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THE SENATE

..... THIRTEENTH LEGISLATURE, 19 85

STATE OF HAWAII

S.B. NO. 1413
S.D. 1

A BILL FOR AN ACT

RELATING TO PUBLIC AGENCY MEETINGS AND RECORDS.

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

SECTION 1. Section 92-3, Hawaii Revised Statutes, is amended to read as follows:

"§92-3 Open meetings. Every meeting of all boards shall be open to the public and all persons shall be permitted to attend any meeting unless otherwise provided in the constitution or as closed pursuant to sections 92-4 and 92-5, provided further that the removal of any person or persons who wilfully disrupts a meeting to prevent and compromise the conduct of the meeting shall not be prohibited. The boards shall afford all interested persons an opportunity to submit data, views, or arguments, orally or in writing, on any agenda item."

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

"§92-4 Executive meetings. A board may hold an executive meeting closed to the public upon an affirmative vote, taken at an open meeting, of two-thirds of the members present[.];

1 provided the affirmative vote constitutes a majority of the
2 members to which the board is entitled. A meeting closed to the
3 public shall be limited to matters exempted by section 92-5. The
4 vote of each member on the question of holding a meeting closed
5 to the public and the reason for holding such a meeting shall be
6 publicly announced, recorded, and entered into the minutes of the
7 meeting.

8 SECTION 3. Section 92-5, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "§92-5 Exceptions. (a) A board may hold a meeting closed
11 to the public pursuant to section 92-4 for one or more of the
12 following purposes:

13 (1) To consider and evaluate personal information relating
14 to individuals applying for professional or vocational
15 licenses cited in section 26-9 or both;

16 [(1)] (2) To consider the hire, evaluation, dismissal, or
17 discipline of an officer or employee or of charges
18 brought against him, where consideration of matters
19 affecting privacy will be involved; provided that if
20 the individual concerned requests an open meeting, an
21 open meeting shall be held;

22 [(2)] (3) To deliberate concerning the authority of persons
23 designated by the board to conduct labor negotiations
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1 or to negotiate the acquisition of public property, or
2 during the conduct of such negotiations;

3 [(3)] (4) To consult with the board's attorney[;] only in
4 matters relating to an actual, proposed, or threatened
5 lawsuit in which the board or government agency under
6 which the board falls is named as a party;

7 [(4)] (5) To investigate proceedings regarding criminal
8 misconduct; and

9 [(5)] (6) To consider sensitive matters related to public
10 safety or security.

11 (b) In no instance shall the board make a decision or
12 deliberate toward a decision in an executive meeting. This part
13 shall not apply to any chance meeting at which matters relating
14 to official business are not discussed. No chance meeting or
15 electronic communication shall be used to circumvent the spirit
16 or requirements of this part to make a decision or to deliberate
17 toward a decision upon a matter over which the board has
18 supervision, control, jurisdiction, or advisory power."

19 SECTION 4. Section 92-7, Hawaii Revised Statutes, is
20 amended by amending subsections (a) and (b) to read as follows:

21 "(a) The board shall give written public notice of any
22 regular, special or rescheduled meeting[.], or any executive
23 meeting when anticipated in advance. The notice shall include an
24 agenda which lists all of the items to be considered at the
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1 forthcoming meeting, the date, time, and place of the meeting[.],
2 and in the case of an executive meeting the purpose shall be
3 stated.

4 (b) The board shall file the notice in the office of the
5 lieutenant governor or the appropriate county clerk's office, and
6 in the board's office for public inspection, at least six
7 calendar days before the meeting. The notice shall also be
8 posted at the site of the meeting whenever feasible. No board
9 shall change the agenda, once filed, by adding items thereto
10 without a two-thirds recorded vote of all members to which the
11 board is entitled; provided that no item shall be added to the
12 agenda if it is of reasonably major importance and action thereon
13 by the board will affect a significant number of persons. Items
14 of reasonably major importance shall not be considered at a
15 meeting continued to a later date."

16 SECTION 5. Section 92-12, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "§92-12 Enforcement. (a) The attorney general and the
19 prosecuting attorney shall enforce this part[.] and shall
20 investigate upon a complaint from a resident of this State.

21 (b) The circuit courts of the State shall have jurisdiction
22 to enforce the provisions of this part by injunction or other
23 appropriate remedy.
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1 (c) Any person may commence a suit in the circuit court of
2 the circuit in which a prohibited act occurs for the purpose of
3 requiring compliance with or preventing violations of this part
4 or to determine the applicability of this part to discussions or
5 decisions of the public body. The court may order payment of
6 reasonable attorney fees and costs to the prevailing party in a
7 suit brought under this section.

8 (d) The proceedings for review shall not stay the
9 enforcement of any agency decisions; but the reviewing court may
10 order a stay if the following criteria have been met:

- 11 (1) There is likelihood that the party bringing the action
12 will prevail on the merits;
13 (2) Irreparable damage will result if a stay is not
14 ordered;
15 (3) No irreparable damage to the public will result from
16 the stay order; and
17 (4) Public interest will be served by the stay order."

18 SECTION 6. Statutory material to be repealed is bracketed.
19 New statutory material is underscored.

20 SECTION 7. This Act shall take effect upon its approval.
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