
A BILL FOR AN ACT

RELATING TO OPEN GOVERNMENT.

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

1 PART I

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

5 "§92- Board packet; filing. At the time the board
6 packet is distributed to the board members, the board shall file
7 the board packet in the board's office for public inspection and
8 provide notice to persons requesting notification pursuant to
9 section 92-7(e) that the board packets are available. When the
10 board packets are filed in the board's office, the board shall
11 provide reasonably prompt access to the board packet to any
12 person on request. To the maximum extent feasible, the board
13 shall accommodate requests for electronic access to the board
14 packet.

15 For purposes of this section, "board packet" means
16 documents that are compiled by the board and distributed to
17 board members before a meeting for use at that meeting; provided



1 that this section shall not require public access to information
2 protected from disclosure under chapter 92F."

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

5 "§92-7 Notice. (a) The board shall give written public
6 notice of any regular, special, emergency, or rescheduled
7 meeting, or any executive meeting when anticipated in advance.
8 The notice shall include an agenda [~~which~~] that lists all of the
9 items to be considered at the forthcoming meeting, the date,
10 time, and place of the meeting, and in the case of an executive
11 meeting the purpose shall be stated. If an item to be
12 considered is the proposed adoption, amendment, or repeal of
13 administrative rules, an agenda meets the requirements for
14 public notice pursuant to this section if it contains a
15 statement on the topic of the proposed rules or a general
16 description of the subjects involved, as described in section
17 91-3(a)(1)(A), and a statement of when and where the proposed
18 rules may be viewed in person and on the Internet as provided in
19 section 91-2.6. The means specified by this section shall be
20 the only means required for giving notice under this part
21 notwithstanding any law to the contrary.



1 (b) ~~[The]~~ No less than six calendar days prior to the
2 meeting, the board shall [file]:

3 (1) File the notice in the office of the lieutenant
4 governor or the appropriate county clerk's office~~[7]~~
5 and in the board's office for public inspection~~[7]~~at
6 least six calendar days before the meeting.; and

7 (2) Post the notice on an electronic calendar on a website
8 maintained by the State or the appropriate county.

9 The notice shall also be posted at the site of the meeting
10 whenever feasible.

11 (c) If the written public notice is filed ~~[in the office~~
12 ~~of the lieutenant governor or the appropriate county clerk's~~
13 ~~office]~~ or electronically posted less than six calendar days
14 before the meeting, the lieutenant governor or the appropriate
15 county clerk shall immediately notify the chairperson of the
16 board, or the director of the department within which the board
17 is established or placed, of the tardy filing or electronic
18 posting of the meeting notice. The meeting shall be canceled as
19 a matter of law~~[7]~~and shall not be held. The chairperson
20 or the director shall ensure that a notice canceling the meeting
21 is filed in the office of the lieutenant governor or the



1 appropriate county clerk's office, electronically posted on the
2 electronic calendar maintained by the State or appropriate
3 county, and posted at the place of the meeting~~[, and no meeting~~
4 ~~shall be held]~~. If there is a dispute as to whether a notice
5 was timely posted on an electronic calendar maintained by the
6 State or appropriate county, a printout of the electronic time-
7 stamped agenda shall be conclusive evidence of the electronic
8 posting date. The board shall provide a copy of the time stamp
9 upon request.

10 (d) No board shall change the agenda, ~~[once filed,]~~ less
11 than six calendar days prior to the meeting, by adding items
12 thereto without a two-thirds recorded vote of all members to
13 which the board is entitled; provided that no item shall be
14 added to the agenda if it is of reasonably major importance and
15 action thereon by the board will affect a significant number of
16 persons. Items of reasonably major importance not decided at a
17 scheduled meeting shall be considered only at a meeting
18 continued to a reasonable day and time.

19 (e) The board shall maintain a list of names and postal or
20 electronic mail addresses of persons who request notification of
21 meetings and shall mail or electronically mail a copy of the



1 notice to such persons by the means chosen by such persons at
2 their last recorded postal or electronic mail address no later
3 than the time the agenda is filed or electronically posted under
4 subsection (b)."

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

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

- 11 (1) The board states in writing the reasons for its
12 findings;
- 13 (2) Two-thirds of all members to which the board is
14 entitled agree that the findings are correct and an
15 emergency exists;
- 16 (3) An emergency agenda and the findings are filed [~~with~~
17 ~~the office of the lieutenant governor or the~~
18 ~~appropriate county clerk's office, and in the board's~~
19 ~~office,]~~ and electronically posted pursuant to section
20 92-7(b); provided that the six calendar day



1 requirement for filing and electronic posting shall
2 not apply; and

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

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

13 (1) The board states in writing the reasons for its
14 finding that an unanticipated event has occurred and
15 that an emergency meeting is necessary and the
16 attorney general concurs that the conditions necessary
17 for an emergency meeting under this subsection exist;

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



1 (3) The finding that an unanticipated event has occurred
 2 and that an emergency meeting is necessary and the
 3 agenda for the emergency meeting under this subsection
 4 are filed [~~with the office of the lieutenant governor~~
 5 ~~or the appropriate county clerk's office, and in the~~
 6 ~~board's office;~~] and electronically posted pursuant to
 7 section 92-7(b); provided that the six calendar day
 8 requirement for filing and electronic posting shall
 9 not apply;

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

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

17 SECTION 4. Section 92-9, Hawaii Revised Statutes, is
 18 amended by amending subsections (b) and (c) to read as follows:

19 "(b) The minutes shall be made available to the public
 20 [~~records and shall be available]~~ by posting on the board's
 21 website or, if the board does not have a website, on an



1 appropriate state or county website within thirty days after the
2 meeting except where such disclosure would be inconsistent with
3 section 92-5; provided that minutes of executive meetings may be
4 withheld so long as their publication would defeat the lawful
5 purpose of the executive meeting, but no longer.

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

12 PART II

13 SECTION 5. (a) There shall be convened by the speaker of
14 the house of representatives, a board packet working group to
15 develop board packet disclosure requirements that will meet the
16 public's interest of greater disclosure of board meetings.

17 (b) The working group shall consist of the following
18 members:

19 (1) The chair of the house committee on consumer
20 protection and commerce;



1 (2) The director of the office of information practices,
2 or the director's designee;

3 (3) A representative of the professional and vocational
4 licensing division of the department of commerce and
5 consumer affairs, appointed by the director of
6 commerce and consumer affairs;

7 (4) A representative of the department of land and natural
8 resources, appointed by the chairperson of the board
9 of land and natural resources;

10 (5) One member representing each of the four counties
11 appointed by the mayor of the respective county; and

12 (6) One member of the public, appointed by the speaker of
13 the house of representatives in consultation with the
14 chair of the house committee on consumer protection
15 and commerce.

16 (c) The working group shall not be required to vote on
17 actions taken, shall not be subject to quorum requirements, and
18 shall not be subject to part I of chapter 92, Hawaii Revised
19 Statutes.

20 (d) The working group shall research current board packet
21 disclosure requirements, including any concerns or issues raised



1 by the general public regarding compliance with these
2 requirements, and develop proposals for board packet disclosure
3 requirements. Proposals for board packet disclosure
4 requirements shall take into consideration:

- 5 (1) Public interest in the disclosure of board packets
6 containing meeting materials and information regarding
7 topics being given consideration at board meetings;
- 8 (2) Information that may be withheld from inclusion in the
9 board packets, including matters to be discussed in
10 executive session;
- 11 (3) Limitations of administrative burdens that would have
12 a negative impact on the effectiveness and efficiency
13 of the board and board meetings;
- 14 (4) The necessity and cost of hiring additional staff to
15 meet staffing needs for the provision of board
16 packets;
- 17 (5) Any other costs associated with the provision of board
18 packets, including copying costs and administrative
19 costs;
- 20 (6) Any funding needs to implement the proposals; and



1 (7) Any other considerations the working group deems to be
2 relevant.

3 (e) The working group, with the assistance of the
4 legislative reference bureau, shall submit a report of its
5 findings and recommendations, including any proposed
6 legislation, to the legislature no later than twenty days prior
7 to the convening of the regular session of 2018.

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

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

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

15 PART III

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

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



Report Title:

Sunshine Law; Public Agency Meetings and Records; Electronic Information

Description:

Requires, among other things, electronic posting of meeting notices, emergency meeting agendas, cancellation notices, and meeting minutes. Establishes a board packet filing working group. (HB991 HD1)

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

