

# OFFICE OF INFORMATION PRACTICES

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To: Senate Committee on Judiciary

From: Cheryl Kakazu Park, Director

Date: February 21, 2020, 10:45 a.m.  
State Capitol, Conference Room 016

Re: Testimony on S.B. No. 2038  
Relating to Board Members

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Thank you for the opportunity to submit testimony on this bill, which would explicitly permit two or more members of a board to jointly attend a State of the State, State of the City, State of the County, or State of the Judiciary address.

**The Office of Information Practices (OIP) supports this measure.**

When members of a county council or other board subject to part I of chapter 92, the Sunshine Law, attend a State of the State or State of the County or similar address together, they may find themselves listening together to proposals that will be coming before their board in the foreseeable future and thus are potentially board business. For instance, suppose the Board of Education's members sat together listening to the Governor propose a new plan for education that would require their approval, or a County Council's members sat together listening to the Mayor propose building a new County facility that would require their approval. Someone could argue that those members had violated the Sunshine Law by taking part in a discussion of board business outside a meeting, especially if they made comments to one another while listening or even reacted in nonverbal ways such as by clapping. This proposal would make it clear that board

members' joint attendance at the largely ceremonial events specified is permitted under the Sunshine Law even when it arguably involves discussion of board business, so long as the only discussion of board business occurs during and as part of the event and no commitment to vote is made or sought

**Given the highly public and ceremonial nature of such addresses, OIP believes it is appropriate for board members to be able to jointly attend them** and to exchange occasional remarks, clap when appropriate, and otherwise jointly participate in the event. This proposal would explicitly allow such joint participation. Thus, OIP supports this bill.

Thank you for considering OIP's testimony.

Harry Kim  
Mayor



Roy Takemoto  
Managing Director

Barbara J. Kossow  
Deputy Managing Director

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February 18, 2020

Kenekoa/Senator Karl Rhoads, Luna Ho'omaluku/Chair  
Kenekoa/Senator Jarrett Keohokalole, Hope Luna Ho'omaluku/Vice Chair  
Committee on Judiciary

Dear Chair Rhoads, Vice Chair Keohokalole, and Committee Members:

**RE: SB 2038 Relating to Board Members**

SB 2038, allowing board members to attend certain named functions, is so narrow a reform that one would hope it is unobjectionable.

It is a good thing for board members to be as active and educated in the workings of government as possible, and to the extent that those members are willing and able to attend a public address by a government leader, we should be encouraging such involvement.

It seems to me that even broader reform should be considered, but if that is not feasible, SB 2038 should receive your favorable vote.

Respectfully Submitted,

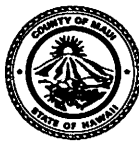
Harry Kim  
MAYOR

Council Chair  
Alice L. Lee

Vice-Chair  
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Presiding Officer Pro Tempore  
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Councilmembers  
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Director of Council Services  
Traci N. T. Fujita, Esq.

**COUNTY COUNCIL**  
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February 18, 2020

TO: The Honorable Karl Rhoads, Chair  
Senate Committee on Judiciary

FROM: Alice L. Lee  
Council Chair

SUBJECT: **HEARING OF FEBRUARY 21, 2020; TESTIMONY IN SUPPORT OF SB 2038, RELATING TO BOARD MEMBERS**

Thank you for the opportunity to testify in **support** of this important measure. The purpose of this measure is to permit two or more members of a board to attend State of the City, State of the County, State of the State, or State of the Judiciary addresses, so long as the board members do not discuss board business and no commitment to vote is made or sought.

The Maui County Council has not had the opportunity to take a formal position on this measure. Therefore, I am providing this testimony in my capacity as an individual member of the Maui County Council.

I support this measure for the following reasons:

1. It clarifies that County Councilmembers, who are considered "board members" under the Sunshine Law, may jointly attend important public addresses, which would facilitate the communication of critical information to policymakers.
2. It enables board members to be better informed about issues affecting their constituents, which would allow more Councilmembers to attend public addresses.
3. It fosters better working relationships between Councilmembers and other local and State officials.

For the foregoing reasons, I **support** this measure.

**SB-2038**

Submitted on: 2/16/2020 12:40:42 PM

Testimony for JDC on 2/21/2020 10:45:00 AM

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|---------------------|---------------------|---------------------------|---------------------------|
| Dylan P. Armstrong  | Individual          | Support                   | No                        |

Comments: