

JAN 21 2011

A BILL FOR AN ACT

RELATING TO PUBLIC AGENCY MEETINGS.

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

1 SECTION 1. The purpose of this Act is to enhance Hawaii's
2 law governing open meetings by:

3 (1) Providing a specific exemption to the open meetings
4 law in certain instances, and safeguards to enhance
5 compliance and prevent abuse of the exemption; and

6 (2) Clarifying the intent of the law with regard to
7 permitted interactions among board members and
8 continuances of meetings.

9 SECTION 2. Section 92-2.5, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "**§92-2.5 Permitted interactions of members.** (a) Two
12 members of a board may discuss between themselves matters
13 relating to official board business to enable them to perform
14 their duties faithfully, as long as no commitment to vote is
15 made or sought and the two members do not constitute a quorum of
16 their board.



1 (b) Two or more members of a board, but less than the
2 number of members [~~which~~] that would constitute a quorum for the
3 board, may be assigned to:

4 (1) Investigate a matter relating to the official business
5 of their board; provided that:

6 (A) The scope of the investigation and the scope of
7 each member's authority are defined at a meeting
8 of the board;

9 (B) All resulting findings and recommendations are
10 presented to the board at a meeting of the board;
11 and

12 (C) Deliberation and decisionmaking on the matter
13 investigated, if any, occurs only at a duly
14 noticed meeting of the board held subsequent to
15 the meeting at which the findings and
16 recommendations of the investigation were
17 presented to the board; or

18 (2) Present, discuss, or negotiate any position [~~which~~]
19 that the board has adopted at a meeting of the board;
20 provided that the assignment is made and the scope of
21 each member's authority is defined at a meeting of the



1 board prior to the presentation, discussion, or
2 negotiation.

3 (c) Discussions between two or more members of a board,
4 but less than the number of members [~~which~~] that would
5 constitute a quorum for the board, concerning the selection of
6 the board's officers may be conducted in private without
7 limitation or subsequent reporting.

8 (d) Discussions between the governor and one or more
9 members of a board may be conducted in private without
10 limitation or subsequent reporting; provided that the discussion
11 does not relate to a matter over which a board is exercising its
12 adjudicatory function.

13 (e) Discussions between two or more members of a board and
14 the head of a department to which the board is administratively
15 assigned may be conducted in private without limitation;
16 provided that the discussion is limited to matters specified in
17 section 26-35.

18 (f) Members of a board may attend informational meetings
19 or presentations on matters relating to official board business,
20 including meetings of another entity, seminars, conventions, and
21 community meetings; provided that the presentation is free and
22 open to the public. Board members may participate in



1 discussions, including discussions among themselves, provided
2 that the discussions occur during and as part of the
3 informational meeting, meeting of another entity, seminar,
4 convention, community meeting, or presentation and no commitment
5 to vote is sought or made.

6 (g) To be eligible to use the exemption in subsection (f):

7 (1) A board member shall attend a course conducted by an
8 attorney approved by the director of the office of
9 information practices. The course shall provide
10 education and training on the requirements of part I
11 of chapter 92; and

12 (2) The board or any member who uses the exemption in
13 subsection (f) shall have a copy of part I of chapter
14 92 at every informational meeting or presentation.

15 (h) A member of the board who uses the exemption in
16 subsection (f) shall:

17 (1) Not less than twenty-four hours prior to the
18 informational meeting or presentation, cause public
19 notice of the board member's intent to attend the
20 informational meeting or presentation to be posted on
21 the office of information practices website and the
22 board's website, if any; and



1 (2) At the next meeting of the board, report information
2 on the board member's attendance at the informational
3 meeting or presentation and the matters presented and
4 discussed that relate to board business.

5 (i) The exemption in subsection (f) may be used for chance
6 meetings of board members, without prior public notice; provided
7 that a board member who uses the exemption based upon a chance
8 meeting shall comply with the reporting requirement in
9 subsection (h) (2).

10 (j) In addition to complying with the reporting
11 requirement in subsection (h) (2), a member shall make available
12 at the next meeting of the board an audio recording or written
13 transcript of the informational meeting or presentation, when:

14 (1) The informational meeting or presentation is not free
15 and open to the public;

16 (2) No public notice is given at least twenty-four hours
17 prior to the board member's attendance at the
18 informational meeting or presentation; or

19 (3) The informational meeting or presentation is attended
20 by board members constituting at least a quorum.

21 (k) No board member may distribute or disseminate written
22 memoranda or written communications related to proposed



1 amendments to proposals under deliberation and decision making
2 by the board to other members of the board in advance of a
3 public meeting, unless copies of those written memoranda or
4 written communications are also made available to the public.

5 [~~f~~] (1) Communications, interactions, discussions,
6 investigations, and presentations described in this section are
7 not meetings for purposes of this part."

8 SECTION 3. Section 92-7, Hawaii Revised Statutes, is
9 amended by amending subsection (d) to read as follows:

10 "(d) No board shall change the agenda, once filed, by
11 adding items thereto without a two-thirds recorded vote of all
12 members to which the board is entitled; provided that no item
13 shall be added to the agenda if it is of reasonably major
14 importance and action thereon by the board will affect a
15 significant number of persons. Items of reasonably major
16 importance not decided at a scheduled meeting shall be
17 considered only at a second meeting continued to a reasonable
18 day and time. If any further continuance is needed, the board
19 shall provide written public notice of the continuance as
20 required under this section."

21 SECTION 4. Statutory material to be repealed is bracketed
22 and stricken. New statutory material is underscored.



1 SECTION 5. This Act shall take effect upon its approval.

2

INTRODUCED BY:





Report Title:

Public Agency Meetings; Open Meetings

Description:

Provides a specific exemption to the open meetings law as well as various safeguards to enhance compliance and prevent abuse of the exemption; clarifies the intent of the law with regard to permitted interactions among board members and continuances of meetings.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

