

JAN 21 2010

S.B. NO. 2317

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# A BILL FOR AN ACT

RELATING TO THE OPEN MEETINGS LAW.

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

1           SECTION 1. The legislature finds that Hawaii's law  
2 governing open meetings is stricter than similar laws in most  
3 other states. In Hawaii, members of public boards are subject  
4 to scrutiny for attending functions, such as seminars,  
5 conventions, and community meetings, which could be beneficial  
6 to the performance of their duties as board members.

7           The purpose of this Act is to provide a specific exemption  
8 to the open meetings law and safeguards to enhance compliance  
9 and prevent abuse of the exemption.

10          SECTION 2. Section 92-2.5, Hawaii Revised Statutes, is  
11 amended to read as follows:

12          "**§92-2.5 Permitted interactions of members.** (a) Two  
13 members of a board may discuss between themselves matters  
14 relating to official board business to enable them to perform  
15 their duties faithfully, as long as no commitment to vote is  
16 made or sought and the two members do not constitute a quorum of  
17 their board.



1 (b) Two or more members of a board, but less than the  
2 number of members which would constitute a quorum for the board,  
3 may be assigned to:

4 (1) Investigate a matter relating to the official business  
5 of their board; provided that:

6 (A) The scope of the investigation and the scope of  
7 each member's authority are defined at a meeting  
8 of the board;

9 (B) All resulting findings and recommendations are  
10 presented to the board at a meeting of the board;  
11 and

12 (C) Deliberation and decisionmaking on the matter  
13 investigated, if any, occurs only at a duly  
14 noticed meeting of the board held subsequent to  
15 the meeting at which the findings and  
16 recommendations of the investigation were  
17 presented to the board; or

18 (2) Present, discuss, or negotiate any position which the  
19 board has adopted at a meeting of the board; provided  
20 that the assignment is made and the scope of each  
21 member's authority is defined at a meeting of the



1 board prior to the presentation, discussion or  
2 negotiation.

3 (c) Discussions between two or more members of a board,  
4 but less than the number of members which would constitute a  
5 quorum for the board, concerning the selection of the board's  
6 officers may be conducted in private without limitation or  
7 subsequent reporting.

8 (d) Discussions between the governor and one or more  
9 members of a board may be conducted in private without  
10 limitation or subsequent reporting; provided that the discussion  
11 does not relate to a matter over which a board is exercising its  
12 adjudicatory function.

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

18 (f) Members of a board may attend informational meetings  
19 or presentations on matters relating to official board business,  
20 including meetings of another entity, seminars, conventions, and  
21 community meetings; provided that the presentation is free and  
22 open to the public. Board members may participate in



1 discussions, including discussions among themselves, provided  
2 that the discussions occur during and as part of the  
3 informational meeting seminar, convention, community meeting, or  
4 presentation and no commitment to vote is sought or made.

5 (g) To be eligible to use the exemption in subsection (f):

6 (1) A board member shall attend a course conducted by an  
7 attorney approved by the director of the office of  
8 information practices. The course shall provide  
9 education and training on the requirements of part I  
10 of chapter 92; and

11 (2) The board of any member who uses the exemption in  
12 subsection (f) shall have a copy of part I of chapter  
13 92 at every meeting of the board.

14 (h) A member of the board who uses the exemption in  
15 subsection (f) shall:

16 (1) Not less than twenty-four hours prior to the  
17 informational meeting or presentation, cause public  
18 notice of the board member's intent to attend the  
19 informational meeting or presentation to be posted on  
20 the office of information practices website and the  
21 board's website, if any; and



1        (2) At the next meeting of the board, report information  
2        on the board member's attendance at the informational  
3        meeting or presentation and the matters presented and  
4        discussed that relate to board business.

5        (i) The exemption in subsection (f) may be used for chance  
6        meetings of board members, without prior public notice; provided  
7        that a board member who uses the exemption based upon a chance  
8        meeting shall comply with the reporting requirement in  
9        subsection (g) (2).

10       (j) In addition to complying with the reporting  
11       requirement in subsection (g) (2), a member shall make available  
12       at the next meeting of the board an audio recording or written  
13       transcript of the informational meeting or presentation, when:

14       (1) The informational meeting or presentation is not free  
15       and open to the public;

16       (2) No public notice is given at least twenty-four hours  
17       prior to the board member's attendance at the  
18       informational meeting or presentation; or

19       (3) The informational meeting or presentation is attended  
20       by board members constituting at least a quorum.



1        [~~f~~] (k) Communications, interactions, discussions,  
2 investigations, and presentations described in this section are  
3 not meetings for purposes of this part."

4        SECTION 3. Statutory material to be repealed is bracketed  
5 and stricken. New statutory material is underscored.

6        SECTION 4. This Act shall take effect on July 1, 2010, and  
7 shall be repealed on June 30, 2014; provided that section 92-  
8 2.5, Hawaii Revised Statutes, shall be reenacted in the form in  
9 which it read on June 30, 2010.

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INTRODUCED BY:

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*D*



**Report Title:**

Public Agency Meetings

**Description:**

Provides a temporary exemption to the open meetings law until 06/30/14, to allow board members to attend informational meetings and presentations that involve matters relating to official board business, subject to certain conditions.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

