

JAN 22 2016

A BILL FOR AN ACT

RELATING TO OPEN GOVERNMENT.

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

1 SECTION 1. Chapter 92, Hawaii Revised Statutes, is amended
2 by adding a new section to be appropriately designated and to
3 read as follows:

4 "§92- Board packet; filing. At the time that the agenda
5 is filed and posted under section 92-7(b) or when the board
6 packet is distributed to the board members, whichever occurs
7 earlier, the board shall file the board packet in the board's
8 office for public inspection and provide copies to persons
9 requesting notification pursuant to section 92-7(e).

10 For purposes of this section, "board packet" means
11 documents subject to disclosure under chapter 92F, or
12 disclosable portions thereof, that are compiled by the board and
13 distributed to board members before meeting for use at that
14 meeting."

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



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

- 13 (1) It is the intent of this part to protect the people's
14 right to know[-] and participate;
15 (2) The provisions requiring open meetings shall be
16 liberally construed; and
17 (3) The provisions providing for exceptions to the open
18 meeting requirements shall be strictly construed
19 against closed meetings."

20 SECTION 3. Section 92-3, Hawaii Revised Statutes, is
21 amended to read as follows:



1 "§92-3 Open meetings[-] and participation. Every meeting
2 of all boards shall be open to the public and all persons shall
3 be permitted to attend any meeting unless otherwise provided in
4 the constitution or as closed pursuant to sections 92-4 and
5 92-5; provided that the removal of any person or persons who
6 wilfully [~~disrupts~~] disrupt a meeting to prevent and compromise
7 the conduct of the meeting shall not be prohibited. The boards
8 shall afford all interested persons an opportunity to view,
9 either electronically or in hard copy, documents, reports, and
10 proposals under consideration at the meeting at the time the
11 agenda is made available to the public. The boards shall also
12 afford all interested persons an opportunity to submit data,
13 views, or arguments, in writing, on any agenda item. The boards
14 shall also afford all interested persons an opportunity to
15 present oral testimony on any agenda item. The boards may
16 provide for reasonable administration of oral testimony by
17 rule."

18 SECTION 4. Section 92-7, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "§92-7 Notice. (a) The board shall give written public
21 notice of any regular, special, emergency, or rescheduled



1 meeting, or any executive meeting when anticipated in advance.
2 The notice shall include an agenda which lists all of the items
3 to be considered at the forthcoming meeting, the date, time, and
4 place of the meeting, and in the case of an executive meeting
5 the purpose shall be stated. If an item to be considered is the
6 proposed adoption, amendment, or repeal of administrative rules,
7 an agenda meets the requirements for public notice pursuant to
8 this section if it contains a statement on the topic of the
9 proposed rules or a general description of the subjects
10 involved, as described in section 91-3(a)(1)(A), and a statement
11 of when and where the proposed rules may be viewed in person and
12 on the Internet as provided in section 91-2.6. The means
13 specified by this section shall be the only means required for
14 giving notice under this part notwithstanding any law to the
15 contrary.

16 (b) ~~[The]~~ No less than six calendar days before the
17 meeting, the board shall [file]:

18 (1) File the notice in the office of the lieutenant
19 governor or the appropriate county clerk's office~~[7]~~
20 and in the board's office for public inspection~~[7]~~ at
21 least six calendar days before the meeting]; and



1 (2) Post the notice on the electronic calendar on the
2 State's internet website maintained by the State or
3 the appropriate county's internet website maintained
4 by that respective county.

5 The notice shall also be posted at the site of the meeting
6 whenever feasible.

7 (c) If the written public notice is filed [~~in the office~~
8 ~~of the lieutenant governor or the appropriate county clerk's~~
9 ~~office]~~ or electronically posted less than six calendar days
10 before the meeting, the lieutenant governor or the appropriate
11 county clerk shall immediately notify the chairperson of the
12 board, or the director of the department within which the board
13 is established or placed, of the tardy filing or electronic
14 posting of the meeting notice. The meeting shall be canceled as
15 a matter of law [~~, the]~~ and shall not be held. The chairperson
16 or the director shall ensure that a notice canceling the meeting
17 is filed in the office of the lieutenant governor or the
18 appropriate county clerk's office, electronically posted on the
19 electronic calendar maintained by the State or appropriate
20 county, and posted at the place of the meeting [~~, and no meeting~~
21 ~~shall be held]~~. If there is a dispute as to whether a notice



1 was timely posted on an electronic calendar maintained by the
2 State or appropriate county, a printout of the electronic time-
3 stamped agenda shall be conclusive evidence of the electronic
4 posting date.

5 (d) No board shall change the agenda, once filed^[7] or
6 electronically posted, by adding items thereto without a two-
7 thirds recorded vote of all members to which the board is
8 entitled; provided that no item shall be added to the agenda if
9 it is of reasonably major importance and action thereon by the
10 board will affect a significant number of persons. Items of
11 reasonably major importance not decided at a scheduled meeting
12 shall be considered only at a meeting continued to a reasonable
13 day and time.

14 (e) The board shall maintain a list of names and postal or
15 electronic mail addresses of persons who request notification of
16 meetings and shall mail or electronically mail a copy of the
17 notice to such persons at their last recorded postal or
18 electronic mail address no later than the time the agenda is
19 filed or electronically posted under subsection (b) [-]; provided
20 that the board shall allow a person to continue to receive a



1 copy of the notice via postal mail rather than electronic mail
2 upon request of the person."

3 SECTION 5. Section 92-8, Hawaii Revised Statutes, is
4 amended by amending subsections (a) and (b) to read as follows:

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

- 9 (1) The board states in writing the reasons for its
10 findings;
- 11 (2) Two-thirds of all members to which the board is
12 entitled agree that the findings are correct and an
13 emergency exists;
- 14 (3) An emergency agenda and the findings are filed [~~with~~
15 ~~the office of the lieutenant governor or the~~
16 ~~appropriate county clerk's office, and in the board's~~
17 ~~office;~~] and electronically posted pursuant to section
18 92-7(b), excluding the six-calendar day filing and
19 electronic posting requirement; and



1 (4) Persons requesting notification on a regular basis are
2 contacted by postal or electronic mail or telephone as
3 soon as practicable.

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

11 (1) The board states in writing the reasons for its
12 finding that an unanticipated event has occurred and
13 that an emergency meeting is necessary and the
14 attorney general concurs that the conditions necessary
15 for an emergency meeting under this subsection exist;

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

19 (3) The finding that an unanticipated event has occurred
20 and that an emergency meeting is necessary and the
21 agenda for the emergency meeting under this subsection



1 are filed [~~with the office of the lieutenant governor~~
2 ~~or the appropriate county clerk's office, and in the~~
3 ~~board's office,]~~ and electronically posted pursuant to
4 section 92-7(b), excluding the six-calendar day filing
5 and electronic posting requirement;

6 (4) Persons requesting notification on a regular basis are
7 contacted by postal or electronic mail or telephone as
8 soon as practicable; and

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

13 SECTION 6. Section 92-9, Hawaii Revised Statutes, is
14 amended by amending subsections (b) and (c) to read as follows:

15 "(b) The minutes, including video or sound recordings made
16 by the board, shall be public records publically posted on the
17 board's website, or if the board does not have a website, a
18 designated website maintained by the State or appropriate county
19 and shall be available within thirty days after the meeting,
20 regardless of whether the board has formally reviewed or
21 approved the minutes, except where such disclosure would be



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1 inconsistent with section 92-5; provided that minutes of
 2 executive meetings may be withheld so long as their publication
 3 would defeat the lawful purpose of the executive meeting, but no
 4 longer.

5 (c) All or any part of a meeting of a board may be
 6 recorded by any person in attendance by any means of [~~a tape~~
 7 ~~recorder or any other means of sonic~~] reproduction, except when
 8 a meeting is closed pursuant to section 92-4; provided the
 9 recording does not actively interfere with the conduct of the
 10 meeting."

11 SECTION 7. Statutory material to be repealed is bracketed
 12 and stricken. New statutory material is underscored.

13 SECTION 8. This Act shall take effect upon its approval.
 14

INTRODUCED BY:

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S.B. NO. 2293

Report Title:

Public Access to Board Meetings; Meeting Notice; Electronic Filing

Description:

Allows the electronic mailing and posting of meeting notices; requires the posting of the notice on the state or appropriate county websites; and increases public access to information before a public hearing by a board.

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

