A BILL FOR AN ACT

RELATING TO CHAPTER 92, HAWAII REVISED STATUTES.

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

SECTION 1. The legislature finds that part I of chapter 92, Hawaii Revised States, the State's sunshine law, provides critical assurances to the public that decisionmaking by formal decisionmaking bodies in Hawaii is transparent and includes the opportunity for public input. Meaningful engagement with a board by the public assists with the formation and conduct of public policy and helps with decisionmaking that is in the best interest of the public. However, as with every law, there is an opportunity to improve the understanding and compliance of the law as it operates in practice. The legislature also finds that understanding and compliance can be strengthened through the addition of clear definitions of "board business" and "informal gatherings", as established by an office of information practices opinion, with editorial amendments for consistency throughout the law.

The legislature further finds that, in order for the public to provide meaningful written and oral testimony at a board
meeting, the public must be allowed to review and inspect the
same material provided to the boards in a timely manner, and
before testimony deadlines. Therefore, the legislature finds it
necessary to define the time period required in advance of
public meetings at which board packets must be provided to the
public.

Accordingly, the purpose of this Act is to strengthen
understanding of, and public participation in, the
administrative proceedings and process of boards.

SECTION 2. Section 92-2, Hawaii Revised Statutes, is
amended as follows:

1. By adding two new definitions to be appropriately
inserted and to read:

"Board business" means specific matters over which a board
has supervision, control, jurisdiction, or advisory power, that
are actually pending before the board, or that can be reasonably
anticipated to arise before the board in the foreseeable future.

"Informal gathering" means a social or informal assemblage
of two or more board members at which matters relating to board
business are not discussed."

2. By deleting the definition of "chance meeting".
SECTION 3. Section 92-2.5, Hawaii Revised Statutes, is amended to read as follows:

"§92-2.5 Permitted interactions of members. (a) Two members of a board may discuss between themselves matters relating to [official] board business to enable them to perform their duties faithfully, as long as no commitment to vote is made or sought and the two members do not constitute a quorum of their board.

(b) Two or more members of a board, but less than the number of members [which] that would constitute a quorum for the board, may be assigned to:

(1) Investigate a matter relating to [the official] board business [of their board]; provided that:

(A) The scope of the investigation and the scope of each member's authority are defined at a meeting of the board;
(B) All resulting findings and recommendations are presented to the board at a meeting of the board; and

(C) Deliberation and decisionmaking on the matter investigated, if any, occurs only at a duly noticed meeting of the board held subsequent to the meeting at which the findings and recommendations of the investigation were presented to the board; or

(2) Present, discuss, or negotiate any position [which] that the board has adopted at a meeting of the board; provided that the assignment is made and the scope of each member's authority is defined at a meeting of the board [prior to] before the presentation, discussion, or negotiation.

(c) Discussions between two or more members of a board, but less than the number of members [which] that would constitute a quorum for the board, concerning the selection of the board's officers may be conducted in private without limitation or subsequent reporting.
(d) Board members present at a meeting that must be canceled for lack of quorum or terminated pursuant to section 92-3.5(c) may nonetheless receive testimony and presentations on items on the agenda and question the testifiers or presenters; provided that:

(1) Deliberation or decisionmaking on any item, for which testimony or presentations are received, occurs only at a duly noticed meeting of the board held subsequent to the meeting at which the testimony and presentations were received;

(2) The members present shall create a record of the oral testimony or presentations in the same manner as would be required by section 92-9 for testimony or presentations heard during a meeting of the board; and

(3) Before its deliberation or decisionmaking at a subsequent meeting, the board shall:

(A) Provide copies of the testimony and presentations received at the canceled meeting to all members of the board; and
(B) Receive a report by the members who were present at the canceled or terminated meeting about the testimony and presentations received.

(e) Two or more members of a board, but less than the number of members [which] that would constitute a quorum for the board, may attend an informational meeting or presentation on matters relating to [official] board business, including a meeting of another entity, legislative hearing, convention, seminar, or community meeting; provided that the meeting or presentation is not specifically and exclusively organized for or directed toward members of the board. The board members in attendance may participate in discussions, including discussions among themselves; provided that the discussions occur during and as part of the informational meeting or presentation; [and] provided further that no commitment relating to a vote on the matter is made or sought.

At the next duly noticed meeting of the board, the board members shall report their attendance and the matters presented and discussed that related to [official] board business at the informational meeting or presentation.
(f) Discussions between the governor and one or more members of a board may be conducted in private without limitation or subsequent reporting; provided that the discussion does not relate to a matter over which a board is exercising its adjudicatory function.

(g) Discussions between two or more members of a board and the head of a department to which the board is administratively assigned may be conducted in private without limitation; provided that the discussion is limited to matters specified in section 26-35.

(h) Where notice of the deadline to submit testimony to the legislature is less than the notice requirements in this section, a board may circulate for approval a statement regarding a position previously adopted by the board; provided that the position previously adopted by the board, the statement to be submitted as testimony, and communications among board members about the statement, including drafts, shall be in writing and accessible to the public, within forty-eight hours of the statement's circulation to the board, on the board's website, or, if the board does not have a website, on an appropriate state or county website.
Communications, interactions, discussions, investigations, and presentations described in this section are not meetings for purposes of this part."

SECTION 4. Section 92-3, Hawaii Revised Statutes, is amended to read as follows:

"§92-3 Open meetings. Every meeting of all boards shall be open to the public and all persons shall be permitted to attend any meeting unless otherwise provided in the state constitution or as closed pursuant to sections 92-4 and 92-5; provided that the removal of any person or persons who wilfully disrupts a meeting to prevent and compromise the conduct of the meeting shall not be prohibited. The boards shall afford all interested persons an opportunity to submit data, views, or arguments, in writing, on any agenda item. The boards shall also afford all interested persons an opportunity to present oral testimony on any agenda item[]; provided that the oral testimonies of interested persons shall not be limited to the beginning of a board's agenda or meeting. The boards may provide for reasonable administration of oral testimony by rule."
SECTION 5. Section 92-5, Hawaii Revised Statues, is amended by amending subsection (b) to read as follows:

"(b) In no instance shall the board make a decision or deliberate toward a decision in an executive meeting on matters not directly related to the purposes specified in subsection (a). No [enhance—meeting,] informal gathering, permitted interaction, or electronic communication shall be used to circumvent the spirit or requirements of this part to make a decision or to deliberate toward a decision upon a matter over which the board has supervision, control, jurisdiction, or advisory power."

SECTION 6. Section 92-7.5, Hawaii Revised Statutes, is amended to read as follows:

"[+§92-7.5[+] Board packet; filing; public inspection; notice. At the time the board packet is distributed to the board members, but no later than forty-eight hours before the meeting time, the board shall also make the board packet available for public inspection in the board's office[−] provided that nothing in this section shall require creation of a board packet. The board shall provide notice to persons requesting notification of meetings pursuant to section 92-7(e)
that the board packet is available for inspection in the board's
office and shall provide reasonably prompt access to the board
packet to any person upon request. The board is not required to
mail board packets. As soon as practicable, the board shall
accommodate requests for electronic access to the board packet.

For purposes of this section, "board packet" means
documents that are compiled by the board and distributed to
board members before a meeting for use at that meeting, to the
extent the documents are public under chapter 92F; provided that
this section shall not require disclosure of executive session
minutes, license applications, or other records for which the
board cannot reasonably complete its redaction of nonpublic
information in the time available before the public inspection
required by this section."

SECTION 7. Section 279D-9, Hawaii Revised Statutes, is
amended by amending subsection (b) to read as follows:

"(b) Participation by members of any other board in a
meeting of a policy board shall be permitted interaction as
provided in section [92–2.5(h)–] 92-2.5(i)."

SECTION 8. Statutory material to be repealed is bracketed
and stricken. New statutory material is underscored.
SECTION 9. This Act shall take effect upon its approval.
Report Title:
Sunshine Law; Board Business; Informal Gatherings; Board Packets

Description:
Defines "board business" and "informal gatherings". Allows a board to prepare and circulate amongst members a statement on a position previously adopted for purposes of submission to the legislature, under certain circumstances. Outlines when board packets must be available to interested persons. (SD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.
BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. The legislature finds that the Hawaiian language is Hawai'i's indigenous and first language, as well as the original language of Hawai'i's executive, judicial, and legislative branches. During his reign, King Kamehameha III famously declared, "He aupuni palapala ko'u", or "Mine is the kingdom of education", in reference to the high literacy rate in the Kingdom of Hawai'i. This level of literacy continued into the 1900s, as 95.3 per cent of Native Hawaiians were literate, according to the 1910 United States Census. However, due to a myriad of political, economic, and social pressures, the Hawaiian language was materially marginalized, leading to its atrophy and eventual formal and practical exclusion from public and civic spaces. Nevertheless, due to the Hawaiian language community's efforts and resilience, the existence of the Hawaiian language has been maintained and its vitality restored for future generations.
The legislature recognizes that Hawaiian language practitioners generally employ two written orthographies, namely unmarked language and marked language. The unmarked orthography was the first writing system of Hawaiian language. The marked orthography, which includes the kahakō and ‘okina, was created as a means to help learners of Hawaiian language determine when to elongate a vowel or where to insert a glottal stop. The intent of this measure is not to claim the superiority of one version of orthography over the other, or to invalidate communities with an unbroken lineage of Hawaiian speakers who do not follow contemporary Hawaiian writing or structures, as communities such as these are vital to Native Hawaiian culture and the State as a whole. Rather, the intent of this measure is to establish a standard for the spelling and punctuation of Hawaiian names and words when they appear in letterhead created by state and county agencies for the purposes of consistency and uniformity. Furthermore, this Act is intended to provide equal support and standing for both native speakers and second language speakers of Hawaiian language.

Additionally, the intent of this Act is not to require that legislative bills and other official documents be written in
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Hawaiian as well as English; rather, if letterhead prepared by
or for state or county agencies or officials contain Hawaiian
names and words, this Act only requires that the Hawaiian names
and words be written in a consistent manner. This measure
further clarifies that Hawaiian spelling not in conformance with
the standards established by this measure will not invalidate an
official document, nor will it allow a cause of action to arise.

Finally, this Act requires a Hawaiian translation of the name of
certain designated state officials to be prominently displayed
on their respective official websites.

Accordingly, the purpose of this Act is to require all:

(1) Letterhead of the State and counties that include
Hawaiian names and words to include Hawaiian names,
words, and spelling consistent with certain
references; and

(2) Official letterhead stationary and websites of
designated state officials to include the Hawaiian
translation of the office’s or department’s name.

SECTION 2. Section 1-13.5, Hawaii Revised Statutes, is
amended to read as follows:
"H.([1-13.5][[]] Hawaiian language; spelling.  (a)  [Maerens

and glottal stop] Kahakō and ‘okina may be used in the spelling

of words or terms in the Hawaiian language in documents prepared

by or for state or county agencies or officials.

(b) Effective July 1, 2023, any letterhead prepared by or

for state or county agencies or officials that contains names or

words in the Hawaiian language shall use and spell the names and

words consistently; provided that revisions to conform any

letterhead existing before July 1, 2023, to the requirements of

this section may be implemented when the letterhead requires

replacement, reprinting, or otherwise requires revision.

(c) Any rule, order, policy, or other act, official or

otherwise, that prohibits or discourages the use of [these

symbols] kahakō and ‘okina or the consistent use and spelling of

Hawaiian names and words, as provided by this section, shall be

void.

(d) For the purposes of consistency, any Hawaiian names

and words used in letterhead subject to subsection (b) shall be

printed in conformance with:

(2) Any other commonly used Hawaiian-language dictionary;

(3) "Place Names of Hawaii", by Mary Kawena Pukui, Samuel H. Elbert, and Esther T. Mookini, University of Hawai'i Press, copyright 1974, as revised and expanded in 1976;

(4) Consultations from members of the Hawaiian-speaking language community, including native speakers;

(5) Consultations with the Hawaii board on geographic names for the names and spellings of geographic features in Hawaii; or

(6) The Hawaiian newspaper collection Nupepa Olelo Hawaii.

(e) Violation of this section shall not invalidate any document or render it unenforceable and shall provide no cause of action against the State; any county; or any state or county agency, official, or employee.

(f) If, in any document covered by this section, there is a conflict between words used by native speakers and second language speakers, two versions of the document may be made.
available to the public upon request if the affected department has sufficient resources.

(g) For the purpose of this section, "native speakers" means speakers of the Hawaiian language who come from an unbroken lineage of primary speakers of the Hawaiian language.

SECTION 3. Section 5-6.5, Hawaii Revised Statutes, is amended to read as follows:

"§5-6.5 STATE LANGUAGE. (a) The Hawaiian language is the native language of Hawaii and may be used on all emblems and symbols representative of the State and its departments, agencies, and political subdivisions.

(b) The governor, lieutenant governor, state legislators, and heads of the principal departments shall prominently display a Hawaiian translation of the name of their respective office or department at least once on the main page of their official website and in the letterhead of their stationary.

(c) This section shall not be construed to require the full text of legislative bills and other official documents to be written in Hawaiian."

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.
SECTION 5. This Act shall take effect on July 1, 2022.
Report Title:
Hawaiian Language; Official Websites; Letterhead; Translation

Description:
Requires all letterhead of the State and counties to include consistent Hawaiian names, words, and spelling. Requires the governor, lieutenant governor, state legislators, and heads of principal departments to prominently display a Hawaiian translation of the name of their respective office or department at least once on the main page of their official website and in the letterhead of their stationary. (CD1)

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A BILL FOR AN ACT

RELATING TO PUBLIC AGENCY MEETINGS.

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

SECTION 1. The legislature finds that opening the governmental process to public scrutiny and participation is necessary to protect the public's interests. Therefore, the discussions, deliberations, decisions, and actions of governmental agencies in the formation and conduct of public policy should be conducted as openly as possible.

The legislature further finds that members of the public who are interested but do not have the ability to attend meetings, or the time or technology to listen to recordings of the meetings, are unnecessarily prevented from exercising their right to participate. In many cases, the written summaries that accompany any recordings of meetings are incomplete and do not meet the standards for written minutes of a meeting as required in section 92-9, Hawaii Revised Statutes, nor were such written summaries intended to be a substitute for the meeting minutes required by law.

The purpose of this Act is to:
(1) Require that any electronic audio or visual recording of a board meeting be maintained as a public record regardless of whether the written minutes of the meeting have been posted;

(2) Amend the information that must be included as part of the written minutes of board meetings; and

(3) Repeal the option for boards to provide recorded minutes accompanied by written summaries as an alternative to written minutes of board meetings.

SECTION 2. Section 92-9, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

"(a) The board shall keep written [or recorded] minutes of all meetings. [Unless otherwise required by law, neither a full transcript nor a recording of the meeting is required, but the] If an electronic audio or video recording of the meeting is made by or on behalf of the board, the recording shall also be maintained as a public record; provided that the recording shall be posted regardless of whether the written minutes of the meeting have been posted pursuant to subsection (b) after the meeting; provided further that only one recording is required to be kept. The written minutes shall give a true reflection of
the matters discussed at the meeting and the views of the
participants[...written minutes] and shall include, but need not
be limited to:

(1) The date, time, and place of the meeting;
(2) The members of the board recorded as either present or
absent;
(3) The substance of all matters proposed, discussed, or
decided; and a record, by individual member, of any
votes taken; [and]
(4) If an electronic audio or video recording of the
meeting is available, a link to the electronic audio
or video recording of the meeting, to be placed at the
beginning of the minutes;
(5) If an electronic audio or video recording of the
meeting is available, a time stamp indicating when in
the recording the board began discussion of each
agenda item, to be placed at the beginning of each
agenda item discussion in the minutes; and
(6) Any other information that any member of the
board requests be included or reflected in the
minutes.
(b) The minutes shall be made available to the public by posting on the board's website or, if the board does not have a website, on an appropriate state or county website within forty days after the meeting except where such disclosure would be inconsistent with section 92-5; provided that minutes of executive meetings may be withheld so long as their publication would defeat the lawful purpose of the executive meeting, but no longer. [A written summary shall accompany any minutes that are posted in a digital or analog recording format and shall include:

(1) The date, time, and place of the meeting;

(2) The members of the board recorded as either present or absent, and the times when individual members entered or left the meeting;

(3) A record, by individual member, of motions and votes made by the board; and

(4) A time stamp or other reference indicating when in the recording the board began discussion of each agenda item and when motions and votes were made by the board.]"
SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect on October 1, 2022.
Report Title:
Meeting Minutes; Public Record; Boards

Description:
Requires that any electronic audio or video recording of a board meeting be maintained as a public record, regardless of whether the written minutes of the board meeting have been posted. Amends the information that must be included as part of the written minutes of board meetings. Repeals the option for boards to provide recorded minutes accompanied by written summaries as an alternative to written minutes of board meetings. Effective 10/1/2022. (CD1)

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Reminders to Current Board Members

Please remind your current board members to file their annual disclosure by May 31, 2022.

All current board members who filed last year (i.e., everyone who is currently listed in our system) should be receiving email reminders in the next few days. Attached is a general flyer with filing tips and information.

Note: Board members who already filed as a state employee or state legislator do not need to file again.

Annual Updates & New Board Members

In Mid-May, after legislative session is over and all board confirmations are done, we will contact you to get an annual updated list of new board members and members who are no longer on your board.

Beginning in July (when their terms begin), we will notify new board members and ask them to file their initial disclosure (if they have not already done so). Our office will also be creating new e-filing accounts for first-time filers and will send them instructions on how to file.

New board filers will have until Monday, August 1, 2022 to file their initial disclosures.

Thank you very much for your assistance in this matter. If you have any questions, please contact our office at 587-0460.

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