
A BILL FOR AN ACT

RELATING TO OPEN MEETINGS.

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

1 SECTION 1. The legislature finds that in a democracy, the
2 people are vested with the ultimate decision-making power. The
3 legislature exists to represent the people and aid the people in
4 the formation of public policy. Opening up the governmental
5 processes to public scrutiny and participation is the only
6 viable and reasonable method of protecting the public's
7 interests. The legislature, therefore, recognizes that it is
8 the policy of this State that the formation and conduct of
9 public policy--the discussions, deliberations, decisions, and
10 actions of governmental agencies--shall be conducted as openly
11 as possible, pursuant to section 92-1, Hawaii Revised Statutes.

12 The legislature further finds that chapter 92, Hawaii
13 Revised Statutes, was enacted to protect the peoples' right to
14 be informed of their government's actions, deliberations, and
15 decision-making on their behalf by requiring open meetings and
16 transparency in the decision-making process.



1 The legislature notes, however, that section 92-10, Hawaii
2 Revised Statutes, specifically exempts the legislature from the
3 open meeting requirements of the sunshine law, as chapter 92,
4 Hawaii Revised Statutes, is commonly known. Specifically,
5 provisions relating to notice, agenda and minutes of meetings,
6 and other sunshine law requirements do not apply to the
7 legislature or any of its members, except as provided by the
8 legislature's internal rules and procedures.

9 The legislature also finds that section 92-2.5, Hawaii
10 Revised Statutes, allows for permitted private interactions
11 between members of a board, subject to certain limitations and
12 restrictions, providing another exemption from the sunshine law.

13 Accordingly, the purpose of this Act is to increase
14 transparency and accountability in government operations by:

- 15 (1) Repealing the legislature's exemption from the
16 sunshine law;
17 (2) Clarifying notice requirements; and
18 (3) Repealing the permitted private interactions between
19 members of a board.

20 SECTION 2. Section 92-2, Hawaii Revised Statutes, is
21 amended to read as follows:



1 **"§92-2 Definitions.** As used in this part:

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

9 "Board business" means specific matters over which a board
10 has supervision, control, jurisdiction, or advisory power, that
11 are actually pending before the board, or that can be reasonably
12 anticipated to arise before the board in the foreseeable future.

13 "Informal gathering" means a social or informal assemblage
14 of two or more board members at which matters relating to board
15 business are not discussed.

16 "Interactive conference technology" means any form of audio
17 and visual conference technology, or audio conference technology
18 where permitted under this part, including teleconference,
19 videoconference, and voice over internet protocol, that
20 facilitates interaction between the public and board members.



1 "Meeting" means the convening of a board for which a quorum
2 is required in order to make a decision or interactions between
3 board members to deliberate toward a decision upon a matter over
4 which the board has supervision, control, jurisdiction, or
5 advisory power.

6 "Notice period" means:

7 (1) For boards with a fixed session duration, the notice
8 period shall be equal to one-thirtieth (1/30) of the
9 total session duration, including not less than two
10 calendar days before a meeting of the legislature
11 during a sixty-day regular session pursuant to
12 article III, section 10, of the state constitution;
13 and

14 (2) For boards without a fixed session duration, the
15 notice period shall be not less than six calendar days
16 before the meeting."

17 SECTION 3. Section 92-5, Hawaii Revised Statutes, is
18 amended by amending subsection (b) to read as follows:

19 "(b) In no instance shall the board make a decision or
20 deliberate toward a decision in an executive meeting on matters
21 not directly related to the purposes specified in subsection



1 (a). No informal gathering[~~, permitted interaction,~~] or
2 electronic communication shall be used to circumvent the spirit
3 or requirements of this part to make a decision or to deliberate
4 toward a decision upon a matter over which the board has
5 supervision, control, jurisdiction, or advisory power."

6 SECTION 4. Section 92-7, Hawaii Revised Statutes, is
7 amended to read as follows:

8 **"§92-7 Notice.** (a) The board shall give written public
9 notice of any regular, special, emergency, or rescheduled
10 meeting, or any executive meeting when anticipated in advance.
11 The notice shall include an agenda that lists all of the items
12 to be considered at the forthcoming meeting; the date, time, and
13 place of the meeting; the board's electronic and postal contact
14 information for submission of testimony before the meeting;
15 instructions on how to request an auxiliary aid or service or an
16 accommodation due to a disability, including a response
17 deadline, if one is provided, that is reasonable; and in the
18 case of an executive meeting, the purpose shall be stated. If
19 an item to be considered is the proposed adoption, amendment, or
20 repeal of administrative rules, an agenda meets the requirements
21 for public notice pursuant to this section if it contains a



1 statement on the topic of the proposed rules or a general
2 description of the subjects involved, as described in
3 section 91-3(a)(1)(A), and a statement of when and where the
4 proposed rules may be viewed in person and on the Internet as
5 provided in section 91-2.6. The means specified by this section
6 shall be the only means required for giving notice under this
7 part notwithstanding any law to the contrary.

8 (b) ~~[No less than six calendar days before the meeting,]~~
9 Within the notice period, the board shall post the notice on an
10 electronic calendar on a website maintained by the State or the
11 appropriate county and post a notice in the board's office for
12 public inspection. The notice shall also be posted at the site
13 of the meeting whenever feasible. The board shall file a copy
14 of the notice with the office of the lieutenant governor or the
15 appropriate county clerk's office and retain a copy of proof of
16 filing the notice, and the office of the lieutenant governor or
17 the appropriate clerk's office shall ensure access to paper or
18 electronic copies of all meeting notices; provided that a
19 failure to do so by the board, the office of the lieutenant
20 governor, or the appropriate county clerk's office shall not
21 require cancellation of the meeting. The copy of the notice to



1 be provided to the office of the lieutenant governor or the
2 appropriate county clerk's office may be provided via electronic
3 mail to an electronic mail address designated by the office of
4 the lieutenant governor or the appropriate county clerk's
5 office, as applicable.

6 (c) If the written public notice is electronically posted
7 on an electronic calendar [~~less than six calendar days before~~
8 ~~the meeting,~~] with less notice than is required by the notice
9 period, the meeting shall be canceled as a matter of law and
10 shall not be held. The chairperson or the director shall ensure
11 that a notice canceling the meeting is posted at the place of
12 the meeting. If there is a dispute as to whether a notice was
13 timely posted on an electronic calendar maintained by the State
14 or appropriate county, a printout of the electronic time-stamped
15 agenda shall be conclusive evidence of the electronic posting
16 date. The board shall provide a copy of the time-stamped record
17 upon request.

18 (d) No board shall change the agenda[, ~~less than six~~
19 ~~calendar days prior to the meeting,~~] of a validly posted public
20 notice within the notice period by adding items thereto without
21 a two-thirds recorded vote of all members to which the board is



1 entitled; provided that no item shall be added to the agenda if
2 it is of reasonably major importance and action thereon by the
3 board will affect a significant number of persons. Items of
4 reasonably major importance not decided at a scheduled meeting
5 shall be considered only at a meeting continued to a reasonable
6 day and time.

7 (e) The board shall maintain a list of names and postal or
8 electronic mail addresses of persons who request notification of
9 meetings and shall mail or electronically mail a copy of the
10 notice to the persons by the means chosen by the persons at
11 their last recorded postal or electronic mail address no later
12 than the time the agenda is required to be electronically posted
13 under subsection (b)."

14 SECTION 5. Section 92-12, Hawaii Revised Statutes, is
15 amended by amending subsection (a) to read as follows:

16 "(a) The attorney general and the prosecuting attorney
17 shall enforce this part~~[-]~~; provided that the president of the
18 senate and speaker of the house of representatives shall enforce
19 this part for each house of the legislature, respectively."

20 SECTION 6. Section 92-2.5, Hawaii Revised Statutes, is
21 repealed.



1 ~~["§92-2.5 Permitted interactions of members. (a) Two~~
2 ~~members of a board may discuss between themselves matters~~
3 ~~relating to board business to enable them to perform their~~
4 ~~duties faithfully, as long as no commitment to vote is made or~~
5 ~~sought and the two members do not constitute a quorum of their~~
6 ~~board.~~

7 ~~(b) Two or more members of a board, but less than the~~
8 ~~number of members that would constitute a quorum for the board,~~
9 ~~may be assigned to:~~

10 ~~(1) Investigate a matter relating to board business;~~
11 ~~provided that:~~

12 ~~(A) The scope of the investigation and the scope of~~
13 ~~each member's authority are defined at a meeting~~
14 ~~of the board;~~

15 ~~(B) All resulting findings and recommendations are~~
16 ~~presented to the board at a meeting of the board;~~
17 ~~and~~

18 ~~(C) Deliberation and decision-making on the matter~~
19 ~~investigated, if any, occurs only at a duly~~
20 ~~noticed meeting of the board held no less than~~
21 ~~six business days after the meeting at which the~~



1 ~~findings and recommendations of the investigation~~
2 ~~were presented to the board; or~~

3 ~~(2) Present, discuss, or negotiate any position that the~~
4 ~~board has adopted at a meeting of the board; provided~~
5 ~~that the assignment is made and the scope of each~~
6 ~~member's authority is defined at a meeting of the~~
7 ~~board before the presentation, discussion, or~~
8 ~~negotiation.~~

9 ~~(c) Discussions between two or more members of a board,~~
10 ~~but less than the number of members that would constitute a~~
11 ~~quorum for the board, concerning the selection of the board's~~
12 ~~officers may be conducted in private without limitation or~~
13 ~~subsequent reporting.~~

14 ~~(d) Board members present at a meeting that must be~~
15 ~~canceled for lack of quorum or terminated pursuant to~~
16 ~~section 92-3.5(c) may nonetheless receive testimony and~~
17 ~~presentations on items on the agenda and question the testifiers~~
18 ~~or presenters; provided that:~~

19 ~~(1) Deliberation or decisionmaking on any item, for which~~
20 ~~testimony or presentations are received, occurs only~~
21 ~~at a duly noticed meeting of the board held subsequent~~



1 ~~to the meeting at which the testimony and~~
2 ~~presentations were received;~~

3 ~~(2) The members present shall create a record of the oral~~
4 ~~testimony or presentations in the same manner as would~~
5 ~~be required by section 92-9 for testimony or~~
6 ~~presentations heard during a meeting of the board; and~~

7 ~~(3) Before its deliberation or decisionmaking at a~~
8 ~~subsequent meeting, the board shall:~~

9 ~~(A) Provide copies of the testimony and presentations~~
10 ~~received at the canceled meeting to all members~~
11 ~~of the board; and~~

12 ~~(B) Receive a report by the members who were present~~
13 ~~at the canceled or terminated meeting about the~~
14 ~~testimony and presentations received.~~

15 ~~(c) Two or more members of a board, but less than the~~
16 ~~number of members that would constitute a quorum for the board,~~
17 ~~may attend an informational meeting or presentation on matters~~
18 ~~relating to board business, including a meeting of another~~
19 ~~entity, legislative hearing, convention, seminar, or community~~
20 ~~meeting; provided that the meeting or presentation is not~~
21 ~~specifically and exclusively organized for or directed toward~~



~~members of the board. The board members in attendance may participate in discussions, including discussions among themselves; provided that the discussions occur during and as part of the informational meeting or presentation; provided further that no commitment relating to a vote on the matter is made or sought.~~

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

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

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



~~(h) Where notice of the deadline to submit testimony to the legislature is less than the notice requirements in this section, a board may circulate for approval a statement regarding a position previously adopted by the board; provided that the position previously adopted by the board, the statement to be submitted as testimony, and communications among board members about the statement, including drafts, shall be in writing and accessible to the public, within forty-eight hours of the statement's circulation to the board, on the board's website, or, if the board does not have a website, on an appropriate state or county website.~~

~~(i) Communications, interactions, discussions, investigations, and presentations described in this section are not meetings for purposes of this part."]~~

SECTION 7. Section 92-10, Hawaii Revised Statutes, is repealed.

~~["§92-10 Legislative branch; applicability. Notwithstanding any provisions contained in this chapter to the contrary, open meeting requirements, and provisions regarding enforcement, penalties and sanctions, as they are to relate to the state legislature or to any of its members shall be such as~~



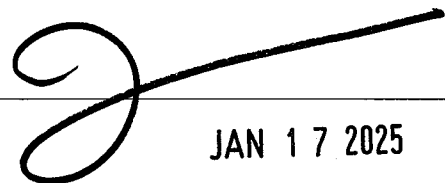
1 ~~shall be from time to time prescribed by the respective rules~~
2 ~~and procedures of the senate and the house of representatives,~~
3 ~~which rules and procedures shall take precedence over this part.~~
4 ~~Similarly, provisions relating to notice, agenda and minutes of~~
5 ~~meetings, and such other requirements as may be necessary, shall~~
6 ~~also be governed by the respective rules and procedures of the~~
7 ~~senate and the house of representatives."]~~

8 SECTION 8. If any provision of this Act, or the
9 application thereof to any person or circumstance, is held
10 invalid, the invalidity does not affect other provisions or
11 applications of the Act that can be given effect without the
12 invalid provision or application, and to this end the provisions
13 of this Act are severable.

14 SECTION 9. Statutory material to be repealed is bracketed
15 and stricken. New statutory material is underscored.

16 SECTION 10. This Act shall take effect upon its approval.
17

INTRODUCED BY: _____



JAN 17 2025



H.B. NO. 724

Report Title:

Sunshine Law; Open Meetings; Legislature; Exemption; Notice Requirement; Permitted Interactions; Boards and Commissions; Executive Branch Departments; Good Government; Transparency

Description:

Amends the definition of a "board" under the Sunshine Law to include the Legislature. Clarifies notice period requirements. Repeals the Legislature's exemption from the Sunshine Law. Repeals the exemption for permitted interactions between board members.

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

