



SMALL BUSINESS REGULATORY REVIEW BOARD

Department of Business, Economic Development & Tourism
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MEMORANDUM

Neil Abercrombie
Governor

Richard C. Lim
Director, DBEDT

Mary Alice Evans
Deputy Director, DBEDT

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Richard C. Lim
*Director, DBEDT
Voting Ex Officio*

TO: Chair McKelvey, Vice Chair Kawakami, and Members of the House Committee on Consumer Protection & Commerce Conference Room 325 at 2:10 P.M.

FROM: Chu Lan Shubert-Kwock, Chair
Small Business Regulatory Review Board (SBRRB)

DATE: March 31, 2014

SUBJECT: Support - Senate Bill 2487 SD1 HD2, Relating to the Small Business Regulatory Flexibility Act

On behalf of the Small Business Regulatory Review Board (SBRRB), we support the intent of proposed S.B. 2487 SD1 HD2, Relating to the Small Business Regulatory Flexibility Act. The proposed measure establishes the office of the small business regulatory review, changes the SBRRB from a rule-making body to a supervisory body with the ability to approve or reject the action of the director, and requires the director and the members of the SBRRB to receive appropriate training by the appropriate division of the Department of the Attorney General.

We very much appreciate the Legislature's support of this Board. We believe that having a full-time funded Director with assistants will help fulfill the necessary functions of the SBRRB by enabling it to reach small businesses, and to hear and address their needs. Given that the SBRRB is to be a supervisory body to approve or reject the proposed administrative rules, we also believe it is essential that the role of the proposed SBRRB Director is not to act in place of the board for the small business community, but to assist the Board in its mission.

We respectfully provide the following general comments to the proposed measure, and have attached our initial recommendations, shown in red, to the draft bill.

1. §201M-_____ Director: powers and duties.

The SBRRB must meet to vote as representatives of small business; the Chair calls for the Board meetings.

The Board supervises the SBRRB Director, who does not represent small business, but works administratively under the supervision and direction of the Board. The Director's report cannot be automatically accepted if there is no board meeting to vote on the Director's findings. It is preferred that under Subsection (d) that "ten days" be changed to "ten days after a board meeting" in order for the board to meet and deliberate at its monthly meeting.

Small Business Regulatory Review Board
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2. §201M-_____ Board; power and duties.

The DBEDT board member is no longer needed, as was previously believed, to provide the SBRRB with administrative assistance and to ease quorum problems. It has, in fact, proven difficult for the DBEDT ex officio to fit meetings into his or her scheduling and to be prepared at meetings. On many occasions, DBEDT members have abstained from voting on a measure, resulting in no action taken.

The SBRRB should remain independent as it was originally intended to carry out the small business perspective. There should be nine (9) independent small business representatives from the cross sections of all businesses in Hawaii. It is therefore recommended that three members of the board be appointed by the governor rather than two, to replace the DBEDT member.

3. §201M-5 Office of small business regulatory review; director, small business regulatory review board.

It is recommended that the SBRRB Director not be included as an ex officio voting member. The Director should report to the SBRRB Chair, and review incoming rule changes, existing rules, and requests from small business.

The term "council" should be replaced with "board."

Thank you for the opportunity to provide these comments and recommendations to SB 2487 SD1 HD2.

A BILL FOR AN ACT

INITIAL RECOMMENDATIONS AND COMMENTS (IN RED) MADE BY THE SBRRB

RELATING TO THE SMALL BUSINESS REGULATORY FLEXIBILITY ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. The legislature finds that Act 168, Session Laws of Hawaii 1998, codified as chapter 201M, Hawaii Revised Statutes, established the Hawaii Small Business Regulatory Flexibility Act. The Act provided for a petition process to an agency for regulatory review, periodic administrative review of rules with small business impacts, and an independent regulatory review board, known as the small business regulatory review board, to consider concerns of small businesses and make recommendations to adopt, amend, or repeal rules.

Unfortunately, the legislature also finds that the small business regulatory review board has not been functioning as originally envisioned. The legislature further finds that the small business regulatory review board is actually slowing the review process down to the point that businesses are actually being hurt as these businesses wait in limbo for new rules to be slowly adopted.

Accordingly, the purpose of this Act is to better ensure that the originally-envisioned functions of the small business regulatory review board are carried out in an efficient manner that will ensure timely review and adoption or rejection of rules by:

(1) Creating the office of small business regulatory review and the position of director of small business regulatory review;

(2) Changing the small business regulatory review board from a rule making body to a supervisory body with the ability to, within ten days, approve or reject the actions of the director; SBRRB Board must meet to vote as representatives of small business. The deadline of after Board vote is fine, but the SBRRB Director cannot act for small business.

(3) Requiring the director of small business regulatory review and members of the small business regulatory review board to receive training by the appropriate division of the department of the attorney general to ensure that director and board members have a clear understanding of the role of the office of small business regulatory review, the director of small business regulatory review, and members on the board of small business regulatory review and the parameters of the respective roles, including the hierarchy of the Hawaii Revised Statutes and the Hawaii Administrative Rules; and

(4) Clarifying the contents of the annual report that the director of small business regulatory review must submit to the legislature.

SECTION 2. Chapter 201M, Hawaii Revised Statutes, is amended by adding two new sections to be appropriately designated and to read as follows:

"§201M- Director; powers and duties. (a) The director shall have such powers delegated by the governor as are necessary to coordinate and, when requested by the governor, to direct pursuant to chapter 91 all state governmental agencies in matters concerning small business regulations.

(b) Upon receipt of an agency's proposed rules, the director shall analyze the proposed rules and deliver to the board a summary of the director's analysis and any recommendations. Decisions should be by vote by Members. (or decisions). The director may consult with the proposing agency and the Chair before placing the items on the Board Agenda. During scheduled Board hearing, presentation by agency, any affected party will help the Board members to understand the rule changes so they can vote to amend, reject or approve the rule changes, after which the Director of SBRRB shall prepare a memorandum to the affected agency and governor. Remove (to help with the director's analysis before , during, and after the director's analysis, recommendation, and decision has been received by the board.)

Delete c Reason being the Director cannot deny Board Members from hearing and questioning agencies or testifiers therefore removing the purpose of the Board into a rubber stamping process. (c) After the director's analysis has either been accepted by the board, rejected by the and further amended, or rejected by the board Upon a scheduled Board Meeting to hear directly from agencies and presenters, a memo shall be prepared to inform the affected agency, the governor and the attorney general. Remove (and returned to the director or after the lapse of ten days without the board's decision, the director shall draft a small business impact statement detailing the impact that the proposed rules will have on small business and send the impact statement to the agency proposing the rules, the governor, and the attorney general.)

(d) The director shall make an annual report to the legislature no later than twenty days prior to the convening of each regular session detailing:

(1) Any requests from small business owners for review of any rule adopted by a state agency;

(2) The impact or effect of any rule adopted by a state agency would have on small businesses;

(3) Any action taken by the board in response to any requests from small business owners for review of rules adopted by state agencies, including any recommendations made by the board to an agency or the legislature regarding the need for a rule change or legislation; and

(4) The outcome of any action taken pursuant to paragraph (3).

The report shall include a summary of the comments made by the board to agencies regarding its review of proposed new or amended rules.

All agencies shall cooperate with the director and assist in the preparation of the report by responding to requests for information made by the director.

(e) ??? The director may delegate to any person such power or authority vested in the director as the director deems reasonable and proper for the effective administration of this section. The Director is the administrator for SBRRB carrying out the policies of SBRRB at the Board's director.

\$201M- Board; power and duties. (a) The board supervises the Director. The Chair calls for Board Meetings. Remove (shall serve a supervisory role to the director, reviewing the analyses and possible recommendations and

decisions of the director. The board may make recommendations concerning small business regulations to the director and shall meet at the call of the board chairperson or the director upon notifying the board chairperson. The board may also meet at the call of any board member.)

Remove this paragraph because the Director cannot decide the outcome without the Board's collective decision via vote. (b) Upon receipt of any analyses or possible recommendations or decisions by the director, the board may accept or reject all or part of these analyses, recommendations, or decisions. The board shall, within ten days of receipt of the analyses, recommendations, or decisions of the director, decide to accept, reject, or amend the analyses, recommendations, or decisions of the director. Any failure of the board to achieve quorum or make a majority decision within the ten-day limit will result in an automatic acceptance of director's position. If the board is able to achieve quorum and make the decision to accept, reject or amend the director's position, the board shall notify the director in writing of the board's support or dissent, the reasons for the board's support or dissent, and any possible amendments prior to the expiration of the ten-day time limit.

Delete (C) (c) The board may delegate to any person such power or authority vested in the board as it deems reasonable and proper for the effective administration of this section."

SECTION 3. Section 201M-1, Hawaii Revised Statutes, is amended by adding two new definitions to be appropriately inserted and to read as follows:

"Director" means the director of the office of small business regulatory review.

"Office" means the office of small business regulatory review."

SECTION 4. Section 201M-2, Hawaii Revised Statutes, is amended to read as follows:

"§201M-2 Determination of small business impact; small business impact statement. (a) Prior to submitting proposed rules for adoption, amendment, or repeal under section 91-3, the agency shall ~~[determine]~~ declare whether the proposed rules affect small business, ~~[and if so, the availability and practicability of less restrictive alternatives that could be implemented.]~~ This section shall not apply to emergency rulemaking.

(b) If the proposed rules affect small business, the agency shall ~~[consider creative, innovative, or flexible methods of compliance for small businesses and prepare a small business impact statement to be submitted with]~~ submit the proposed rules to the departmental advisory committee on small business and the ~~[board]~~ office when the rules are essentially complete and before the rules are submitted to the governor for approval for public hearing. ~~[The statement shall provide a reasonable determination of the following:~~

~~(1) The businesses that will be directly affected by, bear the costs of, or directly benefit from the proposed rules;~~

~~(2) Description of the small businesses that will be required to comply with the proposed rules and how they may be adversely affected;~~

~~(3) In dollar amounts, the increase in the level of direct costs such as fees or fines, and indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs associated with compliance;~~

~~(4) The probable monetary costs and benefits to the implementing agency and other agencies directly affected, including the estimated total amount the agency expects to collect from any additionally imposed fees and the manner in which the moneys will be used;~~

~~(5) The methods the agency considered or used to reduce the impact on small business such as consolidation, simplification, differing compliance or reporting requirements, less stringent deadlines, modification of the fines schedule, performance rather than design standards, exemption, or any other mitigating techniques;~~

~~(6) How the agency involved small business in the development of the proposed rules; and~~

~~(7) Whether the proposed rules include provisions that are more stringent than those mandated by any comparable or related federal, state, or county standards, with an explanation of the reason for imposing the more stringent standard.~~

~~(c) When a proposed rule includes provisions that are more stringent than those mandated by any comparable or related federal, state, or county standards, the agency shall, in addition to the information required by subsection (b), include in the small business impact statement information comparing the costs and benefits of the standard set by the proposed rule to the costs and benefits of the standard under the comparable or related federal, state, or county law. The agency shall also include an explanation of its decision to impose the higher standard. The agency's comparison and justification shall include:~~

~~(1) A description of the public purposes to be served by imposing the standard under the proposed rule;~~

~~(2) The text of the related federal, state, or county law, including information about the purposes and applicability of the law;~~

~~(3) A comparison between the proposed rule and the related federal, state, or county law, including a comparison of their purposes and of the standards and their application and administration;~~

~~(4) A comparison of the monetary costs and benefits to the implementing agency and other agencies directly affected, of imposing the proposed standard, with the costs and benefits of imposing or deferring to the related federal, state, or county standard, as well as a description of the manner in which any additional fees derived from imposition of the proposed standard are to be used; and~~

~~(5) A comparison of the adverse effects on small businesses of the standard imposed by the proposed rule, with the adverse effects on small business of the related federal, state, or county standard.~~

~~(d)]~~ (c) This chapter shall not apply to proposed rules adopted by an agency to implement a statute or ordinance that does not require an agency to interpret or describe the requirements of the statute or ordinance, such as federally-mandated regulations that afford the agency no discretion to consider less restrictive alternatives."

SECTION 5. Section 201M-4, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) There may be established within and administratively attached to every department of the State or county whose rules affect small business activities, an advisory committee on small business. The advisory committee shall consist of three or more odd number of members appointed by the department and may advise more than one department. The department shall have the authority to appoint members to the advisory committee and to fill any vacancies. The members shall serve on a volunteer basis and have experience or knowledge of the effect of regulation by those departments on the formation, operation, or

expansion of a small business. No person shall serve as the director or on the small business regulatory review board and an advisory committee on small business concurrently. The advisory committees shall not be subject to the requirements of chapter 91."

SECTION 6. Section 201M-5, Hawaii Revised Statutes, is amended to read as follows:

"§201M-5 [Small business regulatory review board; powers.] Office of small business regulatory review; director; small business regulatory review board. [(a) There shall be established within the department of business, economic development, and tourism, for administrative purposes, a small business regulatory review board to review any proposed new or amended rule or to consider any request from small business owners for review of any rule adopted by a state agency and to make recommendations to the agency or the legislature regarding the need for a rule change or legislation. For requests regarding county ordinances, the board may make recommendations to the county council or the mayor for appropriate action.] (a) There is created an office of small business regulatory review that shall be headed by a single executive to be known as the director of small business regulatory review who shall be appointed by the governor as provided in section 26-34. The office shall implement this chapter and shall be placed within the department of business, economic development, and tourism for administrative purposes. The office shall serve the governor in an advisory capacity on all matters relating to small business regulations.

(b) ~~[The board shall consist of nine members, who]~~ There is created a small business regulatory review board not to exceed nine members. Except for the director, members of the review board shall be appointed by the governor pursuant to section 26-34; provided that:

(1) Three members shall be appointed from a list of nominees submitted by the president of the senate;

(2) Three members shall be appointed from a list of nominees submitted by the speaker of the house of representatives;

(3) Three members shall be appointed by the governor;

(4) Remove this as no longer necessary. The director of business, economic development, and tourism, or the director's designated representative, shall serve as an ex officio[{}][{}] voting member of the board; This did not work out.

(5) The appointments shall reflect representation of a variety of businesses in the State;

(6) No more than two members shall be representatives from the same type of business; and

(7) There shall be at least one representative from each county.

For the purposes of paragraphs (1) and (2), nominations shall be solicited from small business organizations, state and county chambers of commerce, and other interested business organizations.

The board shall be attached to the department of business, economic development, and tourism for administrative purposes. Except for the director, the term of each member shall be four years; provided that, of the members initially appointed, three members shall serve for four years, three members shall serve for three years, and the remaining three

members shall serve for two years. Vacancies shall be filled for the remainder of any unexpired term in the same manner as original appointments. Remove the entire sentence. Delete this part. The director shall be an ex officio voting member of the council. The council chairperson shall be elected by the council from among the appointed members of the council.

~~[(c) Except for the ex officio member, all]~~ All members of the board shall be either a current or former owner or officer of a business and shall not be an officer or employee of the federal, state, or county government. A majority of the board shall elect the chairperson. The chairperson shall serve a term of not more than one year, unless removed earlier by a two-thirds vote of all members to which the board is entitled. Any Member of the Board may be removed by 2/3 vote. The members of the board shall serve without compensation but shall be reimbursed for expenses, including travel expenses, incurred in the discharge of their duties.

~~[(d)]~~ A majority of all the members to which the board is entitled shall constitute a quorum to do business, and the concurrence of a majority of all the members to which the board is entitled shall be necessary to make any action of the board valid.

(c) The director and members of the board shall receive training by the division of the department of the attorney general that oversees the State's boards and commissions to ensure that the director and the members have a clear understanding of the role of the office, its director, and members of the board and the parameters of the members' role,

including the hierarchy of the Hawaii Revised Statutes and the Hawaii Administrative Rules.

(d) The department of business, economic development, and tourism shall provide financial and administrative support reasonably necessary for the board to conduct small business regulatory review activities.

~~[(e) In addition to any other powers provided by this chapter, the board may:~~

- ~~(1) Adopt any rules necessary to implement this chapter;~~
- ~~(2) Organize and hold conferences on problems affecting small business; and~~
- ~~(3) Do any and all things necessary to effectuate the purposes of this chapter.~~

~~(f) The board shall submit an annual report to the legislature twenty days prior to each regular session detailing any requests from small business owners for review of any rule adopted by a state agency, and any recommendations made by the board to an agency or the legislature regarding the need for a rule change or legislation. The report shall also contain a summary of the comments made by the board to agencies regarding its review of proposed new or amended rules.]"~~

SECTION 7. Section 201M-7, Hawaii Revised Statutes, is amended to read as follows:

"§201M-7 Periodic review; evaluation report. (a) Each agency having rules that affect small business shall submit by June 30 of each odd-numbered year, a list of those rules to the director [~~small business regulatory review board;~~]; provided that, by June 30 of each year, each agency shall submit to the SBRRB Board (director) [~~small business regulatory review board~~] a list of any rules to be amended or repealed, based upon any

new, amended, or repealed statute. The agency shall also submit a report describing the specific public purpose or interest for adopting the respective rules that affect small business and any other reasons to justify their continued implementation.

(b) The director [~~small-business-regulatory-review-board~~] shall provide to the head of each agency a list of any rules adopted by the agency that affect small business and have generated complaints or concerns, including any rules that the [~~board~~] SBRRB Board (Director) determines may duplicate, overlap, or conflict with other rules, or exceed statutory authority. Within forty-five days after being notified by the [~~board~~] SBRRB Board (director) of the list, the agency shall submit a written report to the SBRRB Board [~~board~~] (director) in response to the complaints or concerns. The agency shall also state whether the agency has considered the continued need for the rules and the degree to which technology, economic conditions, and other relevant factors may have diminished or eliminated the need for maintaining the rules.

(c) The SBRRB Board [~~board~~] (director) may solicit testimony from the public regarding any report submitted by the agency under this section at a public meeting held pursuant to chapter 92. Upon consideration of any report submitted by an agency under this section and any public testimony, the SBRRB Board [~~board~~] director shall submit an evaluation report to the next regular session of the legislature. The evaluation report shall include an assessment as to whether the public interest significantly outweighs a rule's effect on small business and any legislative proposal to eliminate or reduce the effect on

small business. The legislature may take any action in response to the report as it finds appropriate."

SECTION 8. Section 201M-3, Hawaii Revised Statutes, is repealed. A post public hearing report detailing then outcome should be submitted to the SBRRB Board.

~~["§201M-3 Small business statement after public hearing. (a) For any proposed rule that affects small business, the agency shall also submit a small business statement to the small business regulatory review board and the departmental advisory committee on small business after the public hearing is held. This section shall not apply to emergency rules. The small business statement required by this section shall provide the following information:~~

~~(1) A description of how opinions or comments from affected small business were solicited, a summary of the public and small business comments, and a summary of the agency's response to those comments;~~

~~(2) The number of persons who:~~

- ~~(A) Attended the public hearing;~~
- ~~(B) Testified at the hearing; and~~
- ~~(C) Submitted written comments; and~~

~~(3) If there was a request to change the proposed rule at the hearing in a way that affected small business, a statement of the reasons for adopting the proposed rule, the reason why a requested change was not made, and the problems or negative result the change would provide if adopted.~~

~~(b) If the small business regulatory review board finds that a statement provided pursuant to subsection (a)(3):~~

~~(1) Indicates inconsistency with any of the agency's determinations under section 201M-2(b); or~~

~~(2) Does not address the concerns of public input,~~

~~the board with good cause may request a written response from the agency explaining the rationale used to deny the public concerns within ten working days of receipt of the small business statement after public hearing. The agency shall respond in writing to the board's concerns within ten working days.~~

~~(c) The written response from an agency required in subsection (b), at a minimum, shall:~~

~~(1) Specifically address each issue and concern raised in the board's request for a written response; and~~

~~(2) Affirmatively state that the agency has considered all written and oral testimony received at the agency's public hearing and has addressed all issues or concerns raised in the written and oral testimony."]~~

SECTION 9. Section 201M-6, Hawaii Revised Statutes, is repealed.

~~["§201M-6 Petition for regulatory review. (a) In addition to the basis for filing a petition provided in section 91-6, any affected small business may file a written petition with the agency that has adopted the rules objecting to all or part of any rule affecting small business on any of the following grounds:~~

~~(1) The actual effect on small business was not reflected in, or significantly exceeded, the small business impact statement submitted prior to the adoption of the rules;~~

~~(2) The small business impact statement did not consider new or significant economic information that reveals an undue impact on small business;~~

~~(3) These impacts were not previously considered at the public hearing on the rules;~~

- (4) ~~The rules create an undue barrier to the formation, operation, and expansion of small businesses in a manner that significantly outweighs its benefit to the public;~~
- (5) ~~The rules duplicate, overlap, or conflict with rules adopted by another agency or violate the substantive authority under which the rules were adopted; or~~
- (6) ~~The technology, economic conditions, or other relevant factors justifying the purpose for the rules have changed or no longer exist.~~

~~(b) Upon submission of the petition, the agency shall forward a copy of the petition to the board, as notification of a petition filed under this chapter. The agency shall promptly consider the petition and may seek advice and counsel regarding the petition from the appropriate departmental advisory committee on small business. Within sixty days after the submission of the petition, the agency shall determine whether the impact statement or the public hearing addressed the actual and significant impact on small business. The agency shall submit a written response of the agency's determination to the small business review board within sixty days after receipt of the petition. If the agency determines that the petition merits the adoption, amendment, or repeal of a rule, it may initiate proceedings in accordance with section 91-3.~~

~~(c) If the agency determines that the petition does not merit the adoption, amendment, or repeal of any rule, any affected small business may seek a review of the decision by the board. The board shall promptly convene a meeting pursuant to chapter 92 for the purpose of soliciting testimony that will assist in its determination whether to recommend that the agency initiate proceedings in accordance with section 91-3. The board may base its recommendation on any of the following reasons:~~

- (1) The actual effect on small business was not reflected in, or significantly exceeded, the impact statement submitted prior to the adoption of the rules;
- (2) The impact statement did not consider new or significant economic information that reveals an undue impact on small business;
- (3) These impacts were not previously considered at the public hearing on the rules;
- (4) The rules create an undue barrier to the formation, operation, and expansion of small businesses in the State in a manner that significantly outweighs its benefit to the public;
- (5) The rules duplicate, overlap, or conflict with rules adopted by another agency or violate the substantive authority under which the rules were adopted; or
- (6) The technology, economic conditions, or other relevant factors justifying the purpose for the rules have changed or no longer exist.

~~(d) If the board recommends that an agency initiate rulemaking proceedings for any reason provided in subsection (c), it shall submit to the legislature an evaluation report and the agency's response as provided in subsection (b). The legislature may subsequently take any action in response to the evaluation report and the agency's response as it finds appropriate.~~

~~(e) If the board does not recommend that an agency initiate rulemaking proceedings, the board shall notify the small business of its decision and inform the small business that the small business may submit a complaint to the ombudsman pursuant to chapter 96 regarding the decision of the agency or board.~~

~~(f) Nothing in this section shall entitle an affected small business to a contested case hearing under chapter 91."]~~

SECTION 10. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 11. This Act shall take effect on December 21, 2112.

Report Title:

Small Business Regulatory Review Board; Office of Small Business Regulatory Review; Director; Annual Report

Description:

Establishes the office of small business regulatory review. Requires the director to submit an annual report to the legislature. Requires the Department of Business, Economic Development, and Tourism to provide the Board adequate financial and administrative support. (SB2487 HD2 PROPOSED)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

The items in red should be included those and in () should be removed.



Chamber of Commerce HAWAII

The Voice of Business

**Testimony to the House Committee on Consumer Protection and Commerce
Monday, March 31, 2014 at 2:10 P.M.
Conference Room 325, State Capitol**

**RE: SENATE BILL 2487 SD1 HD1 PROPOSED HD2 RELATING TO THE SMALL
BUSINESS REGULATORY FLEXIBILITY ACT**

Chair McKelvey, Vice Chair Kawakami, and Members of the Committee:

The Chamber of Commerce of Hawaii ("The Chamber") **opposes** SB 2487 SD1 HD1 Proposed HD2, which establishes the office of small business regulatory review; requires the director to submit an annual report to the legislature; requires the Department of Business, Economic Development and Tourism to provide the Board accurate financial and administrative support.

The Chamber is the largest business organization in Hawaii, representing over 1,000 businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of members and the entire business community to improve the state's economic climate and to foster positive action on issues of common concern.

Small businesses are the backbone of Hawaii's economy and they struggle to make ends meet with all the government regulations imposed on them. The Small Business Regulatory Flexibility Act helps review government regulations to ensure that they do not harm small businesses.

We urge the committee to defer this bill. Thank you for the opportunity to testify.

BIA-HAWAII

BUILDING INDUSTRY ASSOCIATION

THE VOICE OF THE CONSTRUCTION INDUSTRY

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simplicityHR by ALTRES

Testimony to the House Committee on Consumer Protection and Commerce

Monday, March 31, 2014

2:10 p.m.

State Capitol - Room 329

RE: S.B. 2487 SD1 HD1 Proposed HD2, Relating to the Small Business Regulatory Flexibility Act

Dear Chair McKelvey, Vice-Chair Kawakami and members of the Committee:

My name is Gladys Marrone, Government Relations Director for the Building Industry Association of Hawaii (BIA-Hawaii), the Voice of the Construction Industry. We promote our members through advocacy and education, and provide community outreach programs to enhance the quality of life for the people of Hawaii. BIA-Hawaii is a not-for-profit professional trade organization chartered in 1955, and affiliated with the National Association of Home Builders.

BIA-Hawaii **supports the intent** of the *proposed H.D. 2* to S.B. 2487 S.D. 1, H.D. 1, which establishes the office of small business regulatory review. Requires the director to submit an annual report to the legislature. Requires the Department of Business, Economic Development and Tourism to provide the Board adequate financial and administrative support.

We appreciate this Legislature's support of the Small Business Regulatory Review Board (SPPRB) by creating an office and director to perform research and analysis, requiring the DBEDT to provide financial and administrative assistance, and provide training for members of the SBRRB.

One concern we have is the 10-days required of the SBRRB to make a decision on recommendations by the director. We believe this is inadequate and support the amendment proposed by the SBRRB. Furthermore, we believe it is essential that the role of the proposed SBRRB Director is to assist the SBRRB in its mission, not to act in place of the board for the small business community.

We appreciate the opportunity to share with you our views.



The Hawaii Business League

1188 Bishop St., Ste. 1003, Honolulu, Hawaii 96813

Phone: (808) 533-6819 Facsimile: (808) 533-2739

March 31, 2014

LATE

Testimony To: House Committee on Consumer Protection and Commerce
Representative Angus L.K. McKelvey, Chair

Presented By: Tim Lyons
President

Subject: S.B. 2487, SD 1, Proposed HD 2 - RELATING TO THE SMALL
BUSINESS REGULATORY FLEXIBILITY ACT.

Chair McKelvey and Members of the Committee:

I am Tim Lyons, President of the Hawaii Business League, a small business service organization.

The Small Business Regulatory Review Board has in the past served a very important mission. Unfortunately, it has had its problems over the years, most of which we attribute to the lack of funding and resources. The purpose of this bill is to revisit the Review Board and we can agree with the basic concept in this bill.

A restructuring will provide for more accountability, will ease the paperwork burden on volunteer Board Members and provide them with the necessary knowledgeable staff in order to accomplish their goals. There is no reason for the Board to be "bogged down" with a review of cumbersome rules and regulations that basically have very little impact. The purpose of the Board is to determine the impact on small business and with all of the rules and regulations that exist and that are proposed it is quite difficult

for a volunteer Board to accomplish that task. An administrative director could alleviate that work load.

This Board has, on many occasions, helped with minimizing the regulation on small businesses but at the same time achieving departmental goals. We think the concept in the Proposed HD 2 has great merit and we would ask this Committee to continue to push this concept forward for further discussion.

Based on the above, we can recommend your adoption, again for further discussion.

Thank you.



Ocean Tourism Coalition

LATE

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COMMITTEE ON CONSUMER PROTECTION & COMMERCE

Rep. Angus L.K. McKelvey, Chair
Rep. Derek S.K. Kawakami, Vice Chair

DATE: Monday, March 31, 2014
TIME: **2:10 PM**
PLACE: Conference Room 325

TESTIMONY OF JAMES E. COON

SPEAKING IN CONDITIONAL SUPPORT OF SB 2487 HD 2

**RELATING TO THE SMALL BUSINESS REGULATORY
FLEXIBILITY ACT.**

**Chair McKelvey, Vice Chair Kawakami and Members of the CPC
Committee:**

My name is James E. Coon, President of the Ocean Tourism Coalition. The OTC represents over 300 small ocean tourism businesses state wide. Most of these are family businesses which are locally owned and operated. Many of them have been in business for several decades and are an important and valued part of their respective communities.

When ACT 168 was passed by the 1998 Legislature it was welcomed by the small business community. I had the privilege of serving on the first SBRRB and understand and appreciate what it should do for the Small Business Community. We are very supportive of the intent of the original ACT 168. SB 2487 HD 2 may be well intended, but has some major flaws in our opinion:

201M-3 Small Business Statement after public hearing should **not** be eliminated. This provision is a vital component to ACT 168 and to eliminate 201M-3 will drastically reduce the effectiveness of this board. The public

hearing process is already perceived to be flawed. Having the Small Business Statement after the public hearing gives the small business community an opportunity to at least create a dialogue with the agency as to why their comments were not acted upon and hopefully better rule making will result.

Board Power and Duties: On page 6, lines 8-11 gives only 10 days to offer amendments. We are requesting 30 days for amendments instead of 10.

Finally, page 4, line 4 & 5, the Small Business Regulatory Review Board should also get a copy of the impact statement along with the AG and the Governor that is submitted by the SBRRB Director.

Please do not totally gut this important friend of the small business community. Please do not eliminate 201M-3

Sincerely,

James E. Coon, President,
Ocean Tourism Coalition
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