

JAN 20 2010

S.B. NO. 2029

A BILL FOR AN ACT

RELATING TO PUBLIC AGENCY MEETINGS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. In expressing the purpose underlying the open
2 meetings sunshine law and the uniform information practices act,
3 the legislature stated that opening up governmental processes to
4 public scrutiny and participation is the only viable and
5 reasonable method of protecting the public's interest.

6 Therefore, it is the policy of this State that the discussions,
7 deliberations, decisions, and actions of governmental agencies
8 in formulating and implementing public policy should be
9 conducted as openly as possible.

10 The foregoing notwithstanding, the judiciary is exempted
11 from application of the open meetings sunshine law. This
12 exemption extends to the judiciary's adjudicatory functions, as
13 well as its nonadjudicatory functions, including, for example,
14 the nonadjudicatory, administrative functions relating to task
15 forces and working study groups connected to the judiciary.

16 In contrast, the judiciary is not entirely exempted from
17 application of the uniform information practices act. Instead,



1 in applying that law, a distinction was made between the
2 judiciary's adjudicatory, nonadministrative functions and its
3 nonadjudicatory, administrative functions. The uniform
4 information practices act accordingly requires the public
5 disclosure of judiciary records, but limits the disclosure to
6 the judiciary's administrative records.

7 The legislature finds that a similar principle should be
8 employed in applying the open meetings sunshine law to boards
9 under the judiciary. The purpose of this Act is to require the
10 open meetings sunshine law to apply to the nonadjudicatory
11 functions of boards under the judiciary.

12 SECTION 2. Section 92-2, Hawaii Revised Statutes, is
13 amended by amending the definition of "board" to read as
14 follows:

15 "(1) "Board" means any agency, board, commission,
16 authority, or committee of the State or its political
17 subdivisions, including the judiciary, which is
18 created by constitution, statute, rule, court order,
19 or executive order, to have supervision, control,
20 jurisdiction or advisory power over specific matters
21 and which is required to conduct meetings and to take
22 official actions."



SECTION 3. Section 92-6, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) This part shall not apply:

(1) To the adjudicatory functions of the judicial branch.

(2) To adjudicatory functions exercised by a board and governed by sections 91-8 and 91-9, or authorized by other sections of the Hawaii Revised Statutes. In the application of this subsection, boards exercising adjudicatory functions include, but are not limited to, the following:

(A) Hawaii labor relations board, chapters 89 and 377;

(B) Labor and industrial relations appeals board, chapter 371;

(C) Hawaii paroling authority, chapter 353;

(D) Civil service commission, chapter 26;

(E) Board of trustees, employees' retirement system of the State of Hawaii, chapter 88;

(F) Crime victim compensation commission, chapter 351; and

(G) State ethics commission, chapter 84."



SECTION 4. Section 92-7, Hawaii Revised Statutes, is amended by amending subsections (b) and (c) to read as follows:

"(b) The board shall file the notice in the office of the lieutenant governor or the appropriate county clerk's office, and in the board's office for public inspection[7]; provided that the notice for a board of the judiciary shall be filed in the office of the supreme court or with the appropriate circuit court clerk in the circuit where the meeting is to be held. The notice shall be filed at least six calendar days before the meeting. The notice shall also be posted at the site of the meeting whenever feasible.

(c) If the written public notice under subsection (b) is filed [in the office of the lieutenant governor or the appropriate county clerk's office] less than six calendar days before the meeting, the lieutenant governor or the appropriate county clerk, or in the case of a board of the judiciary, the administrative director of the courts or the appropriate circuit court clerk shall immediately notify the chairperson of the board, or the director of the department within which the board is established or placed, of the tardy filing of the meeting notice. The meeting shall be canceled as a matter of law, the chairperson or the director shall ensure that a notice canceling



1 the meeting is posted at the place of the meeting, and no
2 meeting shall be held."

3 SECTION 5. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 6. This Act shall take effect on July 1, 2010.

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INTRODUCED BY: Marlene Chun Cleveland
Chris Johnson



Report Title:

Judiciary Open Meetings; Nonadjudicatory Functions

Description:

Makes boards of the judicial branch subject to open meetings sunshine law in nonadjudicatory functions.

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