
A BILL FOR AN ACT

RELATING TO SUNSHINE LAW BOARDS.

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

1 SECTION 1. The legislature finds that the coronavirus
2 disease 2019 (COVID-19) pandemic forced the implementation of
3 emergency measures suspending certain requirements of the
4 State's sunshine law in order to allow boards to continue
5 meeting and conducting necessary business while protecting
6 participants' health and safety and expanding public access to
7 meetings throughout the State. During the emergency stay-at-
8 home orders and travel restrictions, board members, staff, or
9 members of the public could not attend public meetings in
10 person. In lieu of traditional in-person meetings, remote
11 meetings connected people in different physical locations
12 through the use of interactive conference technology and thus
13 enabled and enhanced board and public participation.

14 The legislature further finds that, based on boards'
15 experiences with remote meetings during the COVID-19 pandemic,
16 the increased costs of staffing, technological equipment, and
17 resources needed to conduct remote meetings are offset by the



1 savings in time, convenience, and travel costs for board members
2 and participants, especially those from the neighbor islands.
3 During the COVID-19 pandemic, remote meetings helped to prevent
4 the spread of disease, and even when there is not an ongoing
5 pandemic, remote meetings can be a way to protect the health and
6 safety of participants, particularly those who have disabilities
7 or medical conditions that would place them at greater risks
8 during travel or attendance at in-person public meetings.

9 The legislature additionally finds that the benefits of
10 remote meetings should continue in non-emergency times,
11 requiring permanent amendments to the sunshine law. For remote
12 meetings not held during times of emergency, there is a need for
13 boards to provide for an in-person meeting location where
14 members of the public can come to observe the remote meeting or
15 testify in person using interactive conference technology
16 equipment provided by the board, without requiring board members
17 to be at the in-person location.

18 The purpose of this Act is to allow boards the option to
19 use interactive conference technology to conduct remote meetings
20 under the sunshine law, while still retaining the option to
21 conduct traditional in-person meetings at a single meeting site



1 or at multiple meeting sites connected by interactive conference
2 technology.

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

6 "§92- Remote meeting by interactive conference
7 technology; notice; quorum. (a) A board may hold a remote
8 meeting by interactive conference technology. A board holding a
9 remote meeting pursuant to this section shall not be required to
10 allow members of the public to join board members in person at
11 nonpublic locations where board members are physically present
12 or to identify those locations in the notice required by
13 section 92-7; provided that at the meeting, each board member
14 shall state who, if anyone, is present at the nonpublic location
15 with the member. The notice required by section 92-7 shall:

- 16 (1) If requested by a member of the public at least
17 seventy-two hours before the meeting, list at least
18 one meeting location that is open to the public that
19 shall have an audio-visual connection; and
20 (2) Inform members of the public how to contemporaneously:



- 1 (A) Remotely view the video and audio of the meeting
- 2 through internet streaming or other means; and
- 3 (B) Provide remote oral testimony in a manner that
- 4 allows board members and other meeting
- 5 participants to hear the testimony, whether
- 6 through an internet link, a telephone conference,
- 7 or other means.

8 The notice required by section 92-7 may list additional
9 locations open for public participation and shall specify, in
10 the event an additional location loses its audio-visual
11 connection to the remote meeting, whether the meeting will
12 continue without that location or will be automatically recessed
13 to restore communication as provided in subsection (c).

14 (b) For a remote meeting held by interactive conference
15 technology pursuant to this section:

16 (1) The interactive conference technology used by the
17 board shall allow interaction among all members of the
18 board participating in the meeting and all members of
19 the public attending the meeting;

20 (2) Except as provided in subsections (c) and (d), a
21 quorum of board members shall be visible and audible

1 to other members and the public during the meeting;
2 provided that so long as a quorum of board members is
3 visible, no other meeting participants shall be
4 required to be visible during the meeting;

5 (3) Any board member participating in a meeting by
6 interactive conference technology shall be considered
7 present at the meeting for the purpose of determining
8 compliance with the quorum and voting requirements of
9 the board;

10 (4) At the start of the meeting the presiding officer
11 shall announce the names of the participating members;

12 (5) All votes shall be conducted by roll call; and

13 (6) When practicable, boards shall record meetings open to
14 the public and make the recording of any meeting
15 electronically available to the public as soon as
16 practicable after a meeting and until a time as the
17 minutes required by section 92-9 are electronically
18 posted on the board's website.

19 (c) A meeting held by interactive conference technology
20 shall be automatically recessed for up to one hour to restore
21 communication when audiovisual communication cannot be



1 maintained with a quorum of members or with the public location
2 identified in the board's notice pursuant to subsection (a)(1)
3 or with the remote public broadcast identified in the board's
4 notice pursuant to subsection (a)(2)(A). This subsection shall
5 not apply based on the inability of a member of the public to
6 maintain an audiovisual connection to the remote public
7 broadcast, unless the remote public broadcast itself is not
8 transmitting an audiovisual link to the meeting. The meeting
9 may reconvene when either audiovisual communication is restored,
10 or audio-only communication is established after an unsuccessful
11 attempt to restore audiovisual communication, but only if the
12 board has provided reasonable notice to the public as to how to
13 access the reconvened meeting after an interruption to
14 communication. If audio-only communication is established, then
15 each speaker shall be required to state their name prior to
16 making their remarks. Within fifteen minutes after audio-only
17 communication is established, copies of nonconfidential visual
18 aids, which are required by or brought to the meeting by board
19 members or as part of a scheduled presentation, shall be made
20 available either by posting on the Internet or by other means to
21 all meeting participants, including those participating



1 remotely, and those agenda items for which visual aids are not
2 available for all participants shall not be acted upon at the
3 meeting. If it is not possible to reconvene the meeting as
4 provided in this subsection within one hour after an
5 interruption to communication and the board has not provided
6 reasonable notice to the public as to how the meeting will be
7 continued at an alternative date and time, then the meeting
8 shall be automatically terminated.

9 (d) During executive meetings from which the public has
10 been excluded, board members shall be audible to other
11 authorized participants and are not required to be visible. To
12 preserve the executive nature of any portion of a meeting closed
13 to the public, the presiding officer shall publicly state the
14 names and titles of all authorized participants, and upon
15 convening the executive session all participants shall confirm
16 to the presiding officer that no unauthorized person is present
17 or able to hear them at their remote locations or via another
18 audio or audio-visual connection. The person organizing the
19 interactive conference technology shall confirm that no
20 unauthorized person has access to the executive meeting as



1 indicated on the control panels of the interactive conference
2 technology being used for the meeting, if applicable."

3 SECTION 3. Section 92-2, Hawaii Revised Statutes, is
4 amended by amending the definition of "interactive conference
5 technology" to read as follows:

6 ""Interactive conference technology" means any form of
7 [~~audio or~~] audio and visual conference technology, or audio
8 conference technology where permitted under this part, including
9 teleconference, videoconference, and voice over internet
10 protocol, that facilitates interaction between the public and
11 board members."

12 SECTION 4. Section 92-3.5, Hawaii Revised Statutes, is
13 amended by amending its title and subsections (a) through (c) to
14 read as follows:

15 "**§92-3.5 [Meeting] In-person meeting at multiple sites by**
16 **interactive conference technology; notice; quorum.** (a) A board
17 may hold [a] an in-person meeting at multiple meeting sites
18 connected by interactive conference technology; provided that
19 the interactive conference technology used by the board allows
20 audio or audiovisual interaction among all members of the board
21 participating in the meeting and all members of the public



1 attending the meeting, and the notice required by section 92-7
2 identifies all of the locations where participating board
3 members will be physically present and indicates that members of
4 the public may join board members at any of the identified
5 locations. The notice may list additional locations open for
6 public participation but where no participating board members
7 will be physically present, and in the event one of those
8 additional locations loses its audio connection to the remote
9 meeting, the notice shall specify whether the meeting will
10 continue without that location or will be automatically recessed
11 to restore communication as provided in subsection (c).

12 (b) Any board member participating in a meeting by
13 interactive conference technology under this section shall be
14 considered present at the meeting for the purpose of determining
15 compliance with the quorum and voting requirements of the board.

16 (c) A meeting held by interactive conference technology
17 under this section shall be [~~terminated~~] automatically recessed
18 for up to one hour to restore communication when audio
19 communication cannot be maintained with all locations where the
20 meeting by interactive conference technology is being held, even
21 if a quorum of the board is physically present in one location.



1 ~~[If copies of visual aids required by, or brought to the meeting~~
2 ~~by board members or members of the public, are not available to~~
3 ~~all meeting participants, at all locations where audio-only~~
4 ~~interactive conference technology is being used, within] The~~
5 ~~meeting may reconvene when either audio or audio-visual~~
6 ~~communication is restored. Within fifteen minutes after audio-~~
7 ~~only communication is ~~[used,]~~ established, copies of~~
8 ~~nonconfidential visual aids, which are required by or brought to~~
9 ~~the meeting by board members or as part of a scheduled~~
10 ~~presentation, shall be made available either by posting on the~~
11 ~~Internet or by other means to all meeting participants,~~
12 ~~including those participating remotely, and those agenda items~~
13 ~~for which visual aids are not available for all participants at~~
14 ~~all meeting locations ~~[cannot]~~ shall not be acted upon at the~~
15 ~~meeting. If it is not possible to reconvene the meeting as~~
16 ~~provided in this subsection within one hour after an~~
17 ~~interruption to communication, and the board has not provided~~
18 ~~reasonable notice to the public as to how the meeting will be~~
19 ~~continued at an alternative date and time, then the meeting~~
20 ~~shall be automatically terminated."~~



1 SECTION 5. Section 92-7, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:
3 "(a) The board shall give written public notice of any
4 regular, special, emergency, or rescheduled meeting, or any
5 executive meeting when anticipated in advance. The notice shall
6 include an agenda that lists all of the items to be considered
7 at the forthcoming meeting; the date, time, and place of the
8 meeting; the board's electronic and postal contact information
9 for submission of testimony before the meeting; instructions on
10 how to request an auxiliary aid or service or an accommodation
11 due to a disability, including a response deadline, if one is
12 provided, that is reasonable; and in the case of an executive
13 meeting the purpose shall be stated. If an item to be
14 considered is the proposed adoption, amendment, or repeal of
15 administrative rules, an agenda meets the requirements for
16 public notice pursuant to this section if it contains a
17 statement on the topic of the proposed rules or a general
18 description of the subjects involved, as described in
19 section 91-3(a)(1)(A), and a statement of when and where the
20 proposed rules may be viewed in person and on the Internet as
21 provided in section 91-2.6. The means specified by this section



1 shall be the only means required for giving notice under this
2 part notwithstanding any law to the contrary."

3 SECTION 6. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 7. This Act shall take effect on May 6, 2137.



Report Title:

Sunshine Law; Interactive Conference Technology; Remote Meetings

Description:

Authorizes boards, in conjunction with in-person meetings, to use interactive conference technology to remotely conduct public meetings. Authorizes boards to exclude the public from nonpublic locations where board members are physically present when remote board meetings are held by interactive conference technology. Establishes requirements for the conduct of remote meeting. Requires remote meetings held by interactive conference technology to recess for a maximum prescribed period when audiovisual communication cannot be maintained by the board and allows the meeting to be reconvened under certain circumstances. Establishes a new notice requirement to provide the board's contact information for the submission of written testimony by electronic or postal mail, which also applies to remote meeting agendas. Allows for additional courtesy sites open to the public for remote and in-person meetings held by interactive conference technology. Effective 5/6/2137. (HD1)

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