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LAWRENCE M. REIFURTH
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RONALD BOYER
DEPUTY DIRECTOR

TO THE SENATE COMMITTEE ON ECONOMIC DEVELOPMENT
AND TAXATION

TWENTY-FOURTH LEGISLATURE
Regular Session of 2008
Tuesday, March 11, 2008
1:15 p.m.

WRITTEN ONLY

TESTIMONY ON HOUSE BILL NO. 2781, H.D. 2 – RELATING TO SMALL BUSINESS

TO THE HONORABLE CAROL FUKUNAGA, CHAIR, AND MEMBERS OF THE
COMMITTEE:

My name is Lawrence Reifurth, and I am the Director of Commerce and Consumer Affairs (“Department”). Although the Department strongly supports the role of small business in Hawai‘i’s economy and appreciates as well the role that the Small Business Regulatory Review Board (SBRRB) plays in the process of State regulation of business, we have concerns with the application of this bill. The Department would like to share its comments regarding this proposal.

I would first note that the current process, under chapters 91 and 201M, HRS, already provides interested parties with ample opportunity to share their views with the rule-making agency before rules are adopted. In addition to having an opportunity to testify before the SBRRB, interested parties can testify at the public hearing(s) on a

proposed rule. These protections are appropriate and help ensure that regulations do not slip by without ample opportunity for public input.

The Department strongly appreciates the value in requiring that an agency consider whether its proposed rules are more stringent than those mandated by comparable or related federal, state, or county standards, and in requiring that an agency explain why its proposed rules might be more stringent. It is important to note, though, that this is already required under the law. Haw. Rev. Stat. § 201M-2(b)(7).

The Department appreciates the value in examining comparable regulations before enacting our own, and we try always to include reference to other jurisdictions in our explanations to SBRRB. I submit that the problem is that sometimes it is inherently unclear whether another federal, state, or county rule is “comparable” or “related”.

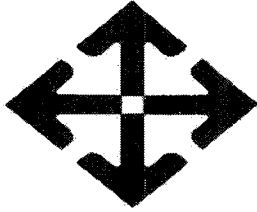
It is one thing, for instance, to understand that if an agency proposes to raise the minimum average MPG fuel standard for cars sold in Hawai'i to 30 MPG, and other states have minimum standards of 27 MPG, that the comparable standard is 27 MPG. It is quite another, though, when looking at a broader licensing scheme that includes, for instance, 1000 hours of education, a degree from a school that is accredited by a particular accrediting agency, and 1 year of practicum training, when compared against 50 different jurisdictions with 50 different licensing schemes, one of which has no education requirement, another of which uses a different accrediting agency, and another of which requires no practicum training at all.

In other cases, it is difficult to determine if something is comparable or related at all. It might not be measurable. Or, it might be that the ten steps that the Insurance

Division uses in evaluating a rate filing might not compare at all with the six steps that another state uses to conduct its analysis because that other state is not computerized and the steps are different. Do the ten steps in a fully computerized and much more efficient system amount to a more stringent standard than a six step process that must be completed in a time-consuming manual mode?

The value of the analysis notwithstanding, section 201M-2(b)(7), HRS, is already difficult enough to comply with, without being even more specific about the detail to be presented when the bigger problem is in knowing when and whether a regulation is comparable or related. If the Committee, in its discretion, determines that H.B. No. 2781, H.D. 2, represents sound public policy, I request that the Committee provide agencies with clearer guidance in determining whether another federal, state, or county rule is “comparable” or “related”.

I would like to thank the Committee for the opportunity to present testimony on H.B. No. 2781, H.D. 2.



The Hawaii Business League

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March 11, 2008

Testimony To: Senate Committee on Economic Development and Taxation
Senator Carol Fukunaga, Chair

Presented By: Tim Lyons
President

Subject: H.B. 2781, HD 2 – RELATING TO SMALL BUSINESS.

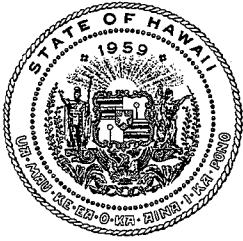
Chair Fukunaga and Members of the Committee:

I am Tim Lyons, President of the Hawaii Business League, a small business service organization. We support this bill.

Anytime there is a federal, state or county law, we know that it has gone through some sort of a hearing process and there has at least been some attempt at rationalization as to why it should exist. This bill requires that an impact statement is required anytime where a proposed rule has provisions that are more stringent than those already mandated by a federal, state or county law. Since we would like to think that the government agency went through some sort of rationalization in promulgating the law, we think it only appropriate that when another rule making authority comes along and wants to have something that is more stringent, they should have to justify it and look at the impact that it will have on small businesses.

Therefore, based on the above, we highly agree with this bill and recommend its passage.

Thank you.



SMALL BUSINESS REGULATORY REVIEW BOARD

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Linda Lingle
Governor

To: Chair Fukunaga, Vice Chair Espero, and Senate Committee Members on Economic Development and Taxation

Theodore E. Liu
Director, DBEDT

Re: HB 2781, HD2 – “Relating to Small Business”

Members

Lynne Woods
Chairperson
Maui

Committee Date: March 11, 2008

Sharon L. Pang
Vice Chairperson
Oahu

Aloha:

My name is Lynne Woods and I testify before you as Chairperson of the Small Business Regulatory Review Board.

Michael Yee
2nd Vice Chairperson
Oahu

The Board **supports the intent** of this proposed bill. The Board believes that a much more extensive impact study is very necessary during the creation or review of rules. The Board receives Agency small business impact statements that are cursory at best with no understanding of the resulting cost.

Peter Yukimura
Kauai

Dorvin Leis
Maui

The fact that the Board’s communications with the Agencies and the Governor are considered recommendations has certainly been a stumbling block. Some requests for review of specific Agency rules have been completely ignored much to the detriment of many small businesses.

Bruce E. Bucky
Oahu

Charles Au
Oahu

Donald Dymond
Oahu

This bill will increase significantly the workload for the Board’s current personnel resources and will require the expansion of Board member expertise so we will have to request additional funding to move the Board’s efforts to this level.

Richard Schnitzler
Hawaii

On behalf of the members of the Small Business Regulatory Review Board, I thank you for your continuing support of our efforts.

Yours truly,

Lynne Woods, Chairperson
Small Business Regulatory Review Board

Tuesday, March 11, 2008



**Before the Senate Committee on
Economic Development and Taxation**

DATE: Tuesday, March 11, 2008

TIME: 1:15 p.m.

PLACE: Conference Room 224

Re: HB 2781, HD2
Relating to Small Business
Testimony of Melissa Pavlicek for NFIB Hawaii

Thank you for the opportunity to testify. On behalf of the thousands of business owners who make up the membership of the National Federation of Independent Businesses in Hawaii, we ask that you pass **HB 2781, HD2**. NFIB supports this measure in its current form.

The National Federation of Independent Business is the largest advocacy organization representing small and independent businesses in Washington, D.C., and all 50 state capitals. In Hawaii, NFIB represents more than 1,000 members. NFIB's purpose is to impact public policy at the state and federal level and be a key business resource for small and independent business in America. NFIB also provides timely information designed to help small businesses succeed.

We believe that this bill will be an important step toward supporting Hawaii's small businesses.

Thank you for the opportunity to testify.