

## Small Business Regulatory Review Board

### MINUTES OF REGULAR MEETING

March 16, 2016

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
- Harris Nakamoto
- Barbara Bennett
- Kyoko Kimura
- Robert Cundiff
- Nancy Atmospera-Walch
- Garth Yamanaka
- Mark Ritchie

**ABSENT MEMBERS:**

- Phillip Kasper

**STAFF:** DBEDT  
Dori Palcovich

Office of the Attorney General  
Margaret Ahn

### II. APPROVAL OF FEBRUARY 17, 2016 MINUTES

Mr. Ritchie made a motion to accept the February 17, 2016 minutes, as presented. Ms. Kimura seconded the motion, and the Board members unanimously agreed.

Chair Borge thanked all the members for attending the meeting today, especially the neighbor island members, as he is cognizant of the time needed to set aside for the monthly meetings; he noted that the small businesses also appreciate the members' time and participation.

### III. OLD BUSINESS

**A. Discussion and Action on the Small Business Statement After Public Hearing and Proposed Amendments to the following rules promulgated by DoTax:**

- a. HAR Title 18, Chapter 231, Income Tax Law

Mr. Jacob Herlitz, DoTax Administrative Rules Specialist, explained that changes to Chapter 231 will allow a business/taxpayer to request reconsideration for an assessment or a denial of a tax claim. The public hearing was held on January 6, 2016, where comments and requests were received from three individuals. As a result, DoTax made four changes to the initial proposed amendments; these changes are expected to be favorable to small businesses.

One change deleted the provision that allows the publication of additional requirements for requesting reconsideration. Another change modified the requirement that taxpayers pay 30% of the assessment amount as a precondition for reconsideration of the assessment with payment only required in situations where the statute of limitations for appeal has run out. A third change reflected DoTax clarifying exactly what constitutes “new evidence” for purposes of audit consideration, and the last change deleted provisions relating to the expedited appeals and dispute resolution program. Mr. Herlitz noted that there are a number of appeals on backlog, which is one reason for the proposed changes.

Discussion leader, Mr. Yamanaka made a motion to support the proposed amendments to go to the Governor for adoption. Mr. Ritchie seconded the motion, and the Board members unanimously agreed.

b. HAR Title 18, HAR Chapter 251, Rental Motor Vehicle, Tour Vehicle, and Car-Sharing Vehicle Surcharge Tax

Mr. Herlitz explained that the rule changes allow companies that qualify as “car-sharing” organizations to pay the rental motor vehicle surcharge tax at a rate levied per half-hour of rent rather than for an entire day. Mr. Ritchie noted that the amendments are business-friendly as it would essentially lower taxes. Based on comments and suggestions at the public hearing, DoTax made several changes to clarify examples and definitions, correct a computation error found in an example, and make housekeeping and cosmetic changes.

Chair Borge stated that, although at the public hearing a few tax-related organizations provided testimony, he questioned whether DoTax provided the proposed amendments to the organizations prior to the hearing. Mr. Herlitz responded that, while DoTax has done this in the past, he was unaware if these specific amendments were provided to the affected businesses. Thus, Chair Borge suggested that the stakeholders and various business chambers and organizations be provided with the proposed amendments prior to the public hearings for vetting purposes and recommendations.

Discussion leader, Mr. Yamanaka made a motion to support the proposed amendments to go to the Governor for adoption. Mr. Cundiff seconded the motion, and the Board members unanimously agreed.

#### **IV. LEGISLATIVE MATTERS**

A. Discussion, Status, and Action on Governor’s Message No. 525, “Submitting for Consideration and Confirmation to the Small Business Regulatory Review Board, Gubernatorial Nominee, Harris Nakamoto, for a term to expire June 30, 2019”

It was announced that Mr. Nakamoto’s nomination to this Board has been confirmed; congratulations to Vice Chair Nakamoto. He shared some of the questions asked of him by the legislators at the confirmation hearing; Chair Borge added that the legislators are attempting to find ways to self-fund this Board. Ms. Kimura’s nomination has also been recently announced and posted on the State’s Legislative website.

Chair Borge made a motion to amend the Board's March 16, 2016 Agenda to add "Governor Message 663 for consideration and confirmation of Gubernatorial Nominee, Kyoko Kimura," and the "Upcoming Governor Messages for Ms. Atmospera-Walch and Mr. Cundiff." Second Vice Chair Bennett seconded the motion, and the Board members unanimously agreed.

Chair Borge made a motion to support Governor Message 663 for Gubernatorial Nominee, Kyoko Kimura, and the Upcoming Governor Messages for Gubernatorial Nominees Nancy Atmospera-Walch and Robert Cundiff for consideration and confirmation to the Small Business Regulatory Review Board. Vice Chair Nakamoto seconded the motion, and the Board members unanimously agreed.

B. Discussion and Action on House Bill 774, HD1,SD1, "Relating to Small Business"

Chair Borge stated that clerical assistance will help with this Board's workload requirements. He explained that with the concurrence of House Representative Derek Kawakami and DBEDT Director Luis Salaveria, a \$50,000 line item was created within DBEDT's budget proposal to the legislature for this Board's use, which is expected to proceed throughout the remaining legislative process. He also stated that it would be helpful if members explain to their State legislators the needs of this Board.

**V. ADMINISTRATIVE MATTERS**

A. Discussion and Action on Draft "2016 Periodic Review; Evaluation Report," in accordance with Section 201M-7, HRS

Chair Borge deferred this item until the next meeting and asked the members to review the draft report for feedback and recommendations on how it may be improved upon.

B. Discussion and Action of this Board's Upcoming Advocacy Activities and Programs in accordance with the Board's "Powers" under Section 201M-5, HRS

Chair Borge announced that this Board was offered \$10,000 by DBEDT for Board purposes to be utilized during the remaining fiscal year-end June 30, 2016. Suggestions for these funds included updating the Board's website, conducting a small business conference, purchasing a new computer system for SBRRB staff, and using the funds for advocacy and awareness purposes. Vice Chair Nakamoto and Mr. Cundiff volunteered to recommend how the funds may be used, and will present their recommendations at the next meeting.

Mr. Yamanaka suggested that a link be connected to the Board's website so that businesses can click onto it for downloading the agenda. Mr. Ritchie also suggested that a link be connected for small businesses to "opt-in" to receive the Board's monthly meeting agenda. Second Vice Chair Bennett reminded the Board that its e-Newsletter was to be sent out on a regular basis.

Second Vice Chair Bennett's company, *For Kauai Magazine*, is the winner of the 2016 Small Business Administration State's Media & Journalism award. She believes that if it wasn't for her association and experience with this Board she would not have won this honored award; the next e-Newsletter will announce this honor. The awards ceremony will be held on May 6,

2016 at the Dole Cannery Pomaikai Ballrooms; Vice Chair Nakamoto, Mr. Ritchie, and Ms. Palcovich will be attending.

Ms. Atmospera-Walch is one of sixty alumni chosen from the University of Hawaii at Manoa, School of Nursing to be recognized for leadership, excellence and innovation on June 16, 2016; this honor will also be announced in the Board's next e-Newsletter.

Chair Borge received a letter of resignation from member Phillip Kasper, which is being forwarded to the Governor's Boards and Commissions Office.

- VI. NEXT MEETING** – The next meeting is scheduled for Wednesday, April 20, 2016, in Conference Room 436, 250 South Hotel Street, Honolulu, Hawaii, at 1:00 p.m.
- VII. ADJOURNMENT** – Vice Chair Nakamoto made a motion to adjourn the meeting and Mr. Cundiff seconded the motion; the meeting adjourned at 2:30 p.m.