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JAN 25 2012

A BILL FOR AN ACT

RELATING TO THE SMALL BUSINESS REGULATORY REVIEW BOARD.

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

1 SECTION 1. The purpose of this Act is to ensure the
2 stability of the small business regulatory review board by:

3 (1) Transferring the board, with its statutory duties and
4 powers, from the department of business, economic
5 development, and tourism to the department of commerce
6 and consumer affairs, and authorizing the expenses of
7 the board to be funded from the compliance resolution
8 fund; and

9 (2) Requiring each agency to notify the small business
10 regulatory review board on an annual basis of any
11 rules to be amended or repealed to reflect statutory
12 amendments or repeals.

13 SECTION 2. Section 201M-5, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "**§201M-5 Small business regulatory review board; powers.**

16 (a) There shall be established within the department of
17 [~~business, economic development, and tourism,~~] commerce and
18 consumer affairs, for administrative purposes[~~r~~] only, a small

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1 business regulatory review board to review any proposed new or
2 amended rule or to consider any request from small business
3 owners for review of any rule adopted by a state agency and to
4 make recommendations to the agency or the legislature regarding
5 the need for a rule change or legislation. For requests
6 regarding county ordinances, the board may make recommendations
7 to the county council or the mayor for appropriate action.

8 (b) The board shall consist of eleven members, who shall
9 be appointed by the governor pursuant to section 26-34.

10 Nominations to fill vacancies shall be made from names submitted
11 by the review board. The appointments shall reflect
12 representation of a variety of businesses in the State; provided
13 that no more than two members shall be representatives from the
14 same type of business, and that there shall be at least two
15 representatives from each county.

16 (c) All members of the board shall be either a current or
17 former owner or officer of a business and shall not be an
18 officer or employee of the federal, state, or county government.
19 A majority of the board shall elect the chairperson. The
20 chairperson shall serve a term of not more than one year, unless
21 removed earlier by a two-thirds vote of all members to which the
22 board is entitled.

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1 (d) A majority of all the members to which the board is
2 entitled shall constitute a quorum to do business, and the
3 concurrence of a majority of all the members to which the board
4 is entitled shall be necessary to make any action of the board
5 valid.

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

8 (1) Adopt any rules necessary to implement this chapter;

9 (2) Organize and hold conferences on problems affecting
10 small business; and

11 (3) Do any and all things necessary to effectuate the
12 purposes of this chapter.

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

21 (g) The expenses of the board may be funded from the
22 compliance resolution fund established under section 26-9;

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1 provided that this provision shall not require the board to
2 charge any fee for its service. The director of commerce and
3 consumer affairs may include, as a part of any other fee charged
4 to a person or organization with a reasonable nexus to the small
5 business regulatory review board, an amount for the activities
6 of the board.

7 For the purpose of this subsection, "expenses" include
8 operating expenses, personnel expenses, cash capital expenses,
9 and debt service attributable to the board."

10 SECTION 3. Section 201M-7, Hawaii Revised Statutes, is
11 amended by amending subsection (a) to read as follows:

12 "(a) Each agency having rules that affect small business
13 shall submit by June 30 of each odd-numbered year, a list of
14 those rules to the small business regulatory review board~~[+]~~;
15 provided that each agency that is required to amend or repeal
16 rules pursuant to statutory amendment or repeal, shall submit by
17 June 30 of each year a list of these rules to be amended or
18 repealed to the small business regulatory review board. The
19 agency 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 [~~its~~]
22 their continued implementation."

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1 SECTION 4. All rights, powers, functions, and duties of
2 the small business regulatory review board are transferred to
3 the department of commerce and consumer affairs.

4 All officers and employees whose functions are transferred
5 by this Act shall be transferred with their functions and shall
6 continue to perform their regular duties upon their transfer,
7 subject to the state personnel laws and this Act.

8 No officer or employee of the State having tenure shall
9 suffer any loss of salary, seniority, prior service credit,
10 vacation, sick leave, or other employee benefit or privilege as
11 a consequence of this Act, and such officer or employee may be
12 transferred or appointed to a civil service position without the
13 necessity of examination; provided that the officer or employee
14 possesses the minimum qualifications for the position to which
15 transferred or appointed; and provided that subsequent changes
16 in status may be made pursuant to applicable civil service and
17 compensation laws.

18 An officer or employee of the State who does not have
19 tenure and who may be transferred or appointed to a civil
20 service position as a consequence of this Act shall become a
21 civil service employee without the loss of salary, seniority,
22 prior service credit, vacation, sick leave, or other employee

1 benefits or privileges and without the necessity of examination;
2 provided that such officer or employee possesses the minimum
3 qualifications for the position to which transferred or
4 appointed.

5 If an office or position held by an officer or employee
6 having tenure is abolished, the officer or employee shall not
7 thereby be separated from public employment, but shall remain in
8 the employment of the State with the same pay and classification
9 and shall be transferred to some other office or position for
10 which the officer or employee is eligible under the personnel
11 laws of the State as determined by the head of the department or
12 the governor.

13 SECTION 5. All appropriations, records, equipment,
14 machines, files, supplies, contracts, books, papers, documents,
15 maps, electronic communications systems such as RegAlert, and
16 other personal property heretofore made, used, acquired, or held
17 by the department of business, economic development, and tourism
18 relating to the functions transferred to the department of
19 commerce and consumer affairs shall be transferred with the
20 functions to which they relate.

21 SECTION 6. This Act shall not affect the membership or
22 term of any appointed member of the small business regulatory

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1 review board, and any member shall continue to serve on the
2 board for the member's term without necessity of reappointment.

3 SECTION 7. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 8. This Act shall take effect on July 1, 2012.

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INTRODUCED BY: 

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BY REQUEST

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Report Title:

Small Business Regulatory Review Board; Administrative Rules

Description:

Transfers the Small Business Regulatory Review Board from the Department of Business, Economic Development, and Tourism to the Department of Commerce and Consumer Affairs, and authorizes the expenses of the board to be funded from the Compliance Resolution Fund; and requires each agency to notify the board on an annual basis of any rules to be amended or repealed to reflect a statutory amendment or repeal.

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 REVIEW BOARD.

PURPOSE: Transfers the Small Business Regulatory Review Board from the Department of Business, Economic Development, and Tourism (DBEDT) to the Department of Commerce and Consumer Affairs (DCCA), and authorizes the expenses of the board to be funded from the Compliance Resolution Fund; and requires each agency to notify the board on an annual basis of any rules to be amended or repealed to reflect statutory amendment or repeal.

MEANS: Amend sections 201M-5 and 201M-7(a), Hawaii Revised Statutes.

JUSTIFICATION: Due to changing financial conditions of the State that affect the stability of the Small Business Regulatory Review Board and the challenges faced by the small business community during these difficult economic times, it is imperative that sections 201M-5 and 201M-7(a), Hawaii Revised Statutes, be revised to ensure the continuity of the board.

Impact on the public: Ensures the stability of the Small Business Regulatory Review Board through funding from the Compliance Resolution Fund.

Impact on the department and other agencies: Transfers one full-time, civil service position from DBEDT to DCCA.

GENERAL FUND: Reduction of \$78,984

OTHER FUNDS: Compliance Resolution Fund.

PPBS PROGRAM
DESIGNATION:

BED 142.

OTHER AFFECTED
AGENCIES:

Department of Commerce and Consumer Affairs.

EFFECTIVE DATE:

July 1, 2012.