

JAN 21 2010

S.B. NO. 2312

A BILL FOR AN ACT

RELATING TO OPEN MEETINGS.

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

1 SECTION 1. The legislature finds that Hawaii's open
2 meetings law, unlike similar laws in most other states, governs
3 the actions of members of public boards when at least two
4 members communicate, even when they are acting in their
5 individual capacity outside of public meetings when no quorum is
6 present. For this reason, Hawaii's open meetings law is
7 considered to be among the strictest in the nation, although it
8 lacks an effective means of enforcement.

9 The purpose of this Act is to provide specific exemptions
10 from the open meetings law and safeguards to enhance compliance
11 and prevent abuse of the exemption.

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

14 "**§92-2.5 Permitted interactions of members.** (a) Two
15 members of a board may discuss between themselves matters
16 relating to official board business to enable them to perform
17 their duties faithfully, as long as no commitment to vote is



1 made or sought and the two members do not constitute a quorum of
2 their board.

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

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

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

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

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

20 (2) Present, discuss, or negotiate any position which the
21 board has adopted at a meeting of the board; provided
22 that the assignment is made and the scope of each



1 member's authority is defined at a meeting of the
2 board prior to the presentation, discussion or
3 negotiation.

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

9 (d) Discussions between the governor and one or more
10 members of a board may be conducted in private without
11 limitation or subsequent reporting; provided that the discussion
12 does not relate to a matter over which a board is exercising its
13 adjudicatory 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;
17 provided that the discussion is limited to matters specified in
18 section 26-35.

19 (f) Two or more members of a board, but less than the
20 number of members which would constitute a quorum for the board,
21 may testify or make presentations about matters relating to the
22 official business of their board at a meeting of another board,



1 subject to this chapter or a public hearing of the legislature;
2 provided that:

3 (1) The members' intent to attend the other meeting or
4 hearing is announced at a meeting of the board prior
5 to the other meeting or hearing; and

6 (2) The members report their attendance and the substance
7 of discussions held at the other meeting or hearing to
8 their board at their board's next meeting.

9 (g) Two or more members of a board, but less than the
10 number of members which would constitute a quorum for the board,
11 may attend presentations, including seminars, conventions, and
12 community meetings or events that involve matters relating to
13 official board business; provided that the presentation is not
14 specifically and exclusively organized for, or directed towards,
15 the members of the board. Board members may participate in
16 discussions, including discussions among themselves, provided
17 that the discussions occur during and as part of the
18 presentation and no commitment to vote is made or sought. The
19 board members shall, at the next duly noticed meeting of their
20 board, report their attendance and the matters presented and
21 discussed at the presentation that related to their official
22 board business.



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~~(f)~~ (h) Communications, interactions, discussions, investigations, and presentations described in this section are not meetings for purposes of this part.

(i) Where a meeting has been duly noticed under section 92-7, but a quorum cannot be reached as required under the definition of "meeting" in section 92-2(3), the remaining members of the board may receive testimony and presentations as long as no discussion is made or action taken; provided that the minutes of the meeting shall be presented to the board at the next duly noticed meeting.

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

SECTION 4. This Act shall take effect upon its approval.

INTRODUCED BY: *[Signature]*
Will Eyo
Omshil R. Sidani
[Signature]

Report Title:

Open Meetings; Board Members Requirements

Description:

Provides specific permitted interactions of board members in situations where two or more members of a board, but less than the number of members which would constitute a quorum for the board, may attend non board sponsored functions or events. Establishes reporting requirements for such occurrences.

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

