

MAR 06 2012

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# A BILL FOR AN ACT

RELATING TO ELECTRONIC INFORMATION.

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

1           SECTION 1. The legislature finds that under existing law,  
2 Hawaii's government agencies, boards, commissions, and  
3 committees are required to give written public notice of any  
4 regular, special, or rescheduled meeting, including an agenda  
5 and the date, time, and place of the meeting. The minutes of  
6 the meeting are considered a public record and required to be  
7 available to the public within thirty days following the  
8 meeting.

9           However, existing law does not require electronic posting  
10 of these public notices and records and a recent informal review  
11 of state and county agencies found that many do not post their  
12 agendas and meeting minutes online, or are inconsistent in the  
13 postings.

14           The legislature further finds that technology and  
15 electronic posting can help facilitate public access, while at  
16 the same time reduce costs associated with the printing and  
17 duplication of paper copies of these documents. Efforts are  
18 underway throughout state and county government to reduce the



1 use of hard-copy documents, improve public access to government  
2 records, and facilitate communication through technology.

3 The purpose of this Act is to support these efforts by:

- 4 (1) Eliminating the requirement to post hard-copy notices  
5 of public meetings with the lieutenant governor's  
6 office;
- 7 (2) Requiring all government agencies, boards,  
8 commissions, and committees to post electronic copies  
9 of their agendas, minutes, and related documents  
10 online, except in situations involving technical  
11 difficulties, during which the posting of hard-copy  
12 notices is required; and
- 13 (3) Encouraging state agencies to broadcast their  
14 proceedings online.

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

17 "§92-7 Notice. (a) The board shall give written public  
18 notice of any regular, special, emergency, or rescheduled  
19 meeting, or any executive meeting when anticipated in advance.  
20 The notice shall include an agenda [~~which~~] that lists all of the  
21 items to be considered at the forthcoming meeting, the date,  
22 time, and place of the meeting, and in the case of an executive



1 meeting the purpose shall be stated. The means specified by  
2 this section shall be the only means required for giving notice  
3 under this part, notwithstanding any law to the contrary.

4 (b) The board shall [~~file~~] post the notice [~~in the office~~  
5 ~~of the lieutenant governor or the appropriate county clerk's~~  
6 ~~office,~~] on the electronic calendar maintained on the State of  
7 Hawaii's internet website or on the appropriate county's  
8 internet website, on the website of the board or the website of  
9 the department within which the board is established if the  
10 board does not have a website, and in the board's office for  
11 public inspection, at least six calendar days before the  
12 meeting. The notice shall also be posted at the [site] location  
13 of the meeting whenever feasible. In the event that a board is  
14 unable to post its notice on an electronic calendar because of  
15 an interruption in service that prevents access to the  
16 electronic calendar, the board shall file the notice in the  
17 office of the lieutenant governor if a state board, or in the  
18 appropriate county clerk's office if a county board. The office  
19 of the lieutenant governor or the appropriate county clerk's  
20 office shall then post the notice on the state or county  
21 electronic calendar as soon as service is restored.



1 (c) If the written public notice is [~~filed in the office~~  
2 ~~of the lieutenant governor~~] not posted on the State of Hawaii's  
3 internet website or the appropriate [~~county clerk's office less~~  
4 ~~than~~] county's internet website at least six calendar days  
5 before the meeting, the [~~lieutenant governor or the appropriate~~  
6 ~~county clerk shall immediately notify the chairperson of the~~  
7 ~~board, or the director of the department within which the board~~  
8 ~~is established or placed, of the tardy filing of the meeting~~  
9 ~~notice. The~~] board's electronic notice shall be rejected by the  
10 electronic calendar. If there is a dispute as to whether a  
11 notice was timely filed on an electronic calendar, a printout of  
12 the electronically time-stamped agenda shall be conclusive  
13 evidence of the filing date. If a meeting notice is filed late,  
14 the meeting shall be canceled as a matter of law, and the  
15 chairperson of the board or the department director shall ensure  
16 that a notice canceling the meeting is posted in the board's  
17 office, and whenever feasible, at the [~~place~~] location of the  
18 meeting, and no meeting shall be held.

19 (d) No board shall change the agenda, once [~~filed,~~]  
20 posted, by adding items thereto without a two-thirds recorded  
21 vote of all members to which the board is entitled; provided  
22 that no item shall be added to the agenda if it is of reasonably



1 major importance and action thereon by the board will affect a  
2 significant number of persons. Items of reasonably major  
3 importance not decided at a scheduled meeting shall be  
4 considered only at a meeting continued to a reasonable day and  
5 time.

6 (e) The board shall maintain a list of names and addresses  
7 of persons who request notification of meetings and shall [mail]  
8 transmit a copy of the notice to [~~such~~] these persons at their  
9 last recorded mailing or electronic mailing address [~~no later~~  
10 ~~than the time the agenda is filed under subsection (b)-.]~~ at  
11 least six calendar days before the meeting."

12 SECTION 3. Section 92-8, Hawaii Revised Statutes, is  
13 amended by amending subsections (a) and (b) to read as follows:

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

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

20 (2) Two-thirds of all members to which the board is  
21 entitled agree that the findings are correct and an  
22 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;~~] posted as required for notices under section  
5           92-7; and

6           (4) Persons requesting notification on a regular basis are  
7           contacted by mail, electronic mail, or telephone as  
8           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 if a state board, or the county  
20          counsel if a county board, concurs that the conditions  
21          necessary for an emergency meeting under this  
22          subsection exist;



- 1           (2) Two-thirds of all members to which the board is  
2           entitled agree that the conditions necessary for an  
3           emergency meeting under this subsection exist;
- 4           (3) The finding that an unanticipated event has occurred  
5           and that an emergency meeting is necessary and the  
6           agenda for the emergency meeting under this subsection  
7           are [~~filed with the office of the lieutenant governor~~  
8           ~~or the appropriate county clerk's office, and in the~~  
9           ~~board's office;~~] posted as required for notices under  
10          section 92-7;
- 11          (4) Persons requesting notification on a regular basis are  
12          contacted by mail, electronic mail, or telephone as  
13          soon as practicable; and
- 14          (5) The board limits its action to only that action which  
15          must be taken on or before the date that a meeting  
16          would have been held, had the board noticed the  
17          meeting pursuant to section 92-7."

18          SECTION 4. Section 92-9, Hawaii Revised Statutes, is  
19          amended by amending subsections (a) and (b) to read as follows:

20          "(a) The board shall keep written minutes of all meetings.  
21          Unless otherwise required by law, neither a full transcript nor  
22          a recording of the meeting is required, but the written minutes



1 shall give a true reflection of the matters discussed at the  
2 meeting and the views of the participants. The minutes shall  
3 include~~[7]~~ but ~~[need]~~ not be limited to:

- 4 (1) The date, time and ~~[place]~~ location of the meeting;
- 5 (2) The members of the board recorded as either present or  
6 absent;
- 7 (3) The substance of all matters proposed, discussed, or  
8 decided; and a record, by individual member, of any  
9 votes taken; ~~[and]~~
- 10 (4) Any other information that any member of the board  
11 requests be included or reflected in the minutes~~[-]~~;  
12 and
- 13 (5) For a state board, any written materials distributed  
14 to the board at the meeting, to the extent that such  
15 materials would be required to be disclosed under part  
16 II of chapter 92F and that physical copies of such  
17 materials shall not be required if they are  
18 electronically posted on the website as required under  
19 subsection (b).
- 20 (b) The minutes shall be public records and for a state  
21 board shall be [available] posted on the website of the board or  
22 the website of the department within which the board is





1 established if the board does not have a website, and for a  
2 county board shall be available upon request, within thirty days  
3 after the meeting except where such disclosure would be  
4 inconsistent with section 92-5; provided that minutes of  
5 executive meetings may be withheld so long as their publication  
6 would defeat the lawful purpose of the executive meeting, but no  
7 longer."

8 SECTION 5. Section 92-41, Hawaii Revised Statutes, is  
9 amended to read as follows:

10 "**§92-41 Giving public notices.** Notwithstanding any law to  
11 the contrary, all governmental agencies scheduling a public  
12 hearing shall [~~give~~] post public notice [~~in~~] on the website of  
13 the county affected by the proposed action, to inform the public  
14 of the date, time, [~~place,~~] location, and subject matter of the  
15 public hearing. This requirement shall prevail whether or not  
16 the governmental agency giving notice of public hearing is  
17 specifically required by law, and shall be in addition to other  
18 procedures required by law."

19 SECTION 6. Statutory material to be repealed is bracketed  
20 and stricken. New statutory material is underscored.

21 SECTION 7. This Act shall take effect on July 1, 2050;  
22 provided that section 4 shall take effect on July 1, 2012.



**Report Title:**

Public Meetings; Electronic Posting of Agendas and Minutes

**Description:**

Eliminates the requirement to file hard-copy notices of public meetings with the office of the lieutenant governor or county clerk; requires the notice to be posted on the electronic calendar maintained on the State of Hawaii's internet website or appropriate county's internet website, on the website of the board or the website of the department within which the board is established if the board does not have a website; requires all government agencies, boards, commissions, and committees to post electronic copies of their agendas and minutes online, and for a state board, any written materials distributed to the board at the meeting, to the extent that such materials would be required to be disclosed, and transmit electronic copies or hard copies, of meeting notices to persons who request notification.

Effective 7/1/2050. (SD2)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

