

JAN 20 2017

A BILL FOR AN ACT

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

11 "§92-3 Open meetings[-] and participation. Every meeting
12 of all boards shall be open to the public and all persons shall
13 be permitted to attend any meeting unless otherwise provided in
14 the constitution or as closed pursuant to sections 92-4 and
15 92-5; provided that the removal of any person or persons who
16 wilfully [~~disrupts~~] disrupt a meeting to prevent and compromise
17 the conduct of the meeting shall not be prohibited. The boards



1 shall afford all interested persons an opportunity to view,
2 either electronically or in hard copy, documents, reports, and
3 proposals under consideration at the meeting at the time the
4 board packet is made available to the board members. The boards
5 shall also afford all interested persons an opportunity to
6 submit data, views, or arguments, in writing, on any agenda
7 item. The boards shall also afford all interested persons an
8 opportunity to present oral testimony on any agenda item. The
9 boards may provide for reasonable administration of oral
10 testimony by rule.

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

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

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



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

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

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

20 (2) Post the notice on the electronic calendar on the
21 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^[7] 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."



1 SECTION 4. Section 92-8, Hawaii Revised Statutes, is
2 amended by amending subsections (a) and (b) to read as follows:

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

7 (1) The board states in writing the reasons for its
8 findings;

9 (2) Two-thirds of all members to which the board is
10 entitled agree that the findings are correct and an
11 emergency exists;

12 (3) An emergency agenda and the findings are filed [~~with~~
13 ~~the office of the lieutenant governor or the~~
14 ~~appropriate county clerk's office, and in the board's~~
15 ~~office,~~] and electronically posted pursuant to section
16 92-7(b), excluding the six-calendar day filing and
17 electronic posting requirement; and

18 (4) Persons requesting notification on a regular basis are
19 contacted by postal or electronic mail or telephone as
20 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 shall post a
 3 new meeting notice for any subsequently scheduled meetings
 4 pursuant to section 92-7(b). If there is a dispute as to
 5 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 on January 1, 2018.
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INTRODUCED BY:

[Handwritten signatures]
[Signature: J. L. M.]
[Signature: Hal...]
[Signature: JSS]



S.B. NO. 244

*Jim
Muller*



S.B. NO. 244

Report Title:

Public Access to Board Meetings; Meeting Notice; Meeting Minutes; Electronic Filing

Description:

Allows the electronic mailing and posting of meeting notices; requires the posting of the meeting notice and minutes on the state or appropriate county websites; and increases public access to information before a public hearing by a board. Effective January 1, 2018.

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

