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# 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;



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



1 counsel if retained by the party, and the notice identifies  
2 electronic contact information for each agency, party, and  
3 counsel if retained by the party. A contested case hearing held  
4 by interactive conference technology shall be recessed for up to  
5 one hour when audio communication cannot be maintained; provided  
6 that the hearing may reconvene when only audio communication is  
7 reestablished. If audio-only communication is reestablished,  
8 then each speaker shall state the speaker's name prior to making  
9 remarks. For the purposes of this subsection, "interactive  
10 conference technology" means any form of audio or audio and  
11 visual conference technology, including teleconference,  
12 videoconference, and voice over internet protocol, that  
13 facilitates interaction between the agency, any party, and  
14 counsel if retained by the party.

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

20 ~~[(d)]~~ (e) Any procedure in a contested case may be  
21 modified or waived by stipulation of the parties and informal



1 disposition may be made of any contested case by stipulation,  
2 agreed settlement, consent order, or default.

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

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

6 (2) Evidence received or considered, including oral  
7 testimony, exhibits, and a statement of matters  
8 officially noticed;

9 (3) Offers of proof and rulings thereon;

10 (4) Proposed findings and exceptions;

11 (5) Report of the officer who presided at the hearing; and

12 (6) Staff memoranda submitted to members of the agency in  
13 connection with their consideration of the case.

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

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



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 July 1, 3021.



S.B. NO. 873  
S.D. 1  
H.D. 1

**Report Title:**

Contested Cases; Interactive Conference Technology

**Description:**

Authorizes contested case hearings to use interactive conference technology. Effective 7/1/3021. (HD1)

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

