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**Senate Committee on Government Operations
Tuesday, February 13, 2024 4:00 P.M.**

Testimony by:

Yvonne Lau, Executive Administrator and Secretary of the Board of Regents

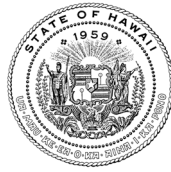
S.B. No. 2198 – RELATING TO PUBLIC AGENCY MEETINGS.

Chair McKelvey, Vice Chair Gabbard, and members of the Committee.

These comments on S.B. No. 2198 are offered in my capacity as the Executive Administrator and Secretary of the Board of Regents.

The Board of Regents of the University of Hawai'i (Board) has not yet had the opportunity to discuss this measure. Discussion is expected to occur at the Board's next meeting on February 16, 2024.

Thank you for the opportunity to offer comments on S.B. No. 2198.



JOSH GREEN, M.D.
GOVERNOR
SYLVIA LUKE
LIEUTENANT GOVERNOR

STATE OF HAWAII
HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND
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WRITTEN ONLY

TESTIMONY BY DEREK MIZUNO
ADMINISTRATOR, HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND
DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE SENATE COMMITTEE ON GOVERNMENT OPERATIONS
ON SENATE BILL NO. 2198

February 13, 2024
4:00 p.m.
Conference Room 225 & Videoconference

RELATING TO PUBLIC AGENCY MEETINGS

Chair McKelvey, Vice Chair Gabbard, and Members of the Committee:

The Hawaii Employer-Union Health Benefits Trust Fund (EUTF) Board of Trustees has not taken a position on this bill. EUTF staff would like to provide comments.

The EUTF staff currently provides the Board packet to the Board and public 48 hours prior to the Board meetings. However, there have been instances when supplemental materials are ready within 48 hours of the meeting. This bill will allow EUTF staff to provide such supplemental materials to the Board and public simultaneously which will assist in conducting Board business while also informing the public.

Thank you for the opportunity to testify.

EUTF's Mission: We care for the health and well being of our beneficiaries by striving to provide quality benefit plans that are affordable, reliable, and meet their changing needs. We provide informed service that is excellent, courteous, and compassionate.

OFFICE OF INFORMATION PRACTICES

STATE OF HAWAII
NO. 1 CAPITOL DISTRICT BUILDING
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TELEPHONE: 808-586-1400 FAX: 808-586-1412
EMAIL: oip@hawaii.gov

To: Senate Committee on Government Operations

From: Cheryl Kakazu Park, Director

Date: February 13, 2024, 4:00 p.m.
State Capitol, Conference Room 225

Re: Testimony on S.B. No. 2198
Relating to Public Agency Meetings

Thank you for the opportunity to submit testimony on this bill, which would allow supplemental information received within 48 hours of a meeting to still be distributed so long as the board provides prompt access to it. The Office of Information Practices (OIP) offers comments.

The Sunshine Law's board packet provision currently requires a board packet, *i.e.* materials compiled and distributed to board members before a meeting for their use at the meeting, to be distributed at least 48 hours prior to the meeting. Board packets must also be made available to the public at that same time. Since written public testimony is among the materials compiled and distributed to board members for their use at a meeting, and it usually comes in within the last day or two before a meeting, written testimony in particular has posed a challenge for boards trying to comply with both the 48-hour deadline and the requirement to accept written testimony. Boards have had to use work-arounds, such as waiting to distribute the testimony until the meeting itself (so that it is not distributed **before** the meeting and thus is not technically a "board packet") to avoid violating the 48- hour deadline. **This measure would provide**

helpful clarity and assist boards in distributing written public testimony to their members in time for those members to read it before the meeting. It would also apply to allow boards to distribute other written materials received late, giving boards the option to, for instance, still distribute and consider an application received late by the board so long as the board also promptly makes it available to the public upon receiving it. **OIP believes that either this measure or S.B. 2638, which the Senate Judiciary Committee passed with proposed amendments, would clarify for boards how written testimony fits into the board packet requirement. To avoid inconsistent amendments, though, OIP recommends that a single vehicle should be chosen.**

Thank you for considering OIP's testimony.



Senate Committee on Government Operations
Chair Angus L.K. McKelvey, Vice Chair Mike Gabbard

Tuesday, February 13, 2024, 4 PM Public Hearing in Conference Room 225 on
SB 2198, RELATING TO PUBLIC AGENCY MEETINGS

TESTIMONY

Douglas Meller, Legislative Committee, League of Women Voters of Hawaii

Chair McKelvey, Vice Chair Gabbard, and Committee Members:

The League of Women Voters of Hawaii opposes SB 2198.

Last minute staff submittals prevent informed public participation at board meetings and encourage boards to uncritically “rubberstamp” proposed policy. When State law did not address timing of staff submittals, some agencies routinely delayed distribution and public disclosure of board packets until the beginning of board meetings.

Enactment of Section 92-7.5, HRS, made it State policy to provide board members with board packets and make board packets available for public inspection at least 48 hours prior to board meetings. Since there is no penalty for violation of Section 92-7.5, HRS, there is no justification to weaken this policy. The Sunshine Law does not require a “do-over” because of last minute “supplemental information” or written public testimony.

Thank you for the opportunity to submit testimony.

TO: Members of the Committee on Government Operations

FROM: Natalie Iwasa
808-395-3233

HEARING: 4 p.m. Tuesday, February 13, 2024

SUBJECT: SB2198 Relating to Public Agency Meetings, 48 Hours - **COMMENTS**
Request Amendment

Aloha Chair McKelvey and Committee Members,

Thank you for allowing the opportunity to provide testimony on SB2198, which would allow supplemental information received within 48 hours of a meeting to be added to the board packet.

Forty-eight hours is often not enough time for proper and complete review of the documents up for discussion during public meetings. It would be better to have documents and packet materials posted no later than 72 hours prior to meetings.

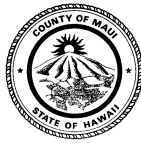
Please amend the bill to replace all references of 48 hours with 72 hours.

Council Chair
Alice L. Lee

Vice-Chair
Yuki Lei K. Sugimura

Presiding Officer Pro Tempore
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Councilmembers
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Director of Council Services
David M. Raatz, Jr., Esq.

Deputy Director of Council Services
Richelle K. Kawasaki, Esq.

COUNTY COUNCIL
COUNTY OF MAUI
200 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793
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February 12, 2024

TO: The Honorable Senator Angus L.K. McKelvey, Chair, and
Members of the Senate Committee on Government Operations

FROM: Alice L. Lee
Council Chair 

SUBJECT: **HEARING OF FEBRUARY 13, 2024; TESTIMONY IN SUPPORT OF SB2198, RELATING TO PUBLIC AGENCY MEETINGS**

I **support** this measure to allow boards subject to state open meeting laws to add supplemental information received within 48 hours of a meeting to the board packet so long as the public is promptly provided access to the supplemental information.

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 increases public transparency.
2. It provides the public access to supplemental information received within 48-hours of a meeting so that the public is able to view documents the board is using at its meetings.
3. It allows board members to make informed decisions with as much relevant information as possible.

Thank you for your consideration.

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Senate Committee on Government Operations
Honorable Angus L.K. McKelvey, Chair
Honorable Mike Gabbard, Vice Chair

RE: Testimony in Opposition to S.B. 2198, Relating to Public Agency Meetings

Hearing: February 13, 2024 at 4:00 p.m.

Dear Chair and Members of the Committee:

My name is Ben Creps. I am a staff attorney at the Public First Law Center, a nonprofit organization that promotes government transparency. Thank you for the opportunity to respectfully submit testimony **in opposition to S.B. 2198**.

This measure amends Hawai'i Revised Statutes (HRS) section 92-7.5 to allow undefined "supplemental information" to be received by a board within 48 hours of a meeting. We support a more focused measure, S.B. 2638 which has been passed out of the Senate Committee on Judiciary and is more closely aligned with the original intent of the board packet provision than S.B. 2198.

Board packets exist in part "to allow for more meaningful public testimony at meetings," and increase "the quality of public participation in civic life." Senate Stand. Com. Rep. No. 1487 (2017). The 48-hour deadline for board packet submissions ensures that the public has adequate time to review meeting materials:

The legislature further finds that, in order for the public to provide meaningful written and oral testimony at a board meeting, the public must be allowed to review and inspect the same material provided to the boards in a timely manner, and before testimony deadlines. Therefore, the legislature finds it necessary to define the time period required in advance of public meetings at which board packets must be provided to the public.

Act 264 (2022). This benefits board members, too—by ensuring sufficient time to review materials in advance of a meeting *and* promoting more informed public participation with the board.

S.B. 2638 is consistent with the original intent of the board packet provision, while maintaining the flexibility sought under S.B. 2198, by allowing board members to receive *public testimony* submitted less than 48 hours before a meeting. (The Office of Information Practices presently interprets section 92-7.5 as prohibiting this.) H.B. 2198, by contrast, creates a loophole that permits unrestricted "supplemental information" to



Senate Committee on Government Operations

February 13, 2024

Page 2

be received by a board up until the moment a meeting begins. This does not afford the public, or board members, adequate time to review and consider information. As written, S.B. 2198 promotes *uninformed* participation.

Thank you again for the opportunity to testify in opposition to S.B. 2198.