

## A Bill for an Act Relating to the Small Business Regulatory Review Board.

*Be It Enacted by the Legislature of the State of Hawaii:*

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

- (1) Authorizing the board with good cause to request a written response from the agency explaining the rationale used to deny the public concerns;
- (2) Reducing the size of the board from eleven to nine members, with eight members appointed at large and the director of business, economic development, and tourism, or the director's designated representative, to serve as an ex officio voting member of the board; and
- (3) Requiring each agency to notify the board on an annual basis of any rules that should be amended or repealed to reflect statutory amendments or repeals.

SECTION 2. Section 201M-3, Hawaii Revised Statutes, is amended to read as follows:

~~“[H]§201M-3~~ **Small business statement after public hearing.** (a) For any proposed ~~[rules] rule~~ that ~~[affect] affects~~ small business, the agency shall also submit a small business statement to the small business regulatory review board and the departmental advisory committee on small business after the public hearing is held. This section shall not apply to emergency rules. The small business statement required by this section shall provide the following information:

- (1) A description of how opinions or comments from affected small business were solicited, a summary of the public and small business comments, and a summary of the agency's response to those comments;
- (2) The number of persons who:
  - (A) Attended the public hearing;
  - (B) Testified at the hearing; and
  - (C) Submitted written comments; and
- (3) If there was a request to change the proposed rule at the hearing in a way that affected small business, a statement of the reasons for adopting the proposed rule ~~[without the], the reason why a requested change was not made, and the problems or negative result the change would provide if adopted.~~

~~(b) If the small business regulatory review board finds that a statement provided pursuant to subsection (a)(3):~~

- ~~(1) Indicates inconsistency with any of the agency's determinations under section 201M-2(b); or~~
- ~~(2) Does not address the concerns of public input,~~

~~the board with good cause may request a written response from the agency explaining the rationale used to deny the public concerns within ten working days of receipt of the small business statement after public hearing. The agency shall respond in writing to the board's concerns within ten working days.~~

~~(c) The written response from an agency required in subsection (b), at a minimum, shall:~~

- ~~(1) Specifically address each issue and concern raised in the board's request for a written response; and~~

- (2) Affirmatively state that the agency has considered all written and oral testimony received at the agency's public hearing and has addressed all issues or concerns raised in the written and oral testimony."

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

"(b) The board shall consist of ~~[eleven]~~ nine members, who shall be appointed by the governor pursuant to section 26-34~~[- Nominations to fill vacancies shall be made from names submitted by the review board.];~~ provided that:

- (1) Three members shall be appointed from a list of nominees submitted by the president of the senate;
- (2) Three members shall be appointed from a list of nominees submitted by the speaker of the house of representatives;
- (3) Two members shall be appointed by the governor;
- (4) The director of business, economic development, and tourism, or the director's designated representative, shall serve as an ex officio voting member of the board;
- (5) The appointments shall reflect representation of a variety of businesses in the State; ~~[provided that no]~~
- (6) No more than two members shall be representatives from the same type of business~~];~~ and ~~[that there]~~
- (7) There shall be at least [two representatives] one representative from each county.

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

(c) ~~[All]~~ Except for the ex officio member, all members of the board shall be either a current or former owner or officer of a business and shall not be an officer or employee of the federal, state, or county government. A majority of the board shall elect the chairperson. The chairperson shall serve a term of not more than one year, unless removed earlier by a two-thirds vote of all members to which the board is entitled."

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

"(a) Each agency having rules that affect small business shall submit by June 30 of each odd-numbered year, a list of those rules to the small business regulatory review board~~[-];~~ provided that, by June 30 of each year, each agency shall submit to the small business regulatory review board a list of any rules to be amended or repealed, based upon any new, amended, or repealed statute. The agency shall also submit a report describing the specific public purpose or interest for adopting the respective rules that affect small business and any other reasons to justify ~~[its]~~ their continued implementation."

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

SECTION 6. This Act shall take effect on July 1, 2012.

(Approved July 6, 2012.)