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April 3, 2017

TO: Honorable Gilbert S.C. Keith-Agaran, Chair
Senate Committee on Judiciary and Labor

FROM: Mike White
Council Chair 

SUBJECT: **HEARING OF APRIL 4, 2017; COMMENTS ON HB 308 H.D. 1, S.D. 1,
RELATING TO PUBLIC AGENCY MEETINGS**

Thank you for the opportunity to provide comments on this measure. The original version of this bill was included in the Hawaii State Association of Counties legislative package with the intent to establish a mechanism for county councils to share documents with fellow members to better prepare for pending legislation in advance of a meeting.

The recent amendment that will cause unintended consequences is:

(h) A member of a county council may provide other members of the council **any government record open to public inspection under chapter 92F**, provided that:

(1) The record was created by a person other than an officer or employee of the county council.

This change will make the distribution of documents more restrictive and could hamper the work of county councils.

In consulting with Office of Information Practices, they assisted the Maui County Council to create a policy to allow the transmittal of legislative proposals prepared by staff with no advocacy and other informational documents to be distributed to council members and the public on the day of agenda posting, 48 hours prior to a meeting, or at the meeting itself.

This amendment will restrict this practice and will not allow proposals to be shared before a meeting. In my mind, this hampers openness rather than promoting it. If members are able to share a proposal before a meeting, at least the public has time to review the proposal. The alternative is that members must distribute proposals for the first time at a meeting where the public may not be able to properly review or provide comment on the matter.

This amendment could also severely hamper the administrative work of a council, as

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members would no longer be able to transmit government documents created by staff or a member, since the new provision covers any government record. This would now include procedural memos not related to pending legislation such as policy or procedures for travel or purchases.

I would suggest reverting back to the language as proposed in the original version of HB 308 instead of creating unintentional burdens for the councils.

Thank you for the opportunity to provide comments on this measure.