JUSTIFICATION SHEET

REVISED: November 20, 2020

1st Draft Date: August 31, 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 the option to use interactive conference technology to conduct remote meetings under the Sunshine Law, while still retaining the option to conduct traditional in-person meetings at a single meeting site or at multiple meeting sites connected by interactive conference technology.

MEANS: Add new sections to part I of chapter 92, Hawaii Revised Statutes, and amend sections 92-2, -3.5, and -7, 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 continue meeting and conducting necessary business, 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, board members, staff, or members of the public could not attend public meetings in person. In lieu of traditional in-person meetings, remote meetings connected people in different physical locations through the use of interactive conference technology and thus enabled and enhanced board and public participation. Remote meetings, popularly referred to as "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 or authorized to leave their work, homes, or schools to participate in an in-person meeting.

Based on boards' experiences with remote meetings during the COVID-19 pandemic, the increased costs of staffing, technological equipment and resources needed to conduct remote 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, remote meetings helped to prevent the spread of disease, and even when there is not an ongoing pandemic, remote 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 remote meetings from their homes or private offices, while protecting their privacy by not requiring them to allow members of the public into private sites, 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. Additionally, allowing boards to conduct remote meetings within reasonable restrictions to ensure board transparency and public access, would help to increase public participation in the formation and conduct of public policy.

The benefits of remote meetings should continue in non-emergency times, which requires permanent amendments to the Sunshine Law, part I of chapter 92, Hawaii Revised Statutes. For remote 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 remote 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 do not have the equipment, internet connection, desire, or ability to readily access an online meeting a way to view the meeting and testify in person, as has traditionally been the method of conducting meetings, even if the board members themselves are not physically in the same room.

This proposal could take advantage of the relative ease of recording a meeting using interactive technology via many remote meeting platforms, and thus would require a board conducting a remote 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.

Recognizing that not all boards are equipped with adequate staffing or technological equipment and resources to conduct remote meetings, these amendments would permit, but not require, boards to conduct remote meetings. Amendments would also continue to provide boards an alternative option to conduct an in-person meeting with board members and other participants physically present at multiple connected public meeting sites, as the Sunshine Law currently allows, rather than limit them to holding either a remote meeting, or an in-person meeting with all participants at a single site.

In the event the COVID-19 continues or another emergency arises, however, this bill does not affect the Governor's emergency powers to suspend in-person meetings or other Sunshine Law requirements that are not feasible during an emergency.

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 remote meetings from their home, 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 gives boards the option to conduct remote meetings using interactive conference technology, while still allowing them the option to continue to conduct in-person meetings in the traditional way or to connect multiple in-person meetings through interactive conference technology. For those that choose to utilize interactive conference technology to conduct remote meetings or connect multiple in-person meetings, 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' 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.