



**HAWAII
SMALL BUSINESS
REGULATORY REVIEW
BOARD
ANNUAL REPORT SUMMARY**

Results for Calendar Year 2014

**Review of Administrative Rules, Legislation
and**

Rules Requested by Small Business

In Compliance with

Chapter 201M, Hawaii Revised Statutes

HAWAII SMALL BUSINESS REGULATORY REVIEW BOARD

ANNUAL REPORT SUMMARY 2014

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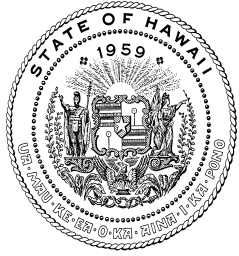
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SECTION I



SMALL BUSINESS REGULATORY REVIEW

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Governor

Mary Alice Evans
Interim Director, DBEDT

Members

Anthony Borge
Chair
Oahu

Wayne Tanaka
Vice Chair
Oahu

Barbara Bennett
Second Vice Chair
Kauai County

Kyoko Y. Kimura
Maui County

Harris Nakamoto
Oahu

Ashley Leahey
Maui County

Craig Takamine
Hawaii

Director, DBEDT
Voting Ex Officio

MESSAGE FROM THE CHAIR



Anthony Borge, Chair, SBRRB

In 2014, our outstanding team of volunteer board members worked toward our mission of enabling a regulatory environment that encourages and supports the vitality of small business in Hawaii. Over the last year, we worked and successfully collaborated with state and county agencies, and small businesses in reviewing 48 proposed and amended regulations that negatively impacted small businesses. We provided our opinions and recommendations to the respective agencies, counties and the Governor for consideration in a timely manner.

On behalf of all of the Small Business Regulatory Review Board members, I extend a big mahalo to Governor Neil Abercrombie, the State Legislature, and the agencies Directors and staff for their support and cooperation in pursuit of our mission.

I want to thank each and every member of our Board who donated many hours of their invaluable business knowledge (and time away from their businesses) to improve and enhance the growth and success of small businesses throughout the State of Hawaii. It was a great learning experience for me as well. A special thank you to DBEDT Director Richard Lim for his support, and SBRRB's Administrator, Dori Palcovich for her knowledge, professionalism, and dedication to the Small Business Review Board.

OVERVIEW

The Small Business Regulatory Review Board is pleased to provide the Annual Report Summary for the period covered from January 2014 through December 2014. Pursuant to the Hawaii Small Business Regulatory Flexibility Act, Chapter 201M, Hawaii Revised Statutes (HRS), the annual summary is based on the following:

[201M-5] Small business regulatory review board; powers

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

ANNUAL SUMMARY

SMALL BUSINESS REGULATORY FLEXIBILITY ACT

The Small Business Regulatory Review Board was established on July 1, 1998, with the passage of the Small Business Regulatory Flexibility Act, pursuant to Act 168. Subsequently, the role of the Board has been codified in Chapter 201M, Hawaii Revised Statute (HRS), as amended. (See Appendix 1)

Statutorily, the Board is comprised of nine members, eight current or former owners or officers of businesses from across the State, and the Director of Business, Economic Development, and Tourism (DBEDT) or the Director's designated representative to serve as an "ex officio" voting member. The Board is administratively attached to DBEDT and has responsibility for providing recommendations to State agencies on new and amended administrative rules that directly impact small business. The Board is also charged with reviewing existing rules upon request from small business owners or at the Board's initiative. For requests regarding County rules, the Board may make recommendations to County Council or the Mayors for appropriate action.

In addition to reviewing rules and regulations, members have volunteered their time attending State agency meetings, making presentations by performing outreach activities to small business organizations, and testifying on legislation. The Board also has the power to solicit testimony from the public regarding any reports submitted by State agencies.

As an effective and efficient means of review, each member is assigned to one or more State agency as a "discussion leader," and is responsible for the initial review

of the administrative rules of that State agency prior to consideration by the full Board. As of December 2014, the Board was officially operating with eight members.

ADMINISTRATIVE RULE REVIEW

During 2014, the Board reviewed and made recommendations on 48 new and amended rules, both pre- and post-public hearing; see summary below. Since its inception, the Board reviewed a total of 630 sets of proposed new and amended administrative rules; the results are categorized in Appendix 2.

Office of the Lieutenant Governor

HAR Title 2 Chapter 15, Time Share Board Commissioners of Deeds

Comment – Upon review at the board meeting, the members determined the proposed new rules do not impact small business; no action was taken.

Department of Accounting & General Services

No key matters of small business impact have been noted.

Department of Agriculture

HAR Title 4 Chapter 143, Standards for Coffee

Comment – The Board recommended the proposed amended rules, after public hearing, to proceed to the Governor for adoption.

In addition, the Board re-reviewed the rules after they were signed off by Governor; no action or comments were made to the Governor.

HAR Title 4 Chapter 60, Milk Control Rules

Comment – The Board unanimously recommended that the proposed amended rules proceed to public hearing.

Department of Attorney General

HAR Title 5 Chapter 11, Notaries Public

Comment – The Board unanimously recommended that the proposed rule amendments proceed to public hearing.

Department of Budget & Finance/Public Utilities Commission

Budget & Finance – No key matters of small business impact have been noted.

Public Utilities Commission – No key matters of small business impact have been noted.

Department of Business, Economic Development & Tourism

HAR Title 15 Chapter 6, Enterprise Zones

Comment – The Board unanimously recommended that the proposed rule amendments proceed to public hearing.

Department of Commerce & Consumer Affairs

HAR Title 16 Chapter 85, Section 8, Examination and Re-examination

Comment – The Board unanimously recommended that the proposed rule amendments proceed to public hearing.

HAR Title 16 Chapter 85, Section 49, Degree of Supervision

Comment – The Board unanimously recommended that the proposed amendments proceed to public hearing.

HAR Title 16 Chapter 95, Pharmacists and Pharmacies

Comment – The Board unanimously recommended that the proposed amendments proceed to public hearing.

HAR Title 16 Chapter 99, Relating to Real Estate Brokers and Salespersons

Comment – The Board was unable to meet with a “voting” quorum; as such, it was recommended that DCCA proceed with the appropriate process for public hearing.

HAR Title 16 Chapter 110, Physical Therapy

Comment – The Board unanimously recommended that the proposed rule amendments proceed to public hearing.

Department of Defense

No key matters of small business impact have been noted.

Department of Education

No key matters of small business impact have been noted.

Department of Hawaiian Home Lands and the Office of Hawaiian Affairs

HAR Title 10 Chapter 4, Section 3, General Lease; Extension of Term

Comment – The Board unanimously agreed to pass the amendments to the Governor for public hearing.

Department of Health

HAR Title 11 Chapter 54, Water Quality Standards

Comment – The Board unanimously agreed to pass the amendments to the Governor for public hearing. After public hearing, the Board took no action on the rules due to the Governor approving the rules for adoption.

HAR Title 11 Chapter 55, Water Pollution Control

Comment – The Board unanimously agreed to pass the amendments to the Governor for public hearing. After public hearing, the Board took no action on the rules due to the Governor approving the rules for adoption.

HAR Title 11 Chapter 62, Wastewater Systems

Comment – The Board unanimously agreed to send the rules to the Governor for public hearing, noting that the Board has a concern with mandating cesspool conversions with the resale of property. After public hearing, the Board recommended to the Governor not to approve the proposed amendments to these rules as the financial impact is too sudden, too great, and is detrimental to Hawaii's small business.

HAR Title 11 Chapter 502, Asbestos-Containing Materials in Schools

Comment – The Board recommended that the proposed new rules proceed to public hearing.

HAR Title 11 Chapter 504, Asbestos Abatement Certification Program

Comment – The Board recommended that these proposed new rules proceed to public hearing.

Department of Human Resources Development

No key matters of small business impact have been noted.

Department of Human Services (DHS)

HAR Title 17 Chapter 1719.1, State Funded Aged, Blind and Disabled Program, Chapter 1731, Premium Assistance Program, and Repeal of Chapter 1722.3, Basic Health Hawaii

Comment – The Board unanimously recommended the amendments proceed to public hearing.

HAR Title 17 Chapter 1737, Section 75, Dental Services, HAR Title 17 Chapter 1747, Working Disabled Adults Group, and HAR title 17 Chapter 1747.1, State Funded Working Disabled Adults Program

Comment – The Board unanimously recommended that the amendments to Chapter 1737, and proposal of new chapters 1747, and 1747.1 proceed to public hearing.

Department of Labor & Industrial Relations (DLIR)

Proposed New Rules, Amendments and Repeal of HAR Title 12 Chapter 230.1 Elevators, Escalators, Dumbwaiters, Moving Walks, and Material Lifts and Dumb-waiters with Automatic Transfer Devices, Chapter 232.1 Personnel Hoists, Chapter 234.1 Platform Lifts and Stairway Chairlifts, and Chapter 229 General, Administrative, and Legal Provisions, Chapter 240-1 General, and Chapter 230 Elevators, Dumbwaiters, Escalators, & Moving Walks, Chapter 231 Man-lifts, Chapter 232 Personnel

**Hoists, Chapter 233 Aerial Passenger Tramways, Chapter 234
Inclined Passenger Lifts, Chapter 235 Existing Inclined Tunnel
Lifts, Chapter 236 Vertical Wheelchair Lifts, Chapter 237
Inclined Wheelchair Lifts Chapter 238 Incline Stairway Chair
Lifts, and Chapter 239 Personal Automatic Trains**

Comment – The Board recommended that that the proposed new rules, amendments and repeals proceed to the Governor for public hearing. The Board also reviewed the “after” public hearing statement and unanimously agreed that the rules proceed to the Governor for adoption.

**HAR Title 12 Chapter 15 Section 90, Workers’ Compensation
Medical Fee Schedule, and the Workers’ Compensation
Supplemental Medical Fee Schedule A**

Comment – The Board stated that in consideration that the proposed 1.3% increase in the workers’ compensation fee is acceptable, the amendments should proceed to public hearing.

Department of Land & Natural Resources (DLNR)

HAR Title 13 Chapter 77, Oahu Aquarium Life Management

Comment – Upon hearing from testifiers and the Agency, the Board recommended that the proposed amended rules after public hearing proceed to the Governor for adoption.

HAR Title 13 Chapter 95.1, Island-Based Fisheries Rules

Comment – After public hearing, the Board took no action due to the Governor approving the rules.

HAR Title 13 Chapter 231, Operations of Boats, Small Boat Harbors, and Permits; Chapter 251, Waikiki and Ka'anapali Ocean Waters; Chapter 253, Registration and Permit Fees; Chapter 256 Section 3, Commercial Operator Permit Requirements; Chapter 256 Section 4, Commercial Vessel and Water Sports Equipment Registration Requirements

Comment – The Board reviewed the after public hearing statements; no action was taken.

HAR Title 13 Chapter 60.8 Ha'ena Community-Based Subsistence Fishing Area, Kauai

Comment – The Board recommended that these proposed new rules proceed to public hearing.

HAR Title 13 Section 233-26, Charges for Parking, and Section 256-16, Thrill Craft Operations; General Provisions

Comment – The Board recommended that the proposed amended rules move forward to public hearing. After public hearing, the Board recommended that the rule amendments proceed to the Governor for adoption with five supporting and one opposing the motion.

Office of the Lieutenant Governor

HAR Title 2 Chapter 15, Time Share Board Commissioners of Deeds

Comment – The Board removed this item from the agenda during the meeting due to the rules not having business impact and hearing that no one from the public would be testifying.

Department of Public Safety

No key matters of small business impact have been noted.

Department of Taxation

HAR Title 18 Chapter 231, Administration of Taxes

Comment – The Board recommended that the proposed amended rules proceed to public hearing.

HAR Title 18 Chapter 231 Section 91-01 through Section 100-01,

Cash Economy Enforcement; Citations

Comment – The Board recommended that the proposed amended, temporary rules proceed to public hearing. After public hearing, as the rules were signed off by the Governor and became effective prior to the board meeting, the Board members recommended to support the approval of the adoption of the rule amendments.

HAR Title 18 Chapter 231 Section 3-10 (a), Compromises

Comment – The Board recommended that the proposed amended, temporary rules proceed to public hearing. After public hearing, as the rules were signed off by the Governor and became effective prior to the board meeting, the Board members recommended to support the approval of the adoption of the rule amendments.

HAR Title 18 Chapter 235 Section 1.14, Substantial Gainful

Business or Occupation

Comment – The Board recommended that the proposed amended, temporary rules proceed to public hearing. The rules did not come back to this Board as DoTax decided not to recommend any changes, and therefore, a public hearing was not held.

HAR Title 18 Chapter 235 Income Tax Law, Title 18 Chapter

235-12.501T, and 235-12.5-06T, Relating to Renewal Energy

Technology Income Tax Credit

Comment – No action was taken on these rules as they were already approved for adoption by the Governor.

Department of Transportation

No key matters of small business impact have been noted.

University of Hawaii

No key matters of small business impact have been noted.

Counties

City and County of Honolulu - Liquor Commission

After Public Hearing - New Sections 3-81-20 General Right of Inspection, 2-82-38.26 Bottle Service for On-Premise Consumption, 3-82-41.3 Management or Operating Agreements, and 3-84-73.1 Quality of Liquor, and Proposed Amendments to Sections 3-80-1.1 Definitions, 3-81-17.53 License Fees; When Due and How Calculated, 3-81-17.54 Gross Sales Reports, 3-17.55 Additional License Fees on

Gross Sales, 3-82-31.8 Recorking, 3-82.38.5 Registration of Employees, 3-82-38.8 Semi-Annual Submission of Employee List, 3-82-38.9 Licensee and Manager in Charge of Premises, 3-82-38.25 Restrictions or Conditions on Licenses, 3-82-41.2 Transfer of Corporate Stock; Notification Regarding Limited Partners, Limited Liability Company Managers or Members, 3-83-53.1 License Applications; Notice of Hearing; Affidavits, 3-83-61.1 Renewal of Existing License, 3-83-62 Architectural Requirements/Alteration of Licensed Premises, 3-84-72.2 Premises Lighting; Doors, 3-84-78.01 Conduct of Employees, 3-84-78.01 Conduct of Employees, 3-84-78.06 Solicitation of Business Outside of Premises, 3-84-78.52 Stacking of Drinks, and 3-85-91.12 Licenses under Safekeeping

Comment – The Board recommended that the post-public hearing rules proceed for adoption, with one member opposing the motion; the motion passed.

County of Maui

No key matters of small business impact have been noted.

County of Hawaii

No key matters of small business impact have been noted.

County of Kauai

Kauai Planning Commission

Kauai County Code, Chapter 8, Article 17, Relating to Transient Vacation Rentals; Chapter 8, Interpretive Administrative Zoning Ordinance Rules and Regulations Relating to Chapters 8, 9, 10; and Chapter 8, Processing and Review of Use Permits concerning the

**Construction and Operation of Fruit and Vegetable Stands in the
Agriculture and Open Zoning Districts**

Comment - The Board recommended to the County of Kauai Planning Commission that these three proposed rules proceed to public hearing.

Kauai Office of Economic Development

**Rules and Regulations governing Section 22, Article 23 of the Kauai
County Code, Pesticides and Genetically Modified Organisms**

Comment - The Board recommended that these proposed new rules proceed to public hearing. Based on comments made during the meeting from the small business community from Kauai, the Board also outlined specific areas of concern that negatively impact and burden small business for the County's further review, clarification, and potential modification:

- Pesticide buffer zones will make tracks of land uneconomical for growing purposes;
- Establishment of an emergency/medical hotline will be costly for small farmers to maintain;
- The civil fines proposed for the failure to file annual mandated reports are high and will be costly for small farmers, should they miss a deadline;
- The ordinance will curtail the economic viability and future growth of the agricultural industry as well as create business and economic uncertainty that will lead to less land investment and planning for future use.

LEGISLATIVE ACTIVITY

Since its inception, the Board has supported legislation by submitting testimony on bills of interest to small business. See “Legislative Review” at the end of this report for specific legislation the Board followed during the 2014 session.

SMALL BUSINESS IMPACT STATEMENT *and* GOVERNOR’S

ADMINISTRATIVE DIRECTIVE NO. 09-01

Under Section 201M-2, HRS, State agencies that want to adopt new or modified administrative rules that have an impact on small business must submit to the Board a small business impact statement showing the economic impact on those businesses. As a result, the Board reviews the small business impact statements and the Governor’s Administrative Directive (AD), while working with the rule-drafting agencies on behalf of the small business community. On October 29, 2009, AD 09-01 (Appendix 3) was issued to update the policy and procedures by which State departments and agencies request Governor’s approval for a public hearing of any proposed adoption, amendment or repeal of administrative rules developed under Chapter 91, HRS.

BOARD MEMBERS

Pursuant to Section 201M-5 (c), “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.” At the 2014 May and June board meetings, Mr. Anthony Borge was elected Chair, and Ms. Barbara Bennett was elected Second Vice Chair. In November 2014, Wayne Tanaka was elected Vice Chair.

The board member nomination process, under Section 201M-5, HRS, provides that “the Board shall consist of nine members, who shall be appointed by the governor pursuant to section 26-34; 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; (6) No more than two members shall be representatives from the same type of business; and (7) There shall be at least one representative from each county.”

In addition, “nominations shall be solicited from small business organizations, state and county chambers of commerce, and other interested business organizations. 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.”

At the end of December 2014, the board has the following members:

- Anthony Borge, RMA Sales, representing the City and County of Honolulu
- Barbara Bennett, *For Kauai Magazine*, representing Kauai County
- Kyoko Y. Kimura, Aqua Hospitality, representing Maui County
- Craig Takamine, Takamine Construction, Inc., representing Hawaii County –
tendered resignation in November 2014

- Harris Nakamoto, Kaiser Permanente, representing the City and County of Honolulu
- Ashley Leahey, Maui Thing and SaeDesign, representing Maui County
- Wayne Tanaka, Fraser Financial Group of Hawaii
- DBEDT Director, Voting Ex Officio Member

ACTIVITIES AND PROJECTS

The following activities and projects were performed in 2014.

- **Website** – The Board’s webpages were regularly updated; see: <http://dbedt.hawaii.gov/sbrrb>.
- **Brochures and Evaluation Survey** – The Board’s brochure is updated regularly. The Board received and reviewed several Evaluation Surveys from testifiers and State and County representatives attending the Board meetings.
- **Press Releases and Articles** – the following news articles during 2014, referencing the Board, were released:
 - On March 3, 2014, the *Hawaii Free Press* published, “*SB2487: Small Business Regulatory Review Board to be Abolished?*” The same article was republished on “*Hawaii Senate Minority, The Official Website of the Hawaii State Senate Minority Caucus.*”
 - On May 1, 2014, *The Garden Island* newspaper reported, “*Kauai’s GMO bill progresses toward enactment.*”
 - On May 6, 2014, *TheGardenIsland.com* reported “*Draft Rules Released for Ordinance 960.*”

- On June 20, 2014, *TheGardenIsland.com* reported, “*Implementation of GMO Law pushed to October 1.*”
- On July 24, 2014, The Hawaii Chamber of Commerce’s monthly newsletter stated the following: “*Make Your Voice Heard on Regulations: Participate in the SBRRB.*”
- On July 28, 2014, *Hawaii Free Press* published, “*Kauai Hearing Set on GMO Rules / Public Hearing Set on draft pesticide / GMO rules to be held.*”
- On September 11, 2014, *Pacific Business News* (bizjournals.com) announced the election of Anthony Borge’s chairmanship to the Board, under “People on the Move.”
- On September 12, 2014, *Pacific Business News* (bizjournals.com) announced the election of Barbara Bennett’s second vice chairmanship to the Board, under “People on the Move.”
- On October 7, 2014, *Pacific Business News* (bizjournals.com) announced that Ms. Kyoko Kimura was appointed as a member of this Board, under “People on the Move.”
- On October 10, 2014, *Pacific Business News* (bizjournals.com) announced that Mr. Harris Nakamoto was appointed as a member of this Board, under “People on the Move.”
- On October 16, 2014, *Pacific Business News* (bizjournals.com) announced that Mr. Wayne Tanaka was appointed as a member of this Board, under “people on the Move.”

- On November 5, 2014, the announcement of the SBRRB officers and newest members was placed on the SBRRB's website.

▪ **RegAlert** – In 2013, the Board created an Investigative Committee to review, and re-activate RegAlert. In February 2014, the Investigative Committee recommended that RegAlert be tabled until sufficient time, money, and personnel may be allocated for the project's effective handling and management.

RegAlert is a small business regulatory alert system, created to assist in reducing the regulatory burden on Hawaii small businesses. The intent of RegAlert is to allow the Board to serve as the "voice of small business" on both new and proposed administrative rules directly to the rule-making State and County agencies. Through RegAlert, business owners are able to keep apprised of proposed rule changes on selected rules and given an opportunity to provide input to the agencies promulgating proposed and amended rules through the Board.

▪ **"Small Business Office"** – The Board was approached by the Hawaii State Procurement Office (SPO) to discuss an initiative to implement a small business set-aside program, pursuant to Chapter 103D, Section 901 to 906, Hawaii Revised Statutes. It is SPO's vision to create a small business group to build a solid foundation for the drafting and implementation of the small business set-aside administration rules, with an advisory group to determine priorities and key issues, create administrative rules and structure guidelines, distribute appropriate information, and define the term small business. Most importantly, the SPO envisions this Board to be the "champion" in this initiative with overarching authority

of the small business office, and where the SPO would have a flat structured relationship that would work together with the Board.

As of the time of this writing, one meeting was held by SPO with some of the stakeholders that discussed the purpose and scope of the proposed advisory group; this included the history of Act 50, SLH 2005, a road map of SPO's strategy and plan, and SPO's vision for new administrative rules. Also discussed were identifying information for survey questions, identifying key stakeholders, identifying available resources and potential champions, and what the next steps will be.

- **Power Point Presentation and Fact Sheet** – During 2014, the Board members updated its power point presentation and created a fact sheet based on the information in the power point presentation for outreach purposes.

- **Small Business Statement, Section 201M-2, Hawaii Revised Statutes, HRS, and Small Business Statement after Public Hearing, Section 201M-3, HRS** – The Board members updated these two templates for consistency, to expedite the rule review process, and to bring the statements up to date with the statutes, as it is important for all agencies to utilize the same standardized documents. As of the printing of this report, the forms were routed to several Departments for input and recommendations.

ADMINISTRATIVE RULE REVIEW **REQUESTED BY SMALL BUSINESS**

In compliance with Section 201M-5(f), HRS, the following outlines administrative rule review requested by small business owners for the Board to review during 2014.

1. Title 4 Chapter 143 Standards for Coffee

In April 2014, Kona Coffee Farmers Association approached this Board with several concerns to the proposed rule amendments: 1) there is no basis for an increase in fees; 2) the measure of the “quality” of coffee is deceptive; 3) there is no data regarding the new defect score for coffee beans affected by pinholes; 4) there is a significant recordkeeping burden on Kona farmers for transport of cherry, parchment, and green coffee in instances where no sale is involved; 5) the proposed language to the “geographic region statement” is questioned as to whether the Department of Agriculture (DOA) will sanction the use of this form by Hawaii coffee farmers to represent “origin” to foreign buyers; 6) it is unclear if the provision for entry of public or private premises or vehicles was approved by the Hawaii Attorney General’s office as meeting constitutional standards; and 7) whether DOA will no longer make the service of the “certification of origin only” with no express grade determination or cupping or in the increase in defect limits for prime.

Upon hearing from several testifiers, for and against the amendments, no action was taken by the Board. The Board Chair encouraged DOA and those attending the meeting to work together, going forward.

SECTION II

LEGISLATIVE REVIEW

The Board provided testimony on the following measures during the 2014 Legislative Session.

1. **Governor's Message No. 503, Submitting for Consideration and Confirmation to the Small Business Regulatory Review Board, Gubernatorial Nominee, Harris Nakamoto, for a term to expire June 30, 2015**

Background: At its February 2014 board meeting, the Board members unanimously supported this measure.

Recommendation and Result: The recommendation by the Committee on Economic Development, Government Operations and House to Advise and Consent to the nomination was approved on March 31, 2014.

2. **Governor's Message No. 623, Submitting for Consideration and Confirmation to the Small Business Regulatory Review Board, Gubernatorial Nominee, Barbara Bennett, for a term to expire June 30, 2018**

Background: At its May 2014 board meeting, the Board members unanimously ratified the Board's testimony on this measure.

Recommendation and Result: The recommendation by the Committee on Economic Development, Government Operations and House to Advise and Consent to the nomination was approved on April 14, 2014.

3. Senate Bill 2487, Relating to the Small Business Regulatory Flexibility Act

Background: SB 2487 proposed to repeal Chapter 201M, HRS, the Small Business Regulatory Flexibility Act, which governs the Board. An amendment to this measure under SB 2487 SD1, required the small business regulatory review board members to receive training by the appropriate division of the Department of the Attorney General, and clarified the contents of the annual report of the small business regulatory review board, and placed a June 30, 2019 sunset date on Chapter 201M, HRS.

SB 2487 SD1 HD1, an amendment to SB 2487 SD1, clarified the contents of the Board's annual report to the legislature, and required the Department of Business, Economic, Development and Tourism to provide the Board adequate financial and administrative support.

SB 2487 SD1 HD2, an amendment to SB 2487 SD1 HD1, established the office of small business regulatory review, created a new position, director of the office of small business regulatory review, to be appointed by the Governor, changed the role of the Small Business Regulatory Review Board from advisory to supervisory, required DBEDT to provide the Board adequate financial and administrative support to the SBRRB, and required the director and members of the SBRRB to receive appropriate training by the appropriate division of the Department of the Attorney General.

Recommendation: At its January 2014 Board meeting, the unanimously voted to oppose SB 2487. The Board supported SB 2487 SD1, and supported the intent of proposed SB 2487 SD1 HD2 with the several recommendations.

Result: This measure did not pass.

Appendix

1. Chapter 201M, Hawaii Revised Statutes
2. Administrative Rules Reviewed Matrix
3. Administrative Directive No. 09-01

1. Chapter 201M, Hawaii Revised Statutes

CHAPTER 201M

SMALL BUSINESS REGULATORY FLEXIBILITY ACT

Section

- 201M-1 Definitions
- 201M-2 Determination of small business impact;
small business impact statement
- 201M-3 Small business statement after public hearing
- 201M-4 Advisory committee on small business;
consultation process for proposed rules
- 201M-5 Small business regulatory review board; powers
- 201M-6 Petition for regulatory review
- 201M-7 Periodic review; evaluation report
- 201M-8 Waiver or reduction of penalties
- 201M-9 Executive order

§201M-1 Definitions. As used in this chapter, unless the context clearly requires otherwise:

"Advisory committee" means an advisory committee on small business as established in section 201M-4.

"Affected small businesses" or "affects small business" means any potential or actual requirement imposed upon a small business through an agency's proposed or adopted rule that will cause a direct and significant economic burden upon a small business, or is directly related to the formation, operation, or expansion of a small business.

"Agency" means each state or county board, commission, department, or officer authorized by law to make rules, except those in the legislative or judicial branches.

"Board" means the small business regulatory review board.

"Rule" shall have the same meaning as in section 91-1.

"Small business" means a for-profit enterprise consisting of fewer than one hundred full-time or part-time employees. [L 1998, c 168, pt of §2, §5; am L 2002, c 202, §§2, 5; am L 2007, c 217, §2]

§201M-2 Determination of small business impact; small business impact statement. (a) Prior to submitting proposed rules for adoption, amendment, or repeal under section 91-3, the agency shall determine whether the proposed rules affect small business, and if so, the availability and practicability of less restrictive alternatives that could be implemented. This section shall not apply to emergency rulemaking.

(b) If the proposed rules affect small business, the agency shall consider creative, innovative, or flexible methods of compliance for small businesses

and prepare a small business impact statement to be submitted with the proposed rules to the departmental advisory committee on small business and the board when the rules are essentially complete and before the rules are submitted to the governor for approval for public hearing. The statement shall provide a reasonable determination of the following:

- (1) The businesses that will be directly affected by, bear the costs of, or directly benefit from the proposed rules;
- (2) Description of the small businesses that will be required to comply with the proposed rules and how they may be adversely affected;
- (3) In dollar amounts, the increase in the level of direct costs such as fees or fines, and indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs associated with compliance;
- (4) The probable monetary costs and benefits to the implementing agency and other agencies directly affected, including the estimated total amount the agency expects to collect from any additionally imposed fees and the manner in which the moneys will be used;
- (5) The methods the agency considered or used to reduce the impact on small business such as consolidation, simplification, differing compliance or reporting requirements, less stringent deadlines, modification of the fines schedule, performance rather than design standards, exemption, or any other mitigating techniques;
- (6) How the agency involved small business in the development of the proposed rules; and
- (7) Whether the proposed rules include provisions that are more stringent than those mandated by any comparable or related federal, state, or county standards, with an explanation of the reason for imposing the more stringent standard.

(c) When a proposed rule includes provisions that are more stringent than those mandated by any comparable or related federal, state, or county standards, the agency shall, in addition to the information required by subsection (b), include in the small business impact statement information comparing the costs and benefits of the standard set by the proposed rule to the costs and benefits of the standard under the comparable or related federal, state or county law. The agency shall also include an explanation of its decision to impose the higher

standard. The agency's comparison and justification shall include:

- (1) A description of the public purposes to be served by imposing the standard under the proposed rule;
- (2) The text of the related federal, state, or county law, including information about the purposes and applicability of the law;
- (3) A comparison between the proposed rule and the related federal, state, or county law, including a comparison of their purposes and of the standards and their application and administration;
- (4) A comparison of the monetary costs and benefits to the implementing agency and other agencies directly affected, of imposing the proposed standard, with the costs and benefits of imposing or deferring to the related federal, state or county standard, as well as a description of the manner in which any additional fees derived from imposition of the proposed standard are to be used; and
- (5) A comparison of the adverse effects on small businesses of the standard imposed by the proposed rule, with the adverse effects on small business of the related federal, state, or county standard.

(d) This chapter shall not apply to proposed rules adopted by an agency to implement a statute or ordinance that does not require an agency to interpret or describe the requirements of the statute or ordinance, such as federally-mandated regulations that afford the agency no discretion to consider less restrictive alternatives. [L 1998, c 168, pt of §2, §5; am L 2002, c 202, §5; am L 2007, c 217, §3; am L 2008, c230, §3]

[§201M-3] Small business statement after public hearing. (a) For any proposed rule that 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, 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 or oral testimony. [L 1998, c 168, pt of §2, §5; am L 2002, c 202, §5; am L 2012, c 241, §2]

[§201M-4] Advisory committee on small business; consultation process for proposed rules. (a) There may be established within and administratively attached to every department of the State or county whose rules affect small business activities, an advisory committee on small business. The advisory committee shall consist of three or more odd number of members appointed by the department and may advise more than one department. The department shall have the authority to appoint members to the advisory committee and to fill any vacancies. The members shall serve on a volunteer basis and have experience or knowledge of the effect of regulation by those departments on the formation, operation, or expansion of a small business. No person shall serve on the small business regulatory review board and an advisory committee on small business concurrently. The advisory committees shall not be subject to the requirements of chapter 91.

(b) When the agency is proposing rules that affect small business, the agency may consult with the administratively attached departmental advisory committee on small business regarding any matter related to the proposed rules prior to

complying with the rulemaking requirements provided in chapter 91. Each agency shall develop its own internal management procedures for soliciting comments during the drafting of proposed rules from affected small businesses. The agency may develop creative procedures for the solicitation of comments from affected small businesses during the drafting or development of proposed rules.

(c) If necessary, any group or members of affected small businesses may also be consulted by the agency to formulate the relevant language, develop criteria, and provide any other expertise to ensure that the proposed rules will be drafted in a manner that will protect the public health, welfare, and safety without placing an undue and significant burden upon small business. [L 1998, c 168, pt of §2, §5; am L 2002, c 202, §5]

§201M-5 Small business regulatory review board; powers. (a) There shall be established within the department of business, economic development, and tourism, for administrative purposes, a small business regulatory review board to review any proposed new or amended rule or to consider any request from small business owners for review of any rule adopted by a state agency and to make recommendations to the agency or the legislature regarding the need for a rule change or legislation. For requests regarding county ordinances, the board may make recommendations to the county council or the mayor for appropriate action.

(b) The board shall consist of nine members, who shall be appointed by the governor pursuant to section 26-34; 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 members of the board;
- (5) The appointments shall reflect representation of a variety of businesses in the State;
- (6) No more than two members shall be representative from the same type of business; and
- (7) There shall be at least one representative from each county. For 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) **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.

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

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

- (1) Adopt any rules necessary to implement this chapter;
- (2) Organize and hold conferences on problems affecting small business; and
- (3) Do any and all things necessary to effectuate the purposes of this chapter.

(f) The board shall submit an annual report to the legislature twenty days prior to each regular session detailing any requests from small business owners for review of any rule adopted by a state agency, and any recommendations made by the board to an agency or the legislature regarding the need for a rule change or legislation. The report shall also contain a summary of the comments made by the board to agencies regarding its review of proposed new or amended rules. [L 1998, c 168, pt of §2, §5; am L 2002, c 202, §§3, 5; am L 2007, c 217, §4; am L 2012, c 241, §3]

§201M-6 Petition for regulatory review. (a) In addition to the basis for filing a petition provided in section 91-6, any affected small business may file a written petition with the agency that has adopted the rules objecting to all or part of any rule affecting small business on any of the following grounds:

- (1) The actual effect on small business was not reflected in, or significantly exceeded, the small business impact statement submitted prior to the adoption of the rules;
- (2) The small business impact statement did not consider new or significant economic information that reveals an undue impact on small business;
- (3) These impacts were not previously considered at the public hearing on the rules;

- (4) The rules create an undue barrier to the formation, operation, and expansion of small businesses in a manner that significantly outweighs its benefit to the public;
- (5) The rules duplicate, overlap, or conflict with rules adopted by another agency or violate the substantive authority under which the rules were adopted; or
- (6) The technology, economic conditions, or other relevant factors justifying the purpose for the rules have changed or no longer exist.

(b) Upon submission of the petition, the agency shall forward a copy of the petition to the board, as notification of a petition filed under this chapter. The agency shall promptly consider the petition and may seek advice and counsel regarding the petition from the appropriate departmental advisory committee on small business. Within sixty days after the submission of the petition, the agency shall determine whether the impact statement or the public hearing addressed the actual and significant impact on small business. The agency shall submit a written response of the agency's determination to the small business review board within sixty days after receipt of the petition. If the agency determines that the petition merits the adoption, amendment, or repeal of a rule, it may initiate proceedings in accordance with section 91-3.

(c) If the agency determines that the petition does not merit the adoption, amendment, or repeal of any rule, any affected small business may seek a review of the decision by the board. The board shall promptly convene a meeting pursuant to chapter 92 for the purpose of soliciting testimony that will assist in its determination whether to recommend that the agency initiate proceedings in accordance with section 91-3. The board may base its recommendation on any of the following reasons:

- (1) The actual effect on small business was not reflected in, or significantly exceeded, the impact statement submitted prior to the adoption of the rules;
- (2) The impact statement did not consider new or significant economic information that reveals an undue impact on small business;
- (3) These impacts were not previously considered at the public hearing on the rules;
- (4) The rules create an undue barrier to the formation, operation, and expansion of small businesses in the State in a manner that significantly outweighs its benefit to the public;
- (5) The rules duplicate, overlap, or conflict with rules adopted by another agency or violate the substantive authority under which the rules were adopted; or

(6) The technology, economic conditions, or other relevant factors justifying the purpose for the rules have changed or no longer exist.

(d) If the board recommends that an agency initiate rulemaking proceedings for any reason provided in subsection (c), it shall submit to the legislature an evaluation report and the agency's response as provided in subsection (b). The legislature may subsequently take any action in response to the evaluation report and the agency's response as it finds appropriate.

(e) If the board does not recommend that an agency initiate rulemaking proceedings, the board shall notify the small business of its decision and inform the small business that the small business may submit a complaint to the ombudsman pursuant to chapter 96 regarding the decision of the agency or board.

(f) Nothing in this section shall entitle an affected small business to a contested case hearing under chapter 91. [L 1998, c 168, pt of §2, §5; am L 2002, c 202, §5; am L 2007, c 217, §5]

§201M-7 Periodic review; evaluation report. (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 their continued implementation.

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

(c) The board may solicit testimony from the public regarding any report submitted by the agency under this section

at a public meeting held pursuant to chapter 92. Upon consideration of any report submitted by an agency under this section and any public testimony, the board shall submit an evaluation report to the next regular session of the legislature. The evaluation report shall include an assessment as to whether the public interest significantly outweighs a rule's effect on small business and any legislative proposal to eliminate or reduce the effect on small business. The legislature may take any action in response to the report as it finds appropriate. [L 1998, c 168, pt of §2, §5; am L 2002, c 202, §5; am L 2007, c 217, §6; am L 2012, c 241, §4]

§201M-8 Waiver or reduction of penalties. (a) Except where a penalty or fine is assessed pursuant to a program approved, authorized, or delegated under a federal law, any agency authorized to assess civil penalties or fines upon a small business shall waive or reduce any penalty or fine as allowed by federal or state law for a violation of any statute, ordinance, or rules by a small business under the following conditions:

- (1) The small business corrects the violation within a minimum of thirty days after receipt of a notice of violation or citation; and
 - (2) The violation was unintentional or the result of excusable neglect; or
 - (3) The violation was the result of an excusable misunderstanding of an agency's interpretation of a rule.
- (b) Subsection (a) shall not apply:
- (1) When a small business fails to exercise good faith in complying with the statute or rules;
 - (2) When a violation involves willful or criminal conduct;
 - (3) When a violation results in serious health and safety impacts;
 - (4) To violations of chapters 6E, 180, 180C, 181, 182, 183, 183C, 183D, 186, 187A, 188, 188F, 189, 190, 190D, 195, 195D, 195F, 205, 205A, 340A, 340E, 341, 342B, 342C, 342D, 342E, 342F, 342G, 342H, 342I, 342J, 342L, and 342P;
 - (5) To violations of sections 200-9(b) and (c), 200-24(4), 200-37, and 200-38; or
 - (6) To violations of administrative rules promulgated pursuant to section 200-4(6); except for rules pertaining to matters listed in section 200-4(6)(A), (B), (C), and (D).

(c) An agency may adopt rules to implement the requirements of this section. [L 1998, c 168, pt of §2, §5; am L 2002, c 202, §5; am L 2004, c 206, §1]

[\$201M-9] Executive order. The governor may execute any executive order, memorandum, or directive necessary to implement any provision of this chapter. [L 1998, c 168, pt of §2, §5; am L 2002, c 202, §5]

2. Administrative Rule Review Matrix

	Month/Year	Support	Oppose	No Comment/ No Action	Support w/Rec.	Sup. w/Res.	Support/ Oppose	Pending
FY 2000 to FY 2013		452	12	54	26	17	6	0
FY 2014	Aug-13	5		1				
	Sep-13	0						
	Oct-13	3		1	1			
	Nov-13	1						
	Dec-13	3						
	Jan-14	2						
	Feb-14	0		1				
	Mar-14	7		2			2	
	May-14	2		1				
	Jun-14	2		2	1			
FY 2015	Jul-14	3						
	Aug-14	1						
	Sep-14	8						
	Oct-14	0						
	Nov-14	6		2				
	Dec-14	5	1					
	Totals	500	13	64	28	17	8	0

3. Administrative Directive 09-01



EXECUTIVE CHAMBERS
HONOLULU

LINDA LINGLE
GOVERNOR

October 29, 2009

ADMINISTRATIVE DIRECTIVE NO. 09-01

To: All Agency Heads

Subject: Policy and Procedure for the Adoption, Amendment, or Repeal of Administrative Rules

This administrative directive updates the policy and procedure by which departments or agencies shall request executive approval of any proposed adoption, amendment, or repeal of administrative rules. It rescinds Administrative Directive No. 99-02, Policy and Procedure for the Adoption, Amendment, or Repeal of Administrative Rules, dated August 2, 1999.

Legal Reference:

Section 91-3(c), Hawaii Revised Statutes, provides that, "the adoption, amendment, or repeal of any rule by any state agency shall be subject to the approval of the governor."

Hawaii Revised Statutes Chapter 201M, the "Hawaii Small Business Regulatory Flexibility Act," requires that if a proposed rule "affects small business," the department or agency shall submit a "small business impact statement" and a "small business statement" to the Small Business Regulatory Review Board. Chapter 201M does not apply to emergency rulemaking or rules adopted to comply with a federal requirement.

Policy:

Whenever any department or agency requests executive approval for the proposed adoption, amendment, or repeal of a rule, the director of the department or agency shall ensure that the proposed changes conform to existing legal provisions, including Chapter 91, Hawaii Revised Statutes. In requesting the adoption, amendment, or repeal of any rule, the director will explain or submit the following:

1. Explain the exact changes to be made and the purpose, reasons for the changes, and justification for the change. If applicable, cite the present rule and quote the proposed rule change in full without paraphrasing.

2. Describe the manner in which the proposal would affect the agency's internal and external responsibilities, programs, functions, operations, activities, and inter-relationships.
3. Identify the final result expected by instituting the proposal (e.g. a program improvement/clarification of statute).
4. Identify any program and financial impacts on the State that will arise upon the implementation of the proposal to include:
 - a. Long- and short-range program impacts, and
 - b. Anticipated program funding required for the present biennium, including a statement as to whether funds are currently budgeted to permit the implementation and enforcement of the proposed adoption, amendment, or repeal of the rule, and estimates for anticipated savings or funding shortfalls projected over the subsequent four-year planning period, and the assumptions used to arrive at the estimates.
5. Describe long- and short-term impacts to the public or the economy of the State.
6. Identify the alternatives explored in lieu of implementing the proposal.
7. Provide an explanation of whether the proposal will affect small business. For purposes of this Directive, a proposal will affect small business if the proposal will impact a for-profit enterprise consisting of fewer than 100 full-time or part-time employees and will cause a direct and significant economic burden upon a small business, or is directly related to the formation, operation, or expansion of a small business.

If a proposal affects small business, the department or agency will describe:

- a. Whether it has considered the availability and practicability of less restrictive alternatives that could be implemented in lieu of adopting the proposal;
- b. Whether it has considered creative, innovative, or flexible methods of compliance for small business in lieu of adopting the proposed rule; and
- c. Whether it has prepared a "Small Business Impact Statement" that has been submitted to the Small Business Regulatory Review Board for consideration under HRS Chapter 201M.

Procedure:

1. Approval of the Governor is required prior to any rule change proceeding to a public hearing.

Prior to formal publication of notice of public hearing on the proposed adoption, amendment, or repeal of any rule, departments and agencies will:

- a. Obtain the Attorney General's approval "as to form" prior to submitting the rule to me for approval for public hearing; provided that as to rules proposed for adoption, amendment, or repeal that are submitted by the Board of Regents of the University of Hawaii, such rules shall be first reviewed and approved as to form by the University's Office of General Counsel prior to submission to the Attorney General. The Department of the Attorney General will complete its pre-hearing review on an expeditious basis;
- b. Provide the Governor's office with a copy of the proposed rule, including the information requested in "Policy" items 1 through 7 above; and
- c. At the time the rules are submitted to the Governor's Office, concurrently provide copies to the Director of Budget and Finance (B&F) and to the Director of Business, Economic Development and Tourism (DBEDT) for their prompt review. B&F and DBEDT comments will be forwarded directly to the Governor.

2. Notice of Public Hearings.

If any proposed rule affects small business, the notice of public hearing will summarize any business impact described in the "Small Business Impact Statement," and will state any new fee or compliance burdens that will be placed on small business.

3. Final Approval After Public Hearing.

Departments and agencies will obtain the Governor's final approval for the adoption, amendment, or repeal of any rule after the required public hearing has been held. In seeking final approval, the director of the department or agency concerned shall:

- a. Indicate whether any revision is being recommended to the proposed rule, amendment, or repeal based on facts and circumstances brought out in the public hearing;
- b. If a revision or change is recommended, provide a copy of the proposed rule with revisions and changes to the Attorney General for approval "as to form" prior to resubmitting the rule to the Governor for final approval; provided that as to rules proposed for adoption, amendment or repeal that are submitted by the Board of Regents of the University of Hawaii, such rules shall be first reviewed and approved as to form by the University's Office of General Counsel prior to submission to the Attorney General.

The Attorney General's office will approve the form within two weeks of receipt if the changes are not substantive. If the changes are determined to be substantial or material by the Attorney General, an additional public hearing will be held.

If a re-hearing of a proposed rule is sought, the procedures required for approval to proceed to public hearing will again be followed;

- c. Indicate whether the proposal affects small business, and, if so, whether a "Small Business Statement," which provides the information described in HRS Chapter 201M, has been submitted to the Small Business Regulatory Review Board; and
 - d. Submit three copies of the proposal in standard format and in accordance with Chapter 91, HRS, for the Governor's final approval. The original and a copy of the rules adopted by the department or agency will be signed by the director of the department, by the chairperson of a board or commission of a principal department, or by the chairperson of a board or commission if the rule has been adopted by a board or commission which is assigned to a department for administrative purposes. The third copy may use a facsimile of the required signatures.
4. Distribution of Approved Adopted Rules.
- a. A complete set consisting of three copies approved by the Governor will be filed at the Office of the Lieutenant Governor.
 - b. The Office of the Lieutenant Governor will provide one copy to the agency adopting, amending, or repealing the rule.
 - c. Each department or agency adopting, amending, or repealing the rule will provide one file-stamped and certified copy of the rule in the Ramseyer and standard formats to the Legislative Reference Bureau.

LINDA LINGLE

APPROVED AS TO FORM:


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