

L.E.A.C. GUIDE

Labor Education Advisory Council
University of Hawai'i - West O'ahu
Center for Labor Education & Research

Revised, May 2020

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INTRODUCTION

The Center for Labor Education and Research at the University of Hawai'i or CLEAR as it is more commonly known, was established in 1976 by State Law, now HRS §304A-1601 (Act 202). Originally placed in the College of Continuing Education and Community Service on the Mānoa Campus, in 1996, Act 276 relocated the Center to the University of Hawai'i - West O'ahu. The Center is designed to provide labor education, research and labor-related programs to workers, their organizations and the general public through a variety of methods including classroom instruction, seminars, workshops, publications and the use of the public media.

Located in the Library of the UHWO Campus in Kapolei, CLEAR now has four faculty: its Director, Dr. William J. Puette, a labor arbitrator, specialist, historian and professional registered parliamentarian; Dr. Leslie Lopez, Board President of LaborFest Hawai'i, ; Dr. Lawrence W. Boyd, a labor economist; and Chris Conybeare, attorney, media specialist and producer of the television documentary series, *Rice & Roses*.

CLEAR operates with program fees, endowment income from the Art Rutledge Endowment in Labor Studies, and an allocation from the University of Hawai'i to accomplish its legislative mandate to provide educational programs on a non-profit basis to workers and their organizations. To serve the entire State, the Center maintains a labor education web site and offers many of its classes online via the internet and publishes a variety of books, handbooks, and guides.

Other publications of the Center include individualized workshop packets designed to accompany the Center's classes, such as the CLEAR programs on Labor History, Collective Bargaining, Grievance Handling, Labor Law and Leadership Skills. Like its research projects, the Center's seminars and educational programs are all designed to be of practical use to workers.

To complement each of these primary activities of the Center, CLEAR also maintains a local Labor History Archive, a Labor-Relations Research Library and a Film/Video-tape Collection. The research library contains the basic BNA loose leaf services as well as many supplemental materials.

All of the basic programs and publications produced at CLEAR are available to workers and their unions at the lowest possible cost on an "as available" basis.

This Guide is provided to help new and prospective Councilors understand the scope and function of the Labor Education Advisory Council, and contains information on the legal framework of the Council as well as its duly proposed bylaws. For more information about the Labor Education Advisory Council and the administration and operation of the University of Hawai'i's Center for Labor Education & Research, please call the Director of the Center at 808-689-2767 or the Chancellor of the University of Hawai'i - West O'ahu at 808-689-2770.

Center for Labor Education & Research, UH-WO
NON-CREDIT FEE POLICY

A. Individual/Student Enrollments in CLEAR Sponsored Programs:

1. Class/program enrollment fees for individuals wishing to attend CLEAR programs shall be set in advance at rates for Hawai'i residents between \$10.00 and \$25.00 per session or class and for out-of-state enrollments at twice the rate set for residents made payable by cash, or personal check for the entire scheduled program in advance to the "University of Hawaii."
2. Partial enrollments to multiple-session programs (ie. one or more sessions but less than the whole program) shall not be permitted.
3. A receipt issued by the Center for Labor Education & Research shall serve as proof of registration in the program.
4. A full refund of program fees will be made to individuals who withdraw prior to the commencement of the program. There will be no partial refunds.
5. An applicable fee, University of Hawai'i system, will be charged for each check not honored by the bank/financial institution for any cause.

B. Speaker Fees for CLEAR Presentations at Programs not sponsored by CLEAR:

1. Organizations sponsoring programs at which faculty of the Center for Labor Education & Research are invited to speak or present instructional workshops or seminars shall be charged \$100.00 per hour or portion thereof (breaks included).
2. Organizations sponsoring programs at which faculty of the Center for Labor Education & Research are invited to speak or present instructional workshops or seminars shall be charged \$100.00 per CLEAR staff presentation of any duration less than one hour (breaks included).
3. Business and for-profit enterprises or corporations sponsoring programs at which faculty of the Center for Labor Education & Research are invited to speak or present instructional workshops shall be charged fees at competitive rates as negotiated with the director of the Center.
4. For distance education presentations an additional \$10.00 will be charged for each participant viewing the presentation at a remote site.
5. Organizations sponsoring programs not on O'ahu at which faculty of the Center for Labor Education & Research are invited to speak or present instructional workshops or seminars shall provide and or pay for all necessary travel fares, accommodations and attendant expenses required.

C. Exemptions:

1. The above fees, with the exception of travel expenses as described in paragraph B-4, will not be applied to: a) guest lectureships involving presentations made to students in primary or secondary schools; b) guest lectureships presented to university or college students; or c) presentations made for Boy Scouts, Girls Scouts, or similar non-profit youth organizations.
2. Individual enrollment fees, as prescribed in Section A, may be waived by CLEAR's director for workers who are on strike, unemployed, or otherwise suffering economic hardship.

[Revised 1/11/99; 8/15/00; 12-10-08; 12-8-10]

II. LEGAL AUTHORITY

In 1976 the State Legislature established the Center for Labor Education & Research when it enacted Act 202. It noted that every worker in private and public employment in Hawai'i has the right to organize for the purpose of collective bargaining. It, therefore, found:

(1) that "the contributions of organized labor to the improvement of the social, political, and economic well-being of our citizenry have been substantial;"

(2) that these contributions were "... largely unknown by the public ...;"

(3) that the need for "... specialized education and training by workers and leaders of the trade union movement to improve their competence... has neither been adequately nor effectively addressed by educational institutions of the State;" and

(4) that the University of Hawai'i should provide this specialized labor education. [Section 1, Act 202]

The Act as amended established the Center for Labor Education & Research at the University of Hawai'i - West O'ahu to:

"... (1) provide credit and non-credit labor studies courses, and labor-related research and educational services for workers and their organizations;

(2) provide labor-related education to the public;

(3) advise and assist in the development and implementation of labor-related instructional programs, courses, and activities for use within the department of education, including teacher preparation therefore;

(4) Develop and implement a labor studies degree program or programs in the University of Hawai'i system; and

(5) Serve as the clearinghouse for labor education matters in the State."

[HRS §304A-1601]

The Act establishes the Labor Education Advisory Council (LEAC) of "... no more than fifteen members, broadly representative of the trade union movement in the State..." to be "... advisory to the chancellor of the University of Hawai'i - West O'ahu on all activities and programs of the center and shall assist the dean in the assessment and evaluation of program needs for implementation." [HRS §304A-1603]

Finally, the Act mandated the Center, in consultation with the LEAC to:

"(1) Coordinate, arrange for, or conduct evaluation of existing center programs of instruction for refinement, develop new courses of instruction, and plan their implementation on a continuing basis;

(2) Coordinate, arrange for, or conduct instructional programs including classes, courses, workshops, seminars, and research studies or projects;

(3) Coordinate, arrange for, or provide technical assistance to trade unions to improve or implement labor education programs within their organizations;

(4) Prepare and disseminate educational information and publications on various subjects of concern and interest to workers and their organizations;

(5) Develop or acquire the means necessary to offer credit and non-credit labor studies programs via distance education throughout the State;

(6) Develop or acquire and promote the dissemination of labor-related information and programs through the various public media (radio, television, newspapers, public and private organizations, clubs, etc.); and

(7) coordinate, arrange for, or conduct teacher preparation classes to enable relevant and reliable department of education instruction in labor-related educational courses, programs and activities." [HRS §304A-1602]

The complete text of the CLEAR statute as amended is provided on pages 8 and 9 for your information.

III. COUNCIL ORGANIZATION AND BYLAWS

A. Composition

By statute the membership of the Labor Education Advisory Council shall consist of "not more than fifteen members, broadly representative of the trade union movement in the State, who shall be appointed by the president of the university."

1. It shall be understood that "broadly representative of the trade union movement in the State" shall mean that, as much as possible, council members shall be drawn from the leadership of labor unions, councils, federations, associations and organizations and shall represent a cross section of private and public sector as well as blue collar and white collar workers throughout the State.

- III, A. 2. The Director of the Center for Labor Education and Research and the Chancellor of the University of Hawai'i - West O'ahu will be ex-officio (non-voting) members of the Council.
3. The Director of the Center will arrange for a Council Secretary to record and prepare the minutes of the council's quarterly meetings and prepare and file the council's correspondence and official business.
4. Records of the council's meetings, actions and official activities will be maintained by the Director of the Center.

B. Term and Appointment

Councilors are appointed by the President of the University of Hawai'i for indefinite terms or until they resign or are relieved by the Chair for inability to attend the regular quarterly meetings. The Council shall strive to maintain the regular participation of all councilors in its meetings and deliberations to assure continuity in Council activities.

The Chair of the Council shall as necessary submit to the President of the University of Hawai'i nominees for appointment and reappointment to the Council.

C. Responsibilities of Councilors

Councilors are expected to carry out the normal duties of Council membership. Regular attendance at the quarterly meetings is a minimal requirement. In addition councilors are expected to perform duties assigned by the Chair, such as service on a standing or special committee. In the event of hardship in carrying out these responsibilities, a councilor may, on request, resign or upon the recommendation of the Council be dropped by the Council upon due notification.

D. Vacancies

Vacancies in the membership of the Council occurring through resignations, death or other cause shall be filled as they occur as provided in section B.

E. Officers

The officers of the Council shall consist of the Chair and Vice-Chair and shall be elected from and by a majority of the members of the Council.

1. Terms: Officers shall be elected to serve two year terms, effective July 1 of each even numbered year. Elections shall be held at the last quarterly meeting of each even-numbered year between April 1 and June 30.

2. Elections: In the event that no candidate for either council office receives a majority of the whole council's votes at the quarterly meeting provided in section E(1), the incumbent officers shall continue to serve until a special election can be conducted.

F. Committees

1. Number and Composition

The Council shall have at least two standing committees and as many special committees as deemed necessary to discharge its responsibilities. Only Council members or their designated proxies may serve on committees.

2. Chair

The Chair of the Council shall appoint all standing and special committee chairs and committee members and they shall be members of the Council.

3. Meetings

The Executive Committee shall meet at the discretion and call of the Chair. Meetings of other committees shall be called at the discretion of the respective Chairs.

4. Standing Committees

- a. The following Standing Committees shall be established:

- (1) Executive Committee. This committee shall include the officers of the Council, the Chairs of standing and special committees and other councilors as the Chair may designate. The Chair of the Council shall serve as the Chair of this committee. It shall review, plan, and develop recommendations on matters requiring Council attention that arise between regular Council meetings.
- (2) Legislative Committee. It shall work with the Executive Committee to present the concerns and programs of the Council to the State legislature and its members.

- b. Additional standing committees may be established when deemed advisable and approved by majority votes of the Council.

6. Special Committees and Task Forces

Special committees and task forces may be established by the Chair as needs arise and they shall exist until dissolved by the Chair of the Council.

G. Meetings of the Council

The Council shall meet quarterly with the first meeting of the year held between July 1 and September 30. Special meetings of the Council shall be held on call by the Chair or, in the Chair's absence, the Vice-Chair.

1. Eight appointed councilors, including the Chair or the Chair's designee, shall constitute a quorum for the transaction of business.
2. The regular quarterly meetings of the council shall be scheduled as far in advance as possible and shall allow the Council's secretary adequate time to file the required notice and agenda in the office of the lieutenant governor at least six calendar days before the meeting in compliance with the State's sunshine law (HRS §92).
3. Meetings of the Council shall be open to the public as provided by HRS §92.
4. LEAC members may participate in meetings by means of teleconference, videoconference, or any means of a communication technology by which all persons participating in the meeting can speak to and hear each other at the same time. Participation by such means shall constitute attendance at the meeting as long as such simultaneous communication is active and enabled.

H. Voting

Only duly appointed Councilors of the Labor Education Advisory Council or their pre-designated proxies shall vote on motions pending before the Council.

I. Amendments to Bylaws

These Bylaws may be amended at any meeting of the Council by a two-thirds vote of the councilors present. A proposed amendment must be submitted in writing to all councilors at least five (5) days before the meeting, where the amendment will be considered. However, any councilor may propose an amendment to these Bylaws at any meeting of the Council, with the unanimous consent of the councilors present.

UNIVERSITY OF HAWAI'I
CENTER FOR LABOR EDUCATION AND RESEARCH

ACT 202, SECTION 1. Regular Session of 1976, [H.B. № 2691]
A Bill for an Act Relating to Labor Education at the University of Hawai'i.

Findings and Purpose. ARTICLE XII of the Constitution of the State of Hawai'i grants every worker in private and public employment, the right to organize for the purpose of collective bargaining. In accord therewith, a large portion of the labor force of this State belongs to and is represented by a variety of trade unions whose governance, administration, operations, and activities are to a large extent, regulated by a variety of state and federal laws, rules, regulations, and policies. The collective bargaining process, whether successful or unsuccessful, vitally affects the citizenry of our State. The contributions of organized labor to the improvement of the social, political, and economic well-being of our citizenry have been substantial.

The expressed need and desire for specialized education and training by workers and leaders of trade unions to improve their professional competence in order to effectively administer their affairs, to improve their ability to intervene wisely in shaping their environment on the job, in their unions, and in the community while commendable, has neither been adequately nor effectively addressed by educational institutions of the State. Moreover, the substantial contributions by organized labor to the improvement of the social, political, and economic well-being of our citizenry is largely unknown by the public at large. It is urgent that the need for specialized labor education be provided by the University of Hawai'i. This legislation is designed to enable the University to so provide.

STATUTE AS AMENDED:

Sec. 304A--1601 Center for labor education and research. There is established at the University of Hawai'i, West O'ahu campus, the center for labor education and research. The center shall:

- (1) Provide credit and non-credit labor studies courses, and labor-related research and educational services for workers and their organizations;
- (2) Provide labor-related education to the public;
- (3) Advise and assist in the development and implementation of labor-related instructional programs, courses, and activities for use within the department of education, including teacher preparation therefor;
- (4) Develop and implement a labor studies degree program or programs in the University of Hawai'i system; and
- (5) Serve as the clearinghouse for labor education matters in the State.

The center shall be located in and be a part of the University of Hawai'i, West O'ahu . The affairs and operations of the center shall be administered by a director appointed by and responsible to the chancellor of the University of Hawai'i, West O'ahu. The center shall draw on existing personnel within the state government insofar as possible for necessary supplementation. Where bonafide demand for programs and services exceeds the capabilities of the permanent staff as supplemented, additional personnel resources may be acquired on a contract basis without regard to chapters 76 and 77. Permanent staff shall be covered by chapters 76 and 77, or section 304-13, as may be appropriate. [L 1976, c 202; am L 1996, c 276, § 1; L 2006, c 75, pt of §2]

The center shall receive the full cooperation of all state agencies in the use of staff members, facilities, and other resources necessary to accomplish the purposes of this part.

Sec. 304A-1602 Functions and programs. (a) In consultation with the labor education advisory

council, the center shall:

- (1) Coordinate, arrange for, or conduct evaluation of existing center programs of instruction for refinement, develop new courses of instruction, and plan their implementation on a continuing basis;
 - (2) Coordinate, arrange for, or conduct instructional programs including classes, courses, workshops, seminars, and research studies or projects;
 - (3) Coordinate, arrange for, or provide technical assistance to trade unions to improve or implement labor education programs within their organizations;
 - (4) Prepare and disseminate educational information and publications on various subjects of concern and interest to workers and their organizations;
 - (5) Develop or acquire the means necessary to offer credit and non-credit labor studies programs via distance education throughout the State;
 - (6) Develop or acquire and promote the dissemination of labor-related information and programs through the various public media (radio, television, newspapers, public and private organizations, clubs, etc.); and
 - (7) Coordinate, arrange for, or conduct credit and non-credit teacher preparation classes to enable relevant and reliable department of education instruction in labor-related educational courses, programs and activities.
- (b) Notwithstanding chapters 42D, 103, and 103D, the director of the center may limit the center's contracts for any publication and stationery work that may be necessary to accomplish the aims described in subsection (a) to contractors whose employees are represented by a representative duly elected under applicable federal or state labor laws for collective bargaining purposes. [L 1976, c 202; am L 1996, c 276, § 2; L 2006, c 75, pt of §2]

Sec. 304A-1603 Labor education advisory council. There is established a labor education advisory council, consisting of not more than fifteen members, broadly representative of the trade union movement in the State, who shall be appointed by the president of the university. The council shall be advisory to the chancellor on all activities and programs of the center and shall assist the chancellor in the assessment and evaluation of program needs for implementation. Members of the council shall designate its chairperson and shall serve without compensation; provided, however, that such actual traveling and other expenses incurred in the performance of their duties shall be advanced or reimbursed. [L 1976, c 202; am L 1996, c 276, § 3; L 2006, c 75, pt of §2]

Sec. 304A-2267 Revolving fund. There shall be established a revolving fund to be known as the center for labor education and research revolving fund, for use by the director of the center with the approval of the chancellor or vice-chancellor in carrying out the purposes of the center. All fees, charges, and other moneys collected in conjunction with the operations of the center shall be deposited in the revolving fund. Such amounts shall be expended from the fund by the director of the center as may be necessary to defray the cost of operating the center, excluding compensation of the permanent staff, but including contractual obligation, rentals, and such other program costs as approved by the chancellor or vice chancellor. [L 1976, c 202; am L 1996, c 276, § 4; L 2006, c 75, pt of §2]

(Act 202 was approved and signed by Governor George Ariyoshi on June 7, 1976. The first appropriation provided \$250,000 (UOH 101) for the establishment of the center. Section 3 of Act 202 originally provided for a staff "including but not limited to seven permanent positions to constitute the center's core staff.")

HAWAI‘I REVISED STATUTES, CHAPTER 92
PUBLIC AGENCY MEETINGS AND RECORDS*
[as of July 2, 2019]

Part I. Meetings

Section

- 92-1 Declaration of policy and intent
- 92-1.5 Administration of this part
- 92-2 Definitions
- 92-2.5 Permitted interactions of members
- 92-3 Open meetings
- 92-3.1 Limited meetings
- 92-3.5 Meeting by interactive conference technology; notice; quorum
- 92-4 Executive meetings
- 92-5 Exceptions
- 92-6 Judicial branch, quasi-judicial boards and investigatory functions; applicability
- 92-7 Notice
- 92-7.5 Board packet; filing; public inspection; notice
- 92-8 Emergency meetings
- 92-9 Minutes
- 92-10 Legislative branch; applicability
- 92-11 Voidability
- 92-12 Enforcement
- 92-13 Penalties

Part II. Boards: Quorum; General Powers

- 92-15 Boards and commissions; quorum; number of votes necessary to validate acts
- 92-15.5 Nonattendance of board member; expiration of term

Law Journals and Reviews

The Lum Court, Land Use, and the Environment: A Survey of Hawai‘i Case Law 1983 to 1991. 14 UH L. Rev. 119.

Case Notes

Rule regarding confidentiality of development proposals neither conflicted with nor contradicted "mandate" of either §92-3 or the Sunshine Law (this chapter) as a whole; plaintiff not entitled to disclosure of development proposals under those statutory provisions. 74 H. 365, 846 P.2d 882.

As this chapter governs board meetings and board meeting minutes, including those of executive sessions, and this section, by its plain language, permits "any person," including the county, to bring suit in circuit court "to determine the applicability of part I of this chapter to the discussions or decisions" of the council, the circuit court did not err in determining it had jurisdiction pursuant to this chapter to determine whether county council's executive session minutes had to be disclosed. 120 H. 34 (App.), 200 P.3d 403.

In a suit deciding whether disclosure of county council executive session minutes was required, circuit court properly found that both chapter 92F and this chapter applied; if the meeting met an exception to the open meeting requirements put forth in this chapter, such as an exception enumerated in §92-5, the council was not required to disclose the minutes of that meeting to the public; if the meeting did not fall under such an exception, the council was required to disclose the minutes pursuant to §92-9 and §92F-12. 120 H. 34 (App.), 200 P.3d 403.

***editor's note:** Such additional Parts and Sections of Chapter 92 which are deemed not applicable to the Labor Education Advisory Council are not reproduced here.

PART I. MEETINGS

§92-1 Declaration of policy and intent. In a democracy, the people are vested with the ultimate decision-making power. Governmental agencies exist to aid the people in the formation and conduct of public policy. Opening up the governmental processes to public scrutiny and participation is the only viable and reasonable method of protecting the public's interest. Therefore, the legislature declares that it is the policy of this State that the formation and conduct of public policy--the discussions, deliberations, decisions, and action of governmental agencies--shall be conducted as openly as possible. To implement this policy the legislature declares that:

- (1) It is the intent of this part to protect the people's right to know;
- (2) The provisions requiring open meetings shall be liberally construed; and
- (3) The provisions providing for exceptions to the open meeting requirements shall be strictly construed against closed meetings. [L1975, c 166, pt of §1]

Attorney General Opinions

This section and sections 92-7 and 92-9 require commission to specify subject matter of items on public meeting agenda. Att. Gen. Op. 85-2. Interpretation of "board" as excluding county council would be inconsistent with policy and intent of sunshine law. Att. Gen. Op. 86-5.

Hawaii Legal Reporter Citations

Openness in governmental discussions, deliberations, decisions, and actions. 79 HLR 79-0117; 79 HLR 79-0543.

§92-1.5 Administration of this part. The director of the office of information practices shall administer this part. The director shall establish procedures for filing and responding to complaints filed by any person concerning the failure of any board to comply with this part. An agency may not appeal a decision by the office of information practices made under this chapter, except as provided in section 92F-43. The director of the office of information practices shall submit an annual report of these complaints along with final resolution of complaints, and other statistical data to the legislature, no later than twenty days prior to the convening of each regular session. [L 1998, c 137, §2; am L 2012, c 176, §2]

§92-2 Definitions

As used in this part:

"Board" means any agency, board, commission, authority, or committee of the State or its political subdivisions which is created by constitution, statute, rule, or executive order, to have supervision, control, jurisdiction, or advisory power over specific matters and which is required to conduct meetings and to take official actions.

"Chance meeting" means a social or informal assemblage of two or more members at which matters relating to official business are not discussed.

"Interactive conference technology" means any form of audio or audio and visual conference technology, including teleconference, videoconference, and voice over internet protocol, that facilitates interaction between the public and board members.

"Meeting" means the convening of a board for which a quorum is required in order to make a decision or to deliberate toward a decision upon a matter over which the board has supervision, control, jurisdiction, or advisory power. [L 1975, c 166, pt of §1; am L 1976, c 212, §1; am L 2012, c 202, §1]

Attorney General Opinions

Trustees of travel agency recovery fund comprise board subject to sunshine law. Att. Gen. Op. 85-18.

"Board" includes committees or subgroups of the board. Att. Gen. Op. 85-27.

County council is a "board". Att. Gen. Op. 86-5.

Agency's retreat would be a "meeting" subject to sunshine law. Att. Gen. Op. 86-19.

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

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

- (1) Investigate a matter relating to the official business of their board; provided that:
 - (A) The scope of the investigation and the scope of each member's authority are defined at a meeting of the board;
 - (B) All resulting findings and recommendations are presented to the board at a meeting of the board; and
 - (C) Deliberation and decisionmaking on the matter investigated, if any, occurs only at a duly noticed meeting of the board held subsequent to the meeting at which the findings and recommendations of the investigation were presented to the board; or
- (2) Present, discuss, or negotiate any position which the board has adopted at a meeting of the board; provided that the assignment is made and the scope of each member's authority is defined at a meeting of the board prior to the presentation, discussion or negotiation.

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

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

- (1) Deliberation or decisionmaking on any item, for which testimony or presentations are received, occurs only at a duly noticed meeting of the board held subsequent to the meeting at which the testimony and presentations were received;
- (2) The members present shall create a record of the oral testimony or presentations in the same manner as would be required by section 92-9 for testimony or presentations heard during a meeting of the board; and
- (3) Before its deliberation or decisionmaking at a subsequent meeting, the board shall:
 - (A) Provide copies of the testimony and presentations received at the canceled meeting to all members of the board; and
 - (B) Receive a report by the members who were present at the canceled or terminated meeting about the testimony and presentations received.

(e) Two or more members of a board, but less than the number of members which would constitute a quorum for the board, may attend an informational meeting or presentation on matters relating to official board business, including a meeting of another entity, legislative hearing, convention, seminar, or community meeting; provided that the meeting or presentation is not specifically and exclusively organized for or directed toward members of the board. The board members in attendance may participate in discussions, including discussions among themselves; provided that the discussions occur during and as part of the informational meeting or presentation; and provided further that no commitment relating to a vote on the matter is made or sought.

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

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

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

(h) Communications, interactions, discussions, investigations, and presentations described in this section are not meetings for purposes of this part. [L 1996, c 267, §2; am L 2005, c 84, §1; am L 2012, c 177, §1]

Law Journals and Reviews

Hawai'i's Sunshine Law Compliance Criteria. 26 UH L. Rev. 21.

Case Notes

Although subsection (a) does not expressly preclude city council members from engaging in serial one-on-one conversations, when council members engaged in a series of one-on-one conversations relating to a particular item of council business, under §92-5(b), the spirit of the open meeting requirement was circumvented and the strong policy of having public bodies deliberate and decide its business in view of the public was thwarted and frustrated. 117 H. 1 (App.), 175 P.3d 111.

§92-3 Open meetings. Every meeting of all boards shall be open to the public and all persons shall be permitted to attend any meeting unless otherwise provided in the constitution or as closed pursuant to sections 92-4 and 92-5, provided that the removal of any person or persons who wilfully disrupts a meeting to prevent and compromise the conduct of the meeting shall not be prohibited. The boards shall afford all interested persons an opportunity to submit data, views, or arguments in writing, on any agenda item. The boards shall also afford all interested persons an opportunity to present oral testimony on any agenda item. The boards may provide for reasonable administration of oral testimony by rule. [L1975, c 166, pt of §1; am L1985, c 278, §1]

Attorney General Opinions

Sunshine law applies to meeting of standing or select committee of board of regents of University of Hawai'i. Att. Gen. Op. 85-27. Opportunity to present testimony, when it must be afforded; cannot delegate committee to hear testimony. Att. Gen. Op. 86-5.

Case Notes

Rule regarding confidentiality of development proposals neither conflicted with nor contradicted "mandate" of either this section or the Sunshine Law, chapter 92, as a whole; plaintiff not entitled to disclosure of development proposals under those statutory provisions. 74 H. 365, 846 P.2d 882.

§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 of a location that is related to the board's business at which public attendance is not practicable, and the director of the office of information practices concurs, the board may hold a limited meeting at that location that shall not be open to the public; provided that at a regular meeting of the board prior to the limited meeting:

1. The board determines, after sufficient public deliberation, that it is necessary to hold the limited meeting and specifies 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
3. Notice of the limited meeting is provided in accordance with section 92-7.

(b) A county council may hold a limited meeting that is open to the public, as the guest of a board or community group holding its own meeting, and the council shall not be required to have a quorum of members in attendance or accept oral testimony; provided that:

1. Notice of the limited meeting shall be provided in accordance with section 92-7, shall indicate the board or community group whose meeting the council is attending, and shall not be required to include an agenda;
2. If the board or community group whose meeting the council is attending is subject to part I, chapter 92, then that board or community group shall comply with the notice, agenda, testimony, minutes, and other requirements of part I, chapter 92;
3. No more than one limited meeting per month shall be held by a county council for any one board or community group;
4. No limited meetings shall be held outside the State; and
5. Limited meetings shall not be used to circumvent the purpose of part I, chapter 92.

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

1. Videotape the meeting, unless the requirement is waived by the 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.

(d) Each county council shall submit an annual report to the legislature no later than twenty days prior to the convening of each regular session on the effectiveness and application of limited meeting procedures provided in subsection (b), including any recommendations or proposed legislation. [L 1995, c 212, §1; am L 2008, c 20, §1; am L 2014, c 221, §§2, 4; am L 2016, c 56, §§1, 2]

§92-3.5 Meeting by interactive conference technology; notice; quorum. (a) A board may hold a meeting by interactive conference technology; provided that the interactive conference technology used by the board allows interaction among all members of the board participating in the meeting and all members of the public attending the meeting, and the notice required by section 92-7 identifies all of the locations where participating board members will be physically present and indicates that members of the public may join board members at any of the identified locations.

(b) Any board member participating in a meeting by interactive conference technology shall be considered present at the meeting for the purpose of determining compliance with the quorum and voting requirements of the board.

(c) A meeting held by interactive conference technology shall be terminated when audio communication cannot be maintained with all locations where the meeting by interactive conference technology is being held, even if a quorum of the board is physically present in one location. If copies of visual aids required by, or brought to the meeting by board members or members of the public, are not available to all meeting participants, at all locations where audio-only interactive conference technology is being used, within fifteen minutes after audio-only communication is used, those agenda items for which visual aids are not available for all participants at all meeting locations cannot be acted upon at the meeting.

(d) Notwithstanding the other provisions of this section to the contrary, a board member with a disability that limits or impairs the member's ability to physically attend the meeting may participate in a board meeting from a location not accessible to the public; provided that the member with a disability is connected to other members of the board and the public by both visual and audio means, and the member identifies where the member is located and who, if anyone, is present at that location with the member. [L 1994, c 121, §1; am L 2000, c 284, §2; am L 2006, c 152, §1; am L 2012, c 202, §2]

§92-4 Executive meetings. A board may hold an executive meeting closed to the public upon an affirmative vote, taken at an open meeting, of two-thirds of the members present; provided the affirmative vote constitutes a majority of the members to which the board is entitled. A meeting closed to the public shall be limited to matters exempted by section 92-5. The reason for holding such a meeting shall be publicly announced and the vote of each member on the question of holding a meeting closed to the public shall be recorded, and entered into the minutes of the meeting. [L1975, c 166, pt of §1; am L1985, c 278, §2]

Attorney General Opinions

Transcript of agency hearing is a public record. Att. Gen. Op. 64-4.

Executive meeting to develop criteria for superintendent of education position may not be closed. Att. Gen. Op. 75-11.

Case Notes

Certain police records not public records. 42 H. 14, (decided prior to enactment of section).

§92-5 Exceptions. (a) A board may hold a meeting closed to the public pursuant to section 92-4 for one or more of the following purposes:

1. To consider and evaluate personal information relating to individuals applying for professional or vocational licenses cited in section 26-9 or both;
2. To consider the hire, evaluation, dismissal, or discipline of an officer or employee or of charges

brought against the officer or employee, where consideration of matters affecting privacy will be involved; provided that if the individual concerned requests an open meeting, an open meeting shall be held;

3. To deliberate concerning the authority of persons designated by the board to conduct labor negotiations or to negotiate the acquisition of public property, or during the conduct of such negotiations;
4. To consult with the board's attorney on questions and issues pertaining to the board's powers, duties, privileges, immunities, and liabilities;
5. To investigate proceedings regarding criminal misconduct;
6. To consider sensitive matters related to public safety or security;
7. To consider matters relating to the solicitation and acceptance of private donations; and
8. To deliberate or make a decision upon a matter that requires the consideration of information that must be kept confidential pursuant to a state or federal law, or a court order.

(b) In no instance shall the board make a decision or deliberate toward a decision in an executive meeting on matters not directly related to the purposes specified in subsection (a). No chance meeting, permitted interaction, or electronic communication shall be used to circumvent the spirit or requirements of this part to make a decision or to deliberate toward a decision upon a matter over which the board has supervision, control, jurisdiction, or advisory power. [L 1975, c 166, pt of §1; am L 1985, c 278, §3; gen ch 1985; am L 1996, c 267, §3; am L 1998, c 48, §1; am L 1999, c 49, §1]

Attorney General Opinions

Subsection (a)(1) is applicable only when a specific individual is involved. Att. Gen. Op. 75-11.

Even if there is no quorum, meeting to discuss official business may be prohibited unless sunshine law followed. Att. Gen. Op. 85-27.

Subsection (a)(2) and §92-9 read together permit board and commission members to disclose some matters deliberated or decided in executive session, but not matters inconsistent with subsection (a)(2). Att. Gen. Op. 94-1.

Case Notes

Although §92-2.5(a) does not expressly preclude city council members from engaging in serial one-on-one conversations, when council members engaged in a series of one-on-one conversations relating to a particular item of council business, under subsection (b), the spirit of the open meeting requirement was circumvented and the strong policy of having public bodies deliberate and decide its business in view of the public was thwarted and frustrated. 117 H. 1 (App.), 175 P.3d 111.

In a suit deciding whether disclosure of county council executive session minutes was required, circuit court properly found that both chapter 92F and this chapter applied; if the meeting met an exception to the open meeting requirements put forth in this chapter, such as an exception enumerated in this section, the council was not required to disclose the minutes of that meeting to the public; if the meeting did not fall under such an exception, the council was required to disclose the minutes pursuant to §92-9 and §92F-12. 120 H. 34 (App.), 200 P.3d 403.

Where it was clear from the county council executive session minutes that the county attorney consulted with the council consistently and at length throughout the executive session regarding the procedure to follow in conducting an investigation of the county police department and that the council's consultation with the attorney largely concerned the ramifications of the sunshine law on the council's investigation -- a legal question, the council was justified in closing the meeting to the public in executive session. 120 H. 34 (App.), 200 P.3d 403.

Where the county council executive session conversation consisted of either direct communication between the council members and the county attorney or communication among council members that flowed from consultation with the county attorney, the attorney-client portions of the executive session were so intertwined with other portions of the executive session that redacting the privileged portions and disclosing the remainder of the minutes was impractical. 120 H. 34 (App.), 200 P.3d 403.

§92-6 Judicial branch, quasi-judicial boards and investigatory functions; applicability. (a) This part shall not apply:

(1) To the judicial branch.

(2) To adjudicatory functions exercised by a board and governed by sections 91-8 and 91-9, or authorized by other sections of the Hawaii Revised Statutes. In the application of this subsection, boards exercising adjudicatory functions include, but are not limited to, the following:

- (A) Hawaii labor relations board, chapters 89 and 377;
- (B) Labor and industrial relations appeals board, chapter 371;
- (C) Hawaii paroling authority, chapter 353;
- (D) Civil service commission, chapter 26;
- (E) Board of trustees, employees' retirement system of the State of Hawaii, chapter 88;
- (F) Crime victim compensation commission, chapter 351; and
- (G) State ethics commission, chapter 84.

(b) Notwithstanding provisions in this section to the contrary, this part shall apply to require open deliberation of the adjudicatory functions of the land use commission. [L 1975, c 166, pt of §1; am L 1976, c 92, §8; am L 1985, c 251, §11; am L 1998, c 240, §6]

Rules of Court

Applicability of Hawaii Rules of Civil Procedure, see HRCP rule 81(b)(12).

Case Notes

County planning commission's closed deliberations permissible under this section despite open meeting mandate of section 92-3. 64 H. 431, 643 P.2d 55.

Adjudicatory functions include adoption of conclusions of law. 4 H. App. 633, 675 P.2d 784.

§92-7 Notice. (a) The board shall give written public notice of any regular, special, emergency, or rescheduled meeting, or any executive meeting when anticipated in advance. The notice shall include an agenda that lists all of the items to be considered at the forthcoming meeting; the date, time, and place of the meeting; instructions on how to request an auxiliary aid or service or an accommodation due to a disability, including a response deadline, if one is provided, that is reasonable; and in the case of an executive meeting the purpose shall be stated. If an item to be considered is the proposed adoption, amendment, or repeal of administrative rules, an agenda meets the requirements for public notice pursuant to this section if it contains a statement on the topic of the proposed rules or a general description of the subjects involved, as described in section 91-3(a)(1)(A), and a statement of when and where the proposed rules may be viewed in person and on the Internet as provided in section 91-2.6. The means specified by this section shall be the only means required for giving notice under this part notwithstanding any law to the contrary.

(b) No less than six calendar days prior to the meeting, the board shall post the notice on an electronic calendar on a website maintained by the State or the appropriate county and post a notice in the board's office for public inspection. The notice shall also be posted at the site of the meeting whenever feasible. The board shall file a copy of the notice with the office of the lieutenant governor or the appropriate county clerk's office and retain a copy of proof of filing the notice, and the office of the lieutenant governor or the appropriate clerk's office shall timely post paper or electronic copies of all meeting notices in a central location in a public building; provided that a failure to do so by the board, the office of the lieutenant governor, or the appropriate county clerk's office shall not require cancellation of the meeting. The copy of the notice to be provided to the office of the lieutenant governor or the appropriate county clerk's office may be provided via electronic mail to an electronic mail address designated by the office of the lieutenant governor or the appropriate county clerk's office, as applicable.

(c) If the written public notice is electronically posted on an electronic calendar less than six calendar days before the meeting, the meeting shall be canceled as a matter of law and shall not be held. The chairperson or the director shall ensure that a notice canceling the meeting is posted at the place of the meeting. If there is a dispute as to whether a notice was timely posted on an electronic calendar maintained by the State or appropriate county, a printout of the electronic time-stamped agenda shall be conclusive evidence of the electronic posting date. The board shall provide a copy of the time-stamped record upon request.

(d) No board shall change the agenda, less than six calendar days prior to the meeting, by adding items thereto without a two-thirds recorded vote of all members to which the board is entitled; provided that no item shall be added to the agenda if it is of reasonably major importance and action thereon by the board will affect a significant number of persons. Items of reasonably major importance not decided at a scheduled meeting shall be considered only at a meeting continued to a reasonable day and time.

(e) The board shall maintain a list of names and postal or electronic mail addresses of persons who request notification of meetings and shall mail or electronically mail a copy of the notice to the persons by the means chosen by the persons at their last recorded postal or electronic mail address no later than the time the agenda is required to be electronically posted under subsection (b). [L 1975, c 166, pt of §1; am L 1976, c 212, §2; am L 1984, c 271, §1; am L 1985, c 278, §4; am L 1995, c 13, §2; am L 2012, c 177, §2; am L 2014, c 68, §1; am L 2017, c 64, §2; am L 2019, c 244, §2]

Attorney General Opinions

This section and sections 92-1 and 92-9 require commission to specify subject matter of items on public meeting agenda. Not sufficient to list broad categories of items. Att. Gen. Op. 85-2.

Filing deadline should be established by using day, rather than hour increments. Att. Gen. Op. 92-06.

Law Journals and Reviews

Hawai'i's Sunshine Law Compliance Criteria. 26 UH L. Rev. 21.

Case Notes

Based on the office of information practices' construction of the sunshine law as well as the legislative history of subsection (d), the land use commission and Maui county council did not violate the sunshine law by continuing and reconvening meetings beyond a single continuance without requiring a new agenda and additional public testimony to be accepted at every continued meeting. However, while the legislature did not expressly limit the number of continuances permissible under subsection (d), the legislative history and text of the sunshine law demonstrates that boards are constrained at all times by the spirit of and purpose of the sunshine law, as stated in §92-1. 130 H. 228, 307 P.3d 1174 (2013)

[§92-7.5] Board packet; filing; public inspection; notice. At the time the board packet is distributed to the board members, the board shall also make the board packet available for public inspection in the board's office. The board shall provide notice to persons requesting notification of meetings pursuant to section 92-7(e) that the board packet is available for inspection in the board's office and shall provide reasonably prompt access to the board packet to any person upon request. The board is not required to mail board packets. As soon as practicable, the board shall accommodate requests for electronic access to the board packet.

For purposes of this section, "board packet" means documents that are compiled by the board and distributed to board members before a meeting for use at that meeting, to the extent the documents are public under chapter 92F; provided that this section shall not require disclosure of executive session minutes, license applications, or other records for which the board cannot reasonably complete its redaction of nonpublic information in the time available before the public inspection required by this section. [L 2017, c 64, §1]

§92-8 Emergency meetings. (a) If a board finds that an imminent peril to the public health, safety, or welfare requires a meeting in less time than is provided for in section 92-7, the board may hold an emergency meeting provided that:

- (1) The board states in writing the reasons for its findings;
- (2) Two-thirds of all members to which the board is entitled agree that the findings are correct and an emergency exists;
- (3) An emergency agenda and the findings are electronically posted pursuant to section 92-7(b), filed with the office of the lieutenant governor or the appropriate county clerk's office, and posted in the board's office; provided further that the six calendar day requirement for filing and electronic posting shall not apply; and
- (4) Persons requesting notification on a regular basis are contacted by postal or electronic mail or telephone as soon as practicable.

(b) If an unanticipated event requires a board to take action on a matter over which it has supervision, control, jurisdiction, or advisory power, within less time than is provided for in section 92-7 to notice and convene a meeting of the board, the board may hold an emergency meeting to deliberate and decide whether and how to act in response to the unanticipated event; provided that:

- (1) The board states in writing the reasons for its finding that an unanticipated event has occurred and that an emergency meeting is necessary and the attorney general concurs that the conditions necessary for an emergency meeting under this subsection exist;
- (2) Two-thirds of all members to which the board is entitled agree that the conditions necessary for an emergency meeting under this subsection exist;
- (3) The finding that an unanticipated event has occurred and that an emergency meeting is necessary and the agenda for the emergency meeting under this subsection are electronically posted pursuant to section 92-7(b), filed with the office of the lieutenant governor or the appropriate county clerk's office, and posted in the board's office; provided further that the six calendar day

requirement for filing and electronic posting shall not apply;

- (4) Persons requesting notification on a regular basis are contacted by postal or electronic mail or telephone as soon as practicable; and
- (5) The board limits its action to only that action that must be taken on or before the date that a meeting would have been held, had the board noticed the meeting pursuant to section 92-7.

(c) For the purposes of this part, an “unanticipated event” means:

- (1) An event which members of the board did not have sufficient advance knowledge of or reasonably could not have known about from information published by the media or information generally available in the community;
- (2) A deadline established by a legislative body, a court, or a federal, state, or county agency beyond the control of a board; or
- (3) A consequence of an event for which reasonably informed and knowledgeable board members could not have taken all necessary [L 1975, c 166, pt of §1; am L 1996, c 267, §4; am L 2017, c 64, §3; am L 2019, c 244, §3]

§92-9 Minutes. (a) For section effective until June 30, 2018, see above.] (a) The board shall keep written or recorded minutes of all meetings. Unless otherwise required by law, neither a full transcript nor a recording of the meeting is required, but the minutes shall give a true reflection of the matters discussed at the meeting and the views of the participants. Written minutes shall include, but need not be limited to:

- (1) The date, time and place of the meeting;
- (2) The members of the board recorded as either present or absent;
- (3) The substance of all matters proposed, discussed, or decided; and a record, by individual member, of any votes taken; and
- (4) Any other information that any member of the board requests be included or reflected in the minutes.

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

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

(c) All or any part of a meeting of a board may be recorded by any person in attendance by any means of reproduction, except when a meeting is closed pursuant to section 92-4; provided the recording does not actively interfere with the conduct of the meeting. [L 1975, c 166, pt of §1; am L 2017, c 64, §4]

Attorney General Opinions

This section and sections 92-1 and 92-7 require commission to specify subject matter of items on public meeting agenda; agency responsible to make its minutes available to public. Att. Gen. Op. 85-2.

This section and §92-5(a)(2) read together permit board and commission members to disclose some matters deliberated or decided in executive session, but they cannot disclose matters which would be inconsistent with §92-5(a)(2), i.e., matters affecting privacy of individuals under consideration for hire and they must maintain this confidentiality for as long as disclosure would defeat purpose of convening the executive meeting. Att. Gen. Op. 94-1.

Case Notes

In a suit deciding whether disclosure of county council executive session minutes was required, circuit court properly found that both chapter 92F and this chapter applied; if the meeting met an exception to the open meeting requirements put forth in this chapter, such as an exception

enumerated in §92-5, the council was not required to disclose the minutes of that meeting to the public; if the meeting did not fall under such an exception, the council was required to disclose the minutes pursuant to this section and §92F-12. 120 H. 34 (App.), 200 P.3d 403.

§92-10 Legislative branch; applicability. Notwithstanding any provisions contained in this chapter to the contrary, open meeting requirements, and provisions regarding enforcement, penalties and sanctions, as they are to relate to the state legislature or to any of its members shall be such as shall be from time to time prescribed by the respective rules and procedures of the senate and the house of representatives, which rules and procedures shall take precedence over this part. Similarly, provisions relating to notice, agenda and minutes of meetings, and such other requirements as may be necessary, shall also be governed by the respective rules and procedures of the senate and the house of representatives. [L 1975, c 166, pt of §1]

§92-11 Voidability. Any final action taken in violation of sections 92-3 and 92-7 may be voidable upon proof of violation. A suit to void any final action shall be commenced within ninety days of the action. [L 1975, c 166, pt of §1; am L 2005, c 84, §2]

Case Notes

Respondent Maui county council's first reading of bills did not constitute a "final action" that is subject to invalidation under this section, as a second and final reading was required under the Maui county charter for respondent to carry out its authority on the matter; "final action" in the context of this section means "the final vote required to carry out the board's authority on the matter". 130 H. 228, 307 P.3d 1174 (2013).

Violation not wilful. 4 H. App. 633, 675 P.2d 784.

§92-12 Enforcement. (a) The attorney general and the prosecuting attorney shall enforce this part.

(b) The circuit courts of the State shall have jurisdiction to enforce the provisions of this part by injunction or other appropriate remedy.

(c) Any person may commence a suit in the circuit court of the circuit in which a prohibited act occurs for the purpose of requiring compliance with or preventing violations of this part or to determine the applicability of this part to discussions or decisions of the public body. The court may order payment of reasonable attorney's fees and costs to the prevailing party in a suit brought under this section.

(d) Opinions and rulings of the office of information practices shall be admissible in an action brought under this part and shall be considered as precedent unless found to be palpably erroneous.

(e) The proceedings for review shall not stay the enforcement of any agency decisions; but the reviewing court may order a stay if the following criteria have been met:

- (1) There is likelihood that the party bringing the action will prevail on the merits;
- (2) Irreparable damage will result if a stay is not ordered;
- (3) No irreparable damage to the public will result from the stay order; and
- (4) Public interest will be served by the stay order. [L 1975, c 166, pt of §1; am L 1985, c 278, §5; am L 2012, c 176, §3]

Case Notes

Entitles "any person" to "commence a suit in the circuit court of the circuit in which a prohibited act occurs", regardless of the person's participation in any proceeding. 74 H. 365, 846 P.2d 882.

Award of attorneys' fees under subsection (c) intended to apply where citizen prevails against government; prevailing defendant private party thus not entitled to attorneys' fees under this subsection. 86 H. 132, 948 P.2d 122.

Plaintiffs, as a "private attorney general", had standing pursuant to subsection (c) to present case to determine the applicability of the sunshine law to defendants' conduct--where five or more city council members participated in a series of private one-on-one conversations regarding, among other matters, the proposed reorganization of the council's standing committees--and to seek a declaration that it violated the sunshine law. 117 H. 1 (App.), 175 P.3d 111.

Trial court did not err in hearing plaintiffs' suit as to the allegations that defendants' conduct relating to a council resolution violated the sunshine law where exceptions to the mootness doctrine applied to the case, including the public interest exception when the question involved affects the public interest and is likely that similar questions arising in the future would likewise become moot before a needed authoritative determination by an appellate court, and the exception when the case is capable of repetition, yet evades review. 117 H. 1 (App.), 175 P.3d 111.

Where plaintiffs prevailed on some, but not all, of their claims, but plaintiffs' claims for relief involved a common core of facts and were based on related legal theories, and much of counsel's time was devoted generally to litigation as a whole, making it difficult to divide the hours expended on a claim-by-claim basis, trial court should not have reduced the plaintiffs' attorney's fees request by seventy-five per cent; plaintiffs

were thus entitled to full attorney's fees pursuant to subsection (c). 117 H. 1 (App.), 175 P.3d 111.

As this chapter governs board meetings and board meeting minutes, including those of executive sessions, and this section, by its plain language, permits "any person", including the county, to bring suit in circuit court "to determine the applicability of part I of this chapter to the discussions or decisions" of the council, the circuit court did not err in determining it had jurisdiction pursuant to this chapter to determine whether county council's executive session minutes had to be disclosed. 120 H. 34 (App.), 200 P.3d 403.

§92-13 Penalties. Any person who wilfully violates any provisions of this part shall be guilty of a misdemeanor, and upon conviction, may be summarily removed from the board unless otherwise provided by law. [L1975, c 166, pt of §1]

from PART II. BOARDS: QUORUM; GENERAL POWERS

§92-15 Boards and commissions; quorum; number of votes necessary to validate acts.

Whenever the number of members necessary to constitute a quorum to do business, or the number of members necessary to validate any act, of any board or commission of the State or of any political subdivision thereof, is not specified in the law or ordinance creating the same or in any other law or ordinance, a majority of all the members to which the board or commission is entitled shall constitute a quorum to do business, and the concurrence of a majority of all members to which the board or commission is entitled shall be necessary to make any action of the board or commission valid; provided that due notice shall have been given to all members of the board or commission or a bona fide attempt shall have been made to give the notice to all members to whom it was reasonably practicable to give the notice. This section shall not invalidate any act of any board or commission performed prior to April 20, 1937, which, under the general law then in effect, would otherwise be valid. [L1937, c 40, §1; RL 1945, §482; RL 1955, §7-26; HRS §92-11; ren §92-15]

Attorney General Opinions

"Concurrence" means affirmative vote, not abstention. Att. Gen. Op. 85-11.

Case Notes

Where the required majority exists without the vote of the disqualified member, disqualified member's participation will not invalidate the result. 63 H. 222, 624 P.2d 1353.

[§92-15.5] Nonattendance of board member; expiration of term. a) Notwithstanding any law to the contrary, the term of a board member shall expire upon the failure of the member, without valid excuse, to attend three consecutive meetings duly noticed to all members of the board and where the board failed to constitute quorum necessary to transact board business. The chair or acting chair of the board shall determine if the absence of the member is excusable. The expiration of the member's term shall be effective immediately after the third consecutive unattended meeting and unexcused absence. The vacancy shall be filled in the same manner as the original appointment.

(b) This section shall not apply to ex officio members of a board.

(c) Notwithstanding the definition of "board" in section 92-2, this section shall apply only to a state board and shall not apply to a board of any political subdivision of the State or whose authority is strictly advisory. [L 2004, c 234, §1]

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