



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

NEIL ABERCROMBIE
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Statement of
RICHARD C. LIM
Interim Director

Department of Business, Economic Development, and Tourism
before the

HOUSE COMMITTEE ON ECONOMIC REVITALIZATION & BUSINESS

Tuesday, March 15, 2011
8:00 AM
State Capitol, Conference Room 312

in consideration of
SB 1498 SD2
RELATING TO THE SMALL BUSINESS REGULATORY REVIEW BOARD.

Chair McKelvey, Vice Chair Choy and Members of the Senate Committee.

The Department of Business, Economic Development, and Tourism (DBEDT) supports the intent of SB 1498, SD2. 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SB 1498, SD2 also seeks to correct the issue of rules adopted by state agencies that are not amended or repealed to reflect changes to statutes being implemented by the rules.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, SD2 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.



NEIL ABERCROMBIE
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BRIAN SCHATZ
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KEALI'I S. LOPEZ
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EVERETT S. KANESHIGE
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TO THE HOUSE COMMITTEE ON ECONOMIC
REVITALIZATION AND BUSINESS

TWENTY-SIXTH LEGISLATURE
REGULAR SESSION OF 2011

Tuesday, March 15, 2011
8:00 a.m.

**TESTIMONY ON SENATE BILL NO. 1498, S.D. 2, RELATING TO THE SMALL
BUSINESS REGULATORY REVIEW BOARD.**

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

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 Everett Kaneshige and I am the Department's Deputy 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.

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.

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



STATE OF HAWAII
DEPARTMENT OF HUMAN RESOURCES DEVELOPMENT
235 S. BERETANIA STREET
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March 14, 2011

TESTIMONY TO THE
HOUSE COMMITTEE ON ECONOMIC REVITALIZATION & BUSINESS

For Hearing on Tuesday, March 15, 2011
8:00 a.m., Conference Room 312

BY

SUNSHINE P.W. TOPPING
INTERIM DIRECTOR

Senate Bill No. 1498, SD 2
Relating to Small Business Regulatory Review Board

(WRITTEN TESTIMONY ONLY)

TO CHAIRPERSON ANGUS L.K. McKELVEY AND MEMBERS OF THE COMMITTEE,

The purpose of S.B. 1498, SD 2, is to ensure the stability of the Small Business Regulatory Review Board by transferring it from the Department of Business, Economic Development, and Tourism to the Department of Commerce and Consumer Affairs; authorizing the expenses of the board to be funded from the compliance resolution fund; and requiring 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.

SECTION 4. "All rights, powers, functions, and duties of the department of business, economic development, and tourism

are transferred to the department of commerce and consumer affairs.

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 and 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 employee possesses the legal and public employment requirements for the position to which transferred or appointed, as applicable; provided further 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 opportunity to offer comments on this measure.

Testimony of Thomas J. Smyth, CEcD

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

Tuesday, March 15, 2011, 8:00 a.m. Conference Room 312

On

SB1498 SD2 Relating to the Small Business Regulatory Review Board

Chair McKelvey, Vice Chair Choy and Committee Members:

Having worked with the Small Business Regulatory Review Board (SBRRB) from its inception, I strongly support SB 1498 as amended in SD2. I believe transferring the board to DCCA is appropriate and will help relieve DBEDT budget pressure. I would note that we transferred the DBEDT created Business Action Center to DCCA several years ago and it was able to significantly expand its 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 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 charge fees.

Some have said putting SBRRB in DCCA could create 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 are often very regulatory, 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 a conflict of interest would be more likely with the SBRRB in DBEDT.

The other amendment to SB1498 will let SBRRB work with rule-making agencies to ensure that current rules are, in fact, supported by current laws. 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 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 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 testify.