

## ACT 244

S.B. NO. 335

A Bill for an Act Relating to Public Meetings.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that the Americans with Disabilities Act and other federal and state disability laws require state and local governments to provide qualified individuals with disabilities equal access to programs, services, and activities. The legislature further finds that chapter 92, Hawaii Revised Statutes, also known as the sunshine law, has not provided in its implementation the same access and rights to individuals with disabilities.

The sunshine law allows individuals to request that an agency mail them notices of meetings. Under the old sunshine law, a public meeting notice was required to be mailed at the same time it was filed with the lieutenant governor. Under amendments made to the sunshine law, an agency need only mail a notice no less than six days prior to the meeting, even when an agenda or draft agenda was posted on the state electronic calendar weeks prior to the meeting. Individuals that request the notices be mailed to them are often individuals who lack computer access or cannot use a computer due to a disability. These individuals do not receive the same amount of notice as individuals with access to online notices.

The purpose of this Act is to ensure equal access to notice of public meetings.

SECTION 2. Section 92-7, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

“(a) The board shall give written public notice of any regular, special, emergency, or rescheduled meeting, or any executive meeting when anticipated in advance. The notice shall include an agenda that lists all of the items to be considered at the forthcoming meeting[:]; the date, time, and place of the meeting[:]; instructions on how to request an auxiliary aid or service or an accommodation due to a disability, including a response deadline, if one is provided, that is reasonable; and in the case of an executive meeting, the purpose shall be stated. If an item to be considered is the proposed adoption, amendment, or repeal of administrative rules, an agenda meets the requirements for public notice pursuant to this section if it contains a statement on the topic of the proposed rules or a general description of the subjects involved, as described in section 91-3(a)(1)(A), and a statement of when and where the proposed rules may be

viewed in person and on the Internet as provided in section 91-2.6. The means specified by this section shall be the only means required for giving notice under this part notwithstanding any law to the contrary.

(b) No less than six calendar days prior to the meeting, the board shall post the notice on an electronic calendar on a website maintained by the State or the appropriate county and post a notice in the board's office for public inspection. The notice shall also be posted at the site of the meeting whenever feasible. The board shall ~~[provide a copy of the notice to the office of the lieutenant governor or the appropriate county clerk's office at the time the notice is posted,]~~ file a copy of the notice with the office of the lieutenant governor or the appropriate county clerk's office and retain a copy of proof of filing the notice, and the office of the lieutenant governor or the appropriate clerk's office shall timely post paper or electronic copies of all meeting notices in a central location in a public building; provided that a failure to do so by the board, the office of the lieutenant governor, or the appropriate county clerk's office shall not require cancellation of the meeting. The copy of the notice to be provided to the office of the lieutenant governor or the appropriate county clerk's office may be provided via electronic mail to an electronic mail address designated by the office of the lieutenant governor or the appropriate county clerk's office, as applicable."

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

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

- (1) The board states in writing the reasons for its findings;
- (2) Two-thirds of all members to which the board is entitled agree that the findings are correct and an emergency exists;
- (3) An emergency agenda and the findings are electronically posted pursuant to section 92-7(b)(3); filed with the office of the lieutenant governor or the appropriate county clerk's office, and posted in the board's office; provided further that the six calendar day requirement for filing and electronic posting shall not apply; and
- (4) Persons requesting notification on a regular basis are contacted by postal or electronic mail or telephone as soon as practicable.

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

- (1) The board states in writing the reasons for its finding that an unanticipated event has occurred and that an emergency meeting is necessary and the attorney general concurs that the conditions necessary for an emergency meeting under this subsection exist;
- (2) Two-thirds of all members to which the board is entitled agree that the conditions necessary for an emergency meeting under this subsection exist;
- (3) The finding that an unanticipated event has occurred and that an emergency meeting is necessary and the agenda for the emergency meeting under this subsection are electronically posted pursuant to section 92-7(b)(3); filed with the office of the lieutenant governor or the appropriate county clerk's office, and posted in the board's office; provided further that the six calendar day requirement for filing and electronic posting shall not apply;

- (4) Persons requesting notification on a regular basis are contacted by postal or electronic mail or telephone as soon as practicable; and
- (5) The board limits its action to only that action that must be taken on or before the date that a meeting would have been held, had the board noticed the meeting pursuant to section 92-7.”

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

SECTION 5. This Act shall take effect upon its approval.

(Approved July 2, 2019.)