



GOV. MSG. NO. 1280

EXECUTIVE CHAMBERS
HONOLULU

NEIL ABERCROMBIE
GOVERNOR

June 28, 2012

The Honorable Shan Tsutsui, President
and Members of the Senate
Twenty-Sixth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

The Honorable Calvin Say, Speaker
and Members of the House
Twenty-Sixth State Legislature
State Capitol, Room 431
Honolulu, Hawaii 96813

Dear President Tsutsui, Speaker Say and Members of the Legislature:

This is to inform you that on June 28, 2012, the following bill was signed into law:

SB2859 SD1 HD2

RELATING TO OPEN GOVERNMENT.
Act 177 (12)

NEIL ABERCROMBIE
Governor, State of Hawaii

Approved by the Governor

on JUN 28 2012

THE SENATE
TWENTY-SIXTH LEGISLATURE, 2012
STATE OF HAWAII

ACT 177
S.B. NO. 2859
S.D. 1
H.D. 2

A BILL FOR AN ACT

RELATING TO OPEN GOVERNMENT.

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

1 SECTION 1. Section 92-2.5, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§92-2.5 Permitted interactions of members. (a) Two
4 members of a board may discuss between themselves matters
5 relating to official board business to enable them to perform
6 their duties faithfully, as long as no commitment to vote is
7 made or sought and the two members do not constitute a quorum of
8 their board.

9 (b) Two or more members of a board, but less than the
10 number of members which would constitute a quorum for the board,
11 may be assigned to:

12 (1) Investigate a matter relating to the official business
13 of their board; provided that:

14 (A) The scope of the investigation and the scope of
15 each member's authority are defined at a meeting
16 of the board;



1 (B) All resulting findings and recommendations are
2 presented to the board at a meeting of the board;
3 and

4 (C) Deliberation and decisionmaking on the matter
5 investigated, if any, occurs only at a duly
6 noticed meeting of the board held subsequent to
7 the meeting at which the findings and
8 recommendations of the investigation were
9 presented to the board; or

10 (2) Present, discuss, or negotiate any position which the
11 board has adopted at a meeting of the board; provided
12 that the assignment is made and the scope of each
13 member's authority is defined at a meeting of the
14 board prior to the presentation, discussion, or
15 negotiation.

16 (c) Discussions between two or more members of a board,
17 but less than the number of members which would constitute a
18 quorum for the board, concerning the selection of the board's
19 officers may be conducted in private without limitation or
20 subsequent reporting.

21 (d) Board members present at a meeting that must be
22 canceled for lack of quorum or terminated pursuant to section



1 92-3.5(c) may nonetheless receive testimony and presentations on
2 items on the agenda and question the testifiers or presenters;
3 provided that:

4 (1) Deliberation or decisionmaking on any item, for which
5 testimony or presentations are received, occurs only
6 at a duly noticed meeting of the board held subsequent
7 to the meeting at which the testimony and
8 presentations were received;

9 (2) The members present shall create a record of the oral
10 testimony or presentations in the same manner as would
11 be required by section 92-9 for testimony or
12 presentations heard during a meeting of the board; and

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

15 (A) Provide copies of the testimony and presentations
16 received at the canceled meeting to all members
17 of the board; and

18 (B) Receive a report by the members who were present
19 at the canceled or terminated meeting about the
20 testimony and presentations received.

21 (e) Two or more members of a board, but less than the
22 number of members which would constitute a quorum for the board,



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

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

16 [~~(d)~~] (f) Discussions between the governor and one or more
17 members of a board may be conducted in private without
18 limitation or subsequent reporting; provided that the discussion
19 does not relate to a matter over which a board is exercising its
20 adjudicatory function.

21 [~~(e)~~] (g) Discussions between two or more members of a
22 board and the head of a department to which the board is



1 administratively assigned may be conducted in private without
2 limitation; provided that the discussion is limited to matters
3 specified in section 26-35.

4 [~~f~~] (h) Communications, interactions, discussions,
5 investigations, and presentations described in this section are
6 not meetings for purposes of this part."

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

9 "(a) The board shall give written public notice of any
10 regular, special, or rescheduled meeting, or any executive
11 meeting when anticipated in advance. The notice shall include
12 an agenda which lists all of the items to be considered at the
13 forthcoming meeting, the date, time, and place of the meeting,
14 and in the case of an executive meeting the purpose shall be
15 stated. The means specified by this section shall be the only
16 means required for giving notice under this part notwithstanding
17 any law to the contrary."

18 SECTION 3. Statutory material to be repealed is bracketed
19 and stricken. New statutory material is underscored.

20 SECTION 4. This Act shall take effect on July 1, 2012.

APPROVED this 28 day of JUN, 2012

