
A BILL FOR AN ACT

RELATING TO GOVERNMENT RECORDS.

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

1 SECTION 1. Section 92-2, Hawaii Revised Statutes, is
2 amended by amending the definition of "board" to read as
3 follows:

4 "Board" means any agency, county council, board,
5 commission, authority, or committee of the State or its
6 political subdivisions which is created by constitution,
7 statute, rule, or executive order, to have supervision, control,
8 jurisdiction, or advisory power over specific matters and which
9 is required to conduct meetings and to take official actions."

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

12 "§92-2.5 Permitted interactions of members. (a) Two
13 members of a board may discuss between themselves matters
14 relating to official board business to enable them to perform
15 their duties faithfully, as long as no commitment to vote is
16 made or sought and the two members do not constitute a quorum of
17 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~~] decision making
13 on the matter investigated, if any, occurs only
14 at a duly noticed meeting of the board held
15 subsequent to the meeting at which the findings
16 and 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) Board members present at a meeting that must be
9 canceled for lack of quorum or terminated pursuant to section
10 92-3.5(c) may nonetheless receive testimony and presentations on
11 items on the agenda and question the testifiers or presenters;
12 provided that:

13 (1) Deliberation or [~~decisionmaking~~] decision making on
14 any item, for which testimony or presentations are
15 received, occurs only at a duly noticed meeting of the
16 board held subsequent to the meeting at which the
17 testimony and presentations were received;

18 (2) The members present shall create a record of the oral
19 testimony or presentations in the same manner as would
20 be required by section 92-9 for testimony or
21 presentations heard during a meeting of the board; and



1 (3) Before its deliberation or [~~decisionmaking~~] decision
2 making at a subsequent meeting, the board shall:

3 (A) Provide copies of the testimony and presentations
4 received at the canceled meeting to all members
5 of the board; and

6 (B) Receive a report by the members who were present
7 at the canceled or terminated meeting about the
8 testimony and presentations received.

9 (e) Two or more members of a board, but less than the
10 number of members [~~which~~] that would constitute a quorum for the
11 board, may attend an informational meeting or presentation on
12 matters relating to official board business, including a meeting
13 of another entity, legislative hearing, convention, seminar, or
14 community meeting; provided that the meeting or presentation is
15 not specifically and exclusively organized for or directed
16 toward members of the board. The board members in attendance
17 may participate in discussions, including discussions among
18 themselves; provided that the discussions occur during and as
19 part of the informational meeting or presentation; and provided
20 further that no commitment relating to a vote on the matter is
21 made or sought.



1 At the next duly noticed meeting of the board, the board
2 members shall report their attendance and the matters presented
3 and discussed that related to official board business at the
4 informational meeting or presentation.

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

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

15 (h) A member of a county council may provide other members
16 any government record that is open to public inspection under
17 chapter 92F; provided that:

18 (1) The record was created by a person other than a member
19 or employee of the county council;

20 (2) No additional discussion is added to the record other
21 than a neutral statement in the transmittal to



- 1 identify the government record and the related matter
2 of official business;
- 3 (3) No commitment relating to a vote on the matter is made
4 or sought;
- 5 (4) The transmission of government records between county
6 council members occurs during business hours;
- 7 (5) On the same day the government record is transmitted
8 to other county council members, the transmittal
9 document and government record shall be filed for
10 public inspection in the county council office. The
11 public shall have access to the transmittal document
12 and government records at least twenty-four hours
13 before the county council meets to discuss matters
14 relating to the government records; and
- 15 (6) The transmittal document and government record filed
16 in the county council office shall, upon request, be
17 electronically transmitted to the requester.
- 18 [~~(h)~~] (i) Communications, interactions, discussions,
19 investigations, and presentations described in this section are
20 not meetings for purposes of this part."

1 SECTION 3. Section 279D-9, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:

3 "(b) Participation by members of any other board in a
4 meeting of a policy board shall be permitted interaction as
5 provided in section [~~92-2.5(h)~~] 92-2.5(i)."

6 SECTION 4. Statutory material to be repealed is bracketed
7 and stricken. New statutory material is underscored.

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

9



Report Title:

Hawaii State Association of Counties Package; Sunshine Law;
Government Records; Permitted Interactions

Description:

Allows a county council member to provide other council members with government records that are public record and created by persons who are not members or employees of the county council, subject to certain conditions. (SD1)

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

