
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 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 a copy of the
5 notice of the meeting is required to be provided to the
6 lieutenant governor's office or appropriate county clerk's
7 office for posting. However, failure of the agency holding the
8 meeting to timely file the notice does not cancel the meeting,
9 unlike the failure to timely post a notice of a meeting on the
10 state calendar. For individuals who rely on the lieutenant
11 governor's office or the county clerk's office for information
12 about upcoming public meetings, the lack of consequences for
13 failure to file or post may also deny equal access to the
14 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 on an electronic calendar on a
20 website maintained by the State or the appropriate county and
21 post a notice in the board's office for public inspection. The



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

18 (c) If the written public notice is electronically posted
19 on an electronic calendar less than six calendar days before the
20 meeting, the meeting shall be canceled as a matter of law and
21 shall not be held. The chairperson or the director shall ensure



1 that a notice canceling the meeting is posted at the place of
 2 the meeting. If there is a dispute as to whether a notice was
 3 timely posted on an electronic calendar maintained by the State
 4 or appropriate county, a printout of the electronic time-stamped
 5 agenda shall be conclusive evidence of the electronic posting
 6 date. The board shall provide a copy of the time-stamped record
 7 upon request."

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

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

- 14 (1) The board states in writing the reasons for its
 15 findings;
- 16 (2) Two-thirds of all members to which the board is
 17 entitled agree that the findings are correct and an
 18 emergency exists;
- 19 (3) An emergency agenda and the findings are
 20 electronically posted pursuant to section 92-7(b) [7],
 21 filed with the office of the lieutenant governor or



1 the appropriate county clerk's office, and posted in
2 the board's office; provided that the six calendar day
3 requirement for filing and electronic posting shall
4 not apply; and

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

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

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



- 1 (2) Two-thirds of all members to which the board is
2 entitled agree that the conditions necessary for an
3 emergency meeting under this subsection exist;
- 4 (3) The finding that an unanticipated event has occurred
5 and that an emergency meeting is necessary and the
6 agenda for the emergency meeting under this subsection
7 are electronically posted pursuant to section
8 92-7(b) [7], filed with the office of the lieutenant
9 governor or the appropriate county clerk's office, and
10 posted in the board's office; provided that the six
11 calendar day requirement for filing and electronic
12 posting shall not apply;
- 13 (4) Persons requesting notification on a regular basis are
14 contacted by postal or electronic mail or telephone as
15 soon as practicable; and
- 16 (5) The board limits its action to only that action that
17 must be taken on or before the date that a meeting
18 would have been held, had the board noticed the
19 meeting pursuant to section 92-7."

20 SECTION 4. Statutory material to be repealed is bracketed
21 and stricken. New statutory material is underscored.



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



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 on an electronic calendar on a state maintained website, 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. Requires the office of the lieutenant governor or the appropriate clerk's office to timely post paper or electronic copies of all meeting notices in a central location in a public building. Requires a meeting to be canceled when the written public notice is posted on an electronic calendar less than six days prior to the meeting. Requires an emergency meeting agenda to be filed with the office of the lieutenant governor or the appropriate county clerk's office and posted in the board's office. (SD1)

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