

H.B. NO. 1148

A BILL FOR AN ACT

RELATING TO PUBLIC AGENCY MEETINGS.

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

1 SECTION 1. Section 92-7, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§92-7 Notice.** (a) The board shall give written public
4 notice of any regular, special, emergency, or rescheduled
5 meeting, or any executive meeting when anticipated in advance.
6 The notice shall include an agenda which lists all of the items
7 to be considered at the forthcoming meeting, the date, time, and
8 place of the meeting, and in the case of an executive meeting
9 the purpose shall be stated.

10 (b) ~~[The] At least six calendar days before the meeting,~~
11 ~~the board shall file the notice in the [office of the lieutenant~~
12 ~~governor or the appropriate county clerk's office, and in the]~~
13 ~~board's office for public inspection, [at least six calendar~~
14 ~~days before the meeting. The notice shall also be posted] and~~
15 ~~shall also post the notice~~ at the site of the meeting whenever
16 feasible. At least six calendar days before the meeting, a
17 state board shall also file the notice by electronic posting on
18 the state calendar maintained on the designated central State of

1 Hawaii Internet website, and a county board shall also file the
2 notice in the appropriate county clerk's office. In the event
3 that a state board is unable to file the notice on the state
4 calendar because of an interruption in service that prevents
5 access to the state calendar, the board shall file the notice in
6 the office of the information practices. The office of
7 information practices shall then post the notice on the state
8 calendar as soon as service is restored.

9 (c) If the [~~written public~~] notice is filed [~~in the office~~
10 ~~of the lieutenant governor or~~] on the state calendar or in the
11 appropriate county clerk's office less than six calendar days
12 before the meeting, the [~~lieutenant governor~~] the state board's
13 notice shall be rejected or the appropriate county clerk shall
14 immediately notify the chairperson of the board, or the director
15 of the department within which the board is established or
16 placed, of the tardy filing of the meeting notice. The meeting
17 shall be canceled as a matter of law, [~~the chairperson~~] and the
18 chairperson of the board or the department director shall ensure
19 that a notice canceling the meeting is posted in the board's
20 office and at the place of the meeting, and no meeting shall be
21 held.

22 (d) No board shall change the agenda, once filed, by
23 adding items thereto without a two-thirds recorded vote of all

1 members to which the board is entitled; provided that no item
2 shall be added to the agenda if it is of reasonably major
3 importance and action thereon by the board will affect a
4 significant number of persons. Items of reasonably major
5 importance not decided at a scheduled meeting shall be
6 considered only at a meeting continued to a reasonable day and
7 time.

8 (e) The board shall maintain a list of names and addresses
9 of persons who request notification of meetings and shall mail a
10 copy of the notice to such persons at their last recorded
11 address no later than the time the agenda is filed under
12 subsection (b)."

13 SECTION 2. Section 92-8, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "**§92-8 Emergency meetings.** (a) If a board finds that an
16 imminent peril to the public health, safety, or welfare requires
17 a meeting in less time than is provided for in section 92-7, the
18 board may hold an emergency meeting provided that:

19 (1) The board states in writing the reasons for its
20 findings;

21 (2) Two-thirds of all members to which the board is
22 entitled agree that the findings are correct and an
23 emergency exists;

1 (3) An emergency agenda and the findings are filed [~~with~~
2 ~~the office of the lieutenant governor or the~~
3 ~~appropriate county clerk's office, and in the board's~~
4 ~~office; and~~] at the locations specified for notices in
5 section 92-7; and

6 (4) Persons requesting notification on a regular basis are
7 contacted by [~~mail or~~] telephone or their requested
8 method of notification as soon as practicable.

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

16 (1) The board states in writing the reasons for its
17 finding that an unanticipated event has occurred and
18 that an emergency meeting is necessary and the
19 attorney general concurs that the conditions necessary
20 for an emergency meeting under this subsection exist;

21 (2) Two-thirds of all members to which the board is
22 entitled agree that the conditions necessary for an
23 emergency meeting under this subsection exist;

1 (3) ~~[The finding that an unanticipated event has occurred~~
2 ~~and that an emergency meeting is necessary and the~~
3 ~~agenda for the emergency meeting under this subsection~~
4 ~~are filed with the office of the lieutenant governor~~
5 ~~or the appropriate county clerk's office, and in the~~
6 ~~board's office;]~~ An emergency agenda and the findings
7 are filed at the locations specified for notices in
8 section 92-7;

9 (4) Persons requesting notification on a regular basis are
10 contacted by ~~[mail or]~~ telephone or their requested
11 method of notification as soon as practicable; and

12 (5) The board limits its action to only that action which
13 must be taken on or before the date that a meeting
14 would have been held, had the board noticed the
15 meeting pursuant to section 92-7.

16 (c) For purposes of this part, an "unanticipated event"
17 means:

18 (1) An event which members of the board did not have
19 sufficient advance knowledge of or reasonably could
20 not have known about from information published by the
21 media or information generally available in the
22 community;

H.B. NO. 1148

1 (2) A deadline established by a legislative body, a court,
2 or a federal, state, or county agency beyond the
3 control of a board; or

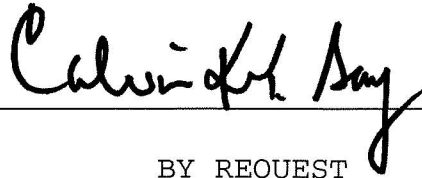
4 (3) A consequence of an event for which reasonably
5 informed and knowledgeable board members could not
6 have taken all necessary action."

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

9 SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY:



BY REQUEST

JAN 26 2009

Report Title:

Sunshine Law; Meeting; Notice; State Calendar; Lieutenant Governor

Description:

Authorizes the electronic filing of meeting notices under part I of chapter 92, Hawaii Revised Statutes, on the state calendar.

JUSTIFICATION SHEET

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

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

PURPOSE: To require state boards to file their
meeting notices under part I of chapter 92,
Hawaii Revised Statutes (HRS) (Sunshine
Law), electronically on the state calendar
maintained on the designated central state
Internet website.

To further require state boards to file
their emergency meeting agenda and requisite
findings for such meeting electronically on
the state calendar.

To require the Office of Information
Practices to accept the meeting notices or
emergency meeting agendas and findings for
filing in the event that there is a
disruption in service of the state calendar
and to require the Office of Information
Practices to post the same on the state
calendar as soon as service resumes.

To provide other housekeeping changes to
statute related to untimely filed notice.

MEANS: Amend sections 92-7 and 92-8, HRS.

JUSTIFICATION: The Governor's Executive Memorandum No. 08-
06 directed all state boards to post their
meeting notices on the state calendar. This
amendment would require this posting on the
state calendar to meet the official notice
filing requirement in lieu of the present
requirement to file the notices in the
Office of the Lieutenant Governor.

Meeting notices currently filed with the
Office of the Lieutenant Governor are posted
in the basement of the State Capitol

Building. The proposed amendment will provide easier and greater accessibility because it will allow the public to access the notices over the Internet at a single site.

Use of electronic filing will also promote government efficiency by reducing staff resources spent to maintain and physically post the official filings. It will also eliminate the need for board staff to both post the notice electronically on the state calendar and to file a hard copy with the Office of the Lieutenant Governor.

Amending the emergency meeting provisions to require filing of the emergency meeting agendas and requisite findings justifying the emergency meeting would similarly provide more efficiency and better access to the public notices while preventing any confusion that could result if the filing methods were inconsistent.

Impact on the public: This bill will make it easier for the public to access state board meeting notices and emergency meeting notices and findings because all the notices will be accessible and easily searchable over the Internet and centrally located on the state calendar. The statute as amended will still provide alternative means of receiving notice for those members of the public that do not have access to the Internet.

Impact on the department and other agencies: This bill will simplify the filing process for state boards, will save staff resources of the Office of the Lieutenant Governor in receiving, maintaining, and posting the official filings, and will save state boards' staff time because they must currently file their notices with the Office of the Lieutenant Governor and also post their notices on the state calendar per the Governor's directive. This bill will also

provide some cost savings because it will eliminate hard copy filings as well as associated costs of delivery of the hard copies.

This bill will have a minimal effect on OIP, which will serve as the backup filing location in the event there is an interruption in service that prevents access to the state calendar; and on the Department of Accounting and General Services that oversees maintenance of the state Internet portal and website.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: None.

OTHER AFFECTED
AGENCIES: All state boards subject to the Sunshine Law, Office of the Lieutenant Governor, Department of Accounting and General Services, and the Office of Information Practices.

EFFECTIVE DATE: Upon approval.