



GOV. MSG. NO. 636

EXECUTIVE CHAMBERS

HONOLULU

LINDA LINGLE
GOVERNOR

April 30, 2009

The Honorable Colleen Hanabusa, President
and Members of the Senate
Twenty-Fifth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

Re: Senate Bill No. 438

On April 29, 2009, Senate Bill No. 438, entitled "A Bill for an Act Relating to Board of Education Meetings" became law without my signature, pursuant to Section 16 of Article III of the State Constitution.

The purpose of this bill is to shorten the time requirement for posting Board of Education meeting notices, from six days to two days, if the agenda items are related to legislation pending before the Legislature.

Currently under the Sunshine Law, boards and commissions are able to file meeting notices less than six days prior to board meetings, as long as certain requirements are met pursuant to the emergency meetings provision of Section 92-8, Hawaii Revised Statutes. As stated by both the Office of Information Practices and the League of Women Voters of Hawaii, the Sunshine Law was enacted to facilitate public participation in government processes and should not be tinkered with for expediency's sake. As a result, I am concerned that making an exception to shorten the time requirement for filing meeting notices may not be the correct approach for resolving the issue of responding to legislation in a timely manner.

I am also concerned that this bill will allow for special treatment of the Board of Education under the Sunshine Law, as no other board or commission will be provided with the same exception provided under this bill. This bill will require the Office of Information Practices to make a distinction for the Board of Education and treat it differently from the numerous other boards and commissions that must also respond to tight legislative deadlines. Moreover, because the Sunshine Law, like the Uniform Information Practices Act, is supposed to be administered uniformly across all agencies and boards, creating a special exception for only the Board of Education sets an unnecessary precedent.

The Honorable Colleen Hanabusa, President
and Members of the Senate
Page 2

I call upon the Legislature to address in a comprehensive manner the conflicts between the Sunshine Law and legislative notices that provide inadequate time for boards, commissions, and the public to respond. At a minimum, the Legislature should consider revising emergency meeting procedures for all boards and commissions that should be afforded the opportunity to comment on pending legislation.

For the foregoing reasons, I allowed Senate Bill No. 438 to become law as Act 24, effective April 29, 2009, without my signature.

Sincerely,



LINDA LINGLE

JAN 23 2009

A BILL FOR AN ACT

RELATING TO BOARD OF EDUCATION MEETINGS.

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

1 SECTION 1. The legislature recognizes that it is in the
2 public interest to expand public access to governmental
3 processes. At the same time, governmental agencies must be able
4 to reasonably carry out their business and responsibilities in
5 serving the public.

6 In fulfilling their responsibilities as elected officials,
7 board of education members must adhere to the requirements of
8 chapter 92, Hawaii Revised Statutes, the sunshine law. However,
9 board of education members, who are not salaried and are not on
10 full-time or part-time status, are confined by the stringent
11 six-day public notice requirements.

12 In their "volunteer capacity", board of education members
13 find it difficult to meet the deadline-driven demands of the
14 legislative session, which often necessitate that the board of
15 education be able to take positions or other action on
16 legislation and legislation-related matters in a timely manner.
17 It therefore becomes necessary to provide flexibility in the



1 reasonably practicable to give due notice. Meetings shall be
2 called and held, at the call of the chairperson or by a quorum,
3 as often as may be necessary for the transaction of the
4 department's business.

5 (b) Chapter 92 notwithstanding, from the convening of the
6 legislature in regular session to adjournment sine die of each
7 regular session, and during each special session of the
8 legislature, the board may file any notice that specifies only
9 legislation or legislation-related agenda items, no fewer than
10 two calendar days before the meeting."

11 SECTION 3. Statutory material to be repealed is bracketed
12 and stricken. New statutory material is underscored.

13 SECTION 4. This Act shall take effect upon its approval.
14

APPROVED this day of , 2009

GOVERNOR OF THE STATE OF HAWAII