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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. As  
13 soon as practicable, the board shall accommodate requests for  
14 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, to the  
18 extent the documents are public under chapter 92F; provided that



1 this section shall not require disclosure of executive session  
2 minutes, license applications, or other records for which the  
3 board cannot reasonably complete its redaction of nonpublic  
4 information in the time available before the public inspection  
5 required by this section."

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

8 "§92-7 Notice. (a) The board shall give written public  
9 notice of any regular, special, emergency, or rescheduled  
10 meeting, or any executive meeting when anticipated in advance.  
11 The notice shall include an agenda [~~which~~] that lists all of the  
12 items to be considered at the forthcoming meeting, the date,  
13 time, and place of the meeting, and in the case of an executive  
14 meeting, the purpose shall be stated. If an item to be  
15 considered is the proposed adoption, amendment, or repeal of  
16 administrative rules, an agenda meets the requirements for  
17 public notice pursuant to this section if it contains a  
18 statement on the topic of the proposed rules or a general  
19 description of the subjects involved, as described in section  
20 91-3(a)(1)(A), and a statement of when and where the proposed  
21 rules may be viewed in person and on the Internet as provided in



1 section 91-2.6. The means specified by this section shall be  
2 the only means required for giving notice under this part  
3 notwithstanding any law to the contrary.

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

20 (c) If the written public notice is [~~filed in the office~~  
21 ~~of the lieutenant governor or the appropriate county clerk's~~



1 ~~office]~~ electronically posted on an electronic calendar less  
2 than six calendar days before the meeting, the [~~lieutenant~~  
3 ~~governor or the appropriate county clerk shall immediately~~  
4 ~~notify the chairperson of the board, or the director of the~~  
5 ~~department within which the board is established or placed, of~~  
6 ~~the tardy filing of the meeting notice. The]~~ meeting shall be  
7 canceled as a matter of law[~~the]~~ and shall not be held. The  
8 chairperson or the director shall ensure that a notice canceling  
9 the meeting is posted at the place of the meeting[~~and no~~  
10 ~~meeting shall be held]~~. If there is a dispute as to whether a  
11 notice was timely posted on an electronic calendar maintained by  
12 the State or appropriate county, a printout of the electronic  
13 time-stamped agenda shall be conclusive evidence of the  
14 electronic posting date. The board shall provide a copy of the  
15 time-stamped record upon request.

16 (d) No board shall change the agenda, [~~once filed,~~] less  
17 than six calendar days prior to the meeting, by adding items  
18 thereto without a two-thirds recorded vote of all members to  
19 which the board is entitled; provided that no item shall be  
20 added to the agenda if it is of reasonably major importance and  
21 action thereon by the board will affect a significant number of



1 persons. Items of reasonably major importance not decided at a  
2 scheduled meeting shall be considered only at a meeting  
3 continued to a reasonable day and time.

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

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

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

17 (1) The board states in writing the reasons for its  
18 findings;

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



1           (3) An emergency agenda and the findings are [~~filed with~~  
2           ~~the office of the lieutenant governor or the~~  
3           ~~appropriate county clerk's office, and in the board's~~  
4           ~~office; and]~~ electronically posted pursuant to section  
5           92-7(b); provided that the six calendar day  
6           requirement for filing and electronic posting shall  
7           not apply; and

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

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

18               (1) The board states in writing the reasons for its  
19               finding that an unanticipated event has occurred and  
20               that an emergency meeting is necessary and the



1 attorney general concurs that the conditions necessary  
 2 for an emergency meeting under this subsection exist;

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

6 (3) The finding that an unanticipated event has occurred  
 7 and that an emergency meeting is necessary and the  
 8 agenda for the emergency meeting under this subsection  
 9 are ~~[filed with the office of the lieutenant governor~~  
 10 ~~or the appropriate county clerk's office, and in the~~  
 11 ~~board's office,]~~ electronically posted pursuant to  
 12 section 92-7(b); provided that the six calendar day  
 13 requirement for filing and electronic posting shall  
 14 not apply;

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

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



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

3 "§92-9 Minutes. (a) The board shall keep written or  
4 recorded minutes of all meetings. Unless otherwise required by  
5 law, neither a full transcript nor a recording of the meeting is  
6 required, but the [~~written~~] minutes shall give a true reflection  
7 of the matters discussed at the meeting and the views of the  
8 participants. [~~The~~] Written minutes shall include, but need not  
9 be limited to:

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

18 (b) The minutes shall be [~~public records and shall be~~  
19 available] made available to the public by posting on the  
20 board's website or, if the board does not have a website, on an  
21 appropriate state or county website within [~~thirty~~] forty days





1 after the meeting except where such disclosure would be  
2 inconsistent with section 92-5; provided that minutes of  
3 executive meetings may be withheld so long as their publication  
4 would defeat the lawful purpose of the executive meeting, but no  
5 longer. A written summary shall accompany any minutes that are  
6 posted in a digital or analog recording format and shall  
7 include:

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

18       (c) All or any part of a meeting of a board may be  
19 recorded by any person in attendance by ~~[means of a tape~~  
20 ~~recorder or any other]~~ any means of ~~[serie]~~ reproduction, except  
21 when a meeting is closed pursuant to section 92-4; provided the



1 recording does not actively interfere with the conduct of the  
2 meeting."

3 SECTION 5. Statutory material to be repealed is bracketed  
4 and stricken. New statutory material is underscored.

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



**Report Title:**

Sunshine Law; Public Agency Meetings and Records

**Description:**

Requires state and county boards to make meeting documents available to the public. Clarifies notice requirements. Accounts for electronic documents and notices. (HB165 CD1)

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

