

STAND. COM. REP. NO. 1228-20

Honolulu, Hawaii
, 2020

JUN 25

RE: S.B. No. 2038
S.D. 1
H.D. 1

Honorable Scott K. Saiki
Speaker, House of Representatives
Thirtieth State Legislature
Regular Session of 2020
State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred S.B. No. 2038, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO BOARD MEMBERS,"

begs leave to report as follows:

The purpose of this measure is to permit two or more board members to attend a State of the City, State of the County, State of the State, or State of the Judiciary address without violating Hawaii's Sunshine Law regarding open meetings.

Prior to decision making on this measure, your Committee posted and made available for public review a proposed H.D. 1, which amends this measure by authorizing, until June 30, 2021, boards to hold meetings by interactive conference technology and bar members of the public from joining board members at the meeting locations where the board members are physically present, subject to certain conditions, when the Governor declares a state of emergency is in effect for a contagious illness.

Your Committee received testimony in support of the proposed H.D. 1 from the Department of Commerce and Consumer Affairs, Department of Agriculture, Office of Information Practices, Executive Office on Aging, Hawaii State Council on Developmental Disabilities, Board of Regents of the University of Hawaii, three

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members of the Maui County Council, and one individual. Your Committee received testimony in opposition to the proposed H.D. 1 from the Civil Beat Law Center for the Public Interest and one individual. Your Committee received comments on the proposed H.D.1 from the Department of Accounting and General Services, Hawaii Civil Rights Commission, and Common Cause Hawaii.

Your Committee finds that given the highly public and ceremonial nature of State of the City, State of the County, State of the State, and State of the Judiciary addresses, it is appropriate for board members to jointly attend and participate in these events.

Your Committee further finds that due to the COVID-19 pandemic, boards should be allowed to waive certain requirements under Hawaii's Sunshine Law that require boards to provide the public with physical access to board meetings held remotely or via streaming. This measure will temporarily allow boards subject to the Sunshine Law to provide public access to meetings via interactive conference technology, which will help reduce the risk of exposure to COVID-19.

Your Committee has amended this measure by adopting the proposed H.D. 1 and further amending the measure by:

- (1) Further clarifying the notice requirements for holding meetings by interactive conference technology during and after a state of emergency due to a contagious illness;
- (2) Authorizing a board to require members of the public attending a meeting in person to provide their names and contact information for the purpose of contact tracing if the board reasonably believes doing so is necessary due to the contagious illness;
- (3) Requiring a board to recess, rather than terminate, a meeting held by interactive conference technology when audio communication cannot be maintained; provided that the meeting may reconvene if audio communication is reestablished; and
- (4) Making technical, nonsubstantive amendments for the purposes of clarity, consistency, and style.



As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2038, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2038, S.D. 1, H.D. 1, and be referred to your Committee on Finance.

Respectfully submitted on
behalf of the members of the
Committee on Judiciary,



CHRIS LEE, Chair



