

HOUSE OF REPRESENTATIVES
EIGHTEENTH LEGISLATURE, 1995
STATE OF HAWAII

H.B. NO. 1866
H.D. 1

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 increase the
2 efficacy and efficiency of boards which conduct the public's
3 business pursuant to the Sunshine Law, part I of chapter 92,
4 Hawaii Revised Statutes, without compromising the basic tenet of
5 that law that discussions, deliberations, decisions, and actions
6 of governmental agencies should be conducted as openly as
7 practicable.

8 SECTION 2. Chapter 92, Hawaii Revised Statutes, is amended
9 by adding to part I a new section to be appropriately designated
10 and to read as follows:

11 "§92- Permitted interaction of members. (a) Two or more
12 members of a board may discuss matters relating to the official
13 business of their board privately, as long as:

14 (1) No vote and no commitment to vote is made or sought
15 during the discussion;

16 (2) Each member involved in the private discussion prepares
17 and submits a written summary of the discussion to the
18 board;

19 (3) Each discussion is included as an item on the agenda of

- 1 the board's next meeting; and
- 2 (4) The summary is available to the public at the same time
3 that the agenda is filed in the office of the
4 lieutenant governor or the appropriate county clerk's
5 office.
- 6 (b) Two or more members of a board may be assigned to:
- 7 (1) Investigate a matter relating to the official business
8 of their board; provided that:
- 9 (A) The scope of the investigation and the scope of
10 each member's authority are defined at a meeting
11 of the board;
- 12 (B) All resulting findings and recommendations are
13 summarized in a writing;
- 14 (C) The writing is included as an item on the agenda
15 of a meeting and available to the public at the
16 same time that the agenda is filed in the office
17 of the lieutenant governor or the appropriate
18 county clerk's office;
- 19 (D) No vote and no commitment to vote on the matter
20 investigated is taken or sought until the meeting
21 for which the investigation is listed as an agenda
22 item; or
- 23 (2) Present and discuss any position which the board has

1 adopted at a meeting of the board, provided that the
2 assignment is made and the scope of each member's
3 authority is defined at a meeting of the board.

4 (c) Discussions between two or more members of a board
5 concerning the selection of the board's officers may be conducted
6 in private without limitation or subsequent reporting.

7 (d) Discussions between or amongst the governor and members
8 of a board who are also the head of a department or an agency
9 administratively assigned to a department established in chapter
10 26, may be conducted in private without limitation or subsequent
11 reporting, provided that the discussion does not relate to a
12 matter over which a board is exercising its adjudicatory
13 function.

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

19 (f) Discussions, investigations, and presentations
20 undertaken pursuant to this section are not meetings for purposes
21 of this part.

22 (g) A writing prepared to satisfy the requirement in
23 subsection (a) or (b) shall be accorded the same treatment

1 accorded minutes of executive meetings under section 92-9, if the
2 subject of the writing is one which the board is authorized to
3 consider at a closed meeting under section 92-5. The agenda
4 which includes the writing as an item shall indicate that the
5 writing is not available to the public.

6 (h) A board shall defer deliberation and decision on any
7 matter which is related in any way to a matter which was the
8 subject of a discussion or investigation permitted under
9 subsection (a) or (b) until a meeting for which the discussion or
10 investigation has been included as an item on its agenda and the
11 writing required to be prepared under subsection (a) or (b) has
12 been submitted to the office of the lieutenant governor or the
13 appropriate county clerk's office."

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

16 "(b) In no instance shall the board make a decision or
17 deliberate toward a decision in an executive meeting on matters
18 not directly related to the purposes specified in subsection (a).
19 [This part shall not apply to any chance meeting at which matters
20 relating to official business are not discussed. No chance
21 meeting or electronic communication shall be used to circumvent
22 the spirit or requirements of this part to make a decision or to
23 deliberate toward a decision upon a matter over which the board

1 has supervision, control, jurisdiction, or advisory power.]"

2 SECTION 4. Section 92-8, Hawaii Revised Statutes, is amended
3 to read as follows:

4 "**§92-8 Emergency meetings.** (a) If a board finds that an
5 imminent peril to the public health, safety, or welfare requires
6 a meeting in less time than is provided for in section 92-7, the
7 board may hold an emergency meeting provided[:] that:

8 (1) The board states in writing the reasons for its
9 findings;

10 (2) Two-thirds of all members to which the board is
11 entitled agree that the findings are correct and an
12 emergency exists;

13 (3) An emergency agenda and the findings are filed with the
14 office of the lieutenant governor or the appropriate
15 county clerk's office, and in the board's office; and

16 (4) Persons requesting notification are contacted by mail
17 or telephone as soon as practicable.

18 (b) If an unanticipated event requires or appears to
19 require a board to take action on a matter over which it has
20 supervision, control, jurisdiction, or advisory power, within
21 less time than is provided for in section 92-7 to notice and
22 convene a meeting of the board, the board may hold an emergency
23 meeting to deliberate and decide whether and how to act in

1 response to the unanticipated event, provided that:

- 2 (1) The board states in writing the reasons for its
3 findings, and the attorney general concurs that the
4 conditions necessary for an emergency meeting under
5 this subsection exist;
- 6 (2) Two-thirds of all members to which the board is
7 entitled agree that the conditions necessary for an
8 emergency meeting under this subsection exist;
- 9 (3) The findings and the agenda for an emergency meeting
10 under this subsection are filed with the office of the
11 lieutenant governor or the appropriate county clerk's
12 office, and in the board's office;
- 13 (4) Persons requesting notification are contacted by mail
14 or telephone as soon as practicable; and
- 15 (5) The board limits its action to only that action which
16 must be taken on or before the date that a meeting
17 would have been held, had the board noticed the meeting
18 pursuant to section 92-7."

19 SECTION 5. Statutory material to be repealed is bracketed.
20 New statutory material is underscored.

21 SECTION 6. This Act shall take effect upon its approval.