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March 14, 2017

TO: The Honorable Scott Y. Nishimoto, Chair
House Committee on Judiciary

FROM: Mike White
Council Chair 

SUBJECT: **HEARING OF MARCH 15, 2017; TESTIMONY IN SUPPORT OF SB 478 SD 1, RELATING TO GOVERNMENT RECORDS**

Thank you for the opportunity to testify in support of this important measure. The purpose of this bill is to amend the Sunshine Law to allow certain government records to be shared among public board members where no commitment relating to a vote on the matter is made or sought.

This measure is included in the 2017 Maui County Council Package. Therefore, I am providing this testimony on behalf of the Council.

I **support** this measure for the following reasons:

1. Under the Hawaii Supreme Court's 2013 decision in *Kanahele v. Maui County Council*, 130 Haw. 228 (2013), memoranda circulated among members of a "board" subject to the Sunshine Law may not be "permitted interactions" under Section 92-2.5, Hawaii Revised Statutes ("HRS"). Since the ruling, board members have been constrained from transmitting to each other public documents related to board business.
2. This measure would amend HRS Section 92-2.5 to allow board members to distribute certain public documents among themselves, so long as the transmittal does not include a commitment to vote on a matter to be considered by the board or a request for such a commitment. We also appreciate the clarification in the current amendment that public documents are open to the public for inspection.
3. This bill would increase government transparency and efficiency. Documents circulated among board members would also be filed in the board's office, be available for public disclosure and posting on the board's website. Receiving documents on the day of a meeting does not allow board members and the public ample time to review and prepare testimony.
4. This measure would put county councilmembers on equal footing with executive branch officials and special-interest groups, who under current law can freely disseminate information and documents to councilmembers and the public.

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