
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 the board
5 packet is distributed to the board members, the board shall file
6 the board packet in the board's office for public inspection and
7 provide notice that the board packet is available to persons
8 requesting notification of meetings pursuant to section 92-7(e).
9 When the board packets are filed in the board's office, the
10 board shall provide reasonably prompt access to the board packet
11 to any person upon request. To the greatest extent feasible,
12 the board shall accommodate requests for electronic access to
13 the board packet.

14 For purposes of this section, "board packet" means
15 documents that are compiled by the board and distributed to
16 board members before a meeting for use at that meeting; provided
17 that this section shall not require public access to information
18 protected from disclosure under chapter 92F."



1 SECTION 2. Section 92-3, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§92-3 **Open meetings.** Every meeting of all boards shall
4 be open to the public and all persons shall be permitted to
5 attend any meeting unless otherwise provided in the constitution
6 or as closed pursuant to sections 92-4 and 92-5; provided that
7 the removal of any person or persons who wilfully disrupts a
8 meeting to prevent and compromise the conduct of the meeting
9 shall not be prohibited. The boards shall afford all interested
10 persons an opportunity to submit data, views, or arguments, in
11 writing, on any agenda item. The boards shall also afford all
12 interested persons an opportunity to present oral testimony on
13 any agenda item[-]; provided that oral testimony shall be
14 allowed for each agenda item separately and at the time the item
15 is first brought up for discussion at the meeting. The boards
16 may provide for reasonable administration of oral testimony by
17 rule."

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

16 (b) [~~The~~] At least six calendar days before the meeting,
 17 the board shall file the notice in the office of the lieutenant
 18 governor or the appropriate county clerk's office[7] and in the
 19 board's office for public inspection, [~~at least six calendar~~
 20 days before the meeting.] and shall post the notice on an
 21 electronic calendar on a website maintained by the State or the



1 appropriate county. The notice shall also be posted at the site
2 of the meeting whenever feasible.

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



1 posting date. The board shall provide a copy of the time-
2 stamped agenda upon request.

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

12 (e) The board shall maintain a list of names and postal or
13 electronic mail addresses of persons who request notification of
14 meetings and shall mail a copy of the notice to such persons by
15 their chosen means at their last recorded postal or electronic
16 address no later than the time the agenda is filed or
17 electronically posted under subsection (b)."

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

20 "(a) If a board finds that an imminent peril to the public
21 health, safety, or welfare requires a meeting in less time than



1 is provided for in section 92-7, the board may hold an emergency
2 meeting provided that:

- 3 (1) The board states in writing the reasons for its
4 findings;
- 5 (2) Two-thirds of all members to which the board is
6 entitled agree that the findings are correct and an
7 emergency exists;
- 8 (3) An emergency agenda and the findings are filed [~~with~~
9 ~~the office of the lieutenant governor or the~~
10 ~~appropriate county clerk's office, and in the board's~~
11 ~~office,~~] and electronically posted pursuant to section
12 92-7(b), excluding the six calendar day requirement
13 for filing and electronic posting; and
- 14 (4) Persons requesting notification on a regular basis are
15 contacted by postal or electronic mail or telephone as
16 soon as practicable.

17 (b) If an unanticipated event requires a board to take
18 action on a matter over which it has supervision, control,
19 jurisdiction, or advisory power, within less time than is
20 provided for in section 92-7 to notice and convene a meeting of
21 the board, the board may hold an emergency meeting to deliberate



1 and decide whether and how to act in response to the
2 unanticipated event; provided that:

3 (1) The board states in writing the reasons for its
4 finding that an unanticipated event has occurred and
5 that an emergency meeting is necessary and the
6 attorney general concurs that the conditions necessary
7 for an emergency meeting under this subsection exist;

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

11 (3) The finding that an unanticipated event has occurred
12 and that an emergency meeting is necessary and the
13 agenda for the emergency meeting under this subsection
14 are filed [~~with the office of the lieutenant governor~~
15 ~~or the appropriate county clerk's office, and in the~~
16 ~~board's office;~~] and electronically posted pursuant to
17 section 92-7(b), excluding the six calendar day
18 requirement for filing and posting;

19 (4) Persons requesting notification on a regular basis are
20 contacted by postal or electronic mail or telephone as
21 soon as practicable; and



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

5 SECTION 5. Section 92-9, Hawaii Revised Statutes, is
6 amended by amending subsections (b) and (c) to read as follows:

7 "(b) The minutes shall be public records and shall be
8 available and publicly posted on the board's website or, if the
9 board does not have a website, an appropriate state or county
10 website, within thirty days after the meeting except where such
11 disclosure would be inconsistent with section 92-5; provided
12 that a written summary shall accompany any minutes that are
13 posted in a digital or analog recording format; provided further
14 that minutes may be posted in draft form to meet the thirty-day
15 requirement; provided further that minutes of executive
16 meetings may be withheld so long as their publication would
17 defeat the lawful purpose of the executive meeting, but no
18 longer.

19 (c) All or any part of a meeting of a board may be
20 recorded by any person in attendance by [~~means of a tape~~
21 ~~recorder or~~] any [~~other~~] means of [~~some~~] reproduction, except



1 when a meeting is closed pursuant to section 92-4; provided the
2 recording does not actively interfere with the conduct of the
3 meeting."

4 SECTION 6. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 7. This Act shall take effect on January 1, 2018.

7



Report Title:

Public Agency Meetings; Meeting Notice; Emergency Meetings;
Board Packets; Open Meetings

Description:

Allows the electronic mailing of meeting notices; requires the posting of the notice on the State's or appropriate county's electronic calendar; and clarifies posting requirements and potential posting disputes. Adds emergency meetings to the public meeting notice requirements. Requires boards to make board packets available for public inspection and provide notice, upon request, of the availability of board packets. Requires oral testimony to be presented on agenda items separately and at the time the item is first brought up for discussion at the meeting. Effective January 1, 2018. (SD1)

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

