JUSTIFICATION SHEET

OIP Draft: October 22, 2020

DEPARTMENT: Department of Accounting and General Services, Office of Information Practices.

TITLE: A BILL FOR AN ACT RELATING TO SUNSHINE LAW BOARDS.

PURPOSE: Expand and enhance public participation in public meetings, lower the costs of holding meetings, protect public health and safety, promote voluntary participation on boards, and avoid unnecessary and possibly burdensome travel by board members, staff, testifiers, observers, other participants, and the general public, by allowing boards to use interactive conference technology to conduct virtual meetings under the Sunshine Law.

MEANS: Amend section 92-3.5, Hawaii Revised Statutes.

JUSTIFICATION: The COVID-19 pandemic forced the implementation of emergency measures suspending certain requirements of the state’s Sunshine Law in order to allow boards to virtually meet and conduct necessary business through the use of interactive conference technology, while protecting participants' health and safety and expanding public access to meetings throughout our island state. During the emergency stay-at-home orders and travel restrictions, it was not possible for board members, staff, or members of the public to attend public meetings in person. Through the use of interactive conference technology, however, virtual meetings enabled and enhanced board and public participation. Virtual meetings could be safely held and allowed more people from different islands or parts of islands to effectively participate, often during times when they would not otherwise be physically able to leave their work, homes, or schools to participate in an in-person meeting.

Based on boards' experiences with virtual meetings during the COVID-19 pandemic, the increased costs of staffing and technological equipment and resources needed to conduct virtual meetings are offset by the savings in time, convenience, and travel costs for board members and participants, especially those from the neighbor islands. During the COVID-19 pandemic, virtual meetings helped to prevent the spread of disease, and even when there is not an ongoing pandemic, virtual meetings can be a way to protect the health and safety of participants, particularly those who have disabilities or medical conditions that would place them at greater risks during travel or attendance at in-person public meetings. Allowing board members to participate in virtual meetings from their homes or private offices, while protecting their privacy and not requiring them to allow members of the public into their homes or private offices, may increase the number of volunteers willing to serve on government boards, particularly when they live on an island different from where the boards' offices are located.

The benefits of virtual meetings should continue in non-emergency times, which requires permanent amendments to the Sunshine Law, part I of chapter 92, Hawaii Revised Statutes. For virtual meetings not held during times of emergency, it is important for boards to also provide for an in-person meeting location where members of the public can come to observe the virtual meeting or testify in person using interactive conference technology provided by the board, without requiring board members to be at the in-person location. This allows members of the public who cannot readily access an online meeting a way to view the meeting and testify in person, even if the board members themselves are not in the same room.

This proposal would take advantage of the relative ease of recording a virtual meeting in many virtual meeting platforms and thus would require a board conducting a virtual public meeting to also record the meeting when practicable, and provide public access to the recording until such time as the actual meeting minutes have been posted online. This would benefit the public by allowing even those members of the public who were not able to attend the meeting itself to still find out what happened via the recording, without requiring the board to keep the recording past the time its minutes are posted or requiring a board to record a meeting when doing so is not practicable.

Finally, recognizing that not all boards are equipped with adequate staffing or technological equipment and resources to conduct virtual meetings, these amendments would permit, but not require, boards to conduct virtual meetings, so boards that are unable to meet the standards set forth by this proposal will still be able to conduct their meetings in-person in the traditional way.

Impact on the public: This bill would increase the ability of members of the public to attend and testify at Sunshine Law meetings because it would allow Sunshine Law meetings to be conducted over the internet, as they have been during the COVID-19 pandemic, as a permanent option rather than an emergency measure. Because an individual could participate in such meetings from home, an office, or wherever the individual has internet access, it could be more readily combined with other daily activities and obligations than a traditional in-person meeting in a government office.

Impact on the department and other agencies: This bill would save boards the time and cost of making inter-island travel arrangements for board members, would make it easier for boards to meet quorum as members’ virtual attendance requires less of a time commitment than in-person attendance including travel time, and would make it easier for boards to find members willing to serve as the time commitment and travel required to serve on a board would be reduced.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM

DESIGNATION: None.

OTHER AFFECTED

AGENCIES: This bill affects all state and county government boards subject to the Sunshine Law.

EFFECTIVE DATE: July 1, 2021.