
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, codified as
12 part I of chapter 92, Hawaii Revised Statutes. For remote
13 meetings not held during times of emergency, there is a need for
14 boards to also provide for an in-person meeting location where
15 members of the public can come to observe the remote meeting or
16 testify in person using interactive conference technology
17 equipment provided by the board, without requiring board members
18 to be at the in-person location.

19 The purpose of this Act is to allow boards the option to
20 use interactive conference technology to conduct remote meetings
21 under the Sunshine Law, while still retaining the option to



1 conduct traditional in-person meetings at a single meeting site
2 or at multiple meeting sites connected by interactive conference
3 technology.

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

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

- 17 (1) List at least one meeting location that is open to the
18 public that shall have an audio-visual connection;
19 (2) Inform members of the public how to contemporaneously:
20 (A) Remotely view the video and audio of the meeting
21 through internet streaming or other means and



1 access captioning services during the meeting;
2 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 also list additional
9 locations open for public participation and shall specify
10 whether, in the event an additional location loses its audio-
11 visual connection to the remote meeting, the meeting will
12 continue without that location or will be automatically recessed
13 to restore communication as provided in subsection (c); provided
14 that the notice shall specify that if an additional location
15 loses its audio-visual connection in a way that interferes with
16 accommodations requested pursuant to the Americans with
17 Disabilities Act, the meeting shall be recessed as provided in
18 subsection (c).

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



- 1 (1) The interactive conference technology used by the
2 board shall allow interaction among all members of the
3 board participating in the meeting and all members of
4 the public attending the meeting and shall include
5 captioning services accessible to all members, public
6 participants, and remote viewers of the meeting
7 through the streaming provider or through an outside
8 service;
- 9 (2) Except as provided in subsections (c) and (d), a
10 quorum of board members shall be visible and audible
11 to other members and the public during the meeting;
12 provided that so long as a quorum of board members is
13 visible, no other meeting participants shall be
14 required to be visible during the meeting;
- 15 (3) Any board member participating in a meeting by
16 interactive conference technology shall be considered
17 present at the meeting for the purpose of determining
18 compliance with the quorum and voting requirements of
19 the board;
- 20 (4) At the start of the meeting the presiding officer
21 shall announce the names of the participating members;



- 1 (5) All votes shall be conducted by roll call;
- 2 (6) When practicable, boards shall record meetings open to
3 the public and make the recording of any such meeting
4 electronically available to the public as soon as
5 practicable after a meeting and until such time as the
6 minutes required by section 92-9 are electronically
7 posted on the board's website; and
- 8 (7) Any additional public locations shall be provided with
9 accommodations pursuant to the Americans with
10 Disabilities Act upon request from a member of the
11 public.
- 12 (c) A meeting held by interactive conference technology
13 shall be automatically recessed for up to twenty minutes to
14 restore communication when audiovisual communication cannot be
15 maintained with a quorum of members or with the public location
16 identified in the board's notice pursuant to subsection (a)(1)
17 or with the remote public broadcast identified in the board's
18 notice pursuant to subsection (a)(2)(A). This subsection shall
19 not apply based on the inability of a member of the public to
20 maintain an audiovisual connection to the remote public
21 broadcast, unless the remote public broadcast itself is not



1 transmitting an audiovisual link to the meeting. The meeting
2 may reconvene when either audiovisual communication is restored,
3 or audio-only communication is established after an unsuccessful
4 attempt to restore audiovisual communication, but only if the
5 board has provided reasonable notice to the public as to how to
6 access the reconvened meeting after an interruption to
7 communication. If audio-only communication is established, then
8 each speaker shall be required to state their name prior to
9 making their remarks. Within fifteen minutes after audio-only
10 communication is established, copies of nonconfidential visual
11 aids, which are required by or brought to the meeting by board
12 members or as part of a scheduled presentation, shall be made
13 available either by posting on the internet or by other means to
14 all meeting participants, including those participating
15 remotely, and those agenda items for which visual aids are not
16 available for all participants shall not be acted upon at the
17 meeting. If it is not possible to reconvene the meeting as
18 provided in this subsection within twenty minutes after an
19 interruption to communication and the board has not provided
20 reasonable notice to the public as to how the meeting will be
21 continued at an alternative date and time, then the meeting



1 shall be automatically terminated. If an additional location
2 loses its audio-visual connection in a way that interferes with
3 accommodations requested pursuant to the Americans with
4 Disabilities Act, the meeting shall be automatically recessed;
5 provided that if communication cannot be restored within twenty
6 minutes, the meeting shall be automatically terminated.

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



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

4 "Interactive conference technology" means any form of
5 ~~[audio or]~~ audio and visual conference technology, or audio
6 conference technology where permitted under this part, including
7 teleconference, videoconference, and voice over internet
8 protocol, that facilitates interaction between the public and
9 board members~~[-]~~ and is accessible to and usable by individuals
10 with disabilities in accordance with state and federal laws and
11 applicable implementation standards."

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 twenty minutes 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 section within twenty minutes 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[7] for all locations specified in the
12 notice, including a response deadline, if one is provided, that
13 is reasonable; and in the case of an executive meeting the
14 purpose shall be stated. If an item to be considered is the
15 proposed adoption, amendment, or repeal of administrative rules,
16 an agenda meets the requirements for public notice pursuant to
17 this section if it contains a statement on the topic of the
18 proposed rules or a general description of the subjects
19 involved, as described in section 91-3(a)(1)(A), and a statement
20 of when and where the proposed rules may be viewed in person and
21 on the Internet as provided in section 91-2.6. The means



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

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

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



Report Title:

Sunshine Law; Interactive Conference Technology; Remote Meetings

Description:

Expands board and public participation by giving boards the option, in conjunction with in-person meetings, to use interactive conference technology to remotely conduct public meetings under the Sunshine Law, even when no emergency has been declared by government authorities. Authorizes boards to exclude the public from nonpublic locations, such as homes, where board members are physically present when remote board meetings are held by interactive conference technology, with members of the public given the option to participate either remotely or at an in-person public location. 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 (not due to a member of the public's inability to maintain such communication) and allows the meeting to be reconvened even if only audio communication can be reestablished. 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. Amends existing option to hold in-person meetings at multiple public meeting sites connected by interactive conference technology to require termination of meeting only if audio communication is lost and cannot be reestablished within twenty minutes and the board had not provided reasonable notice of how the meeting would be continued. Allows for additional courtesy sites open to the public for both remote and in-person meetings held by interactive conference technology. Effective 5/6/2137. (SD1)

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