
A BILL FOR AN ACT

RELATING TO PUBLIC INFORMATION.

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

1 SECTION 1. The legislature finds that if a government
2 agency is required to provide public information through a
3 public notice or to publish notice, the agency must do so in a
4 daily or weekly publication, either statewide or in a specific
5 county, as appropriate. This requirement is costly for the
6 State and does not take full advantage of enhancements in
7 communications technology. Electronic posting of information
8 has become commonplace because it is easy, efficient, and
9 relatively inexpensive, and increases public access to the
10 information. The legislature finds that using State and county
11 websites that can accommodate government notices and publication
12 of the notices would provide better service to the public, while
13 providing significant cost savings for state and county
14 governments.

15 The legislature further finds that under existing law,
16 Hawaii's government agencies, boards, commissions, and
17 committees are required to give written public notice of any
18 regular, special, or rescheduled meeting, including an agenda



1 and the date, time, and place of the meeting. The minutes of
2 the meeting are considered a public record and required to be
3 available to the public within thirty days following the
4 meeting.

5 However, existing law does not require electronic posting
6 of these public notices and records and a recent informal review
7 of state and county agencies found that many do not post their
8 agendas and meeting minutes online, or are inconsistent in the
9 postings.

10 The legislature finds that technology and electronic
11 posting can help facilitate public access, while at the same
12 time reduce costs associated with the printing and duplication
13 of paper copies of these documents. Efforts are underway
14 throughout state and county government to reduce the use of
15 hard-copy documents, improve public access to government
16 records, and facilitate communication through technology.

17 The purpose of this Act is to support these efforts by:

- 18 (1) Providing a two-year window for government agencies to
19 disseminate publications of notice electronically, or
20 in a daily or weekly publication of statewide
21 circulation or in a daily or weekly publication in the
22 affected county, as appropriate, and thereafter



1 requiring government agencies to disseminate
2 publications of notice only electronically;

3 (2) Eliminating the requirement to post hard-copy notices
4 of public meetings with the lieutenant governor's
5 office or the county clerk's office;

6 (3) Requiring boards, commissions, authorities, and
7 committees to post notice electronically, except in
8 situations involving technical difficulties, during
9 which the posting of hard-copy notices is required;

10 (4) Requiring boards, commissions, authorities, and
11 committees to make copies of their agendas, minutes,
12 and related documents available to the public online;
13 and

14 (5) Requiring government agencies to post public notice of
15 public hearings on the website of the affected county.

16 SECTION 2. Section 1-28.5, Hawaii Revised Statutes, is
17 amended as follows:

18 1. By amending subsection (a) to read:

19 "(a) Notwithstanding any other statute, law, charter
20 provision, ordinance, or rule to the contrary, whenever a
21 government agency is required to give public notice or to
22 publish notice, the notice shall be given [~~only~~] as follows:



- 1 (1) For statewide publication[+
 - 2 ~~(A) In a daily or weekly publication of statewide~~
 - 3 ~~circulation; or~~
 - 4 ~~(B) By publication in separate daily or weekly~~
 - 5 ~~publications whose combined circulation is statewide;]~~
 - 6 , by electronic or online publication on the
 - 7 centralized website of the State; and
- 8 (2) For county-wide publication, by [~~publication in a~~
- 9 ~~daily or weekly publication in the affected county.]~~
- 10 electronic or online publication on the website of the
- 11 affected county.

12 [~~Additional supplemental notice may also be given through Hawaii~~

13 ~~FYI, the State's interactive computer system.] The State and~~

14 counties shall make all reasonable efforts within the resources

15 available to them, to make their respective websites accessible

16 to the disabled, the elderly, and other individuals who require

17 assistance to access the notices that are permitted to be

18 published on those websites."

19 2. By amending subsection (c) to read:

20 "(c) Whenever a public notice is published [~~in a newspaper~~

21 ~~or other publication]~~ as described in subsection (a), proof of

22 the publication shall be the affidavit of [~~the~~]:



1 (1) The printer, publisher, principal clerk, or business
2 manager of the newspaper or other publication or of
3 the designated agent of the group that published the
4 notice[-]; or

5 (2) The designated representative of the government agency
6 operating the centralized website of the State or the
7 website of the affected county, as applicable;
8 provided that if the notice is published on the
9 centralized website of the State or the website of the
10 affected county, the public notice shall include
11 information or links to other locations of the
12 electronic or online notice."

13 SECTION 3. Section 92-7, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "**§92-7 Notice.** (a) The board shall give written public
16 notice of any regular, special, or rescheduled meeting, or any
17 executive meeting when anticipated in advance. The notice shall
18 include an agenda [~~which~~] that lists all of the items to be
19 considered at the forthcoming meeting, the date, time, and place
20 of the meeting, and in the case of an executive meeting the
21 purpose shall be stated. 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 (b) The board shall [~~file~~] post the notice [~~in the office~~
4 ~~of the lieutenant governor or the appropriate county clerk's~~
5 ~~office,~~] on the electronic calendar maintained on the State of
6 Hawaii's internet website or on the appropriate county's
7 internet website, on the website of the board or the website of
8 the department within which the board is established if the
9 board does not have a website, and in the board's office for
10 public inspection, at least six calendar days before the
11 meeting. The notice shall also be posted at the [site] location
12 of the meeting whenever feasible. If a board is unable to post
13 its notice on an electronic calendar because of an interruption
14 in service that prevents access to the electronic calendar, the
15 board shall file the notice in the office of the lieutenant
16 governor if a state board, or in the appropriate county clerk's
17 office if a county board. The office of the lieutenant governor
18 or the appropriate county clerk's office shall then post the
19 notice on the state or county electronic calendar as soon as
20 service is restored.

21 (c) If the written public notice is [~~filed in the office~~
22 ~~of the lieutenant governor~~] not posted on the State of Hawaii's



1 internet website or the appropriate [~~county clerk's office less~~
2 ~~than~~] county's internet website at least six calendar days
3 before the meeting, the [~~lieutenant governor or the appropriate~~
4 ~~county clerk shall immediately notify the chairperson of the~~
5 ~~board, or the director of the department within which the board~~
6 ~~is established or placed, of the tardy filing of the meeting~~
7 ~~notice. The~~] board's electronic notice shall be rejected by the
8 electronic calendar. If there is a dispute as to whether a
9 notice was timely filed on an electronic calendar, a printout of
10 the electronically time-stamped agenda shall be conclusive
11 evidence of the filing date. If a meeting notice is filed late,
12 the meeting shall be canceled as a matter of law, and the
13 chairperson of the board or the department director shall ensure
14 that a notice canceling the meeting is posted in the board's
15 office, and whenever feasible, at the [place] location of the
16 meeting, and no meeting shall be held[-]; provided that the
17 meeting shall not be cancelled as a matter of law or otherwise
18 if electronic notice that was rejected by the electronic
19 calendar was filed in the office of the lieutenant governor or
20 the county clerk in accordance with subsection (b).

21 (d) No board shall change the agenda, once [~~filed,~~]
22 posted, by adding items thereto without a two-thirds recorded



1 vote of all members to which the board is entitled; provided
2 that no item shall be added to the agenda if it is of reasonably
3 major importance and action thereon by the board will affect a
4 significant number of persons. Items of reasonably major
5 importance not decided at a scheduled meeting shall be
6 considered only at a meeting continued to a reasonable day and
7 time.

8 (e) The board shall maintain a list of names and addresses
9 of persons who request notification of meetings and shall [~~mail~~]
10 transmit a copy of the notice to [~~such~~] these persons at their
11 last recorded mailing or electronic mailing address [~~no later~~
12 ~~than the time the agenda is filed under subsection (b)-]~~ at
13 least six calendar days before the meeting."

14 SECTION 4. Section 92-8, Hawaii Revised Statutes, is
15 amended by amending subsections (a) and (b) to read as follows:

16 "(a) If a board finds that an imminent peril to the public
17 health, safety, or welfare requires a meeting in less time than
18 is provided for in section 92-7, the board may hold an emergency
19 meeting; provided that:

20 (1) The board states in writing the reasons for its
21 findings;



- 1 (2) Two-thirds of all members to which the board is
2 entitled agree that the findings are correct and an
3 emergency exists;
- 4 (3) An emergency agenda and the findings are [~~filed with~~
5 ~~the office of the lieutenant governor or the~~
6 ~~appropriate county clerk's office, and in the board's~~
7 ~~office;~~] posted as required for notices under section
8 92-7; and
- 9 (4) Persons requesting notification on a regular basis are
10 contacted by mail, electronic mail, or telephone as
11 soon as practicable.
- 12 (b) If an unanticipated event requires a board to take
13 action on a matter over which it has supervision, control,
14 jurisdiction, or advisory power, within less time than is
15 provided for in section 92-7 to notice and convene a meeting of
16 the board, the board may hold an emergency meeting to deliberate
17 and decide whether and how to act in response to the
18 unanticipated event; provided that:
- 19 (1) The board states in writing the reasons for its
20 finding that an unanticipated event has occurred and
21 that an emergency meeting is necessary and the
22 attorney general if a state board, or the county



1 counsel if a county board, concurs that the conditions
2 necessary for an emergency meeting under this
3 subsection exist;

4 (2) Two-thirds of all members to which the board is
5 entitled agree that the conditions necessary for an
6 emergency meeting under this subsection exist;

7 (3) The finding that an unanticipated event has occurred
8 and that an emergency meeting is necessary and the
9 agenda for the emergency meeting under this subsection
10 are [~~filed with the office of the lieutenant governor~~
11 ~~or the appropriate county clerk's office, and in the~~
12 ~~board's office,] posted as required for notices under
13 section 92-7;~~

14 (4) Persons requesting notification on a regular basis are
15 contacted by mail, electronic mail, or telephone as
16 soon as practicable; and

17 (5) The board limits its action to only that action which
18 must be taken on or before the date that a meeting
19 would have been held, had the board noticed the
20 meeting pursuant to section 92-7."

21 SECTION 5. Section 92-9, Hawaii Revised Statutes, is
22 amended to read as follows:



1 (a) The board shall keep written minutes of all meetings.
2 Unless otherwise required by law, neither a full transcript nor
3 a recording of the meeting is required, but the written minutes
4 shall give a true reflection of the matters discussed at the
5 meeting and the views of the participants. The minutes shall
6 include~~[7]~~ but ~~[need]~~ not be limited to:

7 (1) The date, time, and ~~[place]~~ location of the meeting;

8 (2) The members of the board recorded as either present or
9 absent;

10 (3) The substance of all matters proposed, discussed, or
11 decided; and a record, by individual member, of any
12 votes taken; ~~[and]~~

13 (4) Any other information that any member of the board
14 requests be included or reflected in the minutes.

15 (b) The minutes shall be public records and for a state
16 board shall be ~~[available]~~ posted on the website of the board or
17 the website of the department within which the board is
18 established if the board does not have a website, and for a
19 county board shall be available upon request, within thirty days
20 after the meeting except where such disclosure would be
21 inconsistent with section 92-5; provided that minutes of
22 executive meetings may be withheld so long as their publication



1 would defeat the lawful purpose of the executive meeting, but no
2 longer.

3 (c) For a state board, any written materials distributed
4 to the board at the meeting, to the extent that the materials
5 would be required to be disclosed under part II of chapter 92F
6 shall be on the website of the board or the website of the
7 department within which the board is established if the board
8 does not have a website.

9 [~~+~~] (d) All or any part of a meeting of a board may be
10 recorded by any person in attendance by means of a tape recorder
11 or any other means of sonic reproduction, except when a meeting
12 is closed pursuant to section 92-4; provided the recording does
13 not actively interfere with the conduct of the meeting."

14 SECTION 6. Section 92-41, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "**§92-41 Giving public notices.** Notwithstanding any law to
17 the contrary, all governmental agencies scheduling a public
18 hearing shall [~~give~~] post public notice [~~in~~] on the website of
19 the county affected by the proposed action, to inform the public
20 of the date, time, [~~place,~~] location, and subject matter of the
21 public hearing. This requirement shall prevail whether or not
22 the governmental agency giving notice of public hearing is



1 specifically required by law, and shall be in addition to other
2 procedures required by law."

3 SECTION 7. Notwithstanding any other statute, law, charter
4 provision, ordinance, or rule to the contrary, whenever a
5 government agency is required to give public notice or to
6 publish notice, the notice may be given as follows:

7 (1) For statewide publication:

8 (A) By electronic or online publication on the
9 centralized website of the State;

10 (B) In a daily or weekly publication of statewide
11 circulation; or

12 (C) By publication in separate daily or weekly
13 publications whose combined circulation is
14 statewide; and

15 (2) For county-wide publication:

16 (A) By electronic or online publication on the
17 website of the affected county; or

18 (B) By publication in a daily or weekly publication
19 in the affected county.

20 SECTION 8. There is appropriated out of the general
21 revenues of the State of Hawaii the sum of \$284,200 or so much
22 thereof as may be necessary for fiscal year 2012-2013 for



1 support services by the Hawaii state public library system for
2 the public to access and print public information from the
3 centralized website, including ADA-compliant stations with
4 accessible printers and workstations.

5 The sum appropriated shall be expended by the Hawaii state
6 public library system for the purposes of this Act.

7 SECTION 9. There is appropriated out of the general
8 revenues of the State of Hawaii the sum of \$60,000 or so much
9 thereof as may be necessary for fiscal year 2012-2013 to assist
10 boards and commission in meeting the electronic posting
11 requirements of this Act.

12 The sum appropriated shall be expended by the office of
13 information practices for the purposes of this Act.

14 SECTION 10. Statutory material to be repealed is bracketed
15 and stricken. New statutory material is underscored.

16 SECTION 11. This Act shall take effect on July 1, 2012;
17 provided that section 7 shall be effective July 1, 2012, and
18 shall be repealed on July 1, 2014; provided further that section
19 2 of this Act shall be effective on July 1, 2014.



Report Title:

Public Information; Public Notice; Public Meeting Minutes

Description:

Authorizes government agencies to disseminate publications of notice electronically or in a daily or weekly publication of statewide circulation, or in a daily or weekly publication in the affected county until 2014. Eliminates the requirement for boards to file hard-copy notices of public meetings with the Office of the Lieutenant Governor or county clerk and requires the notice to be posted on the electronic calendar maintained on the State of Hawaii's internet website or appropriate county's internet website, on the website of the board or the website of the department within which the board is established if the board does not have a website; requires boards to post electronic copies of the materials required by law to be disclosed. Allows notice to be sent electronically to persons who request notification. Appropriates funds. (HB2404 CD1)

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

