
A BILL FOR AN ACT

RELATING TO THE SUNSHINE LAW.

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

1 SECTION 1. The legislature finds that the Sunshine Law,
2 part I of chapter 92, Hawaii Revised Statutes, was intended to
3 create transparency in government operations by public
4 officials, both elected and appointed, and to establish
5 procedures to ensure that the public's business is conducted in
6 view of and with the participation of members of the public.

7 The legislature recognizes that there are many public
8 gatherings and community events to which officials of
9 deliberative bodies are invited. Officials may wish to attend
10 these gatherings and events for educational purposes and to
11 facilitate community participation and constituent services.

12 The legislature also recognizes that there are
13 professional-association conferences and other professional-
14 development seminars to which public officials are invited,
15 based on the officials' expertise or participation in public-
16 policy formulation. Attendance at such conferences and seminars
17 can help the officials attain a deeper understanding of issues,
18 develop mutually beneficial relationships with peers in other



1 jurisdictions, and foster the acquisition and enhancement of
2 technical expertise.

3 The legislature further recognizes that the Sunshine Law's
4 six-day-notice requirement for public meetings was established
5 prior to the advent of e-mail communication, when members of the
6 public generally had to rely on the postal service for the
7 delivery of meeting agendas. In recent years, state and county
8 boards have developed the ability to provide meeting agendas to
9 members of the public via e-mail on the same day that the
10 agendas are physically posted in a government office. With the
11 ability to immediately transmit meeting agendas electronically
12 to interested members of the public, the six-day-notice
13 requirement is antiquated, excessive, and unduly slows the
14 deliberative process, causing the public to lose faith in
15 government. Establishing a four-day-notice requirement and
16 allowing for the delivery of agendas by e-mail would afford
17 state and county boards the ability to act more quickly and
18 effectively, while preserving the public's right to know.

19 The purpose of this Act is to:

20 (1) Allow the participation by members of a public-policy
21 deliberative body in a public gathering or community



1 event not focused on matters currently under official
2 deliberation or pending action;

3 (2) Allow the participation by members of a public-policy
4 deliberative body in professional-association
5 conferences and professional-development seminars with
6 a publicly accessible report of their activities; and

7 (3) Allow notices of public meetings to be posted four
8 days prior the meetings and to be delivered by e-mail
9 to interested members of the public.

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.

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

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



1 (A) The scope of the investigation and the scope of
2 each member's authority are defined at a meeting
3 of the board;

4 (B) All resulting findings and recommendations are
5 presented to the board at a meeting of the board;
6 and

7 (C) Deliberation and decisionmaking on the matter
8 investigated, if any, occurs only at a duly
9 noticed meeting of the board held subsequent to
10 the meeting at which the findings and
11 recommendations of the investigation were
12 presented to the board;

13 or

14 (2) Present, discuss, or negotiate any position which the
15 board has adopted at a meeting of the board; provided
16 that the assignment is made and the scope of each
17 member's authority is defined at a meeting of the
18 board prior to the presentation, discussion or
19 negotiation.

20 (c) Members of a board may individually or jointly attend
21 public gatherings and community events; provided that the public
22 gathering or community event does not directly relate to any



1 specific matter over which the board is currently exercising its
2 adjudicatory, advisory, or legislative function.

3 (d) Members of a board may individually or jointly attend
4 professional-association conferences and professional-
5 development seminars; provided that any attending members shall
6 provide to the board's presiding officer a report summarizing
7 each conference and seminar within a reasonable period of time.

8 [~~e~~] (e) Discussions between two or more members of a
9 board, but less than the number of members which would
10 constitute a quorum for the board, concerning the selection of
11 the board's officers may be conducted in private without
12 limitation or subsequent reporting.

13 [~~d~~] (f) Discussions between the governor and one or more
14 members of a board may be conducted in private without
15 limitation or subsequent reporting; provided that the discussion
16 does not relate to a matter over which a board is exercising its
17 adjudicatory function.

18 [~~e~~] (g) Discussions between two or more members of a
19 board and the head of a department to which the board is
20 administratively assigned may be conducted in private without
21 limitation; provided that the discussion is limited to matters
22 specified in section 26-35.



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

4 SECTION 3. Section 92-7, Hawaii Revised Statutes, is
5 amended as follows:

6 1. By amending subsections (b) and (c) to read:

7 "(b) The board shall file the notice in the office of the
8 lieutenant governor or the appropriate county clerk's office,
9 and in the board's office for public inspection, at least [~~six~~]
10 four calendar days before the meeting. The notice shall also be
11 posted at the site of the meeting whenever feasible.

12 (c) If the written public notice is filed in the office of
13 the lieutenant governor or the appropriate county clerk's office
14 less than [~~six~~] four calendar days before the meeting, the
15 lieutenant governor or the appropriate county clerk shall
16 immediately notify the chairperson of the board, or the director
17 of the department within which the board is established or
18 placed, of the tardy filing of the meeting notice. The meeting
19 shall be canceled as a matter of law, the chairperson or the
20 director shall ensure that a notice canceling the meeting is
21 posted at the place of the meeting, and no meeting shall be
22 held."



1 2. By amending subsection (e) to read:

2 "(e) The board shall maintain a list of names and
3 addresses, including electronic-mail addresses, of persons who
4 request notification of meetings and shall mail or send by
5 electronic-mail a copy of the notice to such persons at their
6 last recorded address [~~no later than the time~~] or electronic-
7 mail address on the same day the agenda is filed under
8 subsection (b)."

9 SECTION 4. Statutory material to be repealed is bracketed
10 and stricken. New statutory material is underscored.

11 SECTION 5. This Act shall take effect upon its approval.

12

INTRODUCED BY: ~~AND~~ A.C. Rich-Agusa

JAN 26 2011



Report Title:

The Sunshine Law; Public Notices of Board Meetings

Description:

Allows board members to attend public gatherings, community events, professional-association conferences, and professional-development seminars. Allows notice of board meetings to be filed at least four calendar days before the meeting and notice of board meetings by e-mail.

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