

JAN 21 2011

A BILL FOR AN ACT

RELATING TO PUBLIC AGENCY MEETINGS.

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

1 SECTION 1. The legislature finds that openness and
2 transparency are necessary for public knowledge of our courts,
3 that the trust and confidence of the public in our judiciary is
4 essential to our community and that action must be taken now to
5 dramatically improve the situation.

6 In expressing the purpose underlying the open meetings
7 sunshine law and the uniform information practices act, the
8 legislature found that opening up governmental processes to
9 public scrutiny and participation is the only viable and
10 reasonable method of protecting the public's interest.
11 Therefore, it is the policy of this State that the discussions,
12 deliberations, decisions, and actions of governmental agencies
13 in formulating and implementing public policy should be
14 conducted as openly as possible. This must apply to the
15 judiciary as well, in order to have an informed and
16 knowledgeable public that best represents their interests
17 directly to the judiciary.



1 The judiciary is currently exempted from application of the
2 open meetings sunshine law. This exemption applies to the
3 judiciary's adjudicatory and nonadjudicatory functions,
4 including, for example, the nonadjudicatory (administrative)
5 functions relating to task forces, committees and working study
6 groups connected to the judiciary.

7 The uniform information practices act, or open records law,
8 requires the public disclosure of the judiciary's administrative
9 records. The legislature finds that a similar principle
10 embodied in the open records law should apply in order to open
11 up meetings of the judiciary's administrative boards to the
12 public. This will allow for public participation in the
13 judiciary, improve the public's knowledge of the judiciary,
14 improve policies to address unmet legal needs and enhance public
15 trust and confidence in our courts and legal system.

16 The purpose of this Act is to require the open meetings
17 sunshine law to apply to the nonadjudicatory functions of boards
18 under the judiciary.

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

21 "**§92-2 Definitions.** As used in this part:



1 [~~1~~] "Board" means any agency, board, commission,
2 authority, or committee of the State or its political
3 subdivisions, including the judiciary, which is created by
4 constitution, statute, rule, or executive order, to have
5 supervision, control, jurisdiction or advisory power over
6 specific matters and which is required to conduct meetings and
7 to take official actions.

8 [~~2~~] "Chance meeting" means a social or informal
9 assemblage of two or more members at which matters relating to
10 official business are not discussed.

11 [~~3~~] "Meeting" means the convening of a board for which a
12 quorum is required in order to make a decision or to deliberate
13 toward a decision upon a matter over which the board has
14 supervision, control, jurisdiction, or advisory power."

15 SECTION 3. Section 92-6, Hawaii Revised Statutes, is
16 amended by amending subsection (a) to read as follows:

17 "(a) This part shall not apply:

18 (1) To the adjudicatory functions of the judicial branch.

19 (2) To adjudicatory functions exercised by a board and
20 governed by sections 91-8 and 91-9, or authorized by
21 other sections of the Hawaii Revised Statutes. In the
22 application of this subsection, boards exercising



1 adjudicatory functions include, but are not limited
2 to, the following:

- 3 (A) Hawaii labor relations board, chapters 89 and
4 377;
- 5 (B) Labor and industrial relations appeals board,
6 chapter 371;
- 7 (C) Hawaii paroling authority, chapter 353;
- 8 (D) Civil service commission, chapter 26;
- 9 (E) Board of trustees, employees' retirement system
10 of the State of Hawaii, chapter 88;
- 11 (F) Crime victim compensation commission, chapter
12 351; and
- 13 (G) State ethics commission, chapter 84."

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

16 "(b) The board shall file the notice in the office of the
17 lieutenant governor or the appropriate county clerk's office,
18 and in the board's office for public inspection, at least six
19 calendar days before the meeting[-]; provided that the notice
20 for a board of the judiciary shall be filed in the office of the
21 supreme court or with the appropriate circuit court clerk in the
22 circuit where the meeting is to be held. The notice shall be



1 filed, at least six calendar days before the meeting. The
2 notice shall also be posted at the site of the meeting whenever
3 feasible.

4 (c) If the written public notice under subsection (b) is
5 filed [~~in the office of the lieutenant governor or the~~
6 ~~appropriate county clerk's office]~~ less than six calendar days
7 before the meeting, the lieutenant governor or the appropriate
8 county clerk, or in the case of a board of the judiciary, the
9 administrative director of the courts or the appropriate circuit
10 court clerk, shall immediately notify the chairperson of the
11 board, or the director of the department within which the board
12 is established or placed, of the tardy filing of the meeting
13 notice. The meeting shall be canceled as a matter of law, the
14 chairperson or the director shall ensure that a notice canceling
15 the meeting is posted at the place of the meeting, and no
16 meeting shall be held."

17 SECTION 5. Statutory material to be repealed is bracketed
18 and stricken. New statutory material is underscored.

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1 SECTION 6. This Act shall take effect on July 1, 2011.

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INTRODUCED BY:

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Report Title:

Sunshine Law, Judicial Branch

Description:

Requires open meetings to apply to nonadjudicatory functions of boards of the judiciary.

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