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# 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 increase the  
2 clarity and effectiveness of the Small Business Regulatory  
3 Flexibility Act by:

- 4           (1) Adopting a more explicit definition of "small  
5           business";
- 6           (2) Clarifying the powers of the small business regulatory  
7           review board when reviewing administrative rules that  
8           impact small business;
- 9           (3) Increasing the number of board members from nine to  
10           eleven; and
- 11           (4) Clarifying when agencies are required to report to the  
12           small business regulatory review board and when the  
13           board is required to report 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:



1        "Small business" means a for-profit [~~enterprise consisting~~  
2 ~~of~~] corporation, limited liability company, partnership, limited  
3 partnership, sole proprietorship, or other legal entity that:

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

5        (2) Is independently owned and operated; and

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

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

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



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

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

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

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

16 (3) Two members shall be appointed from a list of nominees  
17 submitted by the board;

18 [~~(3)~~] (4) Two members shall be appointed by the governor;

19 [~~(4)~~] (5) The director of business, economic development,  
20 and tourism, or the director's designated



1 representative, shall serve as an ex officio [ + ], [ + ]  
2 voting member of the board;

3 [~~5~~] (6) The appointments shall reflect representation of  
4 a variety of businesses in the State;

5 [~~6~~] (7) No more than two members shall be representatives  
6 from the same type of business; and

7 [~~7~~] (8) There shall be at least one representative from  
8 each county.

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

13 SECTION 4. Section 201M-7, Hawaii Revised Statutes, is  
14 amended to read as follows:

15 "§201M-7 Periodic review; evaluation report. (a) Each  
16 agency having rules that affect small business shall submit to  
17 the board by June 30 of each odd-numbered year, a list of those  
18 rules [~~to the small business regulatory review board;~~] and a  
19 report describing the specific public purpose or interest for  
20 adopting the respective rules that affect small business and any  
21 other reasons to justify continued implementation of the rules;



1 provided that, by June 30 of each year, each agency shall submit  
2 to the [~~small business regulatory review~~] board a list of any  
3 rules to be amended or repealed, based upon any new, amended, or  
4 repealed statute [~~. The agency shall also submit a report~~  
5 ~~describing the specific public purpose or interest for adopting~~  
6 ~~the respective rules that affect small business and any other~~  
7 ~~reasons to justify their continued implementation.~~] that impacts  
8 small business.

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



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

13 SECTION 5. Statutory material to be repealed is bracketed  
14 and stricken. New statutory material is underscored.

15 SECTION 6. This Act shall take effect on July 1, 2038.



**Report Title:**

Small Business Regulatory Flexibility Act

**Description:**

Adopts a more explicit definition of "small business"; clarifies the powers of the Small Business Regulatory Review Board; increases the number of board members, with two nominated by the Board; clarifies when agencies are required to report to the Board and when the Board is required to report to the Legislature. (SB908 HD2)

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

