



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

NEIL ABERCROMBIE
GOVERNOR

RICHARD C. LIM
DIRECTOR

MARY ALICE EVANS
DEPUTY DIRECTOR

No. 1 Capitol District Building, 250 South Hotel Street, 5th Floor, Honolulu, Hawaii 96813
Mailing Address: P.O. Box 2359, Honolulu, Hawaii 96804
Web site: www.hawaii.gov/dbedt

Telephone: (808) 586-2355
Fax: (808) 586-2377

Statement of
RICHARD C. LIM
Director
Department of Business, Economic Development, and Tourism
before the
HOUSE COMMITTEE ON ECONOMIC REVITALIZATION & BUSINESS
Tuesday, February 7, 2012
8:30 AM
State Capitol, Conference Room 312

In consideration of
HB 2477
RELATING TO THE SMALL BUSINESS REGULATORY REVIEW BOARD

Chair McKelvey, Vice Chair Choy and Members of the House Committee on Economic Revitalization and Business.

The Department of Business, Economic Development, and Tourism (DBEDT) supports HB 2477, Relating to the Small Business Regulatory Review Board. This measure transfers the board, with its statutory duties and powers, from DBEDT to the Department of Commerce and Consumer Affairs (DCCA), and authorizes the expenses of the board to be funded from the compliance resolution fund. The transfer to DCCA also includes one full-time, civil service position. The bill further requires that each agency notify the Small Business Regulatory Review Board, on an annual basis, of any rules to be amended or repealed to reflect statutory amendments or repeals.

The question has been raised that there may be a conflict of interest placing the SBRRB in DCCA. We call your attention to the fact that the DBEDT Director sits as an

ex-officio, voting on many boards and commissions that submit rules to the SBRRB; the DCCA director does not.

It is DBEDT's belief that due to the changing financial conditions of the State affecting the stability of the Small Business Regulatory Review Board and the challenges facing the small business community during these economic times, funding from DCCA's compliance resolution fund will help to ensure the Board's viability.

The transfer of the Small Business Regulatory Review Board to DCCA provides a "stable home" for the Board and its staff while maintaining the Legislature's intent – that the Board remains an essential part of the State's rule-review process by providing assistance to lessen the regulatory burden of Hawaii's small business community.

Thank you for the opportunity to testify in support of this measure.

NEIL ABERCROMBIE
GOVERNOR

BRIAN SCHATZ
LT. GOVERNOR

STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
335 MERCHANT STREET, ROOM 310
P.O. Box 541
HONOLULU, HAWAII 96809
Phone Number: 586-2850
Fax Number: 586-2856
www.hawaii.gov/dcca

KEALI'I S. LOPEZ
DIRECTOR

TO THE HOUSE COMMITTEE ON ECONOMIC
REVITALIZATION AND BUSINESS

TWENTY-SIXTH LEGISLATURE
Regular Session of 2012

Tuesday, February 7, 2012
8:30 a.m.

**WRITTEN TESTIMONY ON HB 2477: RELATING TO THE SMALL
BUSINESS REGULATORY REVIEW BOARD**

TO THE HONORABLE ANGUS McKELVEY, CHAIR, AND MEMBERS OF THE
COMMITTEE:

My name is Keali'i Lopez, Director of the Department of Commerce and Consumer Affairs ("DCCA"). Thank you for this opportunity to testify on HB 2477 and submit written comments on behalf of DCCA.

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. Therefore, in order to maintain the integrity of the SBRRB and the public's confidence in its decision-making process, it is important to minimize situations where the appearance of a conflict of interest is created.

In addition, a significant concern regarding this bill centers on the uncertainty of funding for SBRRB, and it would make sense to develop a mechanism for funding that has a direct nexus to SBRRB's purpose. The Department offers for your consideration that the bill be amended to require that a fee be charged to all State departments for each hearing conducted on the departments administrative rules. This or some other kind of self-funding mechanism would help bring about resolution to the current situation. Be assured that the Department will continue to work with DBEDT to come to a resolution on this bill.

Thank you for this opportunity to testify on HB 2477.

NEIL ABERCROMBIE
GOVERNOR



BARBARA A. KRIEG
INTERIM DIRECTOR

DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF HUMAN RESOURCES DEVELOPMENT
235 S. BERETANIA STREET
HONOLULU, HAWAII 96813-2437

February 5, 2012

TESTIMONY TO THE
HOUSE COMMITTEE ON ECONOMIC REVITALIZATION & BUSINESS

For Hearing on Tuesday, February 7, 2012
8:30 a.m., Conference Room 312

BY

BARBARA A. KRIEG
INTERIM DIRECTOR

House Bill No. 2477
Relating to the Small Business Regulatory Review Board

WRITTEN TESTIMONY ONLY

TO CHAIRPERSON McKELVEY AND MEMBERS OF THE COMMITTEE:

The purpose of H.B. No. 2477 is to transfer the Small Business Regulatory Review Board from the Department of Business, Economic Development, and Tourism to the Department of Commerce and Consumer Affairs; authorize the expenses of the board to be funded from the Compliance Resolution Fund; and require each agency to notify the board on an annual basis of any rules to be amended or repealed to reflect statutory amendments or repeals.

The Department of Human Resources Development has **comments** on the proposed transfer. To protect the rights and benefits of the employees to be transferred, we prefer the following proposed transfer language be used in place of the transfer language pertaining to employees in Section 4 of the bill:

"All employees who occupy civil service positions and whose functions are transferred to the department of commerce and consumer affairs by this Act shall retain their civil service status (permanent or temporary).

Employees shall be transferred without loss of salary, seniority, retention points, prior service credit, any vacation and sick leave credits previously earned, and other rights, benefits, and privileges, in accordance with state personnel laws and this Act, provided that the employees possess the minimum qualifications and public employment requirements for the class and/or position to which transferred or appointed, as applicable, provided further that subsequent changes in status may be made pursuant to applicable civil service and compensation laws.

Any employee who, prior to this Act, is exempt from civil service and is transferred as a consequence of this Act, may continue to retain the employee's exempt status, but shall not be appointed to a civil service position because of this Act. An exempt employee who is transferred by this Act shall not suffer any loss of prior service credit, any vacation and sick leave credits previously earned, or other employee benefits or privileges as a consequence of this Act, provided that the employees possess legal and public employment requirements for the position to which transferred or appointed, as applicable; provided that subsequent changes in status may be made pursuant to applicable employment and compensation laws. The director of the department of commerce and consumer affairs may prescribe the duties and qualifications of such employees and fix their salaries without regard to chapter 76, Hawaii Revised Statutes."

Thank you for the opportunity to offer comments on this measure.

Testimony of Thomas J. Smyth, CEcD

**Before the
House Committee on Economic Revitalization and Business**

Tuesday, February 7, 2012, 8:30 a.m. Conference Room 312

On

HB 2477 Relating to the Small Business Regulatory Review Board

Chair McKelvey, Vice Chairs Choy and Committee Members:

Having worked with the Small Business Regulatory Review Board (SBRRB) from its inception more than 18 years ago, I strongly support HB 2477, an Administration bill.

I believe transferring the board and its current staff to DCCA is appropriate and will help relieve DBEDT fiscal and personnel pressures. I would note that we transferred the DBEDT-created Business Action Center (BAC) and its personnel to DCCA several years ago and it was able to significantly expand services to the Neighbor Islands because of adequate funding from the Compliance Resolution Fund. Please also note that the BAC does not charge any fees for its own services. It does collect business registration fees for DCCA, but also collects DoTAX fees and offers information and forms for several state and county agencies as well. Of course, the SBRRB also does not and should not charge fees.

I would also note that when it was created, it served as a model for many other states who crafted their own versions of such a rule review entity based on strong pressure from the U.S. Small Business Administration which itself had a similar process. Our board is composed solely of small business owners or officers; there are no legislators or state agency officials on the board. The board also reviews rules as soon as they are drafted, rather than waiting until the much later public comment period when it is harder to make changes.

Some have said putting SBRRB in DCCA creates a conflict of interest when it reviews administrative rules drafted by DCCA boards and commissions. Interestingly, the Director of DCCA does not sit on any of the department's rule-drafting regulatory entities while the DBEDT Director does sit on several boards that often regulate small businesses, such as the Hawaii Community Development Authority, the Natural Energy Laboratory Authority, and the Board of Agriculture. The DBEDT Director may well have strongly supported administrative rules from those agencies that then go to the DBEDT SBRRB for review. So conflict of interest is more likely in DBEDT than in DCCA.

The other changes to current procedures of the SBRRB would require rule-making agencies to submit yearly a list of rules they intend to amend or repeal. The agencies are best able to make these determinations, not the SBRRB itself. This change will increase the current two-year reporting requirement, but if properly staffed, I believe it can adequately assume this responsibility.

When a law sunsets or is otherwise terminated, including by judicial action, the related rule remains in effect until the agency does a formal repeal. It is important that a rule not automatically terminate when a law does because that could seriously impact those affected by the rules, such as beneficiaries of health or human services activities. We also note that many rules do not go to the SBRRB if they are not business related or only impact large businesses with more than 100 employees.

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



2343 Rose Street • Honolulu, Hawaii 96819
Phone: (808) 848-2074 • Neighbor-Islands: (800) 482-1272
Fax: (808) 848-1921 • Email: info@hfbf.org
www.hfbf.org

Tuesday, February 7, 2012
8:30 am
Conference Room 312

House Committee on Economic Revitalization & Business

Testimony on HB 2477
RELATING TO THE SMALL BUSINESS REGULATORY REVIEW BOARD

Aloha Chair McKelvey, Vice Chair Choy, and Members of the Committee,

I am Brian Miyamoto, Chief Operating Officer and Government Affairs Liaison for the Hawaii Farm Bureau Federation (HFBF). Organized since 1948, the HFBF is comprised of 1,800 farm family members statewide, and serves as Hawaii's voice of agriculture to protect, advocate and advance the social, economic and educational interest of our diverse agricultural community:

We offer 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 farmer and rancher members have benefited greatly from the Board's expeditious and conscientious review of highly technical proposed rules, and its recommendations back to the proposing agencies. Had there not been this review and involvement, we are certain that food production in Hawaii would have been negatively impacted.

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, it is given the administrative support and funding that has been lacking for at least the past several years.

Thank you for your support of agriculture in Hawaii through your support of the Small Business Regulatory Review Board. Please call Janet Ashman at (808) 848-2074 if you have any questions.