



## LATE TESTIMONY

State of Hawaii  
DEPARTMENT OF AGRICULTURE  
1428 South King Street  
Honolulu, Hawaii 96814-2512  
Phone: (808) 973-9600 FAX: (808) 973-9613

### TESTIMONY OF RUSSELL S. KOKUBUN CHAIRPERSON, BOARD OF AGRICULTURE

BEFORE THE HOUSE COMMITTEE ON ECONOMIC REVITALIZATION AND BUSINESS

Thursday, March 15, 2012  
9:45 A.M.  
ROOM 312

SENATE BILL NO. 2739, SD2 PROPOSED HD1  
RELATING TO THE SMALL BUSINESS REGULATORY REVIEW BOARD

Chairperson McKelvey and Members of the Committee:

Thank you for the opportunity to testify on Senate Bill No. 2739, SD 2 Proposed HD1. 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 small business statement post public hearing indicates inconsistency with the earlier determination or does not address the public's concerns. The department opposes the bill.

The Department believes that the current rulemaking process provides sufficient review of agency rules with respect to small businesses. This bill would increase the time required for the already lengthy rulemaking process resulting in increased costs and a decrease in efficiency.

Thank you for the opportunity to submit testimony.





# HAWAII ASSOCIATION OF PUBLIC ACCOUNTANTS

Organized August 7, 1943  
P.O. BOX 61043  
HONOLULU, HAWAII 96839



## LATE TESTIMONY

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

**Thursday, March 15, 2012 at 9:45 a.m.**

**Conference Room 312**

**Re: Support for SB 2739 SD2 Proposed HD1  
Relating to the Small Business Regulatory Review Board**

**John W. Roberts, MBA, CPA**


**Chair Angus L.K. McKelvey, Vice Chair Isaac W. Choy, and Committee Members:**

I am a certified public accountant (CPA) and State President of the Hawaii Association of Public Accountants (HAPA). HAPA represents local public accounting practitioners throughout the State of Hawaii. I am also a principal of Niwao & Roberts, CPAs, a P. C.

HAPA strongly supports SB 2739, SD2, Proposed HD1. In order to better promote transparency in government and to protect the public's interests, it is critical that the Small Business Regulatory Review Board receive a Small Business Statement that accurately summarizes what transpires at public hearings for proposed administrative rule changes affecting small businesses. SB 2739, SD2, Proposed HD1 would accomplish this by specifying the minimum content of the Small Business Statement. Equally important, this Bill gives the Small Business Regulatory Review Board the power to send proposed rules back for a second public hearing when the Small Business Statement provided to it is inconsistent with any of the agency's determinations under section 201M-2(b) or does not address the concerns of public input.

Thank you for this opportunity to testify.

Respectfully submitted,

  
John W. Roberts, M.B.A., CPA  
HAPA State President

Gregg M. Taketa  
101 Aupuni Street, Suite 139  
Hilo, Hawaii 96720

**BEFORE THE HOUSE COMMITTEE  
ON ECONOMIC REVITALIZATION & BUSINESS**

**Thursday, March 15, 2012 at 9:45 a.m.  
State Capitol, Conference Room 312**

**In Support of Senate Bill 2739, SD2 Proposed HD1**

Chair McKelvey, Vice Chair Choy, and committee members:

I respectfully ask that you vote YES on SB 2739, SD2 Proposed HD1. I am a CPA and partner in the firm of Taketa, Iwata, Hara & Associates, LLC in Hilo. I am also the past president of the Hawaii Association of Public Accountants and a member of the American Institute of Certified Public Accountants (AICPA) and the Hawaii Society of Certified Public Accountants (HSCPA).

I support SB 2739, SD2 Proposed HD1 because it requires all state agencies to notify the Small Business Regulatory Review Board (SBRRB) on an annual basis of any rules that affect small business to be amended or repealed to reflect a statutory amendment or repeal. This requirement will improve transparency in the process used by agencies in administering rules and regulations.

SB 2739, SD2 Proposed HD1 allows SBRRB to perform its duties of considering any request from small business owners to review any rules adopted by a state agency and to make recommendations to the agency or the legislature regarding the need for a rule change or legislation and ensures that rules and regulations are consistent with State statutes

This bill also provides a mechanism for the review of proposed rules changes for the protection of small business owners who may not have the resources to hire lobbyists or the time to monitor such rules changes themselves.

I urge the committee to support SB 2739, SD2 Proposed HD1 for the reasons noted above. Thank you for this opportunity to testify.

Respectfully submitted,



Gregg M. Taketa, CPA

# LATE TESTIMONY

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, March 14, 2012 4:09 PM  
**To:** ERBtestimony  
**Cc:** joe@wikoffcombscpa.com  
**Subject:** LATE TESTIMONY - Testimony for SB2739 on 3/15/2012 9:45:00 AM

Testimony for ERB 3/15/2012 9:45:00 AM SB2739

Conference room: 312  
Testifier position: Support  
Testifier will be present: No  
Submitted by: Joseph L. Wikoff  
Organization: Wikoff Combs & Co., LLC  
E-mail: [joe@wikoffcombscpa.com](mailto:joe@wikoffcombscpa.com)  
Submitted on: 3/14/2012

Comments:

# LATE TESTIMONY

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, March 14, 2012 7:32 PM  
**To:** ERBtestimony  
**Cc:** dkomo@rieongco.com  
**Subject:** LATE TESTIMONY - Testimony for SB2739 on 3/15/2012 9:45:00 AM  
**Attachments:** Testimony of Darryl Komo SB 2739.doc

Testimony for ERB 3/15/2012 9:45:00 AM SB2739

Conference room: 312  
Testifier position: Support  
Testifier will be present: No  
Submitted by: Darryl Komo  
Organization: Individual  
E-mail: [dkomo@rieongco.com](mailto:dkomo@rieongco.com)  
Submitted on: 3/14/2012

Comments:

Testimony of Darryl Komo  
1164 Bishop Street Suite 530  
Honolulu, Hawaii 96813

I am a practicing CPA in Hawaii. Many of my clients are small businesses located in the State of Hawaii. It is important that Hawaii's regulatory processes affecting small businesses are current and relevant. Public input is central to insuring that the regulatory process remain current and relevant.

This bill provides the Small Business Regulatory Board the power to require a board to hold another public hearing if the board fails to address the concerns of the public. The passage of this bill will limit any board from ignoring public testimony.

Thank you for your consideration.

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, March 14, 2012 5:50 PM  
**To:** ERBtestimony  
**Cc:** tai.nakata@gmail.com  
**Subject:** LATE TESTIMONY - Testimony for SB2739 on 3/15/2012 9:45:00 AM

Testimony for ERB 3/15/2012 9:45:00 AM SB2739

Conference room: 312  
Testifier position: Support  
Testifier will be present: No  
Submitted by: Taichiro Nakata  
Organization: Individual  
E-mail: [tai.nakata@gmail.com](mailto:tai.nakata@gmail.com)  
Submitted on: 3/14/2012

Comments:

# LATE TESTIMONY

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, March 14, 2012 7:04 PM  
**To:** ERBtestimony  
**Cc:** pamsee@hawaii.rr.com  
**Subject:** LATE TESTIMONY - Testimony for SB2739 on 3/15/2012 9:45:00 AM

Testimony for ERB 3/15/2012 9:45:00 AM SB2739

Conference room: 312  
Testifier position: Support  
Testifier will be present: No  
Submitted by: pam seeney  
Organization: Individual  
E-mail: [pamsee@hawaii.rr.com](mailto:pamsee@hawaii.rr.com)  
Submitted on: 3/14/2012

Comments:

# LATE TESTIMONY

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, March 14, 2012 9:28 PM  
**To:** ERBtestimony  
**Cc:** lkg802@msn.com  
**Subject:** LATE TESTIMONY - Testimony for SB2739 on 3/15/2012 9:45:00 AM

Testimony for ERB 3/15/2012 9:45:00 AM SB2739

Conference room: 312  
Testifier position: Support  
Testifier will be present: No  
Submitted by: L. Goto  
Organization: Individual  
E-mail: [lkg802@msn.com](mailto:lkg802@msn.com)  
Submitted on: 3/14/2012

Comments:  
I support Proposed HD1



# LATE TESTIMONY

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Thursday, March 15, 2012 6:24 AM  
**To:** ERBtestimony  
**Cc:** tjwong2005@yahoo.com  
**Subject:** LATE TESTIMONY - Testimony for SB2739 on 3/15/2012 9:45:00 AM

Testimony for ERB 3/15/2012 9:45:00 AM SB2739

Conference room: 312  
Testifier position: Support  
Testifier will be present: No  
Submitted by: Timothy Wong  
Organization: Individual  
E-mail: [tjwong2005@yahoo.com](mailto:tjwong2005@yahoo.com)  
Submitted on: 3/15/2012

**Comments:**

I support this bill because it allows the Small Business Regulatory Review Board to continue its important work of determining whether rules adopted by other agencies impact small businesses. The other agencies should "pay" for the board to do its work because many times, agencies have a specific focus on why rules should be adopted and do not look at the impact to others. Please pass this measure. Thank you.

# LATE TESTIMONY

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Thursday, March 15, 2012 6:32 AM  
**To:** ERBtestimony  
**Cc:** boogie223@hotmail.com  
**Subject:** LATE TESTIMONY - Testimony for SB2739 on 3/15/2012 9:45:00 AM

Testimony for ERB 3/15/2012 9:45:00 AM SB2739

Conference room: 312  
Testifier position: Support  
Testifier will be present: No  
Submitted by: Brian Lee  
Organization: Individual  
E-mail: [boogie223@hotmail.com](mailto:boogie223@hotmail.com)  
Submitted on: 3/15/2012

Comments:

Dear Chair and members of the ERB Committee:

I support this bill because it will allow the Small Business Regulatory Review Board to continue its important work by essentially becoming self-funded through the assessment of fees imposed on other agencies.

The board provides an important role by being the voice for small businesses by determining whether a rule will have an impact on small businesses. I believe that Hawaii's business climate involves a substantial number of small businesses. Many times a agency proposing rules may not realize that rules may impact small businesses by being too onerous on these businesses, and the board has provided its input in the past and I hope they will continue to do so in the future.

Finally, an agency may not realize the cost to others unless it is required to use its own funds to meet other obligations.

Thank you for allowing me to support this bill.

NEIL ABERCROMBIE  
GOVERNOR



GLENN M. OKIMOTO  
INTERIM DIRECTOR

Deputy Directors  
JADE T BUTAY  
FORD N. FUCHIGAMI  
RANDY GRUNE  
JADINE URASAKI

IN REPLY REFER TO:

STATE OF HAWAII  
DEPARTMENT OF TRANSPORTATION  
869 PUNCHBOWL STREET  
HONOLULU, HAWAII 96813-5097

March 15, 2012

**S.B. 2739, PROPOSED HD1  
RELATING TO THE SMALL BUSINESS REGULATORY REVIEW BOARD**

**COMMITTEE ON ECONOMIC REVITALIZATION & BUSINESS**

The Department of Transportation opposes this bill.

We believe the bill is unnecessary.

The bill gives the Small Business Regulatory Review Board authority to require a second public hearing if the Board believes an agency has not complied with the requirements of HRS Chapter 201M.

We do not understand how a second public hearing will help resolve the problem described in the bill. Small businesses are given ample opportunity to comment on the proposed rules before, during and after the public hearing. Moreover, they will continue to have the opportunity to comment on the proposed rules until the Governor approves the rules. So we don't understand the purpose of a second public hearing.

In any case, the problem described in the bill is essentially a disagreement between the Board and an agency. This type of disagreement should be resolved strictly between the Board and the agency. They should meet and discuss the issue in dispute with an open mind. There are normally two sides to an issue. It may turn out that Board is correct; on the other hand, it may turn out that the agency is correct. Either way, the issue is effectively resolved.

On August 17, 2010, we submitted a memo to the Governor requesting approval to hold public hearings on Chapter 19-147, "Ignition Interlock Devices", Hawaii Administrative Rules. In that memo, we stated that the proposed rules will have no impact on small business as required by Administrative Directive No. 09-01.

However, the Board informed us on September 7, 2010 that they disagreed with our stated position. They believed that the proposed rules would have an impact small business. To its credit, the Board invited our departmental Management Analyst to make a presentation in support of our position at its regular October 13, 2010 meeting. Upon listening to our presentation and asking questions, the Board reversed its position and voted unanimously to allow us to proceed with our public hearings:

This is an example of how a disagreement between the Board and an agency can be effectively resolved through a simple open-minded discussion—without the need for an additional public hearing. It should be noted that it would cost at least \$2000 to conduct an additional public hearing in accordance with HRS Chapter 91. This would be an indefensible expense under present economic conditions especially if the hearing is not necessary.

We would like to make one final point. Declining to make a rule change requested at a public hearing is not necessarily a wrong action. When an agency receives such a request, it reviews the request, evaluates it in terms of costs and benefits, and makes a determination on whether or not to accept the request. An agency may decide not to accept a requested rule change if it concludes that the request is not justified based upon a realistic evaluation of pertinent facts. It would be irresponsible for an agency to accept any requested rule change without question.

Thank you for the opportunity to present our views on this bill.

