

**ACT 64**

H.B. NO. 165

A Bill for an Act Relating to Public Meetings.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 92, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§92- Board packet; filing; public inspection; notice.** At the time the board packet is distributed to the board members, the board shall also make the board packet available for public inspection in the board’s office. The board shall provide notice to persons requesting notification of meetings pursuant to section

92-7(e) that the board packet is available for inspection in the board's office and shall provide reasonably prompt access to the board packet to any person upon request. The board is not required to mail board packets. As soon as practicable, the board shall accommodate requests for electronic access to the board packet.

For purposes of this section, "board packet" means documents that are compiled by the board and distributed to board members before a meeting for use at that meeting, to the extent the documents are public under chapter 92F; provided that this section shall not require disclosure of executive session minutes, license applications, or other records for which the board cannot reasonably complete its redaction of nonpublic information in the time available before the public inspection required by this section."

SECTION 2. Section 92-7, Hawaii Revised Statutes, is amended to read as follows:

**"§92-7 Notice.** (a) The board shall give written public notice of any regular, special, emergency, or rescheduled meeting, or any executive meeting when anticipated in advance. The notice shall include an agenda ~~[which]~~ that lists all of the items to be considered at the forthcoming meeting, the date, time, and place of the meeting, and in the case of an executive meeting, the purpose shall be stated. If an item to be considered is the proposed adoption, amendment, or repeal of administrative rules, an agenda meets the requirements for public notice pursuant to this section if it contains a statement on the topic of the proposed rules or a general description of the subjects involved, as described in section 91-3(a)(1)(A), and a statement of when and where the proposed rules may be viewed in person and on the Internet as provided in section 91-2.6. The means specified by this section shall be the only means required for giving notice under this part notwithstanding any law to the contrary.

(b) ~~[The board shall file the notice in the office of the lieutenant governor or the appropriate county clerk's office,] No less than six calendar days prior to the meeting, the board shall post the notice on an electronic calendar on a website maintained by the State or the appropriate county and in the board's office for public inspection[, at least six calendar days before the meeting].~~ The notice shall also be posted at the site of the meeting whenever feasible. The board shall provide a copy of the notice to the office of the lieutenant governor or the appropriate county clerk's office at the time the notice is posted, and the office of the lieutenant governor or the appropriate clerk's office shall post paper or electronic copies of all meeting notices in a central location in a public building; provided that a failure to do so by the board, the office of the lieutenant governor, or the appropriate county clerk's office shall not require cancellation of the meeting.

(c) ~~If the written public notice is [filed in the office of the lieutenant governor or the appropriate county clerk's office] electronically posted on an electronic calendar less than six calendar days before the meeting, the [lieutenant governor or the appropriate county clerk shall immediately notify the chairperson of the board, or the director of the department within which the board is established or placed, of the tardy filing of the meeting notice. The] meeting shall be canceled as a matter of law[, the] and shall not be held. The chairperson or the director shall ensure that a notice canceling the meeting is posted at the place of the meeting[, and no meeting shall be held].~~ If there is a dispute as to whether a notice was timely posted on an electronic calendar maintained by the State or appropriate county, a printout of the electronic time-stamped agenda shall be conclusive evidence of the electronic posting date. The board shall provide a copy of the time-stamped record upon request.

(d) No board shall change the agenda, [~~once filed;~~] less than six calendar days prior to the meeting, by adding items thereto without a two-thirds recorded vote of all members to which the board is entitled; provided that no item shall be added to the agenda if it is of reasonably major importance and action thereon by the board will affect a significant number of persons. Items of reasonably major importance not decided at a scheduled meeting shall be considered only at a meeting continued to a reasonable day and time.

(e) The board shall maintain a list of names and postal or electronic mail addresses of persons who request notification of meetings and shall mail or electronically mail a copy of the notice to [~~such~~] the persons by the means chosen by the persons at their last recorded postal or electronic mail address no later than the time the agenda is [~~filed~~] required to be electronically posted under subsection (b).”

SECTION 3. Section 92-8, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

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

- (1) The board states in writing the reasons for its findings;
- (2) Two-thirds of all members to which the board is entitled agree that the findings are correct and an emergency exists;
- (3) An emergency agenda and the findings are [~~filed with the office of the lieutenant governor or the appropriate county clerk’s office, and in the board’s office; and~~] electronically posted pursuant to section 92-7(b); provided that the six calendar day requirement for filing and electronic posting shall not apply; and
- (4) Persons requesting notification on a regular basis are contacted by postal or electronic mail or telephone as soon as practicable.

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

- (1) The board states in writing the reasons for its finding that an unanticipated event has occurred and that an emergency meeting is necessary and the attorney general concurs that the conditions necessary for an emergency meeting under this subsection exist;
- (2) Two-thirds of all members to which the board is entitled agree that the conditions necessary for an emergency meeting under this subsection exist;
- (3) The finding that an unanticipated event has occurred and that an emergency meeting is necessary and the agenda for the emergency meeting under this subsection are [~~filed with the office of the lieutenant governor or the appropriate county clerk’s office, and in the board’s office;~~] electronically posted pursuant to section 92-7(b); provided that the six calendar day requirement for filing and electronic posting shall not apply;
- (4) Persons requesting notification on a regular basis are contacted by postal or electronic mail or telephone as soon as practicable; and
- (5) The board limits its action to only that action [~~which~~] that must be taken on or before the date that a meeting would have been held, had the board noticed the meeting pursuant to section 92-7.”

## ACT 64

SECTION 4. Section 92-9, Hawaii Revised Statutes, is amended to read as follows:

“**§92-9 Minutes.** (a) The board shall keep written or recorded minutes of all meetings. Unless otherwise required by law, neither a full transcript nor a recording of the meeting is required, but the ~~written~~ minutes shall give a true reflection of the matters discussed at the meeting and the views of the participants. ~~The~~ Written minutes shall include, but need not be limited to:

- (1) The date, time and place of the meeting;
- (2) The members of the board recorded as either present or absent;
- (3) The substance of all matters proposed, discussed, or decided; and a record, by individual member, of any votes taken; and
- (4) Any other information that any member of the board requests be included or reflected in the minutes.

(b) The minutes shall be ~~public records and shall be available~~ made available to the public by posting on the board's website or, if the board does not have a website, on an appropriate state or county website within ~~thirty~~ forty days after the meeting except where such disclosure would be inconsistent with section 92-5; provided that minutes of executive meetings may be withheld so long as their publication would defeat the lawful purpose of the executive meeting, but no longer. A written summary shall accompany any minutes that are posted in a digital or analog recording format and shall include:

- (1) The date, time, and place of the meeting;
- (2) The members of the board recorded as either present or absent, and the times when individual members entered or left the meeting;
- (3) A record, by individual member, of motions and votes made by the board; and
- (4) A time stamp or other reference indicating when in the recording the board began discussion of each agenda item and when motions and votes were made by the board.

(c) All or any part of a meeting of a board may be recorded by any person in attendance by ~~means of a tape recorder or any other~~ any means of ~~some~~ reproduction, except when a meeting is closed pursuant to section 92-4; provided the recording does not actively interfere with the conduct of the meeting.”

SECTION 5. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.<sup>1</sup>

SECTION 6. This Act shall take effect on July 1, 2018.

(Approved June 29, 2017.)

### Note

1. Edited pursuant to HRS §23G-16.5.