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A BILL FOR AN ACT

RELATING TO GOVERNMENT OPERATION AND POLICY.

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

SECTION 1. Section 26-34, Hawaii Revised Statutes, is amended to read as follows:

"26-34 Selection, training, and terms of members of boards and commissions. (a) The members of each board and commission established by law shall be nominated and, by and with the advice and consent of the senate, appointed by the governor. Unless otherwise provided by this chapter or by law hereafter enacted, the terms of the members shall be for four years; provided that the governor may reduce the terms of those initially appointed so as to provide, as nearly as can be, for the expiration of an equal number of terms at intervals of one year for each board and commission. Unless otherwise provided by law, each term shall commence on July 1 and expire on June 30, except that the terms of the chairpersons of the board of agriculture, the board of land and natural resources, and the Hawaiian homes commission shall commence on January 1 and expire on December 31. No person shall be appointed consecutively to
more than two terms as a member of the same board or commission; provided that membership on any board or commission shall not exceed eight consecutive years.

(b) Upon appointment, each new member shall participate in an orientation and training session with the head of the department or agency that administratively controls or supervises the member's board or commission, or the designee of the head of the department or agency, regarding the mission, roles, responsibilities, laws, programs, and procedures relevant to the work of the board or commission.

(c) At least once per calendar year, all departments and its agencies with boards and commissions subject to section 84-17, shall update their members on information to supplement their initial training.

[(b)-] (d) Any member of a board or commission whose term has expired and who is not disqualified for membership under subsection (a) may continue in office as a holdover member until a successor is nominated and appointed; provided that a holdover member shall not hold office beyond the end of the second regular legislative session following the expiration of the member's term of office.
[4-e]- (e) A vacancy occurring in the membership of any board or commission during a term shall be filled for the unexpired term thereof, subject to Article V, section 6 of the Constitution of the State.

[4-e]- (f) The governor may remove or suspend for cause any member of any board or commission after due notice and public hearing.

[4-e]- (g) Except as otherwise provided by this chapter, this section shall apply to every board and commission established by part I, or existing or established after November 25, 1959. All new appointments to any board or commission shall thereafter be made in accordance with this section.

[4-e]- (h) This section shall not apply to ex officio members of boards and commissions or to the board of trustees of the employees retirement system."

SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 3. This Act shall take effect on July 1, 2112.
Report Title:
Departments; Boards; Commissions; Members; Training

Description:
Requires each new member of a board or commission to participate in an orientation and training session with the head of the department with jurisdiction of that member's board or commission or their designee. Requires each department and agency to train their members at least once per calendar year. Effective 7/1/2112. (HD2)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.
A BILL FOR AN ACT

RELATING TO SUNSHINE LAW BOARDS.

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

SECTION 1. The legislature finds that the coronavirus disease 2019 (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 the 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.

The legislature further finds that, 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.

The legislature additionally finds that the benefits of remote meetings should continue in non-emergency times, requiring permanent amendments to the sunshine law. For remote meetings not held during times of emergency, there is a need for boards to 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 equipment provided by the board, without requiring board members to be at the in-person location.

The purpose of this Act is to allow 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.

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

"§92- Remote meeting by interactive conference technology; notice; quorum. (a) A board may hold a remote meeting by interactive conference technology. A board holding a remote meeting pursuant to this section shall not be required to allow members of the public to join board members in person at nonpublic locations where board members are physically present or to identify those locations in the notice required by section 92-7; provided that at the meeting, each board member shall state who, if anyone, is present at the nonpublic location with the member. The notice required by section 92-7 shall:

(1) If requested by a member of the public at least seventy-two hours before the meeting, list at least one meeting location that is open to the public that shall have an audio-visual connection; and

(2) Inform members of the public how to contemporaneously:
(A) Remotely view the video and audio of the meeting through internet streaming or other means; and

(B) Provide remote oral testimony in a manner that allows board members and other meeting participants to hear the testimony, whether through an internet link, a telephone conference, or other means.

The notice required by section 92-7 may list additional locations open for public participation and shall specify, in the event an additional location loses its audio-visual connection to the remote meeting, whether the meeting will continue without that location or will be automatically recessed to restore communication as provided in subsection (c).

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

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

(2) Except as provided in subsections (c) and (d), a quorum of board members shall be visible and audible
to other members and the public during the meeting;

provided that so long as a quorum of board members is visible, no other meeting participants shall be required to be visible during the meeting;

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

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

(5) All votes shall be conducted by roll call; and

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

(c) A meeting held by interactive conference technology shall be automatically recessed for up to one hour to restore communication when audiovisual communication cannot be
maintained with a quorum of members or with the public location identified in the board's notice pursuant to subsection (a)(1) or with the remote public broadcast identified in the board's notice pursuant to subsection (a)(2)(A). This subsection shall not apply based on the inability of a member of the public to maintain an audiovisual connection to the remote public broadcast, unless the remote public broadcast itself is not transmitting an audiovisual link to the meeting. The meeting may reconvene when either audiovisual communication is restored, or audio-only communication is established after an unsuccessful attempt to restore audiovisual communication, but only if the board has provided reasonable notice to the public as to how to access the reconvened meeting after an interruption to communication. If audio-only communication is established, then each speaker shall be required to state their name prior to making their remarks. Within fifteen minutes after audio-only communication is established, copies of nonconfidential visual aids, which are required by or brought to the meeting by board members or as part of a scheduled presentation, shall be made available either by posting on the Internet or by other means to all meeting participants, including those participating
remotely, and those agenda items for which visual aids are not available for all participants shall not be acted upon at the meeting. If it is not possible to reconvene the meeting as provided in this subsection within one hour after an interruption to communication and the board has not provided reasonable notice to the public as to how the meeting will be continued at an alternative date and time, then the meeting shall be automatically terminated.

(d) During executive meetings from which the public has been excluded, board members shall be audible to other authorized participants and are not required to be visible. To preserve the executive nature of any portion of a meeting closed to the public, the presiding officer shall publicly state the names and titles of all authorized participants, and upon convening the executive session all participants shall confirm to the presiding officer that no unauthorized person is present or able to hear them at their remote locations or via another audio or audio-visual connection. The person organizing the interactive conference technology shall confirm that no unauthorized person has access to the executive meeting as
indicated on the control panels of the interactive conference technology being used for the meeting, if applicable."

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

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

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

"§92-3.5 [Meeting] In-person meeting at multiple sites by interactive conference technology; notice; quorum. (a) A board may hold [a] an in-person meeting at multiple meeting sites connected by interactive conference technology; provided that the interactive conference technology used by the board allows audio or audiovisual interaction among all members of the board participating in the meeting and all members of the public
attending the meeting, and the notice required by section 92-7
identifies all of the locations where participating board
members will be physically present and indicates that members of
the public may join board members at any of the identified
locations. The notice may list additional locations open for
public participation but where no participating board members
will be physically present, and in the event one of those
additional locations loses its audio connection to the remote
meeting, the notice shall specify whether the meeting will
continue without that location or will be automatically recessed
to restore communication as provided in subsection (c).

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

(c) A meeting held by interactive conference technology
under this section shall be [terminated] automatically recessed
for up to one hour to restore communication when audio
communication cannot be maintained with all locations where the
meeting by interactive conference technology is being held, even
if a quorum of the board is physically present in one location.
[If copies of visual aids required by, or brought to the meeting by board members or members of the public, are not available to all meeting participants, at all locations where audio-only interactive conference technology is being used, within] The meeting may reconvene when either audio or audio-visual communication is restored. Within fifteen minutes after audio-only communication is [used] established, copies of nonconfidential visual aids, which are required by or brought to the meeting by board members or as part of a scheduled presentation, shall be made available either by posting on the Internet or by other means to all meeting participants, including those participating remotely, and those agenda items for which visual aids are not available for all participants at all meeting locations [cannot] shall not be acted upon at the meeting. If it is not possible to reconvene the meeting as provided in this subsection within one hour after an interruption to communication, and the board has not provided reasonable notice to the public as to how the meeting will be continued at an alternative date and time, then the meeting shall be automatically terminated."
SECTION 5. Section 92-7, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) The board shall give written public notice of any regular, special, emergency, or rescheduled meeting, or any executive meeting when anticipated in advance. The notice shall include an agenda that lists all of the items to be considered at the forthcoming meeting; the date, time, and place of the meeting; the board's electronic and postal contact information for submission of testimony before the meeting; instructions on how to request an auxiliary aid or service or an accommodation due to a disability, including a response deadline, if one is provided, that is reasonable; and in the case of an executive meeting the purpose shall be stated. If an item to be considered is the proposed adoption, amendment, or repeal of administrative rules, an agenda meets the requirements for public notice pursuant to this section if it contains a statement on the topic of the proposed rules or a general description of the subjects involved, as described in section 91-3(a)(1)(A), and a statement of when and where the proposed rules may be viewed in person and on the Internet as provided in section 91-2.6. The means specified by this section..."
shall be the only means required for giving notice under this part notwithstanding any law to the contrary."

SECTION 6. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 7. This Act shall take effect on May 6, 2137.
Report Title:
Sunshine Law; Interactive Conference Technology; Remote Meetings

Description:
Authorizes boards, in conjunction with in-person meetings, to use interactive conference technology to remotely conduct public meetings. Authorizes boards to exclude the public from nonpublic locations where board members are physically present when remote board meetings are held by interactive conference technology. Establishes requirements for the conduct of remote meetings. Requires remote meetings held by interactive conference technology to recess for a maximum prescribed period when audiovisual communication cannot be maintained by the board and allows the meeting to be reconvened under certain circumstances. Establishes a new notice requirement to provide the board's contact information for the submission of written testimony by electronic or postal mail, which also applies to remote meeting agendas. Allows for additional courtesy sites open to the public for remote and in-person meetings held by interactive conference technology. Effective 5/6/2137. (HD1)

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SENATE RESOLUTION

URGING STATE DEPARTMENTS AND ATTACHED AGENCIES TO TRAIN THEIR BOARDS AND COMMISSIONS.

WHEREAS, there are over one hundred seventy state boards, councils, authorities, committees, and commissions, hereinafter collectively referred to as "boards and commissions", that are established by the Constitution of Hawaii, state statutes, and executive orders; and

WHEREAS, these boards and commissions are appointed to give citizens a voice in government and provide an opportunity for a cross-section of the State's residents to offer vital input to influence decisions that shape the quality of life for the residents of Hawaii; and

WHEREAS, the members of boards and commissions must quickly become familiar with certain specific laws regarding open meetings, open records, fiduciary duty, and other ethical standards of conduct, in order to ensure the validity of their actions; and

WHEREAS, upon their appointment, members may not possess knowledge of the mission roles, and responsibilities of their board or commission under applicable laws; programs; processes and procedures relevant to the work of the board or commission; and

WHEREAS, the departments and agencies that administratively control or supervise these boards and commissions are the appropriate entities to train and educate members of the board or commission; now, therefore,

BE IT RESOLVED by the Senate of the Thirty-first Legislature of the State of Hawaii, Regular Session of 2021, that the heads of the departments and agencies that administratively control or supervise a board or commission are
urged to provide training for all members of their boards and commissions subject to 84-17, Hawaii Revised Statutes; and

BE IT FURTHER RESOLVED that the training provided should cover the board or commission's mission, roles, and responsibilities under applicable laws; programs; processes and procedures relevant to the work of the board or commission; and

BE IT FURTHER RESOLVED that the departments and attached agencies should provide the training at least once per calendar year; and

BE IT FURTHER RESOLVED that certified copies of this Resolution be transmitted to the Governor and the heads of each executive department of the state.