

Small Business Regulatory Review Board

MINUTES OF REGULAR MEETING

April 19, 2017

Conference Room 436 - No. 1 Capitol District Building, Honolulu, Hawaii

- I. **CALL TO ORDER:** Chair Borge called the meeting to order at 1:00 p.m., with a quorum present.

MEMBERS PRESENT:

- Anthony Borge, Chair
- Kyoko Kimura, 2nd Vice Chair
- Robert Cundiff
- Garth Yamanaka
- Mark Ritchie

ABSENT MEMBERS:

- Harris Nakamoto, Vice Chair
- Nancy Atmospera-Walch

STAFF: DBEDT
Dori Palcovich

Office of the Attorney General
Dawn Apuna

II. **APPROVAL OF MARCH 15, 2017 MINUTES**

Mr. Cundiff made a motion to accept the March 15, 2017 minutes, as presented. Mr. Ritchie seconded the motion, and the Board members unanimously agreed.

III. **OLD BUSINESS**

- A. Discussion and Action on the Small Business Statement After Public Hearing and Proposed Amendments to Title 8, Subtitle 1, Liquor Commission, promulgated by the Department of Liquor Control, County of Maui, as follows:

1. Chapter 101, Rules Governing the Manufacture and Sale of Intoxicating Liquor of the County of Maui; and
2. Chapter 102, Rules Governing Administrative Practices and Procedures of the Liquor Commission and Liquor Control Adjudication Board of the County of Maui

Second Vice Chair Kimura stated that she attended the public hearing; however, subsequently, the public voiced concerns regarding insufficient notice of the hearing, among other issues. While the notice concern pertains to the Office of Information Practice's governing statute, the complaints have come from the general public and not from small business.

Chair Borge explained that after the public hearing, the mayor signed the rules, but prior to submission to this Board. Mr. Richie reminded the members that the amendments included the delivery of liquor to private residences, and Second Vice Chair Kimura added that the age of the liquor recipients was required to be verified.

In reviewing the testimony submitted to this Board, Chair Borge noted that the concerns are outside of this Board's mandate. While the amendments clearly impact the general public, on a small business perspective, this Board needs to take into consideration the information presented on both the pre- and post-public hearing statements, which allows for the conducting of business to be made easier.

Mr. Cundiff made a motion to send a memo to the Maui Department of Liquor Control stating that this Board does not see an impact on small business based on the information received; however, the Board would not be opposed to the amendments going back public hearing for both the general public and the small business community to vet and voice concerns. Further, this Board requests that in the future, the Maui Department of Liquor Control submit a "small business statement after public hearing" pursuant to Section 201M-3, HRS, prior to the Mayor signing off on the proposed rules. Mr. Yamanaka seconded the motion, and the Board members unanimously agreed.

B. Discussion and Action on the Small Business Statement After Public Hearing and Proposed Amendments to Title 4, Chapter 143, Standards for Coffee, promulgated by Department of Agriculture (DoAg)

Ms. Jeri Kahana, Administrator at DoAg's Quality Assurance Division, stated that public hearings were held on all the islands. In general, the hearings went well with only a few testifiers expressing opposition to the sunset date. The proposed sunset date's three-year extension in the rules is expected to provide the farmers an opportunity to control the coffee berry borer in order to minimize coffee bean damage and to provide DoAg and the industry additional time to develop more comprehensive changes to the rules. Ms. Kahana added that the rule standards refer to "green" coffee, not "roasted" coffee.

Chair Borge commended Ms. Kahana for involving the stakeholders (coffee farmers and processors) during the promulgation of the rule amendments. Ms. Kahana noted that the dynamics of the coffee industry has evolved over the years and that she does not expect to come back to this Board for another extension.

Mr. Ritchie made a motion to move the amended rules to the Governor for adoption. Mr. Cundiff seconded the motion, and the Board members unanimously agreed.

C. Discussion and Action on the Small Business Statement After Public Hearing and Proposed Amendments to Title 11, Chapter 50, Food Safety Code, promulgated by Department of Health (DOH)

As no one from DOH was present at the meeting, Chair Borge stated that in reviewing the small business statement after public hearing, there were no noted changes or major concerns with the proposed amendments from small business. He added that several business-related groups were notified of the amendments and the public hearings, which

were conducted on all isles. He also noted that a very thorough analysis was prepared by DOH.

Second Vice Chair Kimura made a motion to move the amendments to the Governor for adoption. Mr. Ritchie seconded the motion, and the Board members unanimously agreed.

IV. LEGISLATIVE MATTERS

- A. Update on Governor's Message 535, Submitting for Consideration and Confirmation to the Small Business Regulatory Review Board, Gubernatorial Nominee, Robert Cundiff, for a term to expire 6-30-2020

Chair Borge and the members congratulated Mr. Cundiff for his recent confirmation by the Senate to this Board.

- B. Update on House Bill 1382 HD1, SD1, Relating to Procurement

This measure relates to the creation of the State Procurement Office's "Small Business Office;" it is now in conference committee.

- C. Update on House Bill 587 HD1, SD1, Relating to Small Business

This measure appropriates funds to the Board and is currently in conference committee; House Conferees are Messrs. Nakashima and Keohokalole as Co-chairs, and Member Ward. Senate Conferees are Chair Wakai and Co-chairs Galuteria and Taniguchi.

- D. Update on Senate Bill 908, SD1, HD2, Relating to the Small Business Regulatory Flexibility Act

This measure makes changes to the Board's statute, Chapter 201M, HRS; it is currently in conference committee. Senate Conferees are Chair Wakai, and Co-chairs Galuteria and Taniguchi. House Conferees are Co-Chairs Nakashima, Keohokalole and Member Ward.

- E. Update on Senate Bill 1059, SD1, HD1, Relating to Small Business

This is the companion to House Bill 1042 HD1; it did not pass through session.

V. ADMINISTRATIVE MATTERS

- A. Update on the Board's Upcoming Advocacy Activities and Programs in Accordance with the Board's Powers under Section 201M-5, HRS

1. Conference Call with Ms. Nancy Mistele, Director of Office of Business Development / Wisconsin Small Business Regulatory Review Board

Chair Borge welcomed Ms. Nancy Mistele, who works as the Director of Wisconsin's Office of Business. Ms. Mistele explained that she goes out to Wisconsin's business community to discuss, among other items, the Wisconsin

Small Business Regulatory Review Board (SBRRB). Her presentation entails several interesting slides as to who the Office of Business is, what its role is in government, how to engage with government officials, and how to resolve business issues.

The Wisconsin SBRRB was established in 2003 and currently consists of seven "small business" members from across the state, including a Wisconsin senator and a house representative who are also small business owners and who are the chair and vice chair of the board, respectively. The Office of Business is the 24/7 eyes and ears of the Wisconsin SBRRB, which meets on an ad hoc basis. The Wisconsin Economic Development Corporation, which is quasi-public/private, focuses on bringing in new business whereas the Office of Business focuses on existing rules and business issues.

She explained how the Wisconsin SBRRB is empowered to review existing rules and propose changes in order to reduce regulatory burden on business, encourage partnerships between small business and state agencies, advocate for realistic rules and regulations, require agencies to submit economic impact analyses of all proposed rules on small business, and enforce agency compliance with the state's Regulatory Flexibility Act.

Overall, it is the intent of the Wisconsin SBRRB to be participatory in rule-making and hearings with the goal to help small businesses with unintended consequences of rules and laws that may create problems for various industries in order to avoid creating burdens and barriers. She pointed out that it may be beneficial for the Hawaii SBRRB to encourage the small business community to assist in the development of an on-line public access tool to review and comment on rules in the process of being drafted as well as information for upcoming public hearings. She will send DBEDT staff various links, including a guide and information for small businesses to provide comments to proposed rules and amendments.

Ms. Mistele was thanked for her insightful information, comments and suggestions. It is hoped that the Hawaii and Wisconsin SBRRB connection can continue in order to enable small businesses to be successful.

Chair Borge noted that it can be a big problem for small businesses to not have access or input into the Legislature as much of the input from individual businesses is lost without the use of technology. When going onto the capitol.com website, a person can click on the committees they are interested in hearing from and can easily submit testimony. He suggested that this Board's future eNewsletters provide information as to how to go onto the State's website as a useful vehicle to have input to the lawmakers.

2. Small Business Conference at the Maui Arts and Cultural Center

Board members were reminded of the small business conference on May 3rd and 4th at the Maui Arts and Cultural Center where this Board will be an exhibitor. Mr. Ritchie stated that DBEDT is a conference sponsor and he will be manning a table on May 3rd. He is planning to bring a “DBEDT” banner and table cloth as well as brochures; it was suggested that a banner be made for the SBRRB for future small business events.

Mr. Ritchie reminded the members of the “Hawaii Small Business Fair” at Leeward Community College on Saturday, May 6th from 7:30 a.m. to 1:00 p.m., where he will distribute brochures for this Board.

3. Referral from House Speaker Souki

Chair Borge mentioned House Speaker Joe Souki referred a prospective new board member, Mr. David Hong, to the Governor. Mr. Hong is the president of Island Plastic Bags.

The Board is still waiting for a new board member from Kauai; Mr. Cundiff offered to reach out to business people in Kauai.

VI. NEXT MEETING – The next meeting is scheduled for Wednesday, May 17, 2017, in Conference Room 436, 250 South Hotel Street, Honolulu, Hawaii at 10:00 a.m.

VII. ADJOURNMENT – Second Vice Chair Kimura made a motion to adjourn the meeting and Mr. Yamanaka seconded the motion; the meeting adjourned at 3:11 p.m.