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# A BILL FOR AN ACT

RELATING TO PUBLIC AGENCY MEETINGS AND RECORDS.

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

1           SECTION 1. Section 92-1, Hawaii Revised Statutes, is  
2 amended to read as follows:

3           "**§92-1 Declaration of policy and intent.** In a democracy,  
4 the people are vested with the ultimate decision-making power.  
5 Governmental agencies exist to aid the people in the formation  
6 and conduct of public policy. Opening up the governmental  
7 processes to public scrutiny and participation is the only  
8 viable and reasonable method of protecting the public's  
9 interest. Therefore, the legislature declares that it is the  
10 policy of this State that the formation and conduct of public  
11 policy - the discussions, deliberations, decisions, and action  
12 of governmental agencies - shall be conducted as openly as  
13 possible[-], but shall not operate to impede boards, as defined  
14 in section 92-2, from lawfully conducting board business. To  
15 implement this policy the legislature declares that:

16           (1) It is the intent of this part to protect the people's  
17           right to know;



- 1           (2) The provisions requiring open meetings shall be  
2           liberally construed; [and]
- 3           (3) The provisions providing for exceptions to the open  
4           meeting requirements shall be strictly construed  
5           against closed meetings[-]; and
- 6           (4) Boards shall be allowed to conduct its business  
7           efficiently."<sup>^</sup>

8           SECTION 2. Section 92-2, Hawaii Revised Statutes, is  
9           amended by amending the definition of "meeting" to read as  
10          follows:

11          ""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          Attendance at and participation in legislative hearings or  
16          legislative briefings shall not constitute a meeting for  
17          purposes of this chapter."

18          SECTION 3. Section 92-2.5, Hawaii Revised Statutes, is  
19          amended by amending subsection (e) to read as follows:

20          "(e) [~~Two or more members~~] Members of a board[~~, but less~~  
21          ~~than the number of members that would constitute a quorum for~~



1 ~~the board,~~] may attend an informational [~~meeting~~] session or  
2 presentation on matters relating to board business, including a  
3 [~~meeting of~~] conference with another entity, legislative  
4 hearing, convention, seminar, or community meeting; provided  
5 that the meeting or presentation is not specifically and  
6 exclusively organized for or directed toward members of the  
7 board and does not constitute a meeting as defined in section  
8 92-2. The board members in attendance may participate in  
9 discussions, including discussions among themselves; provided  
10 that the discussions occur during and as part of the  
11 informational meeting or presentation; provided further that no  
12 commitment relating to a vote on the matter is made or sought.

13 At the next duly noticed meeting of the board, the board  
14 members shall report their attendance and the matters presented  
15 and discussed that related to board business at the  
16 informational meeting or presentation."

17 SECTION 4. Section 92-3.1, Hawaii Revised Statutes, is  
18 amended by amending subsection (a) to read as follows:

19 "(a) If a board determines that it is necessary to meet at  
20 a location that is dangerous to health or safety, or if a board  
21 determines that it is necessary to conduct an on-site inspection



1 of a location that is related to the board's business but which  
2 is not open to the public or at which public attendance is not  
3 practicable, and the director of the office of information  
4 practices or the director's designee concurs, the board may hold  
5 a limited meeting at that location that shall not be open to the  
6 public; provided that [~~at a regular meeting of the board prior~~  
7 ~~to the limited meeting:~~

8 ~~(1) The board determines, after sufficient public~~  
9 ~~deliberation, that it is necessary to hold the limited~~  
10 ~~meeting and specifies that the location is dangerous~~  
11 ~~to health or safety or that the on-site inspection is~~  
12 ~~necessary and public attendance is impracticable;~~

13 ~~(2) Two-thirds of all members to which the board is~~  
14 ~~entitled vote to adopt the determinations required by~~  
15 ~~paragraph (1); and]~~

16 ~~(3) Notice]~~ notice of the limited meeting is provided in  
17 accordance with section 92-7."

18 SECTION 5. Section 92-5, Hawaii Revised Statutes, is  
19 amended by amending subsection (a) to read as follows:



1           "(a) A board may hold a meeting closed to the public  
2 pursuant to section 92-4 for one or more of the following  
3 purposes:

- 4           (1) To consider and evaluate personal information relating  
5 to individuals applying for professional or vocational  
6 licenses cited in section 26-9 or both;
- 7           (2) To consider and decide upon the [hire,] hiring of  
8 applicants for government positions, including the  
9 interviews of the applicants, and to consider and  
10 decide upon the evaluation, dismissal, or discipline  
11 of an officer or employee or of charges brought  
12 against the officer or employee [~~where consideration~~  
13 ~~of matters affecting privacy will be involved~~];  
14 provided that if the individual concerned requests an  
15 open meeting, an open meeting shall be held;
- 16           (3) To deliberate concerning the authority of persons  
17 designated by the board to conduct labor negotiations  
18 or to negotiate the acquisition of public property, or  
19 during the conduct of such negotiations;



- 1           (4) To consult with the board's attorney on questions and
- 2           issues pertaining to the board's powers, duties,
- 3           privileges, immunities, and liabilities;
- 4           (5) To investigate proceedings regarding criminal
- 5           misconduct;
- 6           (6) To consider sensitive matters related to public safety
- 7           or security;
- 8           (7) To consider matters relating to the solicitation and
- 9           acceptance of private donations; and
- 10          (8) To deliberate or make a decision upon a matter that
- 11          requires the consideration of information that must be
- 12          kept confidential pursuant to a state or federal law,
- 13          or a court order."

14           SECTION 6. Section 92-7.5, Hawaii Revised Statutes, is  
15 amended to read as follows:

16           **"§92-7.5 Board packet; filing; public inspection; notice.**

17 At the time the board packet is distributed to the board  
18 members, but no later than forty-eight hours before the meeting  
19 time, the board shall also make the board packet available for  
20 public inspection in the board's office; provided that nothing  
21 in this section shall require creation of a board packet. The



1 board shall provide notice to persons requesting notification of  
2 meetings pursuant to section 92-7(e) that the board packet is  
3 available for inspection in the board's office and shall provide  
4 reasonably prompt access to the board packet to any person upon  
5 request. The board is not required to mail board packets. As  
6 soon as practicable, the board shall accommodate requests for  
7 electronic access to the board packet.

8 For purposes of this section, "board packet" means  
9 documents that are compiled by the board and distributed to  
10 board members before a meeting for use at that meeting, to the  
11 extent the documents are public under chapter 92F; provided that  
12 this section shall not require disclosure of executive session  
13 minutes, license applications, or other records for which the  
14 board cannot reasonably complete its redaction of nonpublic  
15 information in the time available before the public inspection  
16 required by this section[-]; provided further that this section  
17 shall not apply to, and this chapter shall not prohibit, written  
18 materials circulated by board staff or by board members to all  
19 members of the board for informational purposes only and there  
20 are no comments or discussion by board staff or board members  
21 accompanying or following the circulation of such materials."



1 SECTION 7. Section 92-9, Hawaii Revised Statutes, is  
2 amended by amending subsection (b) to read as follows:

3 "(b) The minutes shall be made available to the public by  
4 posting on the board's website or, if the board does not have a  
5 website, on an appropriate state or county website within forty  
6 days after the meeting except where such disclosure would be  
7 inconsistent with section 92-5; provided that minutes of  
8 executive meetings may be withheld so long as their publication  
9 would defeat the lawful purpose of the executive meeting, but no  
10 longer~~[-]~~, and information contained in the minutes of executive  
11 meetings may be segregated as provided in section 92F-13. A  
12 written summary shall accompany any minutes that are posted in a  
13 digital or analog recording format and shall include:

- 14 (1) The date, time, and place of the meeting;
- 15 (2) The members of the board recorded as either present or  
16 absent, and the times when individual members entered  
17 or left the meeting;
- 18 (3) A record, by individual member, of motions and votes  
19 made by the board; and
- 20 (4) A time stamp or other reference indicating when in the  
21 recording the board began discussion of each agenda





1 item and when motions and votes were made by the  
2 board."

3 SECTION 8. Statutory material to be repealed is bracketed  
4 and stricken. New statutory material is underscored.

5 SECTION 9. This Act shall take effect upon its approval.

6

INTRODUCED BY: W.M.M.

By Request



# S.B. NO. 3203

**Report Title:**

Sunshine Law; Legislative Intent; Boards; Definitions; Permitted Interactions; Limited Meetings; Board Packets; Minutes; Exceptions

**Description:**

Enables boards to operate more effectively by amending sections of the Sunshine Law pertaining to the declaration of policy and intent, permitted interactions of members, limited meetings, executive meetings, exceptions, board packets, and minutes. Amends the definition of the term "meeting".

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

