

SB1498 SD1

Measure Title: RELATING TO THE SMALL BUSINESS REGULATORY REVIEW BOARD.

Report Title: Small Business Regulatory Review Board; Transfer; Administrative Rules

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, and authorizes the expenses of the board to be funded from the compliance resolution fund; requires each agency to notify the board on an annual basis of any rules to be amended or repealed to reflect statutory amendment or repeal. (SD1)

Companion:

Package: None

Current Referral: EDT, CPN/WAM



**DEPARTMENT OF BUSINESS,
ECONOMIC DEVELOPMENT & TOURISM**

NEIL ABERCROMBIE
GOVERNOR

RICHARD C. LIM
INTERIM DIRECTOR

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Statement of

RICHARD C. LIM
Interim Director

Department of Business, Economic Development, and Tourism
before the

SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

AND

SENATE COMMITTEE ON WAYS AND MEANS

Monday, February 28, 2011

9:45 AM

State Capitol, Conference Room 229

in consideration of

SB 1498 SD1

RELATING TO THE SMALL BUSINESS REGULATORY REVIEW BOARD.

Chairs Baker and Ige, Vice Chairs Taniguchi and Kidani and Members of the Senate Committees.

The Department of Business, Economic Development, and Tourism (DBEDT) supports the intent of SB 1498, SD1. This bill seeks to transfer the Small Business Regulatory Review Board (SBRRB) from DBEDT to DCCA and authorizes the expenses of the Board to be funded from the Compliance Resolution Fund. DBEDT respectfully defers to DCCA on the impact to that Department as a result of the transfer.

SB 1498, SD1 also seeks to correct the issue of rules adopted by state agencies that are not amended or repealed to reflect changes to statutes being implemented by the rules. DBEDT

supports having other state agencies work with the SBRRB to develop internal procedures to expedite rulemaking.

Currently, HRS 201M-7, "Periodic review; evaluation report," directs state agencies that have rules affecting small business to submit a list of those rules to the Small Business Regulatory Review Board (SBRRB) on odd-numbered years. SB 1498, SD1 would make state agencies more accountable by having them identify rules that impact small business on an annual basis. The bill also directs state agencies to develop internal procedures to expedite the amendments or repeal of rules to conform to current statutes. Small businesses would then be running their businesses based on the most up-to-date rules.

Thank you for the opportunity to offer these comments.



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TO THE SENATE COMMITTEE ON COMMERCE
AND CONSUMER PROTECTION

AND

TO THE SENATE COMMITTEE ON WAYS AND MEANS

TWENTY-SIXTH LEGISLATURE
REGULAR SESSION OF 2011

Monday, February 28, 2011

9:45 a.m.

WRITTEN COMMENTS

**TESTIMONY ON SENATE BILL NO. 1498, S.D. 1, RELATING TO THE SMALL
BUSINESS REGULATORY REVIEW BOARD.**

TO THE HONORABLE ROSALYN H. BAKER, CHAIR; AND
TO THE HONORABLE DAVID Y. IGE, CHAIR,
AND MEMBERS OF THEIR COMMITTEES:

The Department of Commerce and Consumer Affairs ("Department") appreciates the opportunity to offer comments to Senate Bill No. 1498, S.D. 1, Relating to the Small Business Regulatory Review Board (the "Bill"). My name is Keali'i Lopez, and I am the Department's Director.

The Bill proposes to transfer the Small Business Regulatory Review Board (SBRRB), along with its powers and duties, from the Department of Business, Economic Development, and Tourism (DBEDT) to the Department. The Department understands

the rationale behind the proposed transfer and is currently in discussions with DBEDT about it. However, as of this date, an agreement to proceed with the proposed transfer of SBRRB from DBEDT to the Department has not been reached.

The Department remains concerned about the potential of conflict of interest that could arise as was mentioned in previous testimony by the Department on similar bills in the past. To reiterate, the Department has numerous rules that have the potential of affecting small business and we appear before the SBRRB on a frequent basis. Placing the SBRRB within the Department would have the appearance of having the "fox guarding the henhouse". Therefore, in order to maintain the integrity of the SBRRB and the public's confidence in its decision-making process, it would be prudent not to create a situation where the appearance of a conflict of interest is created. (For example, SBRRB has requested that the Department appear before SBRRB to explain its proceedings with regard to disciplinary action taken by the Department against a respondent for unfair and deceptive practices. SBRRB has also invited the respondent to the same meeting to provide its side of the story. We believe such a situation would result in a clear conflict of interest should the SBRRB be attached to the Department.) The issue of whether a conflict of interest exists is a legal question and may also need to be reviewed by the Attorney General.

In addition, the Bill specifies that the Department may include as part of any of its other fees, an additional amount with a reasonable nexus to the activities of the SBRRB. The Department does not presently have the ability to segregate out "small businesses" and only charge them the additional amount so all business registrants would pay the additional charge if it was imposed. As a result, some of those who pay

the additional charge would not have that "reasonable nexus", and therefore, would be subsidizing "small business". This may also create a legal issue or challenge.

The Department feels that the best course at this point would be to allow the Department and DBEDT to continue to discussions regarding this matter and perhaps obtain advice from the Attorney General regarding whether a conflict of interest or legal issues could arise from a proposed transfer of SBRRB to the Department.

Thank you for the opportunity to present testimony on the Bill.



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SENATE
COMMITTEE ON COMMERCE AND CONSUMER PROTECTION
and
COMMITTEE ON WAYS AND MEANS

February 28, 2011
9:45 am
Room 225

RELATING TO THE SMALL BUSINESS REGULATORY REVIEW BOARD
SB 1498 SD1

Chairs Baker and Ige, and Members of the Committees,

The Hawaii Farm Bureau Federation, on behalf of its farmer and rancher members throughout the islands, offers the following comments on this bill that would transfer the Small Business Regulatory Review Board (SBRRB) from DBEDT to DCCA, and authorize the expenses of the Board to be funded from the Compliance Resolution Fund.

The Farm Bureau strongly supports the mission and work of the SBRRB. Our members have benefited from the Board's conscientious review of rules, some of which would have negatively impacted food production in this state.

We are concerned that because of limited resources and minimal staff support within DBEDT, the Board, which consists of volunteer members, may be unable to continue to fulfill its mission.

The Farm Bureau does not presume to know which agency would be the better fit for the SBRRB, but we respectfully request that regardless of whose jurisdiction the Board falls under, they are given the administrative support and funding that has been lacking for at least the past several years.

Thank you for the opportunity to support the mission of the Small Business Regulatory Review Board.