
A BILL FOR AN ACT

RELATING TO CONTESTED CASES.

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

1 SECTION 1. More efficient, yet still effective, contested
2 case hearings can be conducted by interactive conference
3 technology, which is already being utilized for public meetings
4 in accordance with section 92-3.5, Hawaii Revised Statutes. The
5 purpose of this Act is to authorize contested case hearings to
6 be conducted through the use of interactive conference
7 technology.

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

10 "**§91-9 Contested cases; notice; hearing; records.** (a)
11 Subject to section 91-8.5, in any contested case, all parties
12 shall be afforded an opportunity for hearing after reasonable
13 notice.
14 (b) The notice shall include a statement of:
15 (1) The date, time, place, and nature of hearing;
16 (2) The legal authority under which the hearing is to be
17 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. A contested case hearing held
 21 by interactive conference technology shall be recessed for up to



1 one hour when audio communication cannot be maintained; provided
2 that the hearing may reconvene when only audio communication is
3 reestablished. If audio-only communication is reestablished,
4 then each speaker shall be required to state the speaker's name
5 before making remarks. As used in this subsection, "interactive
6 conference technology" means any form of audio or audio and
7 visual conference technology, including teleconference,
8 videoconference, and voice over internet protocol, that
9 facilitates interaction between the agency, any party, and
10 counsel if retained by the party.

11 ~~[(e)]~~ (d) Opportunities shall be afforded all parties to
12 present evidence and argument on all issues involved~~[-]~~;
13 provided that, if the hearing is held by interactive conference
14 technology, the evidence may be submitted and exchanged by email
15 or facsimile.

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

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



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

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

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

16 SECTION 3. Statutory material to be repealed is bracketed
 17 and stricken. New statutory material is underscored.

18 SECTION 4. This Act shall take effect upon its approval.



H.B. NO. 972 H.D. 1

Report Title:

Contested Cases; Interactive Conference Technology

Description:

Authorizes contested case hearings to be conducted through the use of interactive conference technology. (HD1)

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