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# A BILL FOR AN ACT

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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 access to either an electronic or a hard copy to persons  
8 requesting notification pursuant to section 92-7(e).

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

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

16       "§92-3 Open meetings[-] and participation. Every meeting  
17 of all boards shall be open to the public and all persons shall  
18 be permitted to attend any meeting unless otherwise provided in



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

15 SECTION 3. Section 92-7, Hawaii Revised Statutes, is  
16 amended to read as follows:

17 "§92-7 Notice. (a) The board shall give written public  
18 notice of any regular, special, emergency, or rescheduled  
19 meeting, or any executive meeting when anticipated in advance.  
20 The notice shall include an agenda which lists all of the items  
21 to be considered at the forthcoming meeting, the date, time, and



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

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

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

19 (2) Post the notice on the electronic calendar on the  
20 State's internet website maintained by the State or



1           the appropriate county's internet website maintained  
2           by that respective county.

3   The notice shall also be posted at the site of the meeting  
4   whenever feasible.

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



1 stamped agenda shall be conclusive evidence of the electronic  
2 posting date.

3 (d) No board shall change the agenda, once filed<sup>[7]</sup> or  
4 electronically posted, by adding items thereto without a two-  
5 thirds recorded vote of all members to which the board is  
6 entitled; provided that no item shall be added to the agenda if  
7 it is of reasonably major importance and action thereon by the  
8 board will affect a significant number of persons. Items of  
9 reasonably major importance not decided at a scheduled meeting  
10 shall be considered only at a meeting continued to a reasonable  
11 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 or electronically mail a copy of the  
15 notice to such persons at their last recorded postal or  
16 electronic mail address no later than the time the agenda is  
17 filed or electronically posted under subsection (b) [-]; provided  
18 that the board shall allow a person to continue to receive a  
19 copy of the notice via postal mail rather than electronic mail  
20 upon request of the person."



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

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



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

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

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

16 (3) The finding that an unanticipated event has occurred  
17 and that an emergency meeting is necessary and the  
18 agenda for the emergency meeting under this subsection  
19 are filed [~~with the office of the lieutenant governor~~  
20 ~~or the appropriate county clerk's office, and in the~~  
21 ~~board's office;~~] and electronically posted pursuant to



1           section 92-7(b), excluding the six-calendar day filing  
2           and electronic posting requirement;

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

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

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

12          "(b) The minutes shall be public records publicly posted  
13          on the board's website, or if the board does not have a website,  
14          a designated website maintained by the State or appropriate  
15          county and shall be available within thirty days after the  
16          meeting, regardless of whether the board has formally reviewed  
17          or approved the minutes, except where such disclosure would be  
18          inconsistent with section 92-5; provided that minutes of  
19          executive meetings may be withheld so long as their publication  
20          would defeat the lawful purpose of the executive meeting, but no  
21          longer. If the minutes are not publicly posted and available





1 within thirty days of the meeting, the board shall be prohibited  
2 from meeting again until the minutes are posted and a new  
3 meeting notice shall be posted for any subsequently scheduled  
4 meetings pursuant to subsection (b). If there is a dispute as  
5 to whether minutes were timely posted on an electronic calendar  
6 maintained by the State or appropriate county, a printout of the  
7 electronic time-stamped minutes shall be conclusive evidence of  
8 the electronic posting date.

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

15 SECTION 6. Statutory material to be repealed is bracketed  
16 and stricken. New statutory material is underscored.

17 SECTION 7. This Act shall take effect upon its approval.  
18



**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. (SD1)

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

