



SMALL BUSINESS REGULATORY REVIEW BOARD

Department of Business, Economic Development & Tourism
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MEMORANDUM

David Y. Ige
Governor

Luis P. Salaveria
Director, DBEDT

Members

Anthony Borge
Chair
Oahu

Harris Nakamoto
Vice Chair
Oahu

Kyoko Kimura
2nd Vice Chair
Maui

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Hawaii

Director, DBEDT
Voting Ex Officio

TO: Chair Nakashima, Vice Chair Keohokalole of the Committee on Economic Development & Business, and Chair Johanson, Vice Chair Holt on the Committee on Labor & Public Employment, and Members of the Committees

FROM: Anthony Borge, Chairperson
Small Business Regulatory Review Board

DATE: February 1, 2017

SUBJECT: HB75 – Relating to the Small Business Regulatory Flexibility Act
Strongly Oppose

On behalf of the Small Business Regulatory Review Board (SBRRB), I am providing testimony in strong opposition of HB75, Relating to the Small Business Regulatory Flexibility Act (RFA). This measure extends the time given to an agency to submit a small business impact statement to the department advisory committee on small business and to the SBRRB.

Specifically, this measure removes the requirement that when proposed rules affect small business that a small business impact statement is submitted to the department's advisory committee and the SBRRB "before the rules are submitted to the Governor for approval for public hearing." Instead, the small business impact statement would be submitted and "ready to be filed with the lieutenant governor pursuant to section 91-4."

This does not allow adequate time for the SBRRB to review and provide comments to the agencies on the small business impact statement. Under section 91-4, when proposed rules are sent to the Governor for signature, they are ready for adoption, and "shall become effective ten days after filing with the lieutenant governor." By this time, the draft rule is well set and if the SBRRB had major concerns, another public hearing would be required at a cost of several thousand dollars and several months of lost time.

Further, the initial intent of the Legislature and purpose of the RFA was to provide that a small business impact statement is prepared and submitted to the SBRRB as early as practicable in the rule drafting process. This allows for a dialogue between the drafting agencies, the SBRRB, and the small business community prior to taking any final steps.

Additionally, the timing of this proposal would conflict with Section 201M-3, HRS, which requires an agency to submit a "small business statement" after public hearing for any proposed rule that affects small business. Thus, the proposed measure would require both a "small business impact statement" and a "small business statement after the public hearing" at virtually the same time.

Thank you for allowing the SBRRB to provide testimony in strong opposition of HB75.



COMMITTEE ON ECONOMIC DEVELOPMENT & BUSINESS

Rep. Mark M. Nakashima, Chair
Rep. Jarrett Keohokalole, Vice Chair

Rep. Daniel Holt Rep. Kyle T. Yamashita
Rep. Aaron Ling Johanson Rep. Lauren Kealohilani Matsumoto
Rep. Roy M. Takumi

LATE

COMMITTEE ON LABOR & PUBLIC EMPLOYMENT

Rep. Aaron Ling Johanson, Chair
Rep. Daniel Holt, Vice Chair

Rep. Jarrett Keohokalole Rep. Kyle T. Yamashita
Rep. Mark M. Nakashima Rep. Lauren Kealohilani Matsumoto
Rep. Roy M. Takumi

AMENDED NOTICE OF HEARING

DATE: Wednesday, February 1, 2017
TIME: 9:00 AM
PLACE: Conference Room 309

**TESTIMONY OF THE OCEAN TOURISM COALITION SPEAKING IN
STRONG OPPOSITION TO HB 75**

Chairs Nakashima and Johanson, Vice Chairs Keohokalole and Holt,
Representatives on the EDB and CPC Committees:

My name is James E. Coon, President of the Ocean Tourism Coalition **speaking in
STRONG OPPOSITON of HB 75.** 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. I

was a charter member of the first Small Business Regulatory Review Board and speak from that experience. The Small Business Regulatory Flexibility Act (SBRFA) was promulgated to help small business have a venue to avoid unnecessary and redundant regulation. HB75 should not be passed because it will significantly jeopardize the effectiveness of the Small Business Regulatory Flexibility Act (SBRFA).

HB75 seeks to allow an agency to submit a small business impact statement only "...when the rules are essentially complete and ready to be filed with the lieutenant governor...". This means that an impact statement will not need to be submitted to the board until after the public hearing stage. This goes directly against the purpose of SBRFA, which is to ensure that agency rules are effective but minimally burdensome on the small businesses of Hawaii. If passed, HB75 will allow an agency to delay the submittal of the impact statement until the rule will effectively become law. This is because pursuant to HRS §91-49(b), rules submitted to the lieutenant governor "shall become effective ten days after filing with the lieutenant governor...." As a result, rules that could do significant harm may not receive the proper vetting that the SBRFA was meant to ensure.

Accordingly, HB75 should not be passed because it allows agencies to circumvent the laws that make the SBRFA an effective tool in preventing harm to the small

businesses of Hawaii. Please do not pass this HB 75 which will effectively gut the SBRFA and cause great harm to the already overburdened small business of our Great State.

Sincerely,

A handwritten signature in red ink, appearing to read "James E. Coon". The signature is stylized with a large, sweeping initial "J" and a cursive "E. Coon".

James E. Coon, President

Ocean Tourism Coalition



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1/31/2017

COMMITTEE ON ECONOMIC DEVELOPMENT & BUSINESS

Rep. Mark M. Nakashima, Chair
Rep. Jarrett Keohokalole, Vice Chair

COMMITTEE ON LABOR & PUBLIC EMPLOYMENT

Rep. Aaron Ling Johanson, Chair
Rep. Daniel Holt, Vice Chair

Date/Time of Hearing: February 1, 2017, 9:00AM
Measure No. and Title: HB75

OPPOSITION TESTIMONY

Esteemed Representatives:

Quicksilver Charters and its affiliates (the “Company”) employ close to 100 people in Hawaii’s boating and tourism industries.

HB75 completely eliminates the useful functions of the Small Business Regulatory Flexibility Act (SBRFA) and its ability to protect the small businesses of Hawaii. HB75 seeks to allow an agency to submit a small business impact statement “...when the rules are essentially complete and ready to be filed with the lieutenant governor...”. While this change may seem small, it will have a devastating impact on the rule making process. In essence, HB75 will move the submission of the impact statement from the beginning of the rule making process to the end of the rule making process when the rule will effectively become law. This is because pursuant to HRS §91-49(b), rules submitted to the lieutenant governor “shall become effective ten days after filing with the lieutenant governor...”. As a result, the small business impact statement which contains vital information and would have been used throughout the entire rule-making process may now be submitted 10 days before becoming law. This is unacceptable and goes directly against the purpose of SBRFA and its ability to protect the small businesses of Hawaii.

Accordingly, HB75 should not be passed because it eliminates important information from being available during the useful periods of rule making.

Mahalo,
Zachary LaPrade
(808)352-5421