

# OFFICE OF INFORMATION PRACTICES

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To: Senate Committee on Public Safety, Intergovernmental and Military Affairs

From: Cheryl Kakazu Park, Director

Date: February 6, 2014, at 3:00 p.m.  
State Capitol, Conference Room 224

Re: Testimony on S.B. No. 2962  
Relating to Public Agency Meetings.

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Thank you for the opportunity to submit testimony on this bill. The Office of Information Practices ("OIP") opposes this bill, which would allow any number of county council members to attend a community meeting, convention, conference, or other type of meeting or presentation, so long as the meeting or presentation was open to the public.

The Sunshine Law, part I of chapter 92, HRS, was amended in 2012 to allow less than a quorum of members of any board to attend such meetings, but with protections for the public that this bill lacks. First of all, the permitted interaction added in 2012 was limited to less than a quorum of members, to preclude the possibility that the board's discussion in the course of an outside event would crystallize the board's decision on an issue to the point where its eventual vote at a noticed board meeting would be a mere formality. Second, the existing permitted interaction allows discussion of board business only "during and as part of" the event, whereas this bill would allow such discussion "without limitation" – in other words, allowing not just the back-and-forth questioning on the topic during a presentation or conference session as permitted by current law, but also discussion

of any council business they chose by all the board members while eating lunch or otherwise gathering together during a convention. Third, the existing permitted interaction required board members attending such an event to report their attendance and what was discussed at the next board meeting. As OIP observed in 2012, because only a minority of members could have attended an outside event, their report to the full board would need to be sufficiently detailed if they wished to influence any decision on the issues discussed at the event. Under this proposal, by contrast, the council members would have no obligation at all to publicly disclose that they had even attended an event together. And finally, the existing permitted interaction does not allow board members attending an event together to make or seek a commitment to vote on the matter being discussed, whereas this proposal includes no such limitation.

While this proposal does require that the event be open to the public, the inclusion of conventions, seminars, and conferences suggests that an event requiring a registration fee would still be counted as "open to the public" for the purpose of the proposed permitted interaction. In other words, under this proposal, the full membership of a county council could all attend a multi-day conference open to anyone willing to pay a \$600 registration fee, discuss any council business they chose during meals or social sessions, make an agreement as to how they would all vote, and then vote as agreed upon at their next public meeting without discussing the matter further or even mentioning that they had attended the conference.

The permitted interaction proposed by this bill would essentially take a permitted interaction signed into law less than two years ago and make a new county council version stripping out all the public protections found in the original. OIP recommends that this Committee hold the bill.

Thank you for the opportunity to testify.