

(To be made one and twelve copies)

THE SENATE
 THIRTEENTH LEGISLATURE, 19 85
 STATE OF HAWAII

S.B. NO. 1413

A BILL FOR AN ACT

RELATING TO PUBLIC AGENCY MEETINGS AND RECORDS.

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

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

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

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

14 "§92-4 Executive meetings. A board may hold an executive
 15 meeting closed to the public upon an affirmative vote, taken at
 16 an open meeting, of two-thirds of the members present[.];
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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
24 or to negotiate the acquisition of public property, or
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1 during the conduct of such negotiations;

2 [(3)] (4) To consult with the board's attorney[;] only in
 3 matters relating to an actual, proposed, or threatened
 4 lawsuit in which the board or government agency under
 5 which the board falls is named as a party;

6 [(4)] (5) To investigate proceedings regarding criminal
 7 misconduct; and

8 [(5)] (6) To consider sensitive matters related to public
 9 safety or security.

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

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

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

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1 and in the case of an executive meeting the purpose shall be
2 stated.

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

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

17 "§92-12 Enforcement. (a) The attorney general and the
18 prosecuting attorney shall enforce this part[.] and shall
19 investigate upon a complaint from a resident of this State.

20 (b) The circuit courts of the State shall have jurisdiction
21 to enforce the provisions of this part by injunction or other
22 appropriate remedy.

23 (c) Any person may commence a suit in the circuit court of
24 the circuit in which a prohibited act occurs for the purpose of
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1 requiring compliance with or preventing violations of this part
2 or to determine the applicability of this part to discussions or
3 decisions of the public body. The court may order payment of
4 reasonable attorney fees and costs to the prevailing party in a
5 suit brought under this section.

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

9 (1) There is likelihood that the party bringing the action
10 will prevail on the merits;

11 (2) Irreparable damage will result if a stay is not
12 ordered;

13 (3) No irreparable damage to the public will result from
14 the stay order; and

15 (4) Public interest will be served by the stay order."

16 SECTION 6. Section 92-51, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "§92-51 Public records; available for inspection. (a) All
19 public records shall be available for inspection by any person
20 during established office hours unless public inspection of such
21 records is in violation of any other state or federal law,
22 provided that except where such records are open under any rule
23 of court, the attorney general and the responsible attorneys of
24 the various counties may determine which records in their offices
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1 may be withheld from public inspection when such records pertain
2 to the preparation of the prosecution or defense of any action or
3 proceeding, prior to its commencement, to which the State or
4 county is or may be a party, or when such records do not relate
5 to a matter in violation of law and are deemed necessary for the
6 protection of a character or reputation of any person.

7 (b) No public official shall require a person seeking to
8 examine public records to state a reason except to the extent
9 necessary to comply with the requirements of subsection (a)."

10 SECTION 7. Section 92-52, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "§92-52 Denial of inspection; application to circuit
13 courts. Any person aggrieved by the denial by the officer having
14 the custody of any public record of the right to inspect the
15 record or to obtain copies of extracts thereof may apply to the
16 circuit court of the circuit wherein the public record is found
17 for an order directing the officer to permit the inspection of or
18 to furnish copies of extracts of the public records. The court
19 shall grant the order after hearing upon a finding that the
20 denial was not for just and proper cause. The court may order
21 payment of reasonable attorney fees and court costs to a
22 successful plaintiff in a suit brought under this section."

23 SECTION 8. Statutory material to be repealed is bracketed.
24 New statutory material is underscored.
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SECTION 9. This Act shall take effect upon its approval.

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INTRODUCED BY: Neil Abernethy

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