
A BILL FOR AN ACT

RELATING TO PUBLIC NOTICE.

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

1 SECTION 1. The legislature finds that existing law
2 requires publication of government notices in newspapers of
3 general circulation. These requirements were adopted before
4 widespread electronic access and no longer reflect the most
5 efficient or accessible means of informing the public.
6 The legislature further finds that posting notices on
7 official state and county websites provides greater
8 transparency, accessibility, and timeliness. Aligning public
9 notice requirements with the sunshine law will modernize state
10 communications and ensure consistent public access to government
11 information.

12 The legislature also finds that the technical standards,
13 platform specifications, accessibility requirements, and
14 compliance procedures necessary to implement electronic notice
15 requirements are regulatory in nature. These matters are best
16 addressed through administrative rulemaking, which allows for
17 public participation by government agencies, persons with



1 disabilities, county governments, and other interested parties,
2 and for updates as technology and applicable federal
3 requirements evolve.

4 The legislature additionally finds that the state calendar,
5 which serves as the existing platform for electronic posting of
6 public meeting notices under chapter 92, Hawaii Revised
7 Statutes, was not designed to accommodate the broader category
8 of legal notices that would be authorized by this Act, and that
9 the service level agreement between the State and the portal
10 manager may require modification before the state calendar can
11 serve that expanded function.

12 The legislature further finds that the office of enterprise
13 technology services has existing statutory authority under
14 section 27-43, Hawaii Revised Statutes, to develop and implement
15 statewide information technology governance and technology
16 standards applicable to all executive branch agencies, and to
17 adopt rules pursuant to chapter 91, Hawaii Revised Statutes,
18 necessary for those purposes. That authority extends to the
19 technical standards, platform specifications, document format
20 requirements, and accessibility compliance procedures governing
21 state electronic systems used to provide public access to



1 government information. The rules required to implement
2 electronic notice under this Act are technical in nature and
3 fall within the existing statutory mandate of the office of
4 enterprise technology services.

5 The legislature also finds that the access Hawaii
6 committee, established under chapter 27G, Hawaii Revised
7 Statutes, has statutory authority under section 27G-4, Hawaii
8 Revised Statutes, to review and approve service level agreements
9 with the portal manager, and that its review and approval is
10 required before any modification to the existing state portal
11 service level agreement may take effect.

12 The legislature additionally finds that the United States
13 Department of Justice has issued final regulations under Title
14 II of the Americans with Disabilities Act establishing digital
15 accessibility requirements applicable to state and local
16 governments, and that electronic notices posted by government
17 agencies must comply with those requirements to be legally
18 sufficient.

19 The purpose of this Act is to:

20 (1) Authorize government agencies to satisfy public notice
21 requirements by electronic posting on official state



1 or county websites or electronic calendars, while
 2 preserving traditional publication as an option; and
 3 (2) Direct the office of enterprise technology services,
 4 in consultation with the access Hawaii committee, to
 5 adopt rules governing the implementation of electronic
 6 notice before the electronic notice authorization
 7 takes legal effect, to ensure that electronic notice
 8 is legally reliable, technically accessible, and
 9 operationally workable for all residents.

10 SECTION 2. Section 1-28.5, Hawaii Revised Statutes, is
 11 amended to read as follows:

12 "§1-28.5 [~~Publication of~~] Public notice. (a)
 13 Notwithstanding any other statute, law, charter provision,
 14 ordinance, or rule to the contrary, whenever a government agency
 15 is required to give public notice or to publish notice, the
 16 notice shall be given [~~only~~] as follows:

17 (1) For statewide [~~publication of~~] notice:
 18 (A) [~~In a daily or weekly publication of statewide~~
 19 ~~circulation of~~] By posting the notice on an
 20 electronic calendar or website maintained by the



1 State, subject to the rules adopted pursuant to
2 subsection (i); or

3 (B) By publication in a daily or weekly publication
4 of statewide circulation, or by publication in
5 separate daily or weekly publications whose
6 combined circulation is statewide; and

7 (2) For county-wide [~~publication, by~~] notice:

8 (A) By posting the notice on an electronic calendar
9 or website maintained by the appropriate county,
10 subject to the rules adopted pursuant to
11 subsection (i); or

12 (B) By publication in a daily or weekly publication
13 in the affected county.

14 [~~Additional supplemental notice may also be given through Hawaii~~
15 ~~FYI, the State's interactive computer system.~~]

16 (b) For purposes of this section, when a government agency
17 chooses to publish public notices in a newspaper or other
18 publication described in subsection (a) (1) (B), the comptroller,
19 pursuant to chapter 103D, shall determine a publication for all
20 government agencies to enable the public to go to one source of
21 publication for published public notice on each island.



1 (c) Whenever a public notice is published in a newspaper
2 or other publication [~~described in subsection (a)~~], proof of the
3 publication shall be the affidavit of the printer, publisher,
4 principal clerk, or business manager of the newspaper or other
5 publication or of the designated agent of the group that
6 published the notice.

7 [~~(d) This section shall not apply to notices required by~~
8 ~~chapters 103D, 103F, 127A, and 523A.~~

9 ~~(e) For purposes of publishing a proposed, revised, or~~
10 ~~final reapportionment plan pursuant to section 25-2, public~~
11 ~~notice shall be permitted in a short form; provided that each~~
12 ~~short form public notice shall include the following~~
13 ~~information:~~

14 ~~(1) Whether the reapportionment plan has been either~~
15 ~~proposed, revised, or adopted;~~

16 ~~(2) The online location to view the reapportionment plan;~~

17 ~~(3) A list of the location of each public office where the~~
18 ~~hard copies of the reapportionment plan and maps are~~
19 ~~available; and~~

20 ~~(4) The public hearing dates.]~~



1 (d) Unless otherwise provided by law, notice shall be
2 posted or published no less than six calendar days, as defined
3 in rules adopted pursuant to subsection (i), before the required
4 action, meeting, or effective date.

5 (e) Each government agency shall maintain a physical copy
6 of all public notices in its office for public inspection during
7 regular business hours.

8 (f) Additional supplemental notice may also be given
9 through other electronic means consistent with the rules adopted
10 pursuant to subsection (i).

11 (g) This section shall not apply to notices required by
12 chapters 103D, 103F, 127A, and 523A; provided that government
13 agencies subject to those chapters may, in addition to any
14 notice required under those chapters, provide supplemental
15 notice by electronic posting pursuant to subsection (a), subject
16 to the rules adopted pursuant to subsection (i).

17 (h) Nothing in this section shall be construed to
18 supersede, alter, or diminish any specific notice requirement
19 imposed by any other law, including but not limited to
20 requirements specifying the medium, frequency, duration, or
21 manner of publication. Where another statute imposes a more



1 specific notice requirement that conflicts with this section,
2 the more specific requirement shall control unless that statute
3 expressly provides otherwise.

4 (i) The office of enterprise technology services shall
5 adopt rules pursuant to chapter 91 governing the implementation
6 of electronic notice under this section. The rules shall be
7 adopted in consultation with the access Hawaii committee
8 established under chapter 27G. In conducting rulemaking under
9 this subsection, the office of enterprise technology services
10 shall solicit public comment from government agencies, county
11 governments, persons with disabilities, disability advocacy
12 organizations, and other interested parties.

13 Electronic posting pursuant to this section shall
14 constitute legally sufficient notice only when made in
15 compliance with rules adopted pursuant to this subsection.

16 ~~[(f)]~~ (j) For purposes of this section, "government
17 agency" means each department, board, commission, or officer of
18 the State or any of its political subdivisions."

19 SECTION 3. (a) Before or concurrent with the adoption of
20 rules under section 1-28.5(i), Hawaii Revised Statutes, the
21 office of enterprise technology services shall assess whether



1 the existing service level agreement between the State and the
2 portal manager, as defined in 27G-1, Hawaii Revised Statutes,
3 requires modification to accommodate the electronic posting of
4 legal notices pursuant to section 1-28.5, Hawaii Revised
5 Statutes. Any required modification to the service level
6 agreement shall be submitted to the access Hawaii committee for
7 review and approval pursuant to section 27G-4, Hawaii Revised
8 Statutes, before taking effect.

9 (b) Section 1-28.5(a)(1)(A) and (2)(A), Hawaii Revised
10 Statutes, shall not take effect until the office of enterprise
11 technology services has adopted rules pursuant to section 1-
12 28.5(i), Hawaii Revised Statutes, and has filed those rules with
13 the lieutenant governor in accordance with chapter 91, Hawaii
14 Revised Statutes.

15 SECTION 4. Statutory material to be repealed is bracketed
16 and stricken. New statutory material is underscored.

17 SECTION 5. This Act shall take effect on July 1, 3000.



Report Title:

ETS; Access Hawaii Committee; Public Notices; Electronic Posting

Description:

Authorizes government agencies to satisfy public notice requirements by electronic posting on official state or county websites or electronic calendars, while preserving traditional publication as an option. Directs the Office of Enterprise Technology Services, in consultation with the Access Hawaii Committee, to adopt rules governing the implementation of electronic notice before the electronic notice authorization takes legal effect. Effective 7/1/3000. (HD2)

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

