



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
KA 'OIHANA O KA LOIO KUHINA
THIRTY-THIRD LEGISLATURE, 2026**

ON THE FOLLOWING MEASURE:

H.B. NO. 1873, RELATING TO THE BOARD OF REGENTS OF THE UNIVERSITY OF HAWAII.

BEFORE THE:

HOUSE COMMITTEE ON HIGHER EDUCATION

DATE: Wednesday, February 4, 2026 **TIME:** 2:00 p.m.

LOCATION: State Capitol, Room 309

TESTIFER(S): Anne E. Lopez, Attorney General, or
Candace J. Park, Deputy Attorney General

Chair Garrett and Members of the Committee:

The Department of the Attorney General provides the following comments.

This bill exempts the Board of Regents of the University of Hawai'i from the open meeting requirements of part I of chapter 92, Hawaii Revised Statutes (HRS), for strategic planning retreats provided certain requirements are met, and imposes additional governance, training, and reporting requirements on the Board of Regents. This bill also requires the Candidate Advisory Council to ensure that all candidates recommended for appointment to the Board of Regents meet statutory qualification requirements.

The provision on page 1, line 8, of the bill prohibits the Board of Regents from "deliberation or decision-making" at strategic planning retreats. The word "deliberation" is not defined. The Oxford English Dictionary defines "deliberation" as "the action of thinking carefully about something." Prohibiting the Board of Regents from deliberating during a strategic planning retreat may defeat the purpose of such an event. We recommend removing the word "deliberation" from this provision.

The bill implicates article X, section 6, of the Hawai'i Constitution, which gives the Board of Regents of the University of Hawai'i "exclusive jurisdiction over the internal structure, management, and operation of the university." Section 6 further provides: "This section shall not limit the power of the legislature to enact laws of statewide

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concern. The legislature shall have the exclusive jurisdiction to identify laws of statewide concern." We recommend an amendment that adds a statement identifying this bill as a law of statewide concern.

Thank you for the opportunity to provide these comments.



**House Committee on Higher Education
Wednesday, February 4, 2026 2:00 P.M.**

Testimony by: Yvonne Lau
Executive Administrator and Secretary of the Board of Regents

HB1873 RELATING TO THE BOARD OF REGENTS OF THE UNIVERSITY OF HAWAII

Chair Garrett, Vice Chair Amato, and members of the Committee:

These comments on HB1873 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 regular meeting on February 19, 2026, and the Board may act to address this bill at that time.

Thank you for the opportunity to offer comments on HB1873

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To: House Committee on Higher Education

From: Carlotta Amerino, Director

Date: February 4, 2026, 2:00 p.m.
State Capitol, Conference Room 309

Re: Testimony on H.B. No. 1873
Relating to the Board of Regents of the University of Hawaii

Thank you for the opportunity to submit testimony on this bill, which among other things would create an exemption to the Sunshine Law, part I of chapter 92, Hawaii Revised Statutes (HRS), for the University of Hawaii Board of Regents (Regents) to hold strategic planning retreats. The Office of Information Practices (OIP) offers comments on the proposed exemption and takes no position on the remainder of the bill.

On bill page 1 proposed section 304A-__, HRS, would exempt strategic planning retreats held by the Regents from the Sunshine Law, with several conditions: (1) no deliberation or decision-making during the retreat; (2) the retreat was not convened “for the purpose of discussing” specific business “requiring action;” (3) materials used during the retreat are made public; and (4) the public is notified of who was there and, briefly, the retreat’s purpose. There is no limitation on the length of a retreat or how often it can be used. The only limitation of subject matter is that the Regents cannot talk about issues that require action at the time of the retreat.

The Sunshine Law generally treats the term “deliberation” as synonymous with the term “discussion.” There would be no purpose to the proposed strategic planning retreats if the Regents were barred from any discussion during them, though, so the prohibition of “deliberation or decision-making” apparently draws a distinction between discussion and prohibited deliberation. It is not entirely clear to OIP what distinguishes deliberation from discussion for the purpose of this exemption, but considering that the exemption also would not allow a retreat convened “for the purpose of” discussing business requiring action, OIP believes the intent likely was to say that a strategic planning retreat’s focus should be on topics related to future plans rather than current action items. Beyond that, there appears to be no limit on what constitutes strategic planning and nothing to prohibit the Regents from fully talking through major issues they will need to act on in the future.

OIP is concerned that this proposed exemption would thus allow the Regents to have their most important conversations in private, so that when major issues need action in the future the Regents’ consideration of them in Sunshine Law meetings will be based on a shared understanding previously reached in private. OIP therefore respectfully requests that this Committee **delete** the proposed Sunshine Law exemption. Alternatively, **if this Committee wishes to provide an exemption** of some sort, OIP requests that this Committee **significantly narrow its scope** by, for example, limiting it to stated topics and to no more than one retreat a year of no more than a stated number of hours.

Thank you for considering OIP’s testimony.



Feb. 4, 2026

Chairman Andrew Takuya Garrett
House Higher Education Committee
State Capitol
Honolulu, Hawaii 96813

Re: House Bill 1873

Chairman Garrett and Committee Members:

We oppose this measure, which would exempt strategy retreats for the University of Hawaii Board of Regents.

We fail to see any good reason for this measure – at least the bill's author fails to give us one.

Exemptions from the opening meeting requirements of the Sunshine Law should be extremely rare, particularly when the direction and policy of the state's university are at play, and we feel this business should be done in public. So we must oppose this proposal.

We offer no opinion about training for regents.

Thank you for your time and attention.

Stirling Morita
President
Hawaii Professional Chapter of the Society of Professional Journalists



House Committee on Higher Education
Honorable Andrew Takuya Garrett, Chair
Honorable Terez Amato, Vice Chair

RE: Testimony in Opposition to H.B. 1873, Relating to the Board of Regents of the University of Hawaii
Hearing: February 4, 2026 at 2:00 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 H.B. 1873.

The Sunshine Law promises an open and transparent government. This bill unnecessarily dilutes that promise by creating a vague, ill-defined, and unlimited exemption that invites abuse.

As written, H.B. 1873 authorizes the Board of Regents of the University of Hawai`i to discuss board business outside of duly noticed meetings and without public comment or participation—so long as it does not relate to “specific board of regents business requiring action.” The proposal does not define or further clarify the circumstances in which board business “requires action.”

If the concern is governance training, no Sunshine Law exemption is necessary. *E.g.*, OIP Annual Report 2021 at 42 (“‘Board business’ . . . does not typically include general information about background legal requirements such as the Sunshine Law and ethics and financial disclosure requirements. . . . Similarly, background information about what the board does, the laws creating and governing it, and administrative information about office procedures would not likely be ‘board business’ in the absence of specific examples involving current issues before the board.”). But an open-ended exception for anything that the Regents label as a “retreat” is not justified. A.G. Op. No. 86-19 (retreats generally concern board business and must comply with the Sunshine Law).

Thank you again for the opportunity to testify in opposition to H.B. 1873.



Re: HB 1873 Relating to the Board of Regents of the University of Hawaii

Dear Chair Garrett, Vice Chair Amato, and members of the House Committee on Higher Education;

My name is Mike Miyahira and I am a member of the Board of Regents of the University of Hawaii. The Board has not yet had an opportunity to discuss the subject bill, so I offer these comments in my individual capacity.

Regarding Open Meeting Exemptions for strategic planning retreats:

Applying Sunshine Law to Strategic Planning processes is problematic as it is difficult to post agendas in advance regarding discussions that normally occur during strategic planning sessions. Discussions should be wide ranging that may include affirming institutional identity and purpose, assessing the alignment between Mission and actual operations, and reaffirming commitment to community, culture, and place.

Strategic planning discussions are meant to identify and assess issues and concerns that should be considered during the process of reviewing our university's internal and external environments. It is virtually impossible to predict ahead of time, all of the subject matter that will be discussed during a Strategic Planning process.

Under Sunshine Law, as I understand it, Regents would be required to publish an agenda for any meeting that involves more than two Regents. The agenda must identify the subject matter to be discussed and be published at least six days in advance of the meeting.

Under Sunshine Law, Regents would not be able to discuss any new issues, concerns or subject matter of interest without first publishing an agenda. Adherence to Sunshine will cause the process to be very cumbersome.

Regarding Annual Reports to the Legislature:

The Board of Regents currently encourages Regents to attend periodic governance training. The Board of Regents also conducts or facilitates inhouse training for new Regents for Sunshine Law and Office of Information Practices, Ethics Training, and a wide range of other important subjects that Regents need to be cognizant of.

I am unsure of whether annual reporting to the Legislature will lead to an improvement of the preparedness of Regents to carry out their duties and responsibilities.

Regarding the Candidate Advisory Council:

Ensuring that candidates have experience in at least one of the stated subject matter areas makes a lot of sense. However, I suggest that the CAC also seek to recommend candidates that will provide the BOR with a balanced mix of experiences. In example, not recommending candidates who have a financial background when the BOR already has two or three such regents.

Re: Sec 304A-104(f); regarding travel on BOR business;

Please consider amending paragraph (f) to include travel expenses incurred outside the State when attending meetings of the board or when actually engaged in business relating to the work of the board.

Much of the training and engagement with resource persons, occurs on a national level outside of the State. I have personally benefited from attending the annual Association of Governing Boards, Trustee Workshop, which was held in Des Moines, Iowa last year. It enabled me to come away with a better understanding of the issues and concerns surrounding Name, Image and Likeness compensation for student athletes, as well as other issues related to financial audits and board governance.

Thank you for providing me an opportunity to provide my comments on HB1873.



Mike Miyahira