H.B. NO. 3183

A BILL FOR AN ACT

RELATING TO PUBLIC AGENCY MEETINGS.

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

SECTION 1. Section 92-3.1, Hawaii Revised Statutes, is amended to read as follows:

"[~~[~~]**§92-3.1**[~~]~~] **Limited meetings.** (a) If a board determines that it is necessary to meet at a location that is dangerous to health or safety, or if a board determines that it is necessary to conduct an on-site inspection at which public attendance is not practicable, and the [~~attorney general~~] director of the office of information practices concurs, the board may hold a limited meeting in that location, which is not open to the public; provided that at a regular meeting of the board prior to the limited meeting [~~at the dangerous location~~]:

(1) The board determines that it is necessary to hold the limited meeting [~~at the dangerous location~~] and specifies the reasons for its determination that the location is dangerous to health or safety[~~,~~] or that the on-site inspection is necessary and public attendance is impracticable;

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

(3) Notice of the limited meeting is provided in accordance with section 92-7.

(b) At all limited meetings, the board shall:

(1) Videotape the meeting, unless the requirement is waived by the [~~attorney general,~~] director of the office of information practices, and comply with all requirements of section 92-9;

(2) Make the videotape available at the next regular meeting; and

(3) Make no decisions at the meeting."

SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

INTRODUCED BY: Calvin K.Y. Say

BY REQUEST

JAN 22 2008

H.B. NO. 3183

Report Title:
Public Attendance at Open Agency Meetings

Description:
Allows boards and commissions to conduct on-site inspections without public participation if public attendance is impracticable, such as on working farms.

HB 3183

JUSTIFICATION SHEET

DEPARTMENT: OFFICE OF THE LIEUTENANT GOVERNOR, OFFICE OF INFORMATION PRACTICES

TITLE: A BILL FOR AN ACT RELATING TO PUBLIC AGENCY MEETINGS.

PURPOSE: The purpose of this bill is to authorize boards and commissions subject to the "Sunshine Law," part I of chapter 92, Hawaii Revised Statutes (HRS), to conduct on-site inspections of locations, which relate to a matter under a board's supervision, control, jurisdiction, or advisory power, in a meeting closed to the public where public attendance is impracticable, and to transfer the responsibility for issuing concurrence under the section from the attorney general to the director of the Office of Information Practices (OIP).

MEANS: Amend section 92-3.1, HRS.

JUSTIFICATION: There are occasions when board members have sought to meet as a board at a site where it is impracticable for the public to attend. Examples are on-site visits to an irrigation system located on private property by the Board of Land and Natural Resources, and open-ocean fish farming by the Board of Agriculture. OIP has advised boards that on-site inspections by a board that are closed to the public are not authorized under the Sunshine Law. This bill is intended to authorize on-site inspections when the board determines that it is necessary to conduct an on-site inspection, when the board specifies its reasons for holding the on-site inspection, when two-thirds of all members to which the board is entitled adopt the reasons, when the director of OIP concurs with those reasons, when notice is provided in accordance with section 92-7, HRS, when the on-site inspection is videotaped (this requirement

HB 3183

may be waived by OIP), when minutes are kept in accordance with section 92-9, HRS, when the videotape is made available at the next regular meeting, and when no decisions are made at the meeting.

Impact on the general public: This bill will enable boards to make better-informed decisions to the benefit of the public. The requirement that site visits be videotaped will generally ensure that the public has access to the information obtained during an on-site inspection.

Impact on the department and other agencies: Boards will be able to have all board members attend an on-site inspection, rather than relying on staff reports, or conducting the on-site inspection with less than a quorum of the board members as a permitted interaction pursuant to section 92-2.5(b)(1)(A), HRS, (a process than can take up to 90 days for boards that only meet monthly).

The attorney general will be relieved of the responsibility of concurrence under the limited meetings section of the Sunshine Law. Responsibility is transferred to OIP, consistent with its administration of the Sunshine Law.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: LTG-105.

OTHER AFFECTED AGENCIES: All state and county boards and commissions.

EFFECTIVE DATE: Upon approval.