

Honolulu, Hawaii

MAR 01 2012

RE: S.B. No. 2859
S.D. 1

Honorable Shan S. Tsutsui
President of the Senate
Twenty-Sixth State Legislature
Regular Session of 2012
State of Hawaii

Sir:

Your Committee on Judiciary and Labor, to which was referred
S.B. No. 2859 entitled:

"A BILL FOR AN ACT RELATING TO OPEN GOVERNMENT,"

begs leave to report as follows:

The purpose and intent of this measure is to improve
government efficiency by providing additional tools for state
board and commission members and the public to receive and access
information. Specifically, this measure:

- (1) Allows board and commission members to hear public
testimony and presentations on items listed on an agenda
during a scheduled meeting even though that meeting must
be cancelled due to the lack of quorum, with certain
limitations;
- (2) Allows less than a quorum of board and commission
members to attend informational meetings or
presentations on matters related to official board
business, with certain limitations;
- (3) Allows less than a quorum of board and commission
members to discuss official board business via social
media; provided that the discussion is continuously
accessible for public viewing and participation and
meets other requirements;



- (4) Clarifies that written public notice shall be given for emergency meetings when anticipated in advance; and
- (5) Provides for the electronic filing of meeting notices.

Your Committee received testimony in support of this measure from the Office of the Governor; the Department of Commerce and Consumer Affairs; the Department of Public Safety; the Department of Human Resources Development; the Department of Transportation; the Department of Taxation; the Department of Hawaiian Home Lands; the Department of Land and Natural Resources; the Department of Business, Economic Development, and Tourism; the Board of Education; the Office of Information Practices; the Hawaii Strategic Development Corporation; the High Technology Development Corporation; the Office of Language Access; the Office of Information Management and Technology; the Hawaii Public Housing Authority; the Executive Office on Aging; the Hawaii Community Development Authority; the Department of Planning and Permitting of the City and County of Honolulu; six members of the County Council of Maui; one member of the Hawaii County Council; the Chamber of Commerce of Hawaii; the Building Industry Association of Hawaii; the Hawaii Employers' Mutual Insurance Company, Inc.; and one private individual. Testimony in opposition to this measure was submitted by one private individual. The Office of Hawaiian Affairs and Common Cause Hawaii submitted comments.

Your Committee finds that chapter 92, Hawaii Revised Statutes, the Sunshine Law, requires a quorum for a state board or commission to conduct business and make any board or commission action valid. However, there are a number of permitted interactions between board or commission members consisting of less than a quorum to conduct limited business without violating the Sunshine Law. This measure provides additional permitted interactions to allow less than a quorum of members to attend informational meetings or presentations, and allow members present at a cancelled scheduled meeting to only hear public testimony on the items listed on the filed agenda. Furthermore, this measure incorporates technology by allowing members to discuss board or commission business via social media and allowing meeting notices to be electronically filed and posted on the State's electronic calendar.

Your Committee recognizes the concerns raised in the testimony regarding ensuring a certain level of privacy when using social media for board discussions and implementing the electronic



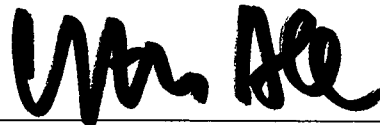
filing of meeting notices. As a result, your Committee requested the Office of Information Practices to address these concerns. Your Committee notes that the discussion regarding electronic notices has been addressed in S.B. No. 2234, Regular Session of 2012, as amended.

As such, your Committee has amended this measure by:

- (1) Inserting a repeal date of June 30, 2016, for less than a quorum of board or commission members to discuss business via social media; provided that the board or commission has previously adopted a social media use policy and no commitment to vote is made;
- (2) Removing language that provides for the electronic filing of meeting notices; and
- (3) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Judiciary and Labor that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2859, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2859, S.D. 1, and be placed on the calendar for Third Reading.

Respectfully submitted on
behalf of the members of the
Committee on Judiciary and
Labor,



CLAYTON HEE, Chair



