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# 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, and authorizing the expenses of  
7 the board to be funded from the compliance resolution  
8 fund; and
- 9           (2) Requiring each agency to notify the small business  
10 regulatory review board on an annual basis of any  
11 rules to be amended or repealed to reflect statutory  
12 amendments or repeals.

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

15           "**§201M-5 Small business regulatory review board; powers.**

- 16 (a) There shall be established within the department of  
17 [~~business, economic development, and tourism,~~] commerce and  
18 consumer affairs, for administrative purposes[~~7~~] only, a small



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

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

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

13 (f) The board shall submit an annual report to the  
14 legislature twenty days prior to each regular session detailing  
15 any requests from small business owners for review of any rule  
16 adopted by a state agency, and any recommendations made by the  
17 board to an agency or the legislature regarding the need for a  
18 rule change or legislation. The report shall also contain a  
19 summary of the comments made by the board to agencies regarding  
20 its review of proposed new or amended rules.

21 (g) The expenses of the board may be funded from the  
22 compliance resolution fund established under section 26-9;



1 provided that this provision shall not require the board to  
2 charge any fee for its service. The director of commerce and  
3 consumer affairs may include, as part of any other fee charged  
4 to a person or organization with a reasonable nexus to the small  
5 business regulatory review, an amount for the activities of the  
6 board.

7 For the purpose of this subsection, "expenses" include  
8 operating expenses, personnel expenses, cash capital expenses,  
9 and debt service attributable to the board."

10 SECTION 3. Section 201M-7, Hawaii Revised Statutes, is  
11 amended by amending subsection (a) to read as follows:

12 "(a) Each agency having rules that affect small business  
13 shall submit by June 30 of each odd-numbered year, a list of  
14 those rules to the small business regulatory review board[-];  
15 provided that each agency that is required to amend or repeal  
16 rules pursuant to statutory amendment or repeal, shall submit by  
17 June 30 of each year a list of these rules to be amended or  
18 repealed to the small business regulatory review board. The  
19 agency shall also submit a report describing the specific public  
20 purpose or interest for adopting the respective rules and any  
21 other reasons to justify its continued implementation."



1 SECTION 4. All rights, powers, functions, and duties of  
2 the department of business, economic development, and tourism  
3 relating to the small business regulatory review board are  
4 transferred to the department of commerce and consumer affairs.

5 All officers and employees whose functions are transferred  
6 by this Act shall be transferred with their functions and shall  
7 continue to perform their regular duties upon their transfer,  
8 subject to the state personnel laws and this Act.

9 No officer or employee of the State having tenure shall  
10 suffer any loss of salary, seniority, prior service credit,  
11 vacation, sick leave, or other employee benefit or privilege as  
12 a consequence of this Act, and such officer or employee may be  
13 transferred or appointed to a civil service position without the  
14 necessity of examination; provided that the officer or employee  
15 possesses the minimum qualifications for the position to which  
16 transferred or appointed; and provided that subsequent changes  
17 in status may be made pursuant to applicable civil service and  
18 compensation laws.

19 An officer or employee of the State who does not have  
20 tenure and who may be transferred or appointed to a civil  
21 service position as a consequence of this Act shall become a  
22 civil service employee without the loss of salary, seniority,



1 prior service credit, vacation, sick leave, or other employee  
2 benefits or privileges and without the necessity of examination;  
3 provided that such officer or employee possesses the minimum  
4 qualifications for the position to which transferred or  
5 appointed.

6 If an office or position held by an officer or employee  
7 having tenure is abolished, the officer or employee shall not  
8 thereby be separated from public employment, but shall remain in  
9 the employment of the State with the same pay and classification  
10 and shall be transferred to some other office or position for  
11 which the officer or employee is eligible under the personnel  
12 laws of the State as determined by the head of the department or  
13 the governor.

14 SECTION 5. All appropriations, records, equipment,  
15 machines, files, supplies, contracts, books, papers, documents,  
16 maps, electronic communications systems such as RegAlert, and  
17 other personal property heretofore made, used, acquired, or held  
18 by the department of business, economic development, and tourism  
19 relating to the functions transferred to the department of  
20 commerce and consumer affairs shall be transferred with the  
21 functions to which they relate.



1           SECTION 6. This Act shall not affect the membership or  
2 term of any appointed member of the small business regulatory  
3 review board, and any member shall continue to serve on the  
4 board for the member's term without necessity of reappointment.

5           SECTION 7. Statutory material to be repealed is bracketed  
6 and stricken. New statutory material is underscored.

7           SECTION 8. This Act shall take effect on July 1, 2050.

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**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. Effective 7/1/2050. (SD2)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

