

## Small Business Regulatory Review Board

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### MINUTES OF REGULAR MEETING

July 15, 2015

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

- I. **CALL TO ORDER:** Chair Borge called the meeting to order at 9:30 a.m. with a quorum present.

**MEMBERS PRESENT:**

- Anthony Borge
- Nancy Atmospera-Walch
- Phillip Kasper
- Garth Yamanaka
- Mark Ritchie

**ABSENT MEMBERS:**

- Harris Nakamoto
- Barbara Bennett
- Kyoko Kimura
- Robert Cundiff

**STAFF:** DBEDT  
Dori Palcovich

Office of the Attorney General  
Margaret Ahn

### II. APPROVAL OF JUNE 24, 2015 MINUTES

Mr. Ritchie made a motion to accept the June 24, 2015 minutes, as presented. Ms. Atmospera-Walch seconded the motion, and the Board members unanimously agreed.

### III. OLD BUSINESS

- A. Discussion and Action on Proposed New Rules, "Real Property Tax Classification Rules," 12, under Section 5A-6.4 of the Kauai County Code 1987, promulgated by Department of Finance, County of Kauai

Discussion leader, Ms. Atmospera-Walch, explained that this Board reviewed these proposed rules, which involves the classification of tax rates, prior to the public hearing. Chair Borge noted that three people attended the public hearing but no written or oral testimonies were received, and no changes were made.

Ms. Atmospera-Walch made a motion to support the adoption of the proposed new rules. Mr. Yamanaka seconded the motion, and the Board members unanimously agreed.

### IV. NEW BUSINESS

- A. Discussion and Action on Proposed Amendments to HAR Title 23 Chapter 200, "Regulations of Controlled Substances," and Chapter 201, "Regulated Chemicals for the Manufacture of Controlled Substances," promulgated by Department of Public Safety (DPS)

Mr. Keith Kamita, Chief Administrator of the Narcotics Enforcement Division, explained that his division was transferred from DOH to DPS in 2000. At that time, fees were set at \$60. Since then, due to various statutory requirements, DPS must increase the fees to offset increased costs. The increased costs are attributable to a new electronic on-line controlled substance registration system, an electronic prescription accountability system, a pseudoephedrine tracking program, the implementation of the registrant drug disposal program, the pharmaceutical public drug take-back program and other programs; it was noted that these programs have worked very well for the users.

The small businesses affected by the proposed amendments include physicians, dentists, veterinarians, small pharmacies, and regulated chemical distributors and manufacturers. Over the past three years, businesses were involved in the promulgating of the fee increases; no adverse feedback was received. Mr. Kamita noted that Hawaii is a “dual” registration state, which means that the businesses must register and get approved by the state before the federal government registers the registrant. Also noted was that half of the division’s funds come from the State’s general funds and half comes from special funds.

Mr. Yamanaka made a motion to support the proposed amendments to proceed to public hearing. Mr. Richie seconded the motion, and the Board members unanimously agreed.

## **V. ADMINISTRATIVE MATTERS**

- A. Discussion with Mr. Shawn Richey, Procurement Specialist from Hawaii Procurement Office (SPO) regarding the Board’s “Small Business Bill of Rights,” and how SPO may be able to incorporate these “Rights” into a Proposed “Small Business Office”

Mr. Shawn Richey, Procurement Specialist from the State’s Hawaii Procurement Office (SPO) introduced himself to the members, explained his background, and discussed his role at SPO, which is to assist in making small business rules that are set around the statutorily mandated set-aside program. He discussed the history of the small business set-aside program and the fact that the implementing 18-month interim SPO administrative rules expired in 2011. Previous Governor Linda Lingle set twenty percent of the State contracts to be granted to small businesses.

SPO is currently in the process of a “stakeholder vetting period” where a comprehensive survey has already been sent out, asking how stakeholders felt about and what would be needed from a small business program, and possibly a small business office for implementation. SPO is also engaging in discussions with interested agencies and departments, including this Board for input. The SPO acknowledges this is a very large undertaking, and it will take time for developing new administrative rules to implement their small business set-aside statute.

Mr. Richey asked for more detailed explanation of this Board’s “Small Business Bill of Rights.” It was explained that the “Bill of Rights” began in the legislature; however, it was never codified and remains a Sessions Law outside of the Hawaii Revised Statutes. The final product of the “Bill of Rights” was an attempt to incorporate items already in the statutes and not create law or a cause of action, but for a small business to refer to it as a quick

reference. Mr. Kasper noted that the rights under the “Bill of Rights” are straight-forward, clear and fair to the State’s citizens and businesses.

Ms. Robyn Pfahl, Procurement Specialist, explained that there is no actual set agenda yet and discussions of a possible small business office to implement multiple small business needs of the State would provide the SPO with subject matter expertise and protect against agency conflicts of interests. SPO’s present agenda is to fulfill its statutory mandate which is to create current rules for the set-aside/preference program. A small business office would not be able to be placed at SPO because it would cause a conflict of interest. The administrative rules, responsibilities of a small business office, or even the definition of “small business” have yet to be defined. In response to questions posed by Ms. Shannon Alivado from the General Contractors of Association of Hawaii, it was stated that the twenty-percent set-aside could change with a new executive order, and a small business office is a separate issue from the SPO’s small business set aside preference program, only being discussed as the SPO is looking for what resources would be necessary for new rule implementation.

Mr. Richey noted that there are currently twelve states that have a “set-aside” program; nine of the states have a small business or minority small business office that works on the certification process. Presently, there is no tracking of Hawaii’s small businesses that are registered at DCCA. Thus, one of SPO’s initiatives is to create a way to identify the existing small businesses in Hawaii. Another SPO initiative of upgrading their e-procurement system may be another resource to pull data from; however, small businesses would need to be registered with the State for this system to work. Overall, it was acknowledged that the task at hand and the expected work involved in this project is huge. Chair Borge offered SPO any assistance this Board may be able to provide.

- a. Reviewing the Possibility of Amending the Board’s Statute, Chapter 201M, Hawaii Revised Statutes (HRS)

Chair Borge explained that during this past legislative session, one of the legislators asked if this Board wanted to make any changes to its statute. Statutorily, this Board is advisory with the statute governing, among other things, how this board is appointed. He asked the members to consider if they would like to amend any parts of the statute in order to enhance or improve upon the Board’s purview.

- b. Game-plan for 2016 Legislative Session, in accordance with Chapter 201M, HRS

Chair Borge suggested that members begin to think about proposing a “budget” bill for this Board prior to the 2016 legislative session as it is important that this Board have a budget and clerical assistance for projects such as RegAlert and help with the Board’s communications. Members should begin establishing relationships with State representatives, senators and the respective committee chairs once the time gets closer to the 2016 session. While the bill that proposed a budget for this Board will carry over from the 2015 session, it may need to be modified. Ms. Atmospera-Walch stated that an “in-house” legislative sponsor of the bill would be helpful; she suggested that DBEDT staff send the 2015 bill to the members.

- c. Board's On-going Outreach Efforts to Hawaii's Small Business Community, in accordance with Chapter 201M, HRS

This item is deferred until the next meeting.

- VI. NEXT MEETING** – The next meeting is scheduled for Wednesday, August 19, 2015, in Conference Room 436, 250 South Hotel Street, Honolulu, Hawaii, at 9:30 a.m.
- VII. ADJOURNMENT** – Mr. Ritchie made a motion to adjourn the meeting, and Ms. Atmospera-Walch seconded the motion; the meeting adjourned at 11:00 a.m.