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# A BILL FOR AN ACT

RELATING TO PUBLIC MEETINGS.

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

1           SECTION 1. (a) There shall be convened by the speaker of  
2 the house of representatives, a working group to develop board  
3 packet disclosure requirements that will meet the public's  
4 interest of greater disclosure of board meetings.

5           (b) The membership of the working group shall consist of:

6           (1) The chair of the house committee on consumer  
7 protection and commerce;

8           (2) The chair of the house committee on judiciary;

9           (3) The director of the office of information practices,  
10 or the director's designee;

11           (4) A representative of the professional and vocational  
12 licensing division of the department of commerce and  
13 consumer affairs, appointed by the director of  
14 commerce and consumer affairs;

15           (5) A representative of the department of land and natural  
16 resources, appointed by the chairperson of the board  
17 of land and natural resources;



1           (6) Four members, each representing one of the four  
2           counties, appointed by the mayor of the respective  
3           county; and

4           (7) One member of the public, appointed by the speaker of  
5           the house of representatives in consultation with the  
6           chairs of the house committees on consumer protection  
7           and commerce and on judiciary.

8           (c) The working group shall not be required to vote on  
9           actions taken, shall not be subject to quorum requirements, and  
10          shall not be subject to part I of chapter 92, Hawaii Revised  
11          Statutes.

12          (d) The working group shall research current board packet  
13          disclosure requirements, including any concerns or issues raised  
14          by the general public regarding compliance with these  
15          requirements, and develop proposals for board packet disclosure  
16          requirements. Proposals for board packet disclosure  
17          requirements shall take into consideration:

18           (1) Public interest in the disclosure of board packets  
19           containing meeting materials and information regarding  
20           topics being given consideration at board meetings;



- 1           (2) Information that may be withheld from inclusion in the
- 2                   board packets, including matters to be discussed in
- 3                   executive session;
- 4           (3) Limitations of administrative burdens that would have
- 5                   a negative impact on the effectiveness and efficiency
- 6                   of the board and board meetings;
- 7           (4) The necessity and cost of hiring additional staff to
- 8                   meet staffing needs for the provision of board
- 9                   packets;
- 10          (5) Any other costs associated with the provision of board
- 11                   packets, including copying costs and administrative
- 12                   costs;
- 13          (6) Any funding requirements to implement the proposals;
- 14                   and
- 15          (7) Any other considerations the working group deems to be
- 16                   relevant.
- 17          (e) The working group, with the assistance of the
- 18 legislative reference bureau, shall submit a report of its
- 19 findings and recommendations, including any proposed
- 20 legislation, to the legislature no later than twenty days prior
- 21 to the convening of the regular session of 2018.



1 (f) The members of the working group shall serve without  
2 compensation but shall be reimbursed for expenses, including  
3 travel expenses, necessary for the performance of their duties.

4 (g) No member of the working group shall be subject to  
5 chapter 84, Hawaii Revised Statutes, solely because of the  
6 member's participation in the working group.

7 (h) The working group shall be dissolved on June 30, 2018.

8 SECTION 2. Section 92-7, Hawaii Revised Statutes, is  
9 amended to read as follows:

10 "§92-7 Notice. (a) The board shall give written public  
11 notice of any regular, special, emergency, or rescheduled  
12 meeting, or any executive meeting when anticipated in advance.  
13 The notice shall include an agenda [~~which~~] that lists all of the  
14 items to be considered at the forthcoming meeting, the date,  
15 time, and place of the meeting, and in the case of an executive  
16 meeting the purpose shall be stated. If an item to be  
17 considered is the proposed adoption, amendment, or repeal of  
18 administrative rules, an agenda meets the requirements for  
19 public notice pursuant to this section if it contains a  
20 statement on the topic of the proposed rules or a general  
21 description of the subjects involved, as described in section



1 91-3(a)(1)(A), and a statement of when and where the proposed  
2 rules may be viewed in person and on the Internet as provided in  
3 section 91-2.6. The means specified by this section shall be  
4 the only means required for giving notice under this part  
5 notwithstanding any law to the contrary.

6 (b) ~~[The board shall file the notice in the office of the~~  
7 ~~lieutenant governor or the appropriate county clerk's office,]~~  
8 No less than six calendar days prior to the meeting, the board  
9 shall post the notice on an electronic calendar on a website  
10 maintained by the State or the appropriate county and in the  
11 board's office for public inspection[, at least six calendar  
12 days before the meeting]. The notice shall also be posted at  
13 the site of the meeting whenever feasible. The board shall  
14 provide a copy of the notice to the office of the lieutenant  
15 governor or the appropriate county clerk's office at the time  
16 the notice is posted, and the office of the lieutenant governor  
17 or the appropriate clerk's office shall post paper or electronic  
18 copies of all meeting notices in a central location in a public  
19 building; provided that a failure to do so by the board, the  
20 office of the lieutenant governor, or the appropriate county  
21 clerk's office shall not require cancellation of the meeting.



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

18 (d) No board shall change the agenda, [~~once filed,~~] less  
19 than six calendar days prior to the meeting, by adding items  
20 thereto without a two-thirds recorded vote of all members to  
21 which the board is entitled; provided that no item shall be



1 added to the agenda if it is of reasonably major importance and  
2 action thereon by the board will affect a significant number of  
3 persons. Items of reasonably major importance not decided at a  
4 scheduled meeting shall be considered only at a meeting  
5 continued to a reasonable day and time.

6 (e) The board shall maintain a list of names and postal or  
7 electronic mail addresses of persons who request notification of  
8 meetings and shall mail or electronically mail a copy of the  
9 notice to [~~such~~] the persons by the means chosen by the persons  
10 at their last recorded postal or electronic mail address no  
11 later than the time the agenda is [~~filed~~] required to be  
12 electronically posted under subsection (b)."

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

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

19 (1) The board states in writing the reasons for its  
20 findings;



- 1 (2) Two-thirds of all members to which the board is  
2 entitled agree that the findings are correct and an  
3 emergency exists;
- 4 (3) An emergency agenda and the findings are [~~filed with~~  
5 ~~the office of the lieutenant governor or the~~  
6 ~~appropriate county clerk's office, and in the board's~~  
7 ~~office; and~~] electronically posted pursuant to section  
8 92-7(b); provided that the six calendar day  
9 requirement for filing and electronic posting shall  
10 not apply; and
- 11 (4) Persons requesting notification on a regular basis are  
12 contacted by postal or electronic mail or telephone as  
13 soon as practicable.
- 14 (b) If an unanticipated event requires a board to take  
15 action on a matter over which it has supervision, control,  
16 jurisdiction, or advisory power, within less time than is  
17 provided for in section 92-7 to notice and convene a meeting of  
18 the board, the board may hold an emergency meeting to deliberate  
19 and decide whether and how to act in response to the  
20 unanticipated event; provided that:



- 1           (1) The board states in writing the reasons for its  
2           finding that an unanticipated event has occurred and  
3           that an emergency meeting is necessary and the  
4           attorney general concurs that the conditions necessary  
5           for an emergency meeting under this subsection exist;
- 6           (2) Two-thirds of all members to which the board is  
7           entitled agree that the conditions necessary for an  
8           emergency meeting under this subsection exist;
- 9           (3) The finding that an unanticipated event has occurred  
10          and that an emergency meeting is necessary and the  
11          agenda for the emergency meeting under this subsection  
12          are [~~filed with the office of the lieutenant governor~~  
13          ~~or the appropriate county clerk's office, and in the~~  
14          ~~board's office;~~] electronically posted pursuant to  
15          section 92-7(b); provided that the six calendar day  
16          requirement for filing and electronic posting shall  
17          not apply;
- 18          (4) Persons requesting notification on a regular basis are  
19          contacted by postal or electronic mail or telephone as  
20          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 4. 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 made available to the public  
8           ~~[records and shall be available]~~ by posting on the board's  
9           website or, if the board does not have a website, on an  
10          appropriate state or county website within ~~[thirty]~~ forty days  
11          after the meeting except where such disclosure would be  
12          inconsistent with section 92-5; provided that minutes of  
13          executive meetings may be withheld so long as their publication  
14          would defeat the lawful purpose of the executive meeting, but no  
15          longer.

16          (c) All or any part of a meeting of a board may be  
17          recorded by any person in attendance by ~~[means of a tape~~  
18          ~~recorder or]~~ any ~~[other]~~ means of ~~[some]~~ reproduction, except  
19          when a meeting is closed pursuant to section 92-4; provided the  
20          recording does not actively interfere with the conduct of the  
21          meeting."



1 SECTION 5. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3 SECTION 6. This Act shall take effect on July 1, 2050,  
4 provided that sections 2 and 3 shall take effect on July 1,  
5 2018.



**Report Title:**

Sunshine Law; Public Agency Meetings and Records; Electronic Information; Working Group

**Description:**

Establishes a working group to develop solutions to the potential administrative burden of public disclosure of the board packet prior to the meeting. The working group shall report to the Legislature before the 2018 Regular Session. Requires, among other things, electronic posting of meeting notices, cancellation notices, and meeting minutes. Establishes notice and disclosure requirements for emergency meetings.

(HB165 HD1)

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

