
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 State and counties have official websites that
11 can accommodate government notices and publication of the
12 notices on these websites would provide better service to the
13 public, while providing significant cost savings for state and
14 county 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) Allowing government agencies to disseminate
19 publications of notice electronically, or in a daily
20 or weekly publication of statewide circulation or in a
21 daily or weekly publication in the affected county, as
22 appropriate;



1 (2) Eliminating the requirement to post hard-copy notices
2 of public meetings with the lieutenant governor's
3 office;

4 (3) Requiring all government agencies, boards,
5 commissions, and committees to post electronic copies
6 of their agendas, minutes, and related documents
7 online, except in situations involving technical
8 difficulties, during which the posting of hard-copy
9 notices is required; and

10 (4) Encouraging state agencies to broadcast their
11 proceedings online.

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

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

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

19 (1) For statewide publication:

20 (A) By electronic or online publication on the
21 centralized website of the State;



1 ~~[(A)]~~ (B) In a daily or weekly publication of
2 statewide circulation; or

3 ~~[(B)]~~ (C) By publication in separate daily or weekly
4 publications whose combined circulation is
5 statewide; and

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

7 (A) By electronic or online publication on the
8 website of the affected county; or

9 (B) By publication in a daily or weekly publication
10 in the affected county.

11 ~~[Additional supplemental notice may also be given through Hawaii~~
12 ~~FYI, the State's interactive computer system.] The public~~
13 ~~notices and the websites shall be accessible to the disabled,~~
14 ~~the elderly, and other individuals who require state assistance~~
15 ~~to access the notices and websites."~~

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

17 "(c) Whenever a public notice is published ~~[in a newspaper~~
18 ~~or other publication]~~ as described in subsection (a), proof of
19 the publication shall be the affidavit of ~~[the]~~:

20 (1) The printer, publisher, principal clerk, or business
21 manager of the newspaper or other publication or of



1 the designated agent of the group that published the
2 notice[-]; or

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

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

13 "**§92-7 Notice.** (a) The board shall give written public
14 notice of any regular, special, or rescheduled meeting, or any
15 executive meeting when anticipated in advance. The notice shall
16 include an agenda [~~which~~] that lists all of the items to be
17 considered at the forthcoming meeting, the date, time, and place
18 of the meeting, and in the case of an executive meeting the
19 purpose shall be stated. The means specified by this section
20 shall be the only means required for giving notice under this
21 part, notwithstanding any law to the contrary.

1 (b) The board shall [~~file~~] post the notice [~~in the office~~
2 ~~of the lieutenant governor or the appropriate county clerk's~~
3 ~~office,~~] on the electronic calendar maintained on the State of
4 Hawaii's internet website or on the appropriate county's
5 internet website, on the website of the board or the website of
6 the department within which the board is established if the
7 board does not have a website, and in the board's office for
8 public inspection, at least six calendar days before the
9 meeting. The notice shall also be posted at the [site] location
10 of the meeting whenever feasible. If a board is unable to post
11 its notice on an electronic calendar because of an interruption
12 in service that prevents access to the electronic calendar, the
13 board shall file the notice in the office of the lieutenant
14 governor if a state board, or in the appropriate county clerk's
15 office if a county board. The office of the lieutenant governor
16 or the appropriate county clerk's office shall then post the
17 notice on the state or county electronic calendar as soon as
18 service is restored.

19 (c) If the written public notice is [~~filed in the office~~
20 ~~of the lieutenant governor~~] not posted on the State of Hawaii's
21 internet website or the appropriate [~~county clerk's office less~~
22 ~~than~~] county's internet website at least six calendar days



1 before the meeting, the [~~lieutenant governor or the appropriate~~
2 ~~county clerk shall immediately notify the chairperson of the~~
3 ~~board, or the director of the department within which the board~~
4 ~~is established or placed, of the tardy filing of the meeting~~
5 ~~notice. The] board's electronic notice shall be rejected by the
6 electronic calendar. If there is a dispute as to whether a
7 notice was timely filed on an electronic calendar, a printout of
8 the electronically time-stamped agenda shall be conclusive
9 evidence of the filing date. If a meeting notice is filed late,
10 the meeting shall be canceled as a matter of law, and the
11 chairperson of the board or the department director shall ensure
12 that a notice canceling the meeting is posted in the board's
13 office, and whenever feasible, at the [place] location of the
14 meeting, and no meeting shall be held.~~

15 (d) No board shall change the agenda, once [~~filed,~~]
16 posted, by adding items thereto without a two-thirds recorded
17 vote of all members to which the board is entitled; provided
18 that no item shall be added to the agenda if it is of reasonably
19 major importance and action thereon by the board will affect a
20 significant number of persons. Items of reasonably major
21 importance not decided at a scheduled meeting shall be



1 considered only at a meeting continued to a reasonable day and
2 time.

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

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

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

15 (1) The board states in writing the reasons for its
16 findings;

17 (2) Two-thirds of all members to which the board is
18 entitled agree that the findings are correct and an
19 emergency exists;

20 (3) An emergency agenda and the findings are ~~[filed with~~
21 ~~the office of the lieutenant governor or the~~
22 ~~appropriate county clerk's office, and in the board's~~



1 ~~office]~~ posted as required for notices under section
2 92-7; and

3 (4) Persons requesting notification on a regular basis are
4 contacted by mail, electronic mail, or telephone as
5 soon as practicable.

6 (b) If an unanticipated event requires a board to take
7 action on a matter over which it has supervision, control,
8 jurisdiction, or advisory power, within less time than is
9 provided for in section 92-7 to notice and convene a meeting of
10 the board, the board may hold an emergency meeting to deliberate
11 and decide whether and how to act in response to the
12 unanticipated event; provided that:

13 (1) The board states in writing the reasons for its
14 finding that an unanticipated event has occurred and
15 that an emergency meeting is necessary and the
16 attorney general if a state board, or the county
17 counsel if a county board, concurs that the conditions
18 necessary for an emergency meeting under this
19 subsection exist;

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



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

8 (4) Persons requesting notification on a regular basis are
9 contacted by mail, electronic mail, or telephone as
10 soon as practicable; and

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

15 SECTION 5. Section 92-9, Hawaii Revised Statutes, is
16 amended by amending subsections (a) and (b) to read as follows:

17 "(a) The board shall keep written minutes of all meetings.
18 Unless otherwise required by law, neither a full transcript nor
19 a recording of the meeting is required, but the written minutes
20 shall give a true reflection of the matters discussed at the
21 meeting and the views of the participants. The minutes shall
22 include[~~r~~] but [~~need~~] not be limited to:



- 1 (1) The date, time, and [~~plae~~] location of the meeting;
- 2 (2) The members of the board recorded as either present or
- 3 absent;
- 4 (3) The substance of all matters proposed, discussed, or
- 5 decided; and a record, by individual member, of any
- 6 votes taken; [~~and~~]
- 7 (4) Any other information that any member of the board
- 8 requests be included or reflected in the minutes [~~-~~];
- 9 and
- 10 (5) For a state board, any written materials distributed
- 11 to the board at the meeting, to the extent that the
- 12 materials would be required to be disclosed under part
- 13 II of chapter 92F and that physical copies of the
- 14 materials shall not be required if they are
- 15 electronically posted on the website as required under
- 16 subsection (b).
- 17 (b) The minutes shall be public records and for a state
- 18 board shall be [~~available~~] posted on the website of the board or
- 19 the website of the department within which the board is
- 20 established if the board does not have a website, and for a
- 21 county board shall be available upon request, within thirty days
- 22 after the meeting except where such disclosure would be



1 inconsistent with section 92-5; provided that minutes of
2 executive meetings may be withheld so long as their publication
3 would defeat the lawful purpose of the executive meeting, but no
4 longer."

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

7 "**§92-41 Giving public notices.** Notwithstanding any law to
8 the contrary, all governmental agencies scheduling a public
9 hearing shall [~~give~~] post public notice [~~in~~] on the website of
10 the county affected by the proposed action, to inform the public
11 of the date, time, [~~place~~], location, and subject matter of the
12 public hearing. This requirement shall prevail whether or not
13 the governmental agency giving notice of public hearing is
14 specifically required by law, and shall be in addition to other
15 procedures required by law."

16 SECTION 7. There is appropriated out of the general
17 revenues of the State of Hawaii the sum of \$ or so
18 much thereof as may be necessary for fiscal year 2012-2013 for
19 the operational expenses of the office of information management
20 and technology, including establishment of a centralized website
21 of the State for the dissemination of public information, to be
22 administered by the office of information management and



1 technology, including but not limited to the following features:
2 one data entry point with multiple destinations; 99.99 per cent
3 reliability; reporting capabilities; integration with the state
4 calendar; equal employment opportunity compliance; mapping and
5 GIS integration; language translation; compliance with Americans
6 with Disabilities Act (ADA) federal requirements; a ten-year
7 archive; active postings for a period of one month; internet
8 privacy; Electronic Discovery Law compliance; records management
9 compliance, Federal Information Security Management Act of 2002
10 security management; and RSS (Really Simple Syndication) feeds
11 to public access channels.

12 The sum appropriated shall be expended by the department of
13 accounting and general services for the purposes of this Act.

14 SECTION 8. There is appropriated out of the general
15 revenues of the State of Hawaii the sum of \$ or so
16 much thereof as may be necessary for fiscal year 2012-2013 for
17 support services by the Hawaii state public library system for
18 the public to access and print public information from the
19 centralized website, including ADA-compliant stations with
20 accessible printers and workstations.

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



1 SECTION 9. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 10. This Act shall take effect on July 1, 2012;
4 provided that the electronic or online publication of notices in
5 section 2 of this Act shall be implemented and fully operational
6 no later than January 1, 2014.



Report Title:

Public Information; Public Notice; Public Meeting Minutes;
Appropriation

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, as appropriate, effective 1/1/2014; eliminates the requirement to file hard-copy notices of public meetings with the office of the lieutenant governor or county clerk; 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 all government agencies, boards, commissions, and committees to post electronic copies of their agendas and minutes online, and for a state board, any written materials distributed to the board at the meeting, to the extent that such materials would be required to be disclosed, and transmit electronic copies or hard copies, of meeting notices to persons who request notification; appropriates funds for the operational expenses of the office of information management technology; appropriates funds for the Hawaii public library system for support services for public access to public electronic information. (SD2)

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