Testimony by:
Ben Kudo, Vice-Chair, University of Hawai‘i Board of Regents

H.B. No. 1874 – RELATING TO BOARDS.

Chair McKelvey, Vice Chair Wildberger, and members of the Committee:

The Board of Regents (“Board”) supports H.B. No. 1874 which seeks to allow boards to conduct a single, one-day retreat annually, provided that the board does not vote on any matter or make decisions on any matter currently pending before the board or likely to arise before the board.

The interactions of members of public boards and commissions are limited under Chapter 92, Hawai‘i Revised Statutes. In cases where potential board business is involved, interactions are restricted to two members outside of a public meeting. This may pose challenges for the entire board to have full, candid, and honest discussions in a situation where a vote or decision is not imminent. We wish to limit or reduce the “chilling effect” that an open retreat has upon members of a board who wish with good intentions to express unpopular or contrarian views and choose instead to remain silent. Fostering better communications by and between members of a board can only facilitate a healthier environment to provide individual and collective public service. This proposal will significantly encourage and provide a non-existent opportunity for board members to engage in team and relationship building, and to better empathize with each member’s individual perspectives, values, background, and beliefs.

This proposal would allow boards to conduct one private retreat per year, not to exceed one calendar day, and would require information regarding what was discussed to be reported at the next duly noticed meeting of the board. It also stipulates that the board shall not vote, make decisions, or deliberate toward a decision on any matter currently pending before the board or likely to arise before the board.

We would like to propose some amendments to subsection (g) on page 5 to clarify the intent of the legislation, change “calendar year” to “fiscal year”, make changes for drafting consistency, and add additional safeguards to alleviate concerns about discussions taking place at a retreat with respect to seeking a commitment to vote:

“(g) Two or more members of a board may conduct up to one retreat in private per fiscal year to enable them to perform their duties faithfully; provided that the retreat shall not exceed one calendar day or twenty-four-hour period. The board shall announce the date and place of the retreat at a meeting
held prior to the retreat. At a duly noticed meeting of the board after the retreat, the board shall publicly report on the retreat, including matters discussed. The board shall not make or seek a commitment to vote during the retreat, and shall not vote on any matter discussed during the retreat until a board meeting at least six calendar days after the board meeting at which the board publicly reported on the retreat.

As used in this subsection, "retreat" means a gathering of two or more members of a board for the purposes of orientation, team building, information gathering, strategic envisioning and planning, and general discussions on matters of shared concern, including matters relating to the efficiency, effectiveness, and conduct of the board.”

Thank you for the opportunity to provide testimony in support of H.B. No. 1874, and ask for your favorable consideration of the proposed amendments.