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# A BILL FOR AN ACT

RELATING TO PUBLIC MEETINGS.

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

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

4           "§92-     Board packet; filing; public inspection; notice.

5 At the time the board packet is distributed to the board  
6 members, the board shall also make the board packet available  
7 for public inspection in the board's office. The board shall  
8 provide notice to persons requesting notification of meetings  
9 pursuant to section 92-7(e) that the board packet is available  
10 for inspection in the board's office and shall provide  
11 reasonably prompt access to the board packet to any person upon  
12 request. The board is not required to mail board packets. To  
13 the greatest extent feasible, the board shall accommodate  
14 requests for electronic access to the board packet.

15           For purposes of this section, "board packet" means  
16 documents that are compiled by the board and distributed to  
17 board members before a meeting for use at that meeting; provided



1 that this section shall not require public access to license  
2 applications or information protected from disclosure under  
3 chapter 92F."

4 SECTION 2. Section 92-3, Hawaii Revised Statutes, is  
5 amended to read as follows:

6 "**§92-3 Open meetings.** Every meeting of all boards shall  
7 be open to the public, and all persons shall be permitted to  
8 attend any meeting unless otherwise provided in the state  
9 constitution or [~~as~~] closed pursuant to sections 92-4 and 92-5;  
10 provided that the removal of any person or persons who wilfully  
11 [~~disrupts~~] disrupt a meeting to prevent and compromise the  
12 conduct of the meeting shall not be prohibited. The boards  
13 shall afford all interested persons an opportunity to submit  
14 data, views, or arguments, in writing, on any agenda item. The  
15 boards shall also afford all interested persons an opportunity  
16 to present oral testimony on any agenda item~~[-]~~; provided that  
17 oral testimony may be allowed for each agenda item separately  
18 and at the time the item is first brought up for discussion at  
19 the meeting. The boards may provide for reasonable  
20 administration of oral testimony by rule."



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

3 "§92-7 Notice. (a) The board shall give written public  
4 notice of any regular, special, emergency, or rescheduled  
5 meeting, or any executive meeting when anticipated in advance.  
6 The notice shall include an agenda [~~which~~] that lists all of the  
7 items to be considered at the forthcoming meeting, the date,  
8 time, and place of the meeting, and in the case of an executive  
9 meeting, the purpose shall be stated. If an item to be  
10 considered is the proposed adoption, amendment, or repeal of  
11 administrative rules, an agenda meets the requirements for  
12 public notice pursuant to this section if it contains a  
13 statement on the topic of the proposed rules or a general  
14 description of the subjects involved, as described in section  
15 91-3(a)(1)(A), and a statement of when and where the proposed  
16 rules may be viewed in person and on the Internet as provided in  
17 section 91-2.6. The means specified by this section shall be  
18 the only means required for giving notice under this part  
19 notwithstanding any law to the contrary.

20 (b) [~~The board shall file the notice in the office of the~~  
21 ~~lieutenant governor or the appropriate county clerk's office,~~]



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

15 (c) If the written public notice is [~~filed in the office~~  
16 ~~of the lieutenant governor or the appropriate county clerk's~~  
17 ~~office]~~ electronically posted on an electronic calendar less  
18 than six calendar days before the meeting, the [lieutenant  
19 ~~governor or the appropriate county clerk shall immediately~~

20 ~~notify the chairperson of the board, or the director of the~~  
21 ~~department within which the board is established or placed, of~~



1 ~~the tardy filing of the meeting notice. The~~ meeting shall be  
2 canceled as a matter of law~~[, the]~~ and shall not be held. The  
3 chairperson or the director shall ensure that a notice canceling  
4 the meeting is posted at the place of the meeting~~[, and no~~  
5 ~~meeting shall be held]~~. If there is a dispute as to whether a  
6 notice was timely posted on an electronic calendar maintained by  
7 the State or appropriate county, a printout of the electronic  
8 time-stamped agenda shall be conclusive evidence of the  
9 electronic posting date. The board shall provide a copy of the  
10 time stamp upon request.

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

20 (e) The board shall maintain a list of names and postal or  
21 electronic mail addresses of persons who request notification of



1 meetings and shall mail or electronically mail a copy of the  
2 notice to ~~[such]~~ the persons by the means chosen by the persons  
3 at their last recorded postal or electronic mail address no  
4 later than the time the agenda is ~~[filed]~~ required to be  
5 electronically posted under subsection (b)."

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

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

12 (1) The board states in writing the reasons for its  
13 findings;

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

17 (3) An emergency agenda and the findings are ~~[filed with~~  
18 ~~the office of the lieutenant governor or the~~  
19 ~~appropriate county clerk's office, and in the board's~~  
20 ~~office; and]~~ electronically posted pursuant to section  
21 92-7(b); provided that the six calendar day



1           requirement for filing and electronic posting shall  
2           not apply; and

3           (4) Persons requesting notification on a regular basis are  
4           contacted by postal or 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 concurs that the conditions necessary  
17          for an emergency meeting under this subsection exist;

18          (2) Two-thirds of all members to which the board is  
19          entitled agree that the conditions necessary for an  
20          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;~~] electronically posted pursuant to  
 7 section 92-7(b); provided that the six calendar day  
 8 requirement for filing and electronic posting shall  
 9 not apply;

10 (4) Persons requesting notification on a regular basis are  
 11 contacted by postal or electronic mail or telephone as  
 12 soon as practicable; and

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

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

19 "(b) The minutes shall be made available to the public  
 20 [~~records and shall be available~~] by posting on the board's  
 21 website or, if the board does not have a website, on an





1 appropriate state or county website within [thirty] forty days  
2 after the meeting except where such disclosure would be  
3 inconsistent with section 92-5; provided that minutes of  
4 executive meetings may be withheld so long as their publication  
5 would defeat the lawful purpose of the executive meeting, but no  
6 longer. If the minutes are posted as a digital or analog  
7 recording, a written summary shall accompany any minutes that  
8 are posted in a digital or analog recording format and shall  
9 include any significant actions taken by the board including  
10 motions and votes made by the board. The board shall maintain  
11 reasonable care of any original or duplicate recordings of  
12 minutes that are recorded by digital or analog means.

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

19 SECTION 6. Statutory material to be repealed is bracketed  
20 and stricken. New statutory material is underscored.

21 SECTION 7. This Act shall take effect on July 1, 2017.



**Report Title:**

Sunshine Law; Public Agency Meetings and Records; Electronic Information; Emergency Meetings; Board Packets; Open Meetings

**Description:**

Requires board packets be made available for public inspection and provide notice of the availability of board packets. Allows boards to allow oral testimony to be presented on agenda items separately and at the time the item is first brought up for discussion at the meeting. Establishes notice and disclosure requirements for emergency meetings. Clarifies notice filing requirements, requires electronic mailing of meeting notices upon request, and requires electronic posting of meeting notices, cancellation notices, and meeting minutes. (SD2)

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

