
A BILL FOR AN ACT

RELATING TO SUNSHINE LAW.

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

1 PART I

2 SECTION 1. The legislature finds that board members would
3 benefit from having broad access to relevant information in
4 order to make decisions in the best interest of the public they
5 serve. Under existing law, while special interest groups are
6 allowed to freely distribute information advocating their
7 position to board members, board members themselves are
8 prohibited from sharing even government records amongst each
9 other. The purpose of this Act is to create an exception to the
10 sunshine law to allow board members to disseminate government
11 records to other board members for informational purposes.

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



1 that the assignment is made and the scope of each
2 member's authority is defined at a meeting of the
3 board prior to the presentation, discussion, or
4 negotiation.

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

10 (d) Board members present at a meeting that must be
11 canceled for lack of quorum or terminated pursuant to section
12 92-3.5(c) may nonetheless receive testimony and presentations on
13 items on the agenda and question the testifiers or presenters;
14 provided that:

15 (1) Deliberation or decisionmaking on any item, for which
16 testimony or presentations are received, occurs only
17 at a duly noticed meeting of the board held subsequent
18 to the meeting at which the testimony and
19 presentations were received;

20 (2) The members present shall create a record of the oral
21 testimony or presentations in the same manner as would



1 be required by section 92-9 for testimony or
2 presentations heard during a meeting of the board; and

3 (3) Before its deliberation or decisionmaking at a
4 subsequent meeting, the board shall:

5 (A) Provide copies of the testimony and presentations
6 received at the canceled meeting to all members
7 of the board; and

8 (B) Receive a report by the members who were present
9 at the canceled or terminated meeting about the
10 testimony and presentations received.

11 (e) Two or more members of a board, but less than the
12 number of members which would constitute a quorum for the board,
13 may attend an informational meeting or presentation on matters
14 relating to official board business, including a meeting of
15 another entity, legislative hearing, convention, seminar, or
16 community meeting; provided that the meeting or presentation is
17 not specifically and exclusively organized for or directed
18 toward members of the board. The board members in attendance
19 may participate in discussions, including discussions among
20 themselves; provided that the discussions occur during and as
21 part of the informational meeting or presentation; and provided



1 further that no commitment relating to a vote on the matter is
2 made or sought.

3 At the next duly noticed meeting of the board, the board
4 members shall report their attendance and the matters presented
5 and discussed that related to official board business at the
6 informational meeting or presentation.

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

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

17 (h) A member of a board may transmit to another member of
18 the board, any government record that would be subject to
19 disclosure pursuant to section 92F-12; provided that the
20 transmittal may not seek a commitment relating to a vote on a
21 matter to be considered by the board.



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

4 PART II

5 SECTION 3. Section 92-3.5, Hawaii Revised Statutes, is
6 amended by amending subsection (c) to read as follows:

7 "(c) A meeting held by interactive conference technology
8 shall be terminated when audio communication cannot be
9 maintained with all locations where the meeting by interactive
10 conference technology is being held, even if a quorum of the
11 board is physically present in one location[-]; provided that a
12 member present by interactive conference technology may waive
13 the termination of the meeting by written waiver delivered to
14 the board before the meeting. A waiver of the termination of a
15 meeting shall not apply to meetings where the member present by
16 interactive conference technology and presenting the waiver is
17 needed for quorum purposes or in any meeting where a vote is
18 taken. If copies of visual aids required by, or brought to the
19 meeting by board members or members of the public, are not
20 available to all meeting participants, at all locations where
21 audio-only interactive conference technology is being used,



1 within fifteen minutes after audio-only communication is used,
2 those agenda items for which visual aids are not available for
3 all participants at all meeting locations cannot be acted upon
4 at the meeting."

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

7 SECTION 5. This Act shall take effect on July 1, 2112.



Report Title:

Sunshine Law; Transmittal of Government Records by Board Members

Description:

Allows board members to transmit certain government records to each other provided that no commitment to vote is made.

Authorizes a board member present by interactive conference technology to waive the termination of a meeting because of technical problems under certain circumstances. (HB150 HD1)

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

