

JAN 20 2010

A BILL FOR AN ACT

RELATING TO THE SMALL BUSINESS REGULATORY REVIEW BOARD.

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

1 SECTION 1. The purpose of this Act is to ensure the
2 stability of the small business regulatory review board, by:

3 (1) Transferring the board, with its statutory duties and
4 powers, from the department of business, economic
5 development, and tourism to the department of commerce
6 and consumer affairs;

7 (2) Authorizing the board to employ a small business
8 advocate; and

9 (3) Authorizing the expenses of the board to be funded
10 entirely from the compliance resolution fund.

11 SECTION 2. Section 201M-5, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "**§201M-5 Small business regulatory review board; powers.**

14 (a) There shall be established within the department of
15 [~~business, economic development, and tourism,~~] commerce and
16 consumer affairs for administrative purposes, a small business
17 regulatory review board to review any proposed new or amended



1 rule or to consider any request from small business owners for
2 review of any rule adopted by a state agency and to make
3 recommendations to the agency or the legislature regarding the
4 need for a rule change or legislation. For requests regarding
5 county ordinances, the board may make recommendations to the
6 county council or the mayor for appropriate action.

7 (b) The board shall consist of eleven members, who shall
8 be appointed by the governor pursuant to section 26-34.
9 Nominations to fill vacancies shall be made from names submitted
10 by the review board. The appointments shall reflect
11 representation of a variety of businesses in the State; provided
12 that no more than two members shall be representatives from the
13 same type of business, and that there shall be at least two
14 representatives from each county.

15 (c) All members of the board shall be either a current or
16 former owner or officer of a business and shall not be an
17 officer or employee of the federal, state, or county government.
18 A majority of the board shall elect the chairperson. The
19 chairperson shall serve a term of not more than one year, unless
20 removed earlier by a two-thirds vote of all members to which the
21 board is entitled.



1 (d) A majority of all the members to which the board is
2 entitled shall constitute a quorum to do business, and the
3 concurrence of a majority of all the members to which the board
4 is entitled shall be necessary to make any action of the board
5 valid.

6 (e) In addition to any other powers provided by this
7 chapter, the board may:

8 (1) Adopt any rules necessary to implement this chapter;

9 (2) Organize and hold conferences on problems affecting
10 small business; [~~and~~]

11 (3) Employ a small business advocate, who shall serve at
12 the pleasure of the board and shall be exempt from
13 chapter 76; provided that the salary of the small
14 business advocate shall be set by the board; and

15 [~~(3)~~] (4) Do any and all things necessary to effectuate the
16 purposes of this chapter.

17 (f) The board shall submit an annual report to the
18 legislature twenty days prior to each regular session detailing
19 any requests from small business owners for review of any rule
20 adopted by a state agency, and any recommendations made by the
21 board to an agency or the legislature regarding the need for a
22 rule change or legislation. The report shall also contain a



1 summary of the comments made by the board to agencies regarding
2 its review of proposed new or amended rules.

3 (g) The expenses of the board shall be funded entirely
4 from the compliance resolution fund; provided that this
5 provision shall not require the board to charge any fee for its
6 service. The director of commerce and consumer affairs shall
7 include, as part of any other fee charged to a person or
8 organization, an amount with a reasonable nexus to the small
9 business regulatory review activities of the board.

10 For the purpose of this subsection, "expenses" includes
11 operating expenses, personnel expenses, cash capital expenses,
12 and debt service attributable to the board."

13 SECTION 3. All rights, powers, functions, and duties of
14 the small business regulatory review board are transferred to
15 the department of commerce and consumer affairs.

16 All officers and employees whose functions are transferred
17 by this Act shall be transferred with their functions and shall
18 continue to perform their regular duties upon their transfer,
19 subject to the state personnel laws and this Act.

20 No officer or employee of the State having tenure shall
21 suffer any loss of salary, seniority, prior service credit,
22 vacation, sick leave, or other employee benefit or privilege as



1 a consequence of this Act, and such officer or employee may be
2 transferred or appointed to a civil service position without the
3 necessity of examination; provided that the officer or employee
4 possesses the minimum qualifications for the position to which
5 transferred or appointed; and provided that subsequent changes
6 in status may be made pursuant to applicable civil service and
7 compensation laws.

8 An officer or employee of the State who does not have
9 tenure and who may be transferred or appointed to a civil
10 service position as a consequence of this Act shall become a
11 civil service employee without the loss of salary, seniority,
12 prior service credit, vacation, sick leave, or other employee
13 benefits or privileges and without the necessity of examination;
14 provided that such officer or employee possesses the minimum
15 qualifications for the position to which transferred or
16 appointed.

17 If an office or position held by an officer or employee
18 having tenure is abolished, the officer or employee shall not
19 thereby be separated from public employment, but shall remain in
20 the employment of the State with the same pay and classification
21 and shall be transferred to some other office or position for
22 which the officer or employee is eligible under the personnel



1 laws of the State as determined by the head of the department or
2 the governor.

3 SECTION 4. All appropriations, records, equipment,
4 machines, files, supplies, contracts, books, papers, documents,
5 maps, electronic communications systems such as RegAlert, and
6 other personal property heretofore made, used, acquired, or held
7 by the small business regulatory review board relating to the
8 functions transferred to the department of commerce and consumer
9 affairs shall be transferred with the functions to which they
10 relate.

11 SECTION 5. This Act shall not affect the membership or
12 term of any appointed member of the small business regulatory
13 review board, and any member shall continue to serve on the
14 board for the member's term without necessity of reappointment.

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

17 SECTION 7. This Act shall take effect on July 1, 2010.

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Report Title:

Small Business Regulatory Review Board; Transfer

Description:

Transfers the small business regulatory review board from the department of business, economic development, and tourism to the department of commerce and consumer affairs; authorizes the board to employ and set the salary of a small business advocate; and authorizes the expenses of the board to be funded entirely from the compliance resolution fund.

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