



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

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Statement of  
**RICHARD C. LIM**  
Interim Director  
Department of Business, Economic Development, and Tourism  
before the

**HOUSE COMMITTEE ON JUDICIARY**

Thursday, February 17, 2011  
2:00 PM  
State Capitol, Conference Room 325

in consideration of  
**HB 980, HD1**  
**RELATING TO THE SMALL BUSINESS REGULATORY REVIEW BOARD.**

Chair Keith-Agaran, Vice Chair Rhoads and Members of the House Committee on  
Judiciary.

The Department of Business, Economic Development, and Tourism (DBEDT) supports HB 980, HD1, which requires each state agency having rules that affect small business to report to the Small Business Regulatory Review Board (SBRRB) on the impact of statutory changes to those rules. DBEDT also supports the idea of having state agencies work with the SBRRB to develop internal procedures to expedite rulemaking actions that affect small businesses and require amendment to, adoption of, or repeal of rules to conform to current statutes.

HB 980, HD1, would make state agencies more accountable by having them identify rules that impact small business and ensure that the agencies conform to the current statutes implemented by those rules on an annual basis.

Thank you for the opportunity to offer these comments.

TESTIMONY BY KALBERT K. YOUNG  
INTERIM DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE  
STATE OF HAWAII  
TO THE HOUSE COMMITTEE ON JUDICIARY  
ON  
HOUSE BILL NO. 980, H.D. 1

February 17, 2011

**Relating to the Small Business Regulatory Review Board**

House Bill No. 980 requires each state agency having rules that affect small businesses to report to the Small Business Regulatory Review Board (SBRRB) the impact of statutory changes on those rules and requires the Governor to direct each state agency to work with the SBRRB to develop internal processes to expedite rulemaking actions for rules that affect small businesses.

The Department of Budget and Finance supports the intent of this bill but offer the following comments:

First, agencies may not have the resources at the current time to implement additional procedures required in this bill.

Second, The SBRRB is a voluntary board that meets once a month. The board may not have the time or the resources to take on additional responsibilities.

Lastly, adding additional layers to the rule making process may delay an already long process of implementing needed administrative rules.



## **Before the House Committee on Judiciary**

DATE: Thursday, February 17, 2011

TIME: 2:00 p.m.

PLACE: Conference Room 325

Re: HB 980, HD 1

Relating to the Small Business Regulatory Review Board

Testimony of Melissa Pavlicek for NFIB Hawaii

Thank you for the opportunity to testify in support of HB 980, HD 1: Relating to the Small Business Regulatory Review Board. NFIB strongly supports this measure. This bill would ensure that state agencies are consistently reviewing and updating their administrative rules. This measure will increase efficiency and greatly benefit Hawaii's small businesses. We recognize and appreciate the efforts of legislators to address small business concerns.

The National Federation of Independent Business is the largest advocacy organization representing small and independent businesses in Washington, D.C., and all 50 state capitals. In Hawaii, NFIB represents more than 1,000 members. NFIB's purpose is to impact public policy at the state and federal level and be a key business resource for small and independent business in America. NFIB also provides timely information designed to help small businesses succeed.

Thank you for the opportunity to submit this testimony.

**Testimony of Thomas J. Smyth, CEcD**

**Before the  
Committee on Judiciary**

**Thursday, February 17, 2011, 2:00 p.m. Conference Room 325**

**On**

**HB 980 HD1 Relating to the Small Business Regulatory Review Board**

Chair Keith-Agaran, Vice Chair Rhoads and Committee Members:

**I support the purpose and intent of HB 980, as amended.** Having worked with the original Small Business Regulatory Review Board (SBRRB) from its inception, I understand its advisory authority and its limitations. Adding to their powers the requirement to review Administrative Rules to ensure that the underlying statute is still appropriate is more than they can manage with existing resources. Even with adequate staff and funding they are not in the best position to carry out the proposed requirements.

Administrative rules are normally drafted by the agency responsible for implementing the underlying law. Often their Deputy Attorney General has a major role in drafting the rules, and at least thoroughly reviews the draft rule to ensure conformance. If the draft rule affects businesses of 100 employees or fewer, it is sent to the SBRRB for review. The SBRRB is primarily concerned with the economic and administrative impact of the proposed rule and often meets with the drafting agency to ensure they understand the purpose and intent of the rule and to ensure that it has the least possible impact consistent with the underlying law. Finally, the governor approves the draft rule for public hearing and then the Attorney General reviews the final rule to ensure conformity.

When a law sunsets or is otherwise terminated, including by judicial action, the related rule remains in effect until the agency goes through its individual repeal. **It is important that the rule not automatically terminate when the law does, because that could seriously impact those affected by the rules, such as beneficiaries of health or human services.**

While it is useful for the SBRRB to consider the status of the underlying law, they do not have the legal expertise to make this judgment for the very wide range of rules they review. In addition they are only involved in some of the Administrative Rules prepared by state agencies. I believe that if the rule-making agency does the review on an annual basis and then lets the board know the status; that will suffice for those rules in the purview of the SBRRB. **In addition those agencies that have rules not affecting small business must do this review on their own.**

Thank you for the opportunity to testify.