

H.B. NO. 1042

A BILL FOR AN ACT

RELATING TO THE SMALL BUSINESS REGULATORY FLEXIBILITY ACT.

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

1 SECTION 1. The purpose of this Act is to provide greater
2 clarity and effect to the Small Business Regulatory Flexibility
3 Act with the following amendments:

4 (1) Adopt a more explicit definition of "small business";

5 (2) Clarify the powers of the small business regulatory
6 review board when reviewing administrative rules that
7 impact small business;

8 (3) Increase the number of board members from nine to
9 eleven; and

10 (4) Clarify when reporting by the agencies is required for
11 submission to the small business regulatory review
12 board and when reporting by the board is required for
13 submission to the legislature.

14 SECTION 2. Section 201M-1, Hawaii Revised Statutes, is
15 amended by amending the definition of "small business" to read
16 as follows:

17 ""Small business" means a for-profit [~~enterprise consisting~~
18 ~~of~~] corporation, limited liability company, partnership, limited

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1 partnership, sole proprietorship, or other legal entity that:

2 (1) Is domiciled and authorized to do business in Hawaii;

3 (2) Is independently owned and operated; and

4 (3) Employs fewer than one hundred full-time or part-time
5 employees[-] in Hawaii."

6 SECTION 3. Section 201M-5, Hawaii Revised Statutes, is
7 amended by amending subsections (a) and (b) to read as follows:

8 "(a) There shall be established within the department of
9 business, economic development, and tourism, for administrative
10 purposes, a small business regulatory review board to review any
11 proposed new or amended rule [~~or to~~]. If the board determines
12 that a proposed rule will not have a significant economic impact
13 on a substantial number of small businesses, the board shall
14 submit a statement to that effect to the agency that sets forth
15 the reason for the board's decision. If the board determines
16 that the proposed rule will have a significant economic impact
17 on a substantial number of small businesses, the board may
18 submit to the agency suggested changes in the proposed rule to
19 minimize the economic impact of the proposed rule, or may
20 recommend the withdrawal of the proposed rule. The board may
21 also consider any request from small business owners for review
22 of any rule adopted by a state agency and to make

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1 recommendations to the agency or the legislature regarding the
2 need for a rule change or legislation. For requests regarding
3 county ordinances, the board may make recommendations to the
4 county council or the mayor for appropriate action.

5 (b) The board shall consist of [~~nine~~] eleven members, who
6 shall be appointed by the governor pursuant to section 26-34,
7 provided that:

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

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

13 (3) [~~Two~~] Four members shall be appointed by the governor;

14 (4) The director of business, economic development, and
15 tourism, or the director's designated representative,
16 shall serve as an ex officio voting member of the
17 board;

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

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

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

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

7 SECTION 4. Section 201M-7, Hawaii Revised Statutes, is
8 amended by amending subsection (a) to read as follows:

9 "(a) Each agency having rules that affect small business
10 shall submit by June 30 of each odd-numbered year~~[7]~~ to the
11 board a list of those rules [to the small business regulatory
12 review board;] and a report describing the specific public
13 purpose or interest for adopting the respective rules that
14 affect small business and any other reasons to justify their
15 continued implementation; provided that, by June 30 of each
16 year, each agency shall submit to the [~~small business regulatory~~
17 ~~review]~~ board a list of any rules to be amended or repealed,
18 based upon any new, amended, or repealed statute~~[. The agency~~
19 ~~shall also submit a report describing the specific public~~
20 ~~purpose or interest for adopting the respective rules that~~
21 ~~affect small business and any other reasons to justify their~~
22 ~~continued implementation.] that impacts small business."~~

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1 SECTION 5. Section 201M-7, Hawaii Revised Statutes, is
2 amended by amending subsection (c) to read as follows:

3 "(c) The board may solicit testimony from the public
4 regarding any report submitted by the agency under this section
5 at a public meeting held pursuant to chapter 92. Upon
6 consideration of any report submitted by an agency under this
7 section and any public testimony, the board shall submit an
8 evaluation report to the [~~next regular session of~~
9 legislature[-]] each even-numbered year. The evaluation report
10 shall include an assessment as to whether the public interest
11 significantly outweighs a rule's effect on small business and any
12 legislative proposal to eliminate or reduce the effect on small
13 business. The legislature may take any action in response to
14 the report as it finds appropriate."

15 SECTION 6. Statutory material to be repealed is bracketed
16 and stricken. New statutory material is underscored.

17 SECTION 7. This Act shall take effect upon its approval.

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19 INTRODUCED BY: _____



BY REQUEST
JAN 23 2017

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Report Title:

Small Business Regulatory Flexibility Act

Description:

Adopt a more explicit definition of "small business," clarify the powers of the Small Business Regulatory Review Board, increase the number of board members from nine to eleven, and clarify when reporting by the agencies is required for submission to the board and for submission by the board to the Legislature.

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

JUSTIFICATION SHEET

DEPARTMENT: Business, Economic Development, and Tourism

TITLE: A BILL FOR AN ACT RELATING TO THE SMALL BUSINESS REGULATORY FLEXIBILITY ACT.

PURPOSE: To adopt a more explicit definition of "small business," clarify the powers of the Small Business Regulatory Review Board when reviewing administrative rules that impact small business, increase the number of board members from nine (9) to eleven (11), and clarify when reporting by the agencies is required for submission to the Small Business Regulatory Review Board and when reporting is required for submission to the Legislature by the board.

MEANS: Amend sections 201M-1, 201M-5(a) and (b), and 201M-7(a) and (c), HRS.

JUSTIFICATION: To add clarity and effect to the Small Business Regulatory Review Board's powers, to increase the number of board members by two (2) to help with both meeting and voting quorum, and to ensure the board's continuity with assisting Hawaii's small business community.

Impact on the public: Ensures the stability of the Small Business Regulatory Review Board by clarifying the Regulatory Flexibility Act.

Impact on the department and other agencies: Minimal.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: BED 142.

OTHER AFFECTED
AGENCIES:

None.

EFFECTIVE DATE:

Upon its approval.