues, while property taxes across the country average 30.7 percent of those revenues.

Property taxes make up 62 percent of all local revenues; the U.S. average is 34 percent.

The median income family in Hawaii pays 1.6 percent of its income to property taxes, while the U.S. average is 2.5 percent, Suydehoud said.

Because it taxes wealth and not income, property taxes are unpopular nation-wide, Suydehoud says. In Hawaii the high value of property adds to the tax burden.



With Support from Common Cause

6 State Senators Seek Ruling on Budget

By Gregg K. Kakesako
Star-Bulletin Writer

Six dissident state senators and Common Cause Hawaii today asked the state Supreme Court to decide whether legislative budgetary worksheets are public records.

The six Democrats — Nell Abercrombie, Dante Carpenter, Ben Cayetano, Lehua Fernandes Salling, Duke Kawasaki and Charles Toguchi — have been trying to get these and other Senate financial records from Senate President Richard S.H. Wong.

A fight over the internal House-Senate budget conference worksheets earlier this year ended in a bitter break in the Senate's 20-member Democratic majority caucus which has yet to be mended.

The dissidents tried to oust Wong in the closing days of the 1983 session, but failed. In retaliation, Wong stripped all of the six of their leadership posts.

In a joint statement issued today, the six Democrats disputed Circuit Judge Toshimi Sodegami's April 22 ruling, which said that the budgetary worksheets are not public documents.

The dissidents said Sodegami's ruling "sets a dangerous precedent against open government.

"If we do not appeal, legislators and the citizenry they are elected to represent, will have no legal right to know the details and the decisions that we made of the state budget this year before the final vote was taken (in April)."

IN ADDITION, the dissidents argue that the de-

tailed budgetary conference worksheets are needed by lawmakers who are not members of the negotiating committee in order to make "enlightened" decisions when they vote on the budget. Dissident Democrats further called on Wong "to stop trying to create an absurd and artificial distinction between public meetings and private records discussed at those meetings."

Since the legislative session concluded in April, the six dissidents have been unsuccessful in their attempts to get other financial records from Wong.

Within recent weeks, there also have been unsuccessful overtures by Kawasaki and Carpenter to end the feud with Wong.

Wong said last week that those meetings have been "fruitful," but no other moves have occurred

to mend the break.

Ian Lind, executive director of Common Cause Hawaii, said the appeal to the high court "is not simply a squabble among senators, although some would try to cast it in that light."

Lind said "the Legislature should not be allowed to thwart the people's right to know by opening the doors of a meeting, but reducing all the essential information to documents — in this case the budget worksheets — which remain secret."

"Both Lind and the dissidents pointed out that when House and Senate negotiators discuss the state budget the situation becomes "absurd" because the participants speak "only in code" or use references only they understand.

Six senators to appeal case to high court

By Jerry Burris
Advertiser Politics Editor

Six "dissident" state Senate Democrats said yesterday they intend to continue their court fight for access to traditionally secret background "worksheets" used by legislators in drafting the state budget.

This spurred an immediate reply from Senate President Richard Wong, who chastised the six for carrying "an internal political struggle" into the courts. It only makes reconciliation between his 14-member Democratic bloc and the party's six dissidents that much harder, Wong added.

Nonetheless, Wong said, he's willing to discuss changes that would make the budget worksheets publicly available.

At issue are traditionally secret work-

sheets that are used by House and Senate negotiators as the two sides hammer out the state's billion-dollar budget.

Just before the end of the 1983 session, the six senators — Neil Abercrombie, Dante Carpenter, Ben Cayetano, Lehua Fernandes-Salling, Duke Kawasaki and Charles Toguchi — lost a circuit court suit in which they sought access to the papers. They now say they will appeal to the Hawaii Supreme Court.

"If we do not appeal," the six said in a statement, "legislators — and the citizenry they are elected to represent — will have no legal right to know the details and the decisions that were made on the state budget before the final vote is taken."

"Moreover," they added, "a powerful few

in the Legislature will decide what information should be released to other legislators and the public. Such circumstances would make a mockery of our 'sunshine' law.880"

The six senators were supported yesterday by Common Cause/Hawaii, which is a participant in the suit.

"In our view, the Legislature should not be allowed to thwart the people's right to know by opening the doors of a meeting, but reducing all essential information and discussion to documents . . . which remain secret," said Common Cause Executive Director Ian Lind.

Senate President Wong said he has talked to Lind about a possible compromise.

A procedure might be worked out prior to the 1984 session, he said.

Senate Dissidents' Move Will Prolong Feud, Wong Says

By Gregg K. Kakesako
Star-Bulletin Writer

The attempts by Senate dissidents to force release of legislative budget worksheets will only prolong the bitter feud in the 20-member Democratic caucus, Senate President Richard S.H. Wong says.

Wong said yesterday that while he recognizes the dissidents' rights to appeal the matter to the state Supreme Court, "by taking this adversarial stance, they are making it more difficult for me to try to bring about a reconciliation among the Senate Democrats."

Wong said he was "sorry to see what is essentially an internal political struggle turned into a legal confrontation involving the courts."

The six dissident Democrats — Neil Abercrombie, Dante Carpenter, Ben Cayetano, Lehua Fernandes Salling, Charles Toguchi and Duke Kawasaki — joined Common Cause/Hawaii in filing an appeal with the state Supreme Court yesterday asking it to overturn Circuit Judge Toshimi Sodegami's April 22 decision. Sodegami ruled that worksheets used by legislators in the budget process are not public documents.

WONG SAID he has been trying to work out a solution with Common Cause where a special copy of the budgetary worksheets used by House and Senate negotiators would be available for public inspection during conference meetings.

In the last legislative session, Wong's Democratic caucus split

because of his handling of the state's \$2.9 billion budget during negotiation sessions with the House.

The dissidents tried to dump Senate Ways and Means Committee Chairman Mamoru Yamasaki when Wong ignored their demands to have a greater say on how the budget should be re-drafted.

In retaliation, Wong reorganized the Senate, stripping the dissidents of their committee chairmanships and leadership positions.

The dissidents then unsuccessfully sued Wong for the worksheets. When that move failed they tried unsuccessfully to block passage of the budget bill on the last night of the 1983 session with a filibuster that resulted in a physical confrontation between the dissidents and the Senate sergeant-at-arms as Wong ordered dissident Toguchi ejected from Senate chambers.

IN PROTEST, Carpenter, Cayetano, Abercrombie, Kawasaki, Toguchi and Fernandes Salling walked out, refusing to vote on the budget.

Wong said "the offer for the dissidents to come back and get committee assignments and committee status stands."

Politically, the dissidents have the least to lose by continuing the feud in the next session. Of the six, Carpenter is the only one up for re-election and he's running for mayor of Hawaii County.

In Wong's 14-member faction, those up for re-election include Wong and Sens. Mamoru Yamasaki, Milton Holt, Clifford Uwayne, Norman Mizuguchi and Patsy Young.

However, before a reconciliation can occur, the dissidents want Wong to agree to the adoption of an administrative procedures manual for the Senate, spelling out how the Senate is to operate, and detailed accounting of how much money is allotted to each senator for travel and staff expenses.

Abercrombie has charged that Wong has paid off some Senate Republicans with added staff in order to have GOP support as a fall-back position in the event of any defections from his Democratic majority.

The dissidents also want more caucuses to discuss bills and resolutions scheduled for floor votes as well as a better accounting of its majority legislative package.

Paying for legislators' trips

Amfac: No conflict of interest

By Kit Smith
and Sandra S. Oshiro

Advertiser Staff Writers

Amfac Inc. sees no conflict of interest in legislators' accepting free plane rides and rooms for the firm's second annual Pacific States Business/Government Conference on Maui.

"It's all reportable and it's all public record," said Daniel Howle, San Francisco-based manager of public affairs for Amfac. "We're not trying to hide anything."

The conference, being held again at the Amfac-operated Royal Lahaiana Resort at Amfac-developed Kaanapali Beach Resort, is expected to be attended by about 85 persons from government and business, mainly from California and Hawaii. That's more than double the 1982 attendance.

Discussion subjects include agriculture, international trade, energy and the environment and economic development. Sessions run through Friday.

Amfac views its hosting of the event as "appropriate and acceptable to the public" in light of the red ink facing state governments, said Howle, an

employee of the California legislature for eight years before joining Amfac in 1981.

"We think it (the conference) is a natural thing for the private sector to finance." (Several other corporations are assisting in paying for meals and other conference expenses.)

Had there been better communication between state officials in Hawaii and California in 1981, Hawaii might have avoided California's months-long ban on importation of Hawaii-grown papaya, said Howle. That ban was based on use of the chemical EDB in fumigation of the fruit.

Amfac stands to benefit from the conference simply by exposure, said Howle. "Amfac is in the hospitality business and we're proud of Kaanapali."

Sponsors of the conference are paying \$12,000 for air travel, entertainment, meals and rooms. At conference rates, rooms run \$55 per night.

Jan Lind, head of Common Cause/Hawaii, said the Amfac-financed trips and lodging raise "serious questions of ethics violations." Lind said the state ethics law was created to prevent conflicts between the offi-

cial responsibilities of public figures and special favors they might receive from private interests.

"If those favors appear to be such that they would influence official decisions, then they would be improper in our view, whether or not they actually affect a decision," he said. "In this case, it's the appearance of improprieties that is as important as the reality."

Included on the list of expected attendees from Hawaii are Lt. Gov. John Waihee, Agriculture Director Jack Suwa, four state senators and 13 representatives. Twenty-two business representatives from Hawaii are on the list.

Two legislators who could be reached yesterday said they saw no conflict in taking the trip.

Sen. James Aki, chairman of the Senate Economic Development Committee, said he is attending one day of the week-long conference because the issues under discussion will fall in his subject area. "It's no different from anyone else who invites us to their meeting to discuss problems or whatever they

want to discuss."

Aki said the fact Amfac will pick up the tab will not influence him.

"I will still pass legislation based on the facts," he said.

Rep. David Hagino, chairman of the House Higher Education and the Arts Committee, plans to make a day trip to the conference later this week. "I doubt if anybody is going to be influenced because of the plane fare," said Hagino.

If the conference were being held to put forth Amfac's position on issues, Hagino said he would feel differently about attending. But because officials from other states will be presenting their perspectives on issues, he believes the conference will be valuable.

Waihee gave the opening address to the conference yesterday, but did not stay for any of the proceedings.

"I'm not going to charge that to the taxpayers," said Waihee of his plane trip to Lahaina. The fact that Amfac paid his fare, he said, presents no conflict of interest.

"Not for the price of a plane ticket," said Waihee.

Hawaii Public Radio plans to expand

By Vickie Ong

Advertiser Staff Writer

The two-year-old Hawaii Public Radio has applied for a grant to produce local programs that would be available to Mainland public radio stations, a consultant to HPR said yesterday.

Albert L. Hulsen, speaking at a meeting of the Honolulu Community-Media Council, said that if Hawaii Public Radio receives the grant, it plans to produce two radio shows — one featuring the orchestras of the Pacific and another showcasing live entertainment, ethnic

and Hawaiian music, and local humor.

Hulsen said he is working on plans to establish a relay station on Haleakala that would send KHPR's signal to Maui County and parts of the Big Island. He said the station's goal is to have a small staff at its Maui studio to cover Maui news.

Looking two to three years ahead, Hulsen said, Hawaii Public Radio also would like to have two FM stations on Oahu. It currently broadcasts at 88.1 on FM.

One station, he said, would be devoted to music and the other to information and news.

In his talk, Hulsen said it's important for public radio stations to define their purpose. And in Hawaii, public radio has decided to focus on classical music and in-depth news and information, Hulsen said.

He said there are other areas that public radio could get into, such as programs in other languages, call-in discussions of topical issues, live coverage of hearings and more ethnic music, but stressed that KHPR "can't be all things to all people."

Also at yesterday's meeting, Ian Lind, coordinator of the Sunshine Law Coalition, a group of community organiza-

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tions concerned about open government, discussed efforts to get the Honolulu Police Department to formally adopt its internal rules and regulations after public hearings. The rules were released last month after the coalition asked the city's corporation counsel for them.

Lind, who is also Common Cause/Hawaii's executive director, said community groups successfully urged county councils to kill a proposal to exempt county councils from the state "sunshine law." That proposal had been part of the Hawaii State Association of Counties legislative package.