

MAR 16 2011

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# SENATE RESOLUTION

REQUESTING THE JUDICIARY TO REPORT ON THE USE AND EXTENT OF  
JUDICIARY BOARDS AND ASSOCIATED PUBLIC PARTICIPATION.

1           WHEREAS, according to the purpose underlying the Sunshine  
2 Law, chapter 92, Hawaii Revised Statutes, it is the policy of  
3 this State that discussions, deliberations, decisions, and  
4 actions of governmental agencies in formulating and implementing  
5 public policy should be conducted as openly as possible; and  
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7           WHEREAS, the Sunshine Law specifically excludes the  
8 Judicial branch and quasi-judicial boards that exercise  
9 adjudicatory functions; and  
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11           WHEREAS, the Judicial branch has adjudicative and  
12 non-adjudicative (administrative) functions; and  
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14           WHEREAS, the Legislative Reference Bureau has studied other  
15 states' application of the Sunshine Law (or equivalents) and has  
16 reported that:  
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18           "Research indicates that five states explicitly extend  
19 applicability of their state sunshine law or open  
20 meeting requirements to courts or Judicial  
21 entities.... Although expressed somewhat differently  
22 by each state, the open meeting applicability is  
23 generally limited in four of these states to the  
24 administrative functions or the exercise of rulemaking  
25 authority of the court."; and  
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27           WHEREAS, in the 2009, 2010, and 2011 Regular Sessions,  
28 bills were filed that proposed to exclude only the adjudicatory  
29 functions of the Judicial branch from the Sunshine Law; and  
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31           WHEREAS, Senate Bill No. 130, Regular Session of 2011,  
32 proposed the following amendments to the Sunshine Law:  
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- 34           (1) Amend the definition of "board" in section 92-2,  
35 Hawaii Revised Statutes, to include the Judiciary;  
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1 (2) Amend section 92-6, Hawaii Revised Statutes, to  
2 clarify that the adjudicatory functions of the  
3 Judicial branch are exempt from chapter 92 meeting  
4 requirements; and  
5

6 (3) Ensure that Judicial branch boards are not subject to  
7 Executive branch oversight; and  
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9 WHEREAS, the extent of the use of boards by the Judicial  
10 branch as described under section 92-2, Hawaii Revised Statutes,  
11 is not clearly known; and  
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13 WHEREAS, the effect of the above proposed amendments may  
14 require further understanding of the need for resources or other  
15 considerations; now, therefore,  
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17 BE IT RESOLVED by the Senate of the Twenty-sixth  
18 Legislature of the State of Hawaii, Regular Session of 2011,  
19 that the Judiciary is requested to provide the Legislature with  
20 a report detailing the findings, recommendations, and resource  
21 requirements of implementing the Sunshine Law amendments  
22 proposed by Senate Bill No. 130 (2011), including specific  
23 information regarding:  
24

25 (1) What Judicial branch boards currently exist or existed  
26 as of or were established since January 1, 2001;  
27

28 (2) How many meetings were held by each of the boards  
29 listed in paragraph (1);  
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31 (3) For each board listed in paragraph (1), information  
32 on:  
33

34 (A) The level of public participation by  
35 non-judiciary, non-lawyer laypersons in meetings  
36 of the board, including membership on the board;  
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38 (B) Whether the board gives the public notice and an  
39 agenda for meetings; and  
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41 (C) Whether and how the board affords the public an  
42 opportunity to submit data or oral testimony to  
43 the board at its meetings;  
44



- 1 (4) If the public is not given notice or allowed to
- 2 participate in the board meetings, for each board,
- 3 list and explain who typically participated in the
- 4 meetings and the reasons for excluding the public; and
- 5
- 6 (5) For each board listed in paragraph (1), the reports
- 7 created by the board; and
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9 BE IT FURTHER RESOLVED that the Judiciary is requested to  
10 report its findings and recommendations to the Legislature no  
11 later than twenty days prior to the convening of the Regular  
12 Session of 2012; and

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14 BE IT FURTHER RESOLVED that certified copies of this  
15 Resolution be transmitted to the President of the Senate, Chair  
16 of the Senate Committee on Judiciary and Labor, Chief Justice of  
17 the Hawaii Supreme Court, and the Administrative Director of the  
18 Courts.

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OFFERED BY: Theranne Chun Oakland  
