

JAN 26 2022

A BILL FOR AN ACT

RELATING TO BOARDS AND COMMISSIONS.

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

1 SECTION 1. The legislature finds that there are over one
2 hundred seventy boards and commissions established by the state
3 constitution, statutes, and executive orders that make critical
4 decisions that shape policy impacting Hawaii's residents. The
5 majority of boards and commissions are composed of members who
6 serve in a volunteer capacity and may have other careers. As
7 such, it is critical that members be afforded opportunities to
8 receive orientation and training and to have periodic
9 discussions as a board on their scope of responsibilities.
10 These types of activities typically do not involve making
11 decisions that will impact the organization or activities they
12 oversee.

13 Chapter 92, Hawaii Revised Statutes, relating to public
14 agency meetings and records, generally restricts interactions
15 among members of a board or commission to two members, with
16 limited exceptions. This may pose logistical challenges to
17 providing the aforementioned opportunities, whereby activities



1 such as orientation and education sessions or discussions on
2 current issues must be held multiple times to reach all members,
3 and the members would not have the benefit of having a
4 discussion as a collective group to have a shared understanding
5 of mission, goals, and responsibilities. Such situations may
6 also take up valuable staff time to perform the same sessions on
7 multiple occasions.

8 Therefore, the purpose of this Act is to allow boards and
9 commissions to hold one retreat in private per calendar year for
10 the purposes of team building, information gathering, and
11 general discussions on matters of shared concern, provided that
12 no decision-making or deliberation toward a decision occurs on
13 matters pending or likely to arise before the board.

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

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



1 (b) Two or more members of a board, but less than the
2 number of members, which 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 would constitute a
5 quorum for the board, concerning the selection of the board's
6 officers may be conducted in private without limitation or
7 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 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) A board may conduct up to one retreat in private per
11 calendar year; provided that the retreat shall not exceed one
12 calendar day, and the board shall announce the date on which it
13 held the retreat and report attendance at the next duly noticed
14 meeting of the board; provided further that the board shall not
15 vote on any matter, make decisions, or deliberate toward a
16 decision on any matters currently pending before the board or
17 likely to arise before the board.

18 As used in this subsection, "retreat" means a gathering of
19 the members of a board for the purpose of team building,
20 information gathering, and general discussions on matters of
21 shared concern.



S.B. NO. 3200

Report Title:

Sunshine Law; Boards and Commissions; Permitted Interactions;
Annual Retreat

Description:

Allows a board to conduct one private retreat per calendar year, provided that the board does not vote on any matter nor make decisions or deliberate on matters currently pending before the board or likely to arise before the board.

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

