



GOV. MSG. NO. 1270

EXECUTIVE CHAMBERS
HONOLULU

DAVID Y. IGE
GOVERNOR

July 1, 2021

The Honorable Ronald D. Kouchi,
President
and Members of the Senate
Thirty First State Legislature
State Capitol, Room 409
Honolulu, Hawai'i 96813

The Honorable Scott K. Saiki,
Speaker and Members of the
House of Representatives
Thirty First State Legislature
State Capitol, Room 431
Honolulu, Hawai'i 96813

Dear President Kouchi, Speaker Saiki, and Members of the Legislature:

This is to inform you that on July 1, 2021, the following bill was signed into law:

SB873 SD1 HD1 CD1

RELATING TO CONTESTED CASES
ACT 168 (21)

Sincerely,

DAVID Y. IGE
Governor, State of Hawai'i

A BILL FOR AN ACT

RELATING TO CONTESTED CASES.

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

1 SECTION 1. The legislature finds that more efficient, yet
 2 still effective, contested case hearings can be conducted by
 3 interactive conference technology, which is already being
 4 utilized for public meetings in accordance with section 92-3.5,
 5 Hawaii Revised Statutes.

6 The purpose of this Act is to authorize contested case
 7 hearings to be conducted through the use of interactive
 8 conference technology.

9 SECTION 2. Section 91-9, Hawaii Revised Statutes, is
 10 amended to read as follows:

11 "§91-9 Contested cases; notice; hearing; interactive
 12 conference technology; records. (a) Subject to section 91-8.5,
 13 in any contested case, all parties shall be afforded an
 14 opportunity for hearing after reasonable notice.

15 (b) The notice shall include a statement of:

- 16 (1) The date, time, place, and nature of hearing;
- 17 (2) The legal authority under which the hearing is to be
- 18 held;



- 1 (3) The particular sections of the statutes and rules
2 involved;
- 3 (4) An explicit statement in plain language of the issues
4 involved and the facts alleged by the agency in
5 support thereof; provided that if the agency is unable
6 to state [~~such~~] the issues and facts in detail at the
7 time the notice is served, the initial notice may be
8 limited to a statement of the issues involved, and
9 thereafter upon application a bill of particulars
10 shall be furnished; and
- 11 (5) The fact that any party may retain counsel if the
12 party so desires and the fact that an individual may
13 appear on the individual's own behalf, or a member of
14 a partnership may represent the partnership, or an
15 officer or authorized employee of a corporation or
16 trust or association may represent the corporation,
17 trust, or association.
- 18 (c) The hearing may be held by interactive conference
19 technology that allows interaction by the agency, any party, and
20 counsel if retained by the party, and the notice identifies
21 electronic contact information for each agency, party, and



1 counsel if retained by the party. A contested case hearing held
2 by interactive conference technology shall be recessed for up to
3 one hour when audio communication cannot be maintained; provided
4 that the hearing may reconvene when only audio communication is
5 reestablished. If audio-only communication is reestablished,
6 then each speaker shall state the speaker's name prior to making
7 remarks.

8 [~~e~~] (d) Opportunities shall be afforded all parties to
9 present evidence and argument on all issues involved~~(-)~~;
10 provided that, if the hearing is held by interactive conference
11 technology evidence may be submitted and exchanged by electronic
12 means.

13 [~~d~~] (e) Any procedure in a contested case may be
14 modified or waived by stipulation of the parties and informal
15 disposition may be made of any contested case by stipulation,
16 agreed settlement, consent order, or default.

17 [~~e~~] (f) For the purpose of agency decisions, the record
18 shall include:

19 (1) All pleadings, motions, intermediate rulings;



- 1 (2) Evidence received or considered, including oral
- 2 testimony, exhibits, and a statement of matters
- 3 officially noticed;
- 4 (3) Offers of proof and rulings thereon;
- 5 (4) Proposed findings and exceptions;
- 6 (5) Report of the officer who presided at the hearing; and
- 7 (6) Staff memoranda submitted to members of the agency in
- 8 connection with their consideration of the case.

9 ~~(f)~~ (g) It shall not be necessary to transcribe the
10 record unless requested for purposes of rehearing or court
11 review.

12 ~~(g)~~ (h) No matters outside the record shall be
13 considered by the agency in making its decision except as
14 provided herein."

15 (i) For the purposes of this subsection, "interactive
16 conference technology" means any form of audio or audio and
17 visual conference technology, including teleconference,
18 videoconference, and voice over internet protocol, that
19 facilitates interaction between the agency, any party, and
20 counsel if retained by the party."



1 SECTION 3. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.
3 SECTION 4. This Act shall take effect on October 1, 2021.

APPROVED this 01 day of JUL , 2021



GOVERNOR OF THE STATE OF HAWAII

THE SENATE OF THE STATE OF HAWAI'I

Date: April 27, 2021
Honolulu, Hawaii 96813

We hereby certify that the foregoing Bill this day passed Final Reading in the Senate of the Thirty-First Legislature of the State of Hawai'i, Regular Session of 2021.


President of the Senate


Clerk of the Senate

SB No. 873, SD 1, HD 1, CD 1

THE HOUSE OF REPRESENTATIVES OF THE STATE OF HAWAII

Date: April 27, 2021
Honolulu, Hawaii

We hereby certify that the above-referenced Bill on this day passed Final Reading in the House of Representatives of the Thirty-First Legislature of the State of Hawaii, Regular Session of 2021.



Scott K. Saiki
Speaker
House of Representatives



Brian L. Takeshita
Chief Clerk
House of Representatives