



**STATE OF HAWAII**

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT AND TOURISM  
HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION  
677 QUEEN STREET, SUITE 300  
Honolulu, Hawaii 96813  
FAX: (808) 587-0600

IN REPLY REFER TO:

**WRITTEN ONLY**

Statement of  
**Karen Seddon**  
Hawaii Housing Finance and Development Corporation  
Before the

**HOUSE COMMITTEE ON ECONOMIC REVITALIZATION & BUSINESS**

March 15, 2012 at 9:15 a.m.  
Room 312, State Capitol

In consideration of  
**S.B. 2739, S.D. 2, Proposed H.D. 1**  
**RELATING TO THE SMALL BUSINESS REGULATORY REVIEW BOARD.**

The HHFDC **has concerns with the Proposed H.D. 1 to S.B. 2739, S.D.2**, and prefers the bill as originally introduced as part of the Administration's Legislative package.

The Proposed H.D. 1 empowers the Small Business Regulatory Review Board with the ability to require State agencies to conduct a second public hearing if, in its sole discretion, it finds that the agency did not address public input in the proposed rule. HHFDC is concerned that expanding the Board's power in this way will result in added costs and delays in the already lengthy rulemaking process due to having to conduct a second public hearing.

Under the current rulemaking process, if a State agency proceeds with rules that include substantive amendments following the initial public hearing, it is already required to conduct a second public hearing on the rule as amended. And, if an agency's decision is to proceed with the existing rule draft without amendment after taking into account public input at the initial public hearing, a second public hearing is not likely to have any effect other than to waste time and money.

Thank you for the opportunity to provide written comments on this bill.



STATE OF HAWAII  
**DEPARTMENT OF HUMAN SERVICES**

P. O. Box 339  
Honolulu, Hawaii 96809-0339

March 15, 2012

TO: The Honorable Angus McKelvey, Chair  
House Committee on Economic Revitalization & Business

FROM: Patricia McManaman, Director

SUBJECT: **S.B. 2739, S.D. 2, Proposed H.D. 1 – RELATING TO SMALL  
BUSINESS REGULATORY REVIEW BOARD**

Hearing: Thursday, March 15, 2012; 9:45 a.m.  
Conference Room 312, State Capitol

**PURPOSE:** The purpose of this bill is to authorize the Small Business Regulatory Review Board to require an agency to conduct another public hearing on a rule change when the rulemaking agency declines to make changes requested at the first hearing and the agency's small business statement, submitted after the hearing, indicates inconsistency with its earlier determination or does not address the public's concerns.

**DEPARTMENT'S POSITION:** The Department of Human Services (DHS) opposes this bill. This measure to allow the Small Business Regulatory Review Board (SBRRB) to require a second hearing if the SBRRB determines that concerns raised at a public hearing were not adequately addressed is unnecessary. The public interest is not served by adding another layer of "red tape" when government should be seeking to streamline its processes. There are sufficient protections in the existing Chapter 91-3(a), Hawaii Revised Statutes (HRS), to address the concerns of a party who feels that a rule should be adopted, amended or repealed. In addition, HRS Section 91-6 and HRS

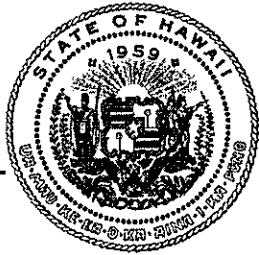
Section 201M-6 allow an affected party to file a petition to amend or repeal a rule with an agency that must be responded to in thirty days.

Finally, the Governor already has the authority to require departments to hold additional public hearings on proposed rules or rules changes before the final rules are adopted.

Requiring a second public hearing will also impede agencies' ability to implement on a timely basis, Federal and State statutes governing their programs. Delay in implementation could mean loss of Federal dollars to the State for non-compliance. The vague criteria language of this bill would give the SBRRB the authority to indefinitely delay the adoption and implementation of administrative rules.

Additionally, there will be cost implications for agencies if they are required to hold a second hearing.

Thank you for the opportunity to provide testimony on this bill.



## DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM

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NEIL ABERCROMBIE  
GOVERNOR

RICHARD C. LIM  
DIRECTOR

MARY ALICE EVANS  
DEPUTY DIRECTOR

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Statement of  
**RICHARD C. LIM**  
Director

Department of Business, Economic Development, and Tourism  
before the

### **HOUSE COMMITTEE ON ECONOMIC REVITALIZATION & BUSINESS**

Thursday, March 15, 2012

9:15 AM

State Capitol, Conference Room 312

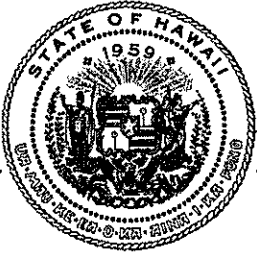
In consideration of  
**SB 2739 SD2 PROPOSED HD 1**  
**RELATING TO THE SMALL BUSINESS REGULATORY REVIEW BOARD**

Chair McKelvey, Vice Chair Choy, and Members of the House Committee on  
Economic Revitalization & Business.

The Department of Business, Economic Development, and Tourism (DBEDT) offers comments on SB 2739, SD2, Proposed HD1. The bill authorizes the small business regulatory review board to require an agency to conduct another public hearing on a rule change when the rulemaking agency declines to make changes requested at the first hearing and the agency's small business statement, submitted after the hearing, indicates inconsistency with its earlier determination or does not address the public's concerns.

The language in the proposed amendment could reasonably be subject to interpretation and may increase the time that it takes to get a proposed rule or rule change adopted. Currently, the Governor has the authority to require departments to hold additional public hearings on proposed rules and rule amendments prior to adoption of the final rule.

Thank you for the opportunity to testify on this measure.



**DEPARTMENT OF BUSINESS,  
ECONOMIC DEVELOPMENT & TOURISM**

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Statement of  
**RICHARD C. LIM**  
Director  
Department of Business, Economic Development, and Tourism  
before the  
**HOUSE COMMITTEE ON ECONOMIC REVITALIZATION & BUSINESS**

Tuesday, March 13, 2012  
8:30 AM  
State Capitol, Conference Room 312

In consideration of  
**SB 2739 SD2**  
**RELATING TO THE SMALL BUSINESS REGULATORY REVIEW BOARD**

Chair McKelvey, Vice Chair Choy, and Members of the House Committee on  
Economic Revitalization & Business.

The Department of Business, Economic Development, and Tourism (DBEDT) supports the intent of SB 2739 SD2, Relating to the Small Business Regulatory Review Board. This measure authorizes DBEDT to establish fees pursuant to Chapter 91, Hawaii Revised Statutes, to be charged to each agency submitting rules to the Small Business Regulatory Review Board as part of the agency submission process, with the fees to be used for expenses of the Board. The measure also requires each agency to notify the Board on an annual basis of any rules that affect small business to be amended or repealed to reflect a statutory amendment or repeal.

Thank you for the opportunity to testify on this measure.



**STATE OF HAWAII  
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS**

830 PUNCHBOWL STREET, ROOM 321  
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[www.hawaii.gov/labor](http://www.hawaii.gov/labor)

March 15, 2012

To: The Honorable Angus L.K. McKelvey, Chair,  
The Honorable Isaac W. Choy, Vice Chair, and  
Members of the House Committee on Economic Revitalization & Business

Date: Thursday, March 15, 2012

Time: 9:45 a.m.

Place: Conference Room 312, State Capitol

From: Dwight Y. Takamine, Director  
Department of Labor and Industrial Relations (DLIR)

**Re: SB2739 SD2 PROPOSED HD1 RELATING TO THE SMALL  
BUSINESS REGULATORY REVIEW BOARD**

**I. OVERVIEW OF PROPOSED LEGISLATION**

- ✓ Authorizes the Small Business Regulatory Review Board (SBRRB) to conduct an additional public hearing on a rule change when a rulemaking agency does not make changes requested by public input at a public hearing and the agency's small business statement is inconsistent with its determination or does not address the concern raised at the public hearing.

The DLIR opposes the Proposed HD1 of SB2739SD2.

**III. COMMENTS ON THE SENATE BILL**

Overall, this proposal adds additional costs and responsibilities to the department without providing the commensurate resources to carry out the measure's purpose. The department continues to struggle with meeting its rulemaking responsibilities and the requirement in the measure will exacerbate the situation.

The DLIR believes that the current rulemaking process already provides sufficient review of agency rules with respect to small businesses. Hawaii Revised Statutes, (HRS) Section 91-6 and Section 201M-6 permits an affected party to file a petition to amend or repeal a rule with an agency and requires the agency to respond in 30 days.

The public interest is not served by adding additional responsibilities to the departments without resources and adding more "red tape" to the already lengthy rulemaking process.



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March 13, 2012

To: The Honorable Angus L.K. McKelvey, Chair,  
The Honorable Isaac W. Choy, Vice Chair, and  
Members of the House Committee on Economic Revitalization & Business

Date: Tuesday, March 13, 2012  
Time: 8:30 a.m.  
Place: Conference Room 309, State Capitol

From: Dwight Y. Takamine, Director  
Department of Labor and Industrial Relations (DLIR)

**Re: SB2739 SD2 RELATING TO THE SMALL BUSINESS**  
**REGULATORY REVIEW BOARD**

**I. OVERVIEW OF PROPOSED LEGISLATION**

- ✓ Authorizes DBEDT to establish fees pursuant to chapter 91, Hawaii Revised Statutes (HRS), to be charged to each agency submitting rules to the small business regulatory review board as part of the agency submission process;
- ✓ Requires each agency to notify the board on an annual basis of any rules that affect small business to be amended or repealed to reflect a statutory amendment or repeal.

The DLIR opposes Senate Draft 2 of SB2739.

**III. COMMENTS ON THE SENATE BILL**

DLIR appreciates the fiscal constraints faced by the Small Business Regulatory Review Board (SBRRB). The capacity of the DLIR has been significantly impacted over the last few budget cycles as well and continues to struggle with its statutory mandate for, "...ensuring and increasing the economic security, well-being, and productivity of Hawaii's workers."

Overall, this proposal adds additional costs and responsibilities to the department without providing the commensurate resources to carry out the measure's purpose. Further, DLIR also opposes the provision in the proposal that requires the

department to notify the board on an annual basis of any rules that affect small business that the department intends to amend or repeal due to a statutory change. The department continues to struggle with meeting its rulemaking responsibilities and the requirement in the measure will exacerbate the situation.

Lastly, the DLIR believes that the current rulemaking process already provides sufficient review of agency rules with respect to small businesses. If enacted, the proposal will likely mean adding even more additional time to the lengthy rulemaking process.