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# A BILL FOR AN ACT

RELATING TO SUNSHINE LAW BOARDS.

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

1           SECTION 1. The legislature finds that the coronavirus  
2 disease 2019 (COVID-19) pandemic forced the implementation of  
3 emergency measures suspending certain requirements of the  
4 State's sunshine law in order to allow boards to continue  
5 meeting and conducting necessary business while protecting  
6 participants' health and safety and expanding public access to  
7 meetings throughout the State. Due to the emergency  
8 stay-at-home orders and travel restrictions, board members,  
9 staff, or members of the public could not attend public meetings  
10 in person. In lieu of traditional in-person meetings, remote  
11 meetings connected people in different physical locations  
12 through the use of interactive conference technology and thus  
13 enabled and enhanced board and public participation.

14           The legislature further finds that, based on boards'  
15 experiences with remote meetings during the COVID-19 pandemic,  
16 the increased costs of staffing, technological equipment, and  
17 resources needed to conduct remote meetings are offset by the  
18 savings in time, convenience, and travel costs for board members



1 and participants, especially those from the neighbor islands.  
2 During the COVID-19 pandemic, remote meetings helped to prevent  
3 the spread of disease, and even when there is not an ongoing  
4 pandemic, remote meetings can be a way to protect the health and  
5 safety of participants, particularly those who have disabilities  
6 or medical conditions that would place them at greater risks  
7 during travel or attendance at in-person public meetings.

8 The legislature additionally finds that the benefits of  
9 remote meetings should continue in non-emergency times,  
10 requiring permanent amendments to the sunshine law. For remote  
11 meetings not held during times of emergency, there is a need for  
12 boards to provide for an in-person meeting location where  
13 members of the public can come to observe the remote meeting or  
14 testify in person using interactive conference technology  
15 equipment provided by the board, without requiring board members  
16 to be at the in-person location.

17 The purpose of this Act is to allow boards the option to  
18 use interactive conference technology to conduct remote meetings  
19 under the sunshine law, while still retaining the option to  
20 conduct traditional in-person meetings at a single meeting site



1 or at multiple meeting sites connected by interactive conference  
2 technology.

3 SECTION 2. Chapter 92, Hawaii Revised Statutes, is amended  
4 by adding a new section to part I to be appropriately designated  
5 and to read as follows:

6 "§92- Remote meeting by interactive conference  
7 technology; notice; quorum. (a) A board may hold a remote  
8 meeting by interactive conference technology; provided that the  
9 interactive conference technology used by the board allows  
10 audiovisual interaction among all members of the board  
11 participating in the meeting and all members of the public  
12 attending the meeting, except as otherwise provided under this  
13 section; provided further that there is at least one meeting  
14 location that is open to the public and has an audiovisual  
15 connection. A board holding a remote meeting pursuant to this  
16 section shall not be required to allow members of the public to  
17 join board members in person at nonpublic locations where board  
18 members are physically present or to identify those locations in  
19 the notice required by section 92-7; provided that at the  
20 meeting, each board member shall state who, if anyone, is



1 present at the nonpublic location with the member. The notice  
2 required by section 92-7 shall:

- 3       (1) List at least one meeting location that is open to the  
4           public that shall have an audiovisual connection; and  
5       (2) Inform members of the public how to contemporaneously:  
6           (A) Remotely view the video and audio of the meeting  
7           through internet streaming or other means; and  
8           (B) Provide remote oral testimony in a manner that  
9           allows board members and other meeting  
10          participants to hear the testimony, whether  
11          through an internet link, a telephone conference,  
12          or other means.

13 The board may provide additional locations open for public  
14 participation. The notice required by section 92-7 shall list  
15 any additional locations open for public participation and  
16 specify, in the event an additional location loses its  
17 audiovisual connection to the remote meeting, whether the  
18 meeting will continue without that location or will be  
19 automatically recessed to restore communication as provided in  
20 subsection (c).



1        (b) For a remote meeting held by interactive conference  
2 technology pursuant to this section:

3        (1) The interactive conference technology used by the  
4 board shall allow interaction among all members of the  
5 board participating in the meeting and all members of  
6 the public attending the meeting;

7        (2) Except as provided in subsections (c) and (d), a  
8 quorum of board members participating in the meeting  
9 shall be visible and audible to other members and the  
10 public during the meeting; provided that no other  
11 meeting participants shall be required to be visible  
12 during the meeting;

13        (3) Any board member participating in a meeting by  
14 interactive conference technology shall be considered  
15 present at the meeting for the purpose of determining  
16 compliance with the quorum and voting requirements of  
17 the board;

18        (4) At the start of the meeting the presiding officer  
19 shall announce the names of the participating members;

20        (5) All votes shall be conducted by roll call unless  
21 unanimous; and



1       (6) When practicable, boards shall record meetings open to  
2       the public and make the recording of any meeting  
3       electronically available to the public as soon as  
4       practicable after a meeting and until a time as the  
5       minutes required by section 92-9 are electronically  
6       posted on the board's website.

7       (c) A meeting held by interactive conference technology  
8       shall be automatically recessed for up to thirty minutes to  
9       restore communication when audiovisual communication cannot be  
10       maintained with all members participating in the meeting or with  
11       the public location identified in the board's notice pursuant to  
12       subsection (a)(1) or with the remote public broadcast identified  
13       in the board's notice pursuant to subsection (a)(2)(A). This  
14       subsection shall not apply based on the inability of a member of  
15       the public to maintain an audiovisual connection to the remote  
16       public broadcast, unless the remote public broadcast itself is  
17       not transmitting an audiovisual link to the meeting. The  
18       meeting may reconvene when either audiovisual communication is  
19       restored, or audio-only communication is established after an  
20       unsuccessful attempt to restore audiovisual communication, but  
21       only if the board has provided reasonable notice to the public



1 as to how to access the reconvened meeting after an interruption  
2 to communication. If audio-only communication is established,  
3 then each speaker shall be required to state their name before  
4 making their remarks. Within fifteen minutes after audio-only  
5 communication is established, copies of nonconfidential visual  
6 aids that are required by or brought to the meeting by board  
7 members or as part of a scheduled presentation shall be made  
8 available either by posting on the Internet or by other means to  
9 all meeting participants, including those participating  
10 remotely, and those agenda items for which visual aids are not  
11 available for all participants shall not be acted upon at the  
12 meeting. If it is not possible to reconvene the meeting as  
13 provided in this subsection within thirty minutes after an  
14 interruption to communication and the board has not provided  
15 reasonable notice to the public as to how the meeting will be  
16 continued at an alternative date and time, then the meeting  
17 shall be automatically terminated.

18 (d) During executive meetings from which the public has  
19 been excluded, board members shall be audible to other  
20 authorized participants but shall not be required to be visible.  
21 To preserve the executive nature of any portion of a meeting



1 closed to the public, the presiding officer shall publicly state  
 2 the names and titles of all authorized participants, and, upon  
 3 convening the executive session, all participants shall confirm  
 4 to the presiding officer that no unauthorized person is present  
 5 or able to hear them at their remote locations or via another  
 6 audio or audiovisual connection. The person organizing the  
 7 interactive conference technology shall confirm that no  
 8 unauthorized person has access to the executive meeting as  
 9 indicated on the control panels of the interactive conference  
 10 technology being used for the meeting, if applicable."

11 SECTION 3. Section 92-2, Hawaii Revised Statutes, is  
 12 amended by amending the definition of "interactive conference  
 13 technology" to read as follows:

14 "Interactive conference technology" means any form of  
 15 [~~audio or~~] audio and visual conference technology, or audio  
 16 conference technology where permitted under this part, including  
 17 teleconference, videoconference, and voice over internet  
 18 protocol, that facilitates interaction between the public and  
 19 board members."





1 SECTION 4. Section 92-3.5, Hawaii Revised Statutes, is  
2 amended by amending its title and subsections (a) through (c) to  
3 read as follows:

4 "§92-3.5 [~~Meeting~~] In-person meeting at multiple sites by  
5 interactive conference technology; notice; quorum. (a) A board  
6 may hold [a] an in-person meeting at multiple meeting sites  
7 connected by interactive conference technology; provided that  
8 the interactive conference technology used by the board allows  
9 audio or audiovisual interaction among all members of the board  
10 participating in the meeting and all members of the public  
11 attending the meeting, and the notice required by section 92-7  
12 identifies all of the locations where participating board  
13 members will be physically present and indicates that members of  
14 the public may join board members at any of the identified  
15 locations. The board may provide additional locations open for  
16 public participation but where no participating board members  
17 will be physically present. The notice required by section 92-7  
18 shall list any additional locations open for public  
19 participation but where no participating board members will be  
20 physically present and specify, in the event one of those  
21 additional locations loses its audio connection to the meeting,



1 whether the meeting will continue without that location or will  
2 be automatically recessed to restore communication as provided  
3 in subsection (c).

4 (b) Any board member participating in a meeting by  
5 interactive conference technology under this section shall be  
6 considered present at the meeting for the purpose of determining  
7 compliance with the quorum and voting requirements of the board.

8 (c) A meeting held by interactive conference technology  
9 under this section shall be ~~terminated~~ automatically recessed  
10 for up to thirty minutes to restore communication when audio  
11 communication cannot be maintained with all locations where the  
12 meeting by interactive conference technology is being held, even  
13 if a quorum of the board is physically present in one location.  
14 ~~[If copies of visual aids required by, or brought to the meeting~~  
15 ~~by board members or members of the public, are not available to~~  
16 ~~all meeting participants, at all locations where audio only~~  
17 ~~interactive conference technology is being used, within] The~~  
18 meeting may reconvene when either audio or audiovisual  
19 communication is restored. Within fifteen minutes after audio-  
20 only communication is ~~used,~~ established, copies of  
21 nonconfidential visual aids that are required by or brought to



1 the meeting by board members or as part of a scheduled  
2 presentation shall be made available either by posting on the  
3 Internet or by other means to all meeting participants, and  
4 those agenda items for which visual aids are not available for  
5 all participants at all meeting locations [~~eannot~~] shall not be  
6 acted upon at the meeting. If it is not possible to reconvene  
7 the meeting as provided in this subsection within thirty minutes  
8 after an interruption to communication, and the board has not  
9 provided reasonable notice to the public as to how the meeting  
10 will be continued at an alternative date and time, then the  
11 meeting shall be automatically terminated."

12 SECTION 5. Section 92-7, Hawaii Revised Statutes, is  
13 amended by amending subsection (a) to read as follows:

14 "(a) The board shall give written public notice of any  
15 regular, special, emergency, or rescheduled meeting, or any  
16 executive meeting when anticipated in advance. The notice shall  
17 include an agenda that lists all of the items to be considered  
18 at the forthcoming meeting; the date, time, and place of the  
19 meeting; the board's electronic and postal contact information  
20 for submission of testimony before the meeting; instructions on  
21 how to request an auxiliary aid or service or an accommodation



1 due to a disability, including a response deadline, if one is  
2 provided, that is reasonable; and in the case of an executive  
3 meeting, the purpose shall be stated. If an item to be  
4 considered is the proposed adoption, amendment, or repeal of  
5 administrative rules, an agenda meets the requirements for  
6 public notice pursuant to this section if it contains a  
7 statement on the topic of the proposed rules or a general  
8 description of the subjects involved, as described in  
9 section 91-3(a)(1)(A), and a statement of when and where the  
10 proposed rules may be viewed in person and on the Internet as  
11 provided in section 91-2.6. The means specified by this section  
12 shall be the only means required for giving notice under this  
13 part notwithstanding any law to the contrary."

14 SECTION 6. The office of information practices shall, in  
15 consultation with the disability and communication access board  
16 and the office of enterprise technology services, assess the  
17 implementation of meetings held using interactive conference  
18 technology, including participation by members of the public who  
19 need an accommodation due to a disability. The office shall  
20 submit a report of its assessment, including recommendations and



1 proposed legislation, to the legislature no later than forty  
2 days prior to the convening of the regular session of 2023.

3 SECTION 7. Statutory material to be repealed is bracketed  
4 and stricken. New statutory material is underscored.

5 SECTION 8. This Act shall take effect on January 1, 2022.



**Report Title:**

Sunshine Law; Interactive Conference Technology; Remote Meetings

**Description:**

Authorizes boards to use interactive conference technology to remotely conduct meetings under the State's open meetings law. Amends the requirements for public notices of board meetings and for in-person board meetings held by interactive conference technology. Requires the Office of Information Practices to assess the implementation of meetings held using interactive conference technology and submit a report of its findings to the Legislature. Effective 1/1/2022. (CD1)

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

