

JAN 21 2021

## A BILL FOR AN ACT

RELATING TO BOARD MEMBERS.

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

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

"§92- Meetings conducted during certain states of emergency; in person requirement waived. (a) The provisions set forth in this section shall apply only when the governor has previously declared a state of emergency for a contagious illness and, without regard to whether the state of emergency is still in effect, a board reasonably believes that holding an in-person meeting subject to the usual requirements of this part would present an unreasonable health risk to board members and the public because of the continuing prevalence of the contagious illness for which the state of emergency was declared.

(b) A board holding a meeting by interactive conference technology pursuant to section 92-3.5 shall not be required to allow members of the public to join board members at the meeting



locations where board members are physically present or to  
identify those locations in the notice required by section 92-7,  
notwithstanding the usual requirement in section 92-3.5(a) that  
board members participate only from identified locations at  
which the public may join them; provided that at the meeting  
each board member shall identify where the member is located and  
who, if anyone, is present at that location with the member; and  
provided further that the notice required by section 92-7 shall:

(1) List at least one meeting location that is open to the  
public; and

(2) Inform members of the public how to:

(A) Remotely view the meeting through internet  
streaming or other means; and

(B) Provide oral testimony through an internet link,  
telephone conference, or other means.

(c) Notwithstanding section 92-3, a board may require  
members of the public attending a meeting in person to provide  
their names and contact information for the purpose of contact  
tracing if the board reasonably believes doing so is necessary  
due to the contagious illness as described in subsection (a)."



SECTION 2. Section 92-2.5, Hawaii Revised Statutes, is amended to read as follows:

**"§92-2.5 Permitted interactions of members.** (a) Two members of a board may discuss between themselves matters relating to official board business to enable them to perform their duties faithfully, as long as no commitment to vote is made or sought and the two members do not constitute a quorum of their board.

(b) Two or more members of a board, but less than the number of members ~~[which]~~ that would constitute a quorum for the board, may be assigned to:

(1) Investigate a matter relating to the official business of their board; provided that:

(A) The scope of the investigation and the scope of each member's authority are defined at a meeting of the board;

(B) All resulting findings and recommendations are presented to the board at a meeting of the board; and

(C) Deliberation and ~~[decisionmaking]~~ decision-making on the matter investigated, if any, occurs only



1 at a duly noticed meeting of the board held  
2 subsequent to the meeting at which the findings  
3 and recommendations of the investigation were  
4 presented to the board; or

5 (2) Present, discuss, or negotiate any position [~~which~~  
6 that the board has adopted at a meeting of the board;  
7 provided that the assignment is made and the scope of  
8 each member's authority is defined at a meeting of the  
9 board [~~prior to~~] before the presentation, discussion,  
10 or negotiation.

11 (c) Discussions between two or more members of a board,  
12 but less than the number of members [~~which~~] that would  
13 constitute a quorum for the board, concerning the selection of  
14 the board's officers may be conducted in private without  
15 limitation or subsequent reporting.

16 (d) Board members present at a meeting that must be  
17 canceled for lack of quorum or terminated pursuant to section  
18 92-3.5(c) may nonetheless receive testimony and presentations on  
19 items on the agenda and question the testifiers or presenters;  
20 provided that:



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(1) Deliberation or [~~decisionmaking~~] decision-making on any item, for which testimony or presentations are received, occurs only at a duly noticed meeting of the board held subsequent to the meeting at which the testimony and presentations were received;

(2) The members present shall create a record of the oral testimony or presentations in the same manner as would be required by section 92-9 for testimony or presentations heard during a meeting of the board; and

(3) Before its deliberation or [~~decisionmaking~~] decision-making at a subsequent meeting, the board shall:

(A) Provide copies of the testimony and presentations received at the canceled meeting to all members of the board; and

(B) Receive a report by the members who were present at the canceled or terminated meeting about the testimony and presentations received.

(e) Two or more members of a board, but less than the number of members [~~which~~] that would constitute a quorum for the board, may attend an informational meeting or presentation on matters relating to official board business, including a meeting

1 of another entity, legislative hearing, convention, seminar, or  
2 community meeting; provided that the meeting or presentation is  
3 not specifically and exclusively organized for or directed  
4 toward members of the board. The board members in attendance  
5 may participate in discussions, including discussions among  
6 themselves; provided that the discussions occur during and as  
7 part of the informational meeting or presentation; ~~and~~  
8 provided further that no commitment relating to a vote on the  
9 matter is made or sought.

10 At the next duly noticed meeting of the board, the board  
11 members shall report their attendance and the matters presented  
12 and discussed that related to official board business at the  
13 informational meeting or presentation.

14 (f) Discussions between the governor and one or more  
15 members of a board may be conducted in private without  
16 limitation or subsequent reporting; provided that the discussion  
17 does not relate to a matter over which a board is exercising its  
18 adjudicatory function.

19 (g) Discussions between two or more members of a board and  
20 the head of a department to which the board is administratively  
21 assigned may be conducted in private without limitation;



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1 provided that the discussion is limited to matters specified in  
2 section 26-35.

3 (h) Communications, interactions, discussions,  
4 investigations, and presentations described in this section are  
5 not meetings for purposes of this part.

6 (i) Two or more members of a board may attend a state of  
7 the city, state of the county, state of the State, or state of  
8 the judiciary address; provided that no discussion of board  
9 business by board members shall occur except during and as part  
10 of the event; provided further that no commitment to vote shall  
11 be made or sought."

12 SECTION 3. Section 92-3.5, Hawaii Revised Statutes, is  
13 amended by amending subsection (c) to read as follows:

14 "(c) A meeting held by interactive conference technology  
15 shall be [~~terminated~~] recessed when audio communication cannot  
16 be maintained with all locations where the meeting by  
17 interactive conference technology is being held, even if a  
18 quorum of the board is physically present in one location[-];  
19 provided that the meeting may only reconvene when audio  
20 communication is reestablished. If copies of visual aids  
21 required by, or brought to the meeting by board members or



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1 members of the public, are not available to all meeting  
2 participants, at all locations where audio-only interactive  
3 conference technology is being used, within fifteen minutes  
4 after audio-only communication is used, those agenda items for  
5 which visual aids are not available for all participants at all  
6 meeting locations cannot be acted upon at the meeting."

7 SECTION 4. Statutory material to be repealed is bracketed  
8 and stricken. New statutory material is underscored.

9 SECTION 5. This Act shall take effect upon its approval;  
10 provided that section 1 shall be repealed on June 30, 2022.

11  
INTRODUCED BY: 





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**Report Title:**

Sunshine Law; Interactive Conference Technology; State of  
Emergency; Permitted Interactions; Addresses

**Description:**

Authorizes, until June 30, 2022, boards to exclude the public from the meeting locations where board members are physically present if the board meetings are held by interactive conference technology during a state of emergency due to a contagious illness. Permits two or more members of a board to attend state of the city, state of the county, state of the State, or state of the judiciary addresses with certain restrictions. Requires meetings held by interactive conference technology to recess, rather than terminate, when audio communication cannot be maintained and may reconvene only when audio communication is reestablished.

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

