

JAN 18 2019

A BILL FOR AN ACT

RELATING TO PUBLIC MEETINGS.

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

1 SECTION 1. The legislature finds that the Americans with
2 Disabilities Act (ADA) and other federal and state disability
3 laws require state and local governments to provide qualified
4 individuals with disabilities equal access to their programs,
5 services, and activities. The legislature further finds that
6 chapter 92, Hawaii Revised Statutes, also known as the sunshine
7 law, has not provided in its implementation the same access and
8 rights to individuals with disabilities.

9 The sunshine law allows individuals to request that an
10 agency mail them notices of meetings. Under the old sunshine
11 law, a public meeting notice was required to be mailed at the
12 same time it was filed with the lieutenant governor. Under
13 amendments made to the sunshine law, an agency need only mail a
14 notice no less than six days prior to the meeting, even when an
15 agenda or draft agenda was posted on the state electronic
16 calendar weeks prior to the meeting. Individuals that request
17 the notices be mailed to them are often individuals who lack



1 computer access or cannot use a computer due to a disability.
2 Such individuals do not receive the same amount of notice as
3 individuals with access to online notices.

4 The legislature additionally finds that while another
5 source for information of the meeting is required filing of the
6 meeting notice with the lieutenant governor's office or county
7 clerk's office for posting, failure of the agency holding the
8 meeting to timely file the notice does not cause the meeting to
9 be canceled, unlike the failure to timely post a notice of a
10 meeting on the state calendar. For individuals who rely on the
11 lieutenant governor's office or the county clerk's office for
12 information about upcoming public meetings, the lack of
13 consequences for failure to file or post may also deny equal
14 access to the activities of state and local government.

15 The purpose of this Act is to ensure equal access to notice
16 of public meetings.

17 SECTION 2. Section 92-7, Hawaii Revised Statutes, is
18 amended by amending subsections (a), (b), and (c) to read as
19 follows:

20 "(a) The board shall give written public notice of any
21 regular, special, emergency, or rescheduled meeting, or any



1 executive meeting when anticipated in advance. The notice shall
2 include an agenda that lists all of the items to be considered
3 at the forthcoming meeting, the date, time, and place of the
4 meeting, instructions on how to request an auxiliary aid or
5 service or an accommodation due to a disability, including a
6 response deadline, if one is provided, that is reasonable, and
7 in the case of an executive meeting, the purpose shall be
8 stated. If an item to be considered is the proposed adoption,
9 amendment, or repeal of administrative rules, an agenda meets
10 the requirements for public notice pursuant to this section if
11 it contains a statement on the topic of the proposed rules or a
12 general description of the subjects involved, as described in
13 section 91-3(a)(1)(A), and a statement of when and where the
14 proposed rules may be viewed in person and on the Internet as
15 provided in section 91-2.6. The means specified by this section
16 shall be the only means required for giving notice under this
17 part notwithstanding any law to the contrary.

18 (b) No less than six calendar days prior to the meeting,
19 the board shall post the notice in an accessible format on an
20 electronic calendar on a website maintained by the State or the
21 appropriate county, file a copy of the notice with the office of



1 the lieutenant governor or the appropriate county clerk's
2 office, retain a copy of proof of filing the notice, and post a
3 notice in the board's office for public inspection. The notice
4 shall also be posted at the site of the meeting whenever
5 feasible. The [~~board shall provide a copy of the notice to the~~
6 ~~office of the lieutenant governor or the appropriate county~~
7 ~~clerk's office at the time the notice is posted, and the]~~ office
8 of the lieutenant governor or the appropriate clerk's office
9 shall timely post paper or accessible electronic copies of all
10 meeting notices in a central location in a public building[~~+~~
11 ~~provided that a failure to do so by the board, the office of the~~
12 ~~lieutenant governor, or the appropriate county clerk's office~~
13 ~~shall not require cancellation of the meeting. The copy of the~~
14 ~~notice to be provided to the office of the lieutenant governor~~
15 ~~or the appropriate county clerk's office may be provided via~~
16 ~~electronic mail to an electronic mail address designated by the~~
17 ~~office of the lieutenant governor or the appropriate county~~
18 ~~clerk's office, as applicable].~~

19 (c) If the written public notice or a copy with confirmed
20 receipt from the office of the lieutenant governor or the
21 appropriate county clerk's office is electronically posted on an



1 electronic calendar less than six calendar days before the
2 meeting, the meeting shall be canceled as a matter of law and
3 shall not be held. The chairperson or the director shall ensure
4 that a notice canceling the meeting is posted at the place of
5 the meeting. If there is a dispute as to whether a notice was
6 timely posted on an electronic calendar maintained by the State
7 or appropriate county, a printout of the electronic time-stamped
8 agenda shall be conclusive evidence of the electronic posting
9 date. The board shall provide a copy of the time-stamped record
10 upon request."

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
2 electronically posted pursuant to section 92-7(b) [7],
3 filed with confirmed receipt with the office of the
4 lieutenant governor or the appropriate county clerk's
5 office, and posted in the board's office; provided
6 that the six calendar day requirement for filing and
7 electronic posting shall 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 electronically posted pursuant to section
10 92-7(b) [7], filed with confirmed receipt with the
11 office of the lieutenant governor or the appropriate
12 county clerk's office, and posted in the board's
13 office; provided that the six calendar day requirement
14 for filing and electronic posting shall 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 that
19 must be taken on or before the date that a meeting
20 would have been held, had the board noticed the
21 meeting pursuant to section 92-7."



1 SECTION 4. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 5. This Act shall take effect upon its approval.

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INTRODUCED BY: _____

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Report Title:

Deaf and Blind Task Force; Public Meetings; Notice

Description:

Requires public meeting notices to include instructions regarding accommodations for persons with disabilities. Requires boards to post public meeting notices in an accessible format on an electronic calendar on a website maintained by the State or the appropriate county, file a copy with the office of the lieutenant governor or the appropriate county clerk's office, retain a copy of proof of filing, and post a notice in the board's office for public inspection. Requires the office of the lieutenant governor or the appropriate clerk's office to timely post paper or accessible electronic copies of all meeting notices in a central location in a public building. Repeals provision stating that failure of the board, lieutenant governor's office, or county clerk's office to post meeting notices shall not require cancellation of the meeting. Requires a meeting to be canceled when the written public notice or a copy with confirmed receipt from the office of the lieutenant governor or the appropriate county clerk's office is posted on an electronic calendar less than six days prior to the meeting. Requires an emergency meeting agenda to be filed with confirmed receipt with the office of the lieutenant governor or the appropriate county clerk's office and posted in the board's office.

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