
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. (a) 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 notice that the board packet is available to persons
8 requesting notification of meetings pursuant to section 92-7(e).
9 When a board packet is filed in the board's office, the board
10 shall provide reasonably prompt access to the board packet to
11 any person upon request. To the greatest extent feasible, the
12 board shall accommodate requests for electronic access to the
13 board packet.

14 (b) For purposes of this section:

15 "Board" means the board of land and natural resources,
16 council on revenues, or tax review commission.



1 "Board packet" means documents that are compiled by the
 2 board and distributed to board members before a meeting for use
 3 at that meeting; provided that this section shall not require
 4 public access to information protected from disclosure under
 5 chapter 92F."

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

8 "**§92-3 Open meetings.** Every meeting of all boards shall
 9 be open to the public, and all persons shall be permitted to
 10 attend any meeting unless otherwise provided in the state
 11 constitution or [~~as~~] closed pursuant to sections 92-4 and 92-5;
 12 provided that the removal of any person or persons who wilfully
 13 [~~disrupts~~] disrupt a meeting to prevent and compromise the
 14 conduct of the meeting shall not be prohibited. The boards
 15 shall afford all interested persons an opportunity to submit
 16 data, views, or arguments, in writing, on any agenda item. The
 17 boards shall also afford all interested persons an opportunity
 18 to present oral testimony on any agenda item~~[-]~~; provided that
 19 oral testimony shall be allowed for each agenda item separately
 20 and at the time the item is first brought up for discussion at



1 the meeting. The boards may provide for reasonable
2 administration of oral testimony by rule."

3 SECTION 3. 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]~~ At least six calendar days before the meeting,
2 the board shall file the notice in the office of the lieutenant
3 governor or the appropriate county clerk's office~~[r]~~ and in the
4 board's office for public inspection, ~~[at least six calendar~~
5 days before the meeting.] and shall post the notice on an
6 electronic calendar on a website maintained by the State or the
7 appropriate county. The notice shall also be posted at the site
8 of the meeting whenever feasible.

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



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

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

17 (e) The board shall maintain a list of names and postal or
18 electronic mail addresses of persons who request notification of
19 meetings and shall mail a copy of the notice to such persons by
20 their chosen means at their last recorded postal or electronic



1 address no later than the time the agenda is filed or
2 electronically posted under subsection (b)."

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

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

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



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

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

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

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

19 (3) The finding that an unanticipated event has occurred
20 and that an emergency meeting is necessary and the
21 agenda for the emergency meeting under this subsection



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

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

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

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

15 "(b) The minutes shall be public records and shall be
16 available and publicly posted on the board's website or, if the
17 board does not have a website, an appropriate state or county
18 website, within thirty days after the meeting except where such
19 disclosure would be inconsistent with section 92-5; provided
20 that minutes of executive meetings may be withheld so long as
21 their publication would defeat the lawful purpose of the



1 executive meeting, but no longer. If the minutes are posted as
2 a digital or analog recording, a written summary shall accompany
3 the recording; provided that the written summary shall include
4 any significant actions taken by the board, including motions
5 and votes made by the board. Minutes may be posted in draft
6 form to meet the thirty-day requirement.

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

13 SECTION 6. (a) The department of commerce and consumer
14 affairs shall convene a board packet working group to develop
15 board packet disclosure requirements that will meet the public's
16 interest in greater disclosure of board meetings.

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

19 (1) The director of commerce and consumer affairs, or the
20 director's designee;



- 1 (2) The director of the office of information practices,
2 or the director's designee;
- 3 (3) Four members, each representing one of the four
4 counties, who shall be appointed by the mayor of each
5 respective county;
- 6 (4) Four members, each representing one of the four county
7 liquor commissions; and
- 8 (5) Two members of the public, one of whom shall be
9 appointed by the speaker of the house of
10 representatives and one of whom shall be appointed by
11 the president of the senate.

12 The director of commerce and consumer affairs, or the director's
13 designee, shall serve as the chairperson of the working group.

14 (c) The working group shall research existing board packet
15 disclosure requirements, including any concerns or issues raised
16 by the public regarding compliance with these disclosure
17 requirements, and develop proposals for board packet disclosure
18 requirements. In developing proposals for board packet
19 disclosure requirements, the working group shall consider the
20 following:



- 1 (1) Public interest in the disclosure of board packets
2 containing meeting materials and information regarding
3 topics being considered at board meetings;
- 4 (2) Information that may be withheld from inclusion in the
5 board packets, including matters to be discussed in
6 executive session;
- 7 (3) Issues that may have a negative impact on the
8 effectiveness and efficiency of the board and board
9 meetings;
- 10 (4) The necessity and cost of hiring additional staff to
11 implement any board packet disclosure requirements;
- 12 (5) Any other costs associated with implementing board
13 packet disclosure requirements, including photocopying
14 costs and other administrative costs;
- 15 (6) Any funding necessary to implement any board packet
16 disclosure requirements; and
- 17 (7) Any other considerations that the working group deems
18 necessary and relevant.
- 19 (d) The working group shall not be required to vote on
20 actions taken, be subject to quorum requirements, nor be subject
21 to part I of chapter 92, Hawaii Revised Statutes.



1 (e) The members of the working group shall serve without
2 compensation but shall be reimbursed for expenses, including
3 travel expenses, that are necessary for the performance of the
4 members' duties. No member of the working group shall be
5 subject to chapter 84, Hawaii Revised Statutes, solely because
6 of the member's participation in the working group.

7 (f) The working group, with assistance from the
8 legislative reference bureau, shall submit a report of its
9 findings and recommendation, including any proposed legislation,
10 to the legislature no later than twenty days prior to the
11 convening of the regular session of 2018.

12 (g) The working group shall dissolve on June 30, 2018.

13 SECTION 7. Statutory material to be repealed is bracketed
14 and stricken. New statutory material is underscored.

15 SECTION 8. This Act shall take effect on January 7, 2059;
16 provided that section 1 of this Act shall be repealed on July 1,
17 2019.

18



Report Title:

Public Agency Meetings; Meeting Notice; Emergency Meetings;
Board Packets; Open Meetings

Description:

Until 7/8/2019, requires certain boards to make board packets available for public inspection and provide notice, upon request, of the availability of board packets. Requires boards to allow oral testimony to be presented on agenda items separately and at the time the item is first brought up for discussion at the meeting. Adds emergency meetings to the public meeting notice requirements. Allows the electronic mailing of meeting notices; requires the posting of the notice on the State's or appropriate county's electronic calendar; and clarifies posting requirements and potential posting disputes. Establishes a board packet working group to develop board packet disclosure requirements. Takes effect on 1/7/2059. (SD2)

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

