

# S .B. NO. 3105

JAN 22 2008

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## A BILL FOR AN ACT

RELATING TO PUBLIC AGENCY MEETINGS.

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

1           SECTION 1. Section 92-3.1, Hawaii Revised Statutes, is  
2 amended to read as follows:

3           "~~{~~§92-3.1~~}~~ **Limited meetings.** (a) If a board  
4 determines that it is necessary to meet at a location that is  
5 dangerous to health or safety, or if a board determines that it  
6 is necessary to conduct an on-site inspection at which public  
7 attendance is not practicable, and the ~~[attorney general]~~  
8 director of the office of information practices concurs, the  
9 board may hold a limited meeting in that location, which is not  
10 open to the public; provided that at a regular meeting of the  
11 board prior to the limited meeting ~~[at the dangerous location]:~~

12           (1) The board determines that it is necessary to hold the  
13 limited meeting ~~[at the dangerous location]~~ and  
14 specifies the reasons for its determination that the  
15 location is dangerous to health or safety~~[+]~~ or that  
16 the on-site inspection is necessary and public  
17 attendance is impracticable;

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1 (2) Two-thirds of all members to which the board is  
2 entitled vote to adopt the determinations required by  
3 paragraph (1) [~~and to conduct the meeting~~]; and

4 (3) Notice of the limited meeting is provided in  
5 accordance with section 92-7.

6 (b) At all limited meetings, the board shall:

7 (1) Videotape the meeting, unless the requirement is  
8 waived by the [~~attorney general,~~] director of the  
9 office of information practices, and comply with all  
10 requirements of section 92-9;

11 (2) Make the videotape available at the next regular  
12 meeting; and


13 (3) Make no decisions at the meeting."

14 SECTION 2. Statutory material to be repealed is bracketed  
15 and stricken. New statutory material is underscored.

16 SECTION 3. This Act shall take effect upon its approval.

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INTRODUCED BY:

  
\_\_\_\_\_  
BY REQUEST

**Report Title:**

Public Attendance at Open Agency Meetings

**Description:**

Allows boards and commissions to conduct on-site inspections without public participation if public attendance is impracticable, such as on working farms.

JUSTIFICATION SHEET

DEPARTMENT: OFFICE OF THE LIEUTENANT GOVERNOR,  
OFFICE OF INFORMATION PRACTICES

TITLE: A BILL FOR AN ACT RELATING TO PUBLIC AGENCY  
MEETINGS.

PURPOSE: The purpose of this bill is to authorize  
boards and commissions subject to the  
"Sunshine Law," part I of chapter 92, Hawaii  
Revised Statutes (HRS), to conduct on-site  
inspections of locations, which relate to a  
matter under a board's supervision, control,  
jurisdiction, or advisory power, in a  
meeting closed to the public where public  
attendance is impracticable, and to transfer  
the responsibility for issuing concurrence  
under the section from the attorney general  
to the director of the Office of Information  
Practices (OIP).

MEANS: Amend section 92-3.1, HRS.

JUSTIFICATION: There are occasions when board members have  
sought to meet as a board at a site where it  
is impracticable for the public to attend.  
Examples are on-site visits to an irrigation  
system located on private property by the  
Board of Land and Natural Resources, and  
open-ocean fish farming by the Board of  
Agriculture. OIP has advised boards that  
on-site inspections by a board that are  
closed to the public are not authorized  
under the Sunshine Law. This bill is  
intended to authorize on-site inspections  
when the board determines that it is  
necessary to conduct an on-site inspection,  
when the board specifies its reasons for  
holding the on-site inspection, when two-  
thirds of all members to which the board is  
entitled adopt the reasons, when the  
director of OIP concurs with those reasons,  
when notice is provided in accordance with  
section 92-7, HRS, when the on-site  
inspection is videotaped (this requirement

may be waived by OIP), when minutes are kept in accordance with section 92-9, HRS, when the videotape is made available at the next regular meeting, and when no decisions are made at the meeting.

Impact on the general public: This bill will enable boards to make better-informed decisions to the benefit of the public. The requirement that site visits be videotaped will generally ensure that the public has access to the information obtained during an on-site inspection.

Impact on the department and other agencies: Boards will be able to have all board members attend an on-site inspection, rather than relying on staff reports, or conducting the on-site inspection with less than a quorum of the board members as a permitted interaction pursuant to section 92-2.5(b)(1)(A), HRS, (a process that can take up to 90 days for boards that only meet monthly).

The attorney general will be relieved of the responsibility of concurrence under the limited meetings section of the Sunshine Law. Responsibility is transferred to OIP, consistent with its administration of the Sunshine Law.

GENERAL FUND:	None.
OTHER FUNDS:	None.
PPBS PROGRAM DESIGNATION:	LTG-105.
OTHER AFFECTED AGENCIES:	All state and county boards and commissions.
EFFECTIVE DATE:	Upon approval.