

# Resolution

No. 16-129

APPROVING FOR INCLUSION IN THE 2017 MAUI COUNTY LEGISLATIVE PACKAGE A STATE BILL TO ALLOW CERTAIN GOVERNMENT RECORDS TO BE SHARED AMONG COUNCILMEMBERS WHERE NO COMMITMENT RELATING TO A VOTE ON THE MATTER IS MADE OR SOUGHT

WHEREAS, based on interpretations by the Supreme Court of Hawaii, Councilmembers and other public “board members” subject to the State Sunshine Law are prevented from transmitting government records to each other related to board business; and

WHEREAS, amending the Sunshine Law to allow Councilmembers and other boards to share public records with colleagues, as long as no voting commitment is made or sought, would increase government transparency and efficiency, as the documents would be available for public disclosure in advance of meetings; now, therefore,

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

1. That the proposed State bill, attached as Exhibit “A,” to allow certain government records to be shared among Councilmembers where no commitment relating to a vote on the matter is made or sought, is approved for inclusion in the 2017 Maui County Legislative Package; and
2. That certified copies of this resolution be transmitted to the Mayor, County of Maui; the Governor, State of Hawaii; the Senate President, State of Hawaii; and the Speaker of the House of Representatives, State of Hawaii.

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# A BILL FOR AN ACT

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

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

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

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

**EXHIBIT "A"**

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

3 (C) Deliberation and decisionmaking on the matter  
4 investigated, if any, occurs only at a duly noticed meeting  
5 of the board held subsequent to the meeting at which the  
6 findings and recommendations of the investigation were  
7 presented to the board; or

8 (2) Present, discuss, or negotiate any position [~~which~~  
9 that the board has adopted at a meeting of the board; provided  
10 that the assignment is made and the scope of each member's  
11 authority is defined at a meeting of the board prior to the  
12 presentation, discussion, or negotiation.

13 (c) Discussions between two or more members of a board, but less  
14 than the number of members which would constitute a quorum for  
15 the board, concerning the selection of the board's officers may  
16 be conducted in private without limitation or subsequent  
17 reporting.

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

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

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

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

11 (A) Provide copies of the testimony and presentations  
12 received at the canceled meeting to all members of the  
13 board; and

14 (B) Receive a report by the members who were present  
15 at the canceled or terminated meeting about the testimony  
16 and presentations received.

17 (e) Two or more members of a board, but less than the number of  
18 members [~~which~~] that would constitute a quorum for the board,  
19 may attend an informational meeting or presentation on matters  
20 relating to official board business, including a meeting of  
21 another entity, legislative hearing, convention, seminar, or

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1 community meeting; provided that the meeting or presentation is  
2 not specifically and exclusively organized for or directed  
3 toward members of the board. The board members in attendance may  
4 participate in discussions, including discussions among  
5 themselves; provided that the discussions occur during and as  
6 part of the informational meeting or presentation; and provided  
7 further that no commitment relating to a vote on the matter is  
8 made or sought.

9 At the next duly noticed meeting of the board, the board members  
10 shall report their attendance and the matters presented and  
11 discussed that related to official board business at the  
12 informational meeting or presentation.

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

18 (g) Discussions between two or more members of a board and the  
19 head of a department to which the board is administratively  
20 assigned may be conducted in private without limitation;

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1 provided that the discussion is limited to matters specified in  
2 section 26-35.

3 (h) A member of a board may provide, by memorandum or other  
4 means of transmittal, other members of the board any government  
5 record for which disclosure is required by section 92F-12;  
6 provided that:

7 (1) No commitment relating to a vote on the matter is made  
8 or sought by the board member in the means of transmittal; and

9 (2) No additional discussion other than a statement  
10 describing the government record and the issue related to the  
11 government record shall be included in the transmittal.

12 [~~h~~](i) Communications, interactions, discussions,  
13 investigations, and presentations described in this section are  
14 not meetings for purposes of this part."

15 SECTION 2. Statutory material to be repealed is bracketed  
16 and stricken. New statutory material is underscored.

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

INTRODUCED BY: \_\_\_\_\_

**COUNCIL OF THE COUNTY OF MAUI**

**WAILUKU, HAWAII 96793**

**CERTIFICATION OF ADOPTION**

**It is HEREBY CERTIFIED that RESOLUTION NO. 16-129 was adopted by the Council of the County of Maui, State of Hawaii, on the 7th day of October, 2016, by the following vote:**

<b>MEMBERS</b>	<b>Michael B. WHITE Chair</b>	<b>Donald S. GUZMAN Vice-Chair</b>	<b>Gladys C. BAISA</b>	<b>Robert CARROLL</b>	<b>Eleanora COCHRAN</b>	<b>Donald G. COUCH, JR.</b>	<b>S. Stacy CRIVELLO</b>	<b>G. Riki HOKAMA</b>	<b>Michael P. VICTORINO</b>
<b>ROLL CALL</b>	<b>Aye</b>	<b>Aye</b>	<b>Aye</b>	<b>Aye</b>	<b>Aye</b>	<b>Aye</b>	<b>Aye</b>	<b>Aye</b>	<b>Aye</b>

  
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COUNTY CLERK