

COUNCIL OF THE COUNTY OF MAUI

**POLICY AND INTERGOVERNMENTAL
AFFAIRS COMMITTEE**

September 18, 2015

**Committee
Report No. _____**

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

Chair and Members:

Your Policy and Intergovernmental Affairs Committee, having met on August 31, 2015, makes reference to County Communication 15-157, from Presiding Officer Pro Tempore Michael P. Victorino, relating to Hawaii State Association of Counties ("HSAC") matters.

By correspondence dated August 25, 2015, the Chair of your Committee transmitted a proposed resolution entitled "APPROVING FOR INCLUSION IN THE 2016 HAWAII STATE ASSOCIATION OF COUNTIES LEGISLATIVE PACKAGE A BILL TO ENABLE COUNCILMEMBERS TO FREELY ATTEND COMMUNITY AND EDUCATIONAL MEETINGS."

The purpose of the proposed resolution is to approve for inclusion in the 2016 HSAC Legislative Package a proposed State bill amending the State Sunshine Law (Part I, Chapter 92, Hawaii Revised Statutes) to allow two or more members of a county council to attend and speak at community, educational, or informational meetings that are open to the public.

Your Committee notes, pursuant to Section 13C of the HSAC Bylaws, each year HSAC may compile a package of proposals and priorities to be considered by the State Legislature. Only those proposals and priorities approved by all four councils are included in the HSAC Legislative Package.

Your Committee further notes the proposed State bill is similar to House Bill 202 (2015) and Senate Bill 410 (2015), which were in the 2015 Maui County Legislative Package.

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Current interpretations of the Sunshine Law limit county council members in their ability to jointly attend a variety of community meetings without triggering various requirements and restrictions. The proposal would make it easier for councilmembers to engage with their constituents and learn about important community issues. This is especially important in Kauai County and Maui County because councilmembers in those counties represent all county residents, irrespective of residency.

Your Committee recognized the importance of the Sunshine Law and government transparency, and agreed that being able to freely attend meetings open to the public would be considered transparent by the counties' residents.

Your Committee voted 8-0 to recommend adoption of the proposed resolution. Committee Chair Victorino, Vice-Chair Couch, and members Baisa, Carroll, Crivello, Guzman, Hokama, and White voted "aye." Committee member Cochran was excused.

Your Policy and Intergovernmental Affairs Committee **RECOMMENDS** that Resolution _____, attached hereto, entitled "APPROVING FOR INCLUSION IN THE 2016 HAWAII STATE ASSOCIATION OF COUNTIES LEGISLATIVE PACKAGE A BILL TO ENABLE COUNCILMEMBERS TO FREELY ATTEND COMMUNITY AND EDUCATIONAL MEETINGS," be **ADOPTED**.

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



MICHAEL P. VICTORINO, Chair

Resolution

No. _____

APPROVING FOR INCLUSION IN THE 2016 HAWAII STATE
ASSOCIATION OF COUNTIES LEGISLATIVE PACKAGE A BILL TO
ENABLE COUNCILMEMBERS TO FREELY ATTEND COMMUNITY AND
EDUCATIONAL MEETINGS

WHEREAS, the State Sunshine Law (Part I, Chapter 92, Hawaii Revised Statutes) has been interpreted to restrict Councilmembers' attendance at public events, such as community and educational meetings; and

WHEREAS, the Sunshine Law is a serious matter, as violations carry potential criminal and civil penalties; and

WHEREAS, to better serve their constituents in a well-informed, transparent, and responsive manner, Councilmembers should be encouraged to freely attend community and educational meetings, without fear of violating the Sunshine Law; now, therefore,

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

1. That the proposed State bill, attached as Exhibit "A", enabling Councilmembers to freely attend community and educational meetings, is approved for inclusion in the 2016 Hawaii State Association of Counties Legislative Package; and
2. That certified copies of this resolution be transmitted to the Hawaii State Association of Counties Executive Committee.

A BILL FOR AN ACT

RELATING TO PUBLIC AGENCY MEETINGS AND RECORDS.

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

1 SECTION 1. Section 92-2.5, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§92-2.5 Permitted interactions of members. (a) Two
4 members of a board may discuss between themselves matters
5 relating to official board business to enable them to perform
6 their duties faithfully, as long as no commitment to vote is
7 made or sought and the two members do not constitute a quorum of
8 their board.

9 (b) Two or more members of a board, but less than the
10 number of members which would constitute a quorum for the board,
11 may be assigned to:

12 (1) Investigate a matter relating to the official business
13 of their board; provided that:

14 (A) The scope of the investigation and the scope of
15 each member's authority are defined at a meeting of the board;

16 (B) All resulting findings and recommendations are
17 presented to the board at a meeting of the board; and

18 (C) Deliberation and decisionmaking on the matter
19 investigated, if any, occurs only at a duly noticed meeting of
20 the board held subsequent to the meeting at which the findings
21 and recommendations of the investigation were presented to the
22 board; or

23 (2) Present, discuss, or negotiate any position which the
24 board has adopted at a meeting of the board; provided that the
25 assignment is made and the scope of each member's authority is
26 defined at a meeting of the board prior to the presentation,
27 discussion, or negotiation.

EXHIBIT "A"

1 (c) Discussions between two or more members of a board,
2 but less than the number of members which would constitute a
3 quorum for the board, concerning the selection of the board's
4 officers may be conducted in private without limitation or
5 subsequent reporting.

6 (d) Board members present at a meeting that must be
7 canceled for lack of quorum or terminated pursuant to section
8 92-3.5(c) may nonetheless receive testimony and presentations on
9 items on the agenda and question the testifiers or presenters;
10 provided that:

11 (1) Deliberation or decisionmaking on any item, for which
12 testimony or presentations are received, occurs only at a duly
13 noticed meeting of the board held subsequent to the meeting at
14 which the testimony and presentations were received;

15 (2) The members present shall create a record of the oral
16 testimony or presentations in the same manner as would be
17 required by section 92-9 for testimony or presentations heard
18 during a meeting of the board; and

19 (3) Before its deliberation or decisionmaking at a
20 subsequent meeting, the board shall:

21 (A) Provide copies of the testimony and presentations
22 received at the canceled meeting to all members of the board;
23 and

24 (B) Receive a report by the members who were present
25 at the canceled or terminated meeting about the testimony and
26 presentations received.

27 (e) Two or more members of a board, but less than the
28 number of members which would constitute a quorum for the board,
29 may attend an informational meeting or presentation on matters
30 relating to official board business, including a meeting of
31 another entity, legislative hearing, convention, seminar, or
32 community meeting; provided that the meeting or presentation is
33 not specifically and exclusively organized for or directed
34 toward members of the board. The board members in attendance
35 may participate in discussions, including discussions among
36 themselves; provided that the discussions occur during and as
37 part of the informational meeting or presentation; and provided

____.B. NO. _____

1 further that no commitment relating to a vote on the matter is
2 made or sought.

3 At the next duly noticed meeting of the board, the board
4 members shall report their attendance and the matters presented
5 and discussed that related to official board business at the
6 informational meeting or presentation.

7 (f) Discussions between the governor and one or more
8 members of a board may be conducted in private without
9 limitation or subsequent reporting; provided that the discussion
10 does not relate to a matter over which a board is exercising its
11 adjudicatory function.

12 (g) Discussions between two or more members of a board and
13 the head of a department to which the board is administratively
14 assigned may be conducted in private without limitation;
15 provided that the discussion is limited to matters specified in
16 section 26-35.

17 (h) Communications, interactions, discussions,
18 investigations, and presentations described in this section are
19 not meetings for purposes of this part.

20 (i) Two or more members of a county council may jointly
21 attend and speak at a community, educational, or informational
22 meeting or presentation, such as a meeting of another entity,
23 legislative hearing, convention, seminar, conference, or
24 community meeting, if the meeting or presentation is open to the
25 public.

26 SECTION 2. Statutory material to be deleted is bracketed
27 and in strikethrough. New statutory material is underscored.

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

29

30 INTRODUCED BY: _____

31 paf:mkz:15-177b