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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



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

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

18 The purpose of this Act is to allow boards the option to  
19 use interactive conference technology to conduct remote meetings  
20 under the sunshine law, while still retaining the option to  
21 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. A board holding a remote meeting pursuant to this  
14 section shall not be required to allow members of the public to  
15 join board members in person at nonpublic locations where board  
16 members are physically present or to identify those locations in  
17 the notice required by section 92-7; provided that at the  
18 meeting, each board member shall state who, if anyone, is  
19 present at the nonpublic location with the member. The notice  
20 required by section 92-7 shall:



1        (1) If requested by a member of the public at least three  
2        working days before the meeting, list at least one  
3        meeting location that is open to the public that shall  
4        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), all  
8 board members participating in the meeting shall be  
9 visible and audible to other members and the public  
10 during the meeting; provided that so long as all board  
11 members participating in the meeting are visible, no  
12 other meeting participants shall be required to be  
13 visible during the meeting;
- 14           (3) Any board member participating in a meeting by  
15 interactive conference technology shall be considered  
16 present at the meeting for the purpose of determining  
17 compliance with the quorum and voting requirements of  
18 the board;
- 19           (4) At the start of the meeting the presiding officer  
20 shall announce the names of the participating members;



1       (5) All votes on board action items shall be conducted by  
2       roll call; and

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

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



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

20 (d) During executive meetings from which the public has  
21 been excluded, board members shall be audible to other



1 authorized participants but shall not be required to be visible.  
2 To preserve the executive nature of any portion of a meeting  
3 closed to the public, the presiding officer shall publicly state  
4 the names and titles of all authorized participants, and, upon  
5 convening the executive session, all participants shall confirm  
6 to the presiding officer that no unauthorized person is present  
7 or able to hear them at their remote locations or via another  
8 audio or audiovisual connection. The person organizing the  
9 interactive conference technology shall confirm that no  
10 unauthorized person has access to the executive meeting as  
11 indicated on the control panels of the interactive conference  
12 technology being used for the meeting, if applicable."

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

16 ""Interactive conference technology" means any form of  
17 [~~audio or~~] audio and visual conference technology, or audio  
18 conference technology where permitted under this part, including  
19 teleconference, videoconference, and voice over internet  
20 protocol, that facilitates interaction between the public and  
21 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 one hour 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 [~~cannot~~] 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 one hour after  
8 an interruption to communication, and the board has not provided  
9 reasonable notice to the public as to how the meeting will be  
10 continued at an alternative date and time, then the meeting  
11 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. Statutory material to be repealed is bracketed  
15 and stricken. New statutory material is underscored.

16 SECTION 7. This Act shall take effect on May 6, 2137.



S.B. NO. 1034  
S.D. 1  
H.D. 2

**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. Effective 5/6/2137. (HD2)

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