

**HB 2268, HD 2
EDT**



NEIL ABERCROMBIE
GOVERNOR

BRIAN SCHATZ
LT. GOVERNOR

STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
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HONOLULU, HAWAII 96809
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KEALI'I S. LOPEZ
DIRECTOR

TO THE SENATE COMMITTEE ON ECONOMIC
DEVELOPMENT AND TECHNOLOGY

TWENTY-SIXTH LEGISLATURE
Regular Session of 2012

Wednesday, March 14, 2012
1:30 p.m.

TESTIMONY ON H.B. 2268, H.D. 2 - RELATING TO SMALL BUSINESS

TO THE HONORABLE CAROL FUKUNAGA, CHAIR,
and GLENN WAKAI, VICE CHAIR, AND MEMBERS OF THE COMMITTEE:

My name is Keali'i Lopez and I am the Director of the Department of Commerce and Consumer Affairs (DCCA). DCCA appreciates the opportunity to testify in opposition to this bill.

The purpose of this bill is to authorize the Small Business Regulatory Review Board to require an agency to conduct another hearing on a rule change when the rulemaking agency declines to make changes requested at the first hearing and the agency's small business statement, submitted after the hearing, does not address the concern raised at the first hearing.

This bill is unnecessary. There are sufficient protections in Haw. Rev. Stat. 91-3(a), 91-6 and 201M-6 to address the concerns a person may have about a

The Honorable Carol Fukunaga
And The Honorable Glenn Wakai, Vice Chair
Testimony on HB2268, HD2
March 14, 2012
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proposed rule. In particular, 201M-6 allows an affected party to file a petition to amend or repeal a rule.

The revisions proposed by this bill are vague. The phrase "does not address the concerns of public input" on page 2 line 20 suggests that there will be only one public point of view. In some cases, the rulemaking agency receives input from a variety of public sectors and must use its best judgment to determining from a policy perspective to what extent competing comments from the public could be reconciled or incorporated.

Also, requiring a second hearing will unnecessarily lengthen an already lengthy process and further raise the cost of implementing or revising rules.



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

NEIL ABERCROMBIE
GOVERNOR

RICHARD C. LIM
DIRECTOR

MARY ALICE EVANS
DEPUTY DIRECTOR

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Statement of
RICHARD C. LIM
Director
Department of Business, Economic Development, and Tourism
before the
SENATE COMMITTEE ON ECONOMIC DEVELOPMENT AND TECHNOLOGY
Wednesday, March 14, 2012
1:30 PM
State Capitol, Conference Room 016

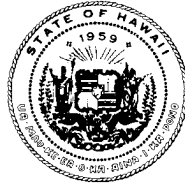
In consideration of
HB 2268 HD2
RELATING TO SMALL BUSINESS

Chair Fukunaga, Vice Chair Wakai and Members of the Senate Committee on Economic Development and Technology.

The Department of Business, Economic Development, and Tourism offers comments on HB 2268 HD2. The bill authorizes the small business regulatory review board to require an agency to conduct another public hearing on a rule change when the rulemaking agency declines to make changes requested at the first hearing and the agency's small business statement, submitted after the hearing, indicates inconsistency with its earlier determination or does not address the public's concerns.

The language in the proposed amendment could reasonably be subject to interpretation and may increase the time that it takes to get a proposed rule or rule change adopted. Currently, the Governor has the authority to require departments to hold additional public hearings on proposed rules and rule amendments prior to adoption of the final rule.

Thank you for the opportunity to testify on this measure.



STATE OF HAWAII

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT AND TOURISM
HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION
677 QUEEN STREET, SUITE 300
Honolulu, Hawaii 96813
FAX: (808) 587-0600

IN REPLY REFER TO:

WRITTEN ONLY

Statement of
Karen Seddon
Hawaii Housing Finance and Development Corporation
Before the

SENATE COMMITTEE ON ECONOMIC DEVELOPMENT AND TECHNOLOGY

March 14, 2012 at 1:30 p.m.
Room 016, State Capitol

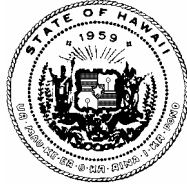
In consideration of
H.B. 2268, H.D. 2 RELATING TO SMALL BUSINESS.

The HHFDC ***has concerns with H.B. 2268, H.D. 2 in its current form***, and prefers the bill as originally introduced as part of the Administration's Legislative package.

The H.D. 2 empowers the Small Business Regulatory Review Board with the ability to require State agencies to conduct a second public hearing if, in its sole discretion, it finds that the agency did not address public input in the proposed rule. HHFDC is concerned that expanding the Board's power in this way will result in added costs and delays in the already lengthy rulemaking process due to having to conduct a second public hearing.

Under the current rulemaking process, if a State agency proceeds with rules that include substantive amendments following the initial public hearing, it is already required to conduct a second public hearing on the rule as amended. And, if an agency's decision is to proceed with the existing rule draft without amendment after taking into account public input at the initial public hearing, a second public hearing is not likely to have any effect other than to waste time and money.

Thank you for the opportunity to provide written comments on this bill.



STATE OF HAWAII
DEPARTMENT OF HUMAN SERVICES

P. O. Box 339
Honolulu, Hawaii 96809-0339

March 14, 2012

TO: The Honorable Carol Fukunaga, Chair
Senate Committee on Economic Development and Technology

FROM: Patricia McManaman, Director

SUBJECT: **H.B. 2268, H.D. 2 – RELATING TO SMALL BUSINESS**

Hearing: March 14, 2012; 1:30 p.m.
Conference Room 016, State Capitol

PURPOSE: The purpose of this bill is to authorize the Small Business Regulatory Review Board to require an agency to conduct another public hearing on a rule change when the rulemaking agency declines to make changes requested at the first hearing and the agency's small business statement, submitted after the hearing, indicates inconsistency with its earlier determination or does not address the public's concerns.

DEPARTMENT'S POSITION: The Department of Human Services (DHS) opposes this bill. This measure to allow the Small Business Regulatory Review Board (SBRRB) to require a second hearing if the SBRRB determines that concerns raised at a public hearing were not adequately addressed is unnecessary. The public interest is not served by adding another layer of "red tape" when government should be seeking to streamline its processes. There are sufficient protections in the existing Chapter 91-3(a), Hawaii Revised Statutes (HRS), to address the concerns of a party who feels that a rule should be adopted, amended or repealed. In addition, HRS Section 91-6 and HRS

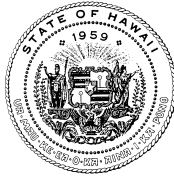
Section 201M-6 allow an affected party to file a petition to amend or repeal a rule with an agency that must be responded to in thirty days.

Finally, the Governor already has the authority to require departments to hold additional public hearings on proposed rules or rules changes before the final rules are adopted.

Requiring a second public hearing will also impede agencies' ability to implement on a timely basis, Federal and State statutes governing their programs. Delay in implementation could mean loss of Federal dollars to the State for non-compliance. The vague criteria language of this bill would give the SBRRB the authority to indefinitely delay the adoption and implementation of administrative rules.

Additionally, there will be cost implications for agencies if they are required to hold a second hearing.

Thank you for the opportunity to provide testimony on this bill.



NEIL ABERCROMBIE
GOVERNOR

DWIGHT Y. TAKAMINE
DIRECTOR

AUDREY HIDANO
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
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March 14, 2012

To: The Honorable Carol Fukunaga, Chair,
The Honorable Glenn Wakai, Vice Chair, and
Members of the Senate Committee on Economic Development and Technology

Date: Wednesday, March 14, 2012
Time: 1:30 p.m.
Place: Conference Room 016, State Capitol

From: Dwight Y. Takamine, Director
Department of Labor and Industrial Relations (DLIR)

Re: HB2268 HD2 RELATING TO SMALL BUSINESS

I. OVERVIEW OF PROPOSED LEGISLATION

- ✓ Authorizes the Small Business Regulatory Review Board (SBRRB) to conduct an additional public hearing on a rule change when a rulemaking agency does not make changes requested by public input at a public hearing and the agency's small business statement is inconsistent with its determination or does not address the concern raised at the public hearing.

The DLIR opposes House Draft 2 of HB2268.

III. COMMENTS ON THE HOUSE BILL

Overall, this proposal adds additional costs and responsibilities to the department without providing the commensurate resources to carry out the measure's purpose. The department continues to struggle with meeting its rulemaking responsibilities and the requirement in the measure will exacerbate the situation.

The DLIR believes that the current rulemaking process already provides sufficient review of agency rules with respect to small businesses. Hawaii Revised Statutes, (HRS) Section 91-6 and Section 201M-6 permits an affected party to file a petition to amend or repeal a rule with an agency and requires the agency to respond in 30 days.

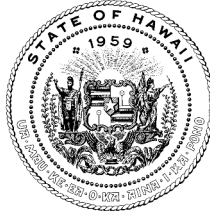
SB2739SD2

March 13, 2012

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The public interest is not served by adding additional responsibilities to the departments without resources and adding more "red tape" to the already lengthy rulemaking process.

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

**Testimony of
WILLIAM J. AILA, JR
Chairperson**

**Before the Senate Committee on
ECONOMIC DEVELOPMENT AND TECHNOLOGY**

**Wednesday, March 14, 2012
1:30 PM**

State Capitol, Conference Room 016

**In consideration of
HOUSE BILL 2268 HOUSE DRAFT 2
RELATING TO SMALL BUSINESS.**

House Bill 2268, House Draft 2, proposes to authorize the Small Business Regulatory Review Board (SBRRB) to require an agency to conduct another public hearing on a rule change when the rulemaking agency declines to make changes requested at the first hearing and the agency's small business statement, submitted after the hearing, indicates inconsistency with its earlier determination or does not address the public's concerns. The Department of Land and Natural Resources (Department) does not support this bill as presently drafted and offers the following comments.

While the Department recognizes the need to actively incorporate small business concerns into the rulemaking process, pursuant to Chapter 91, Hawaii Revised Statutes (HRS), there is currently a public hearing process for rulemaking which provides the public the opportunity to raise small businesses concerns.

If an agency proceeds with rule-making after declining to make changes suggested at the initial SBRRB hearing, holding an additional hearing would not necessarily compel an agency to incorporate the suggested changes. In general, the public hearing process can be time consuming and expensive. Holding an additional public hearing that may prove ineffectual is not cost effective.

In addition, specific to the Department, post the Chapter 91, HRS, rulemaking public hearing process, draft administrative rules then go before the Board of Land and Natural Resources for final approval at a public meeting which provides the public an additional opportunity to share small business concerns.

WILLIAM J. AILA, JR.
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

GUY H. KAULUKUKUI
FIRST DEPUTY

WILLIAM M. TAM
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS



Testimony Reference : Committee : HB 2268 HD2

DATE: Wednesday, March 14, 2012

TIME: 1:30pm

PLACE: Conference Room 016
State Capitol
415 South Beretania Street

From: Hawaii Farmers Union United

SUPPORT

This is NEEDED. To often hearing are just venting, no action taken.

It is time that concerns are addressed and not ignored.

Glenn Martinez
President