
A BILL FOR AN ACT

RELATING TO ADMINISTRATIVE PROCEDURE.

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

1 SECTION 1. The legislature finds that technology is moving
2 in the direction where electronic documents are replacing hard
3 copies. For example, the Hawaii commission on water resource
4 management, land use commission, board of land and natural
5 resources, and the public utilities commission maintain web-
6 based listings of dockets and docket documents. The state
7 judiciary and the state legislature also have converted to
8 electronic documents. In addition, web-based public
9 notification is becoming more common, although a few tweaks are
10 still needed. The public utilities commission, for example, is
11 in the process of converting to a web-based certificate of
12 service.

13 While many state agencies are moving toward electronic
14 documentation and notification, not all agencies are part of
15 this shift. The department of health does not maintain a list
16 of open dockets, and even parties cannot tell which official
17 documents are part of the official record in a proceeding. In



1 addition, the department of health can take more than two years
2 to determine parties, issues, and procedural schedule of a
3 contested case. This is because, unlike other agencies, under
4 the department of health's permitting process, a permit may be
5 approved before a contested case proceeding gets underway.
6 Thus, the permit holder is indifferent to how long the process
7 drags out.

8 The legislature finds that providing similar information on
9 a contested case, regardless of which agency is adjudicating the
10 party's case, can increase transparency and accountability for
11 state agencies.

12 The purpose of this Act is to require all agencies to
13 maintain a website with a list of open non-confidential
14 contested cases.

15 SECTION 2. Section 91-9, Hawaii Revised Statutes, is
16 amended to read as follows:

17 **"§91-9 Contested cases; notice; hearing; records. (a)**
18 Subject to section 91-8.5, in any contested case, all parties
19 shall be afforded an opportunity for hearing after reasonable
20 notice.

21 (b) The notice shall include a statement of:



- 1 (1) The date, time, place, and nature of hearing;
- 2 (2) The legal authority under which the hearing is to be
- 3 held;
- 4 (3) The particular sections of the statutes and rules
- 5 involved;
- 6 (4) An explicit statement in plain language of the issues
- 7 involved and the facts alleged by the agency in
- 8 support thereof; provided that if the agency is unable
- 9 to state [~~such~~] the issues and facts in detail at the
- 10 time the notice is served, the initial notice may be
- 11 limited to a statement of the issues involved, and
- 12 thereafter upon application a bill of particulars
- 13 shall be furnished; and
- 14 (5) The fact that any party may retain counsel if the
- 15 party so desires and the fact that an individual may
- 16 appear on the individual's own behalf, or a member of
- 17 a partnership may represent the partnership, or an
- 18 officer or authorized employee of a corporation or
- 19 trust or association may represent the corporation,
- 20 trust, or association.



1 (c) Opportunities shall be afforded all parties to present
2 evidence and argument on all issues involved.

3 (d) Any procedure in a contested case may be modified or
4 waived by stipulation of the parties and informal disposition
5 may be made of any contested case by stipulation, agreed
6 settlement, consent order, or default.

7 (e) For the purpose of agency decisions, the record shall
8 include:

9 (1) All pleadings, motions, and intermediate rulings;

10 (2) Evidence received or considered, including oral
11 testimony, exhibits, and a statement of matters
12 officially noticed;

13 (3) Offers of proof and rulings thereon;

14 (4) Proposed findings and exceptions;

15 (5) [~~Report~~] All reports of the officer who presided at
16 the hearing; and

17 (6) Staff memoranda submitted to members of the agency in
18 connection with their consideration of the case.

19 (f) It shall not be necessary to transcribe the record
20 unless requested for purposes of rehearing or court review.



1 (g) No matters outside the record shall be considered by
2 the agency in making its decision except as provided herein.

3 (h) Each agency shall maintain a website that contains a
4 list of the agency's open cases that are not confidential by
5 law."

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

8 SECTION 4. This Act shall take effect on January 1, 2050.



Report Title:

Administrative Procedure; Contested Case Proceedings and Filings; Online Lists

Description:

Requires agencies to maintain a website with a list of open non-confidential contested cases. (SB757 HD1)

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