

JAN 18 2019

A BILL FOR AN ACT

RELATING TO ADMINISTRATIVE PROCEDURE.

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

1 SECTION 1. The legislature finds that technology is moving
2 in the direction where electronic documents are replacing hard
3 copies. For example, the Hawaii commission on water resource
4 management, land use commission, board of land and natural
5 resources, and the public utilities commission maintain web-
6 based listings of dockets and docket documents. The state
7 judiciary and the state senate also have converted to electronic
8 documents. In addition, web-based public notification is
9 becoming more common, although a few tweaks are still needed.
10 The public utilities commission, for example, is in the process
11 of converting to web-based certificate of service.

12 While many state agencies are moving toward electronic
13 documentation and notification, not all agencies are part of
14 this shift. The department of health does not maintain a list
15 of open dockets and even parties cannot tell what official
16 documents are part of the official record in a proceeding. In
17 addition, the department of health can take more than two years



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1 to determine who the parties are, what the issues are, and to
2 determine the procedural schedule. This is because, unlike
3 other agencies, under the department of health's permitting
4 process, a permit may be approved before a contested case
5 proceeding gets underway. Thus the permit holder is indifferent
6 to how long the process drags out.

7 The legislature finds that it is important that all parties
8 before a regulatory agency receive the same access to
9 information and documentation regardless of which agency is
10 adjudicating their case.

11 The purpose of this Act is to require all agencies to:

12 (1) Maintain a website with a list of open contested cases
13 and provide access to all documents filed in each case
14 via the website; and

15 (2) Establish a subscription-based email notification
16 system so that all interested parties may receive
17 notice of all filings made in a contested case
18 proceeding.

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



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1 "§91-9 Contested cases; notice; hearing; records. (a)

2 Subject to section 91-8.5, in any contested case, all parties
3 shall be afforded an opportunity for hearing after reasonable
4 notice.

5 (b) The notice shall include a statement of:

6 (1) The date, time, place, and nature of hearing;

7 (2) The legal authority under which the hearing is to be
8 held;

9 (3) The particular sections of the statutes and rules
10 involved;

11 (4) An explicit statement in plain language of the issues
12 involved and the facts alleged by the agency in
13 support thereof; provided that if the agency is unable
14 to state such issues and facts in detail at the time
15 the notice is served, the initial notice may be
16 limited to a statement of the issues involved, and
17 thereafter upon application a bill of particulars
18 shall be furnished;

19 (5) The fact that any party may retain counsel if the
20 party so desires and the fact that an individual may
21 appear on the individual's own behalf, or a member of



1 a partnership may represent the partnership, or an
2 officer or authorized employee of a corporation or
3 trust or association may represent the corporation,
4 trust, or association.

5 (c) Opportunities shall be afforded all parties to present
6 evidence and argument on all issues involved.

7 (d) Any procedure in a contested case may be modified or
8 waived by stipulation of the parties and informal disposition
9 may be made of any contested case by stipulation, agreed
10 settlement, consent order, or default.

11 (e) For the purpose of agency decisions, the record shall
12 include:

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

14 (2) Evidence received or considered, including oral
15 testimony, exhibits, and a statement of matters
16 officially noticed;

17 (3) Offers of proof and rulings thereon;

18 (4) Proposed findings and exceptions;

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

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



1 (f) It shall not be necessary to transcribe the record
2 unless requested for purposes of rehearing or court review.

3 (g) No matters outside the record shall be considered by
4 the agency in making its decision except as provided herein.

5 (h) Each agency shall maintain a website that contains a
6 list of the agency's open cases. Each website shall provide
7 access to all of the documents filed in each case. All
8 documents shall be uploaded in a timely manner to the website.

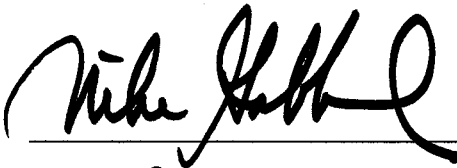

9 (i) Each agency shall establish a subscription-based email
10 notification system of all filings made in a contested case
11 proceeding. Any interested party may sign up for the
12 subscription. This web-based notification system shall be
13 deemed to meet the legal requirements for any certification of
14 service requirement only if a party has signed up for the
15 subscription."

16 SECTION 3. New statutory material is underscored.

17 SECTION 4. This Act shall take effect on July 1, 2019.

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INTRODUCED BY:



S.B. NO. 757

J. D. Rivera



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Report Title:

Administrative Procedure; Contested Case Proceedings and Filings; Web-based Documents and Notifications

Description:

Requires agencies to maintain a website with a list of open contested cases and requires access to all documents filed. Requires that each agency establish a subscription-based email notification system that notifies interested parties of all filings made in a contested case proceeding.

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

