

**Small Business Regulatory Review Board Meeting**

**April 20, 2023**

**10:00 a.m.**



## SMALL BUSINESS REGULATORY REVIEW BOARD

Department of Business, Economic Development & Tourism (DBEDT)  
No. 1 Capitol District Building, 250 S. Hotel Street, Fifth Floor, Honolulu, HI 96813  
Mailing Address: P.O. Box 2359, Honolulu, HI 96804  
Email: [dbedt.sbrrb.info@hawaii.gov](mailto:dbedt.sbrrb.info@hawaii.gov)  
Website: [sbrrb.hawaii.gov](http://sbrrb.hawaii.gov)

Tel: 808 798-0737

### AGENDA

**Thursday, April 20, 2023 ★ 10:00 a.m.**

**Leiopapa A Kamehameha Building – State Office Tower  
235 Beretania Street, Conference Room 405  
Honolulu, HI 96813**

**Josh Green, M.D.**  
*Governor*

**Chris J. Sadayasu**  
*DBEDT Director*

#### Members

Robert Cundiff  
*Chairperson  
O'ahu*

Mary Albitz  
*Vice Chairperson  
Maui*

Jonathan Shick  
*2nd Vice Chairperson  
O'ahu*

Dr. Nancy Atmospera-  
Walch  
*O'ahu*

William Lydgate  
*Kaua'i*

James (Kimo) Lee  
*Hawai'i*

Garth Yamanaka  
*Hawai'i*

Taryn Rodighiero  
*Kaua'i*

Sanford Morioka  
*O'ahu*

Tessa Gomes  
*O'ahu*

Mark Ritchie for  
Director, DBEDT  
*Voting Ex Officio*

As authorized under Act 220, Session Laws of Hawaii 2021 and Chapter 92-3.7 Hawaii Revised Statutes (HRS), the public can participate in the meeting either:

#### **A. By attending the in-person meeting at:**

**Leiopapa A Kamehameha Building – State Office Tower  
235 Beretania Street, Conference Room 405, Honolulu, HI 96813; or**

#### **B. Via Video-audio livestream or via Telephone - to join the Video-audio livestream meeting, go to:**

<https://us06web.zoom.us/j/88945374966?pwd=cDhqWEEzZGZHYmJLM05tMHU5Mm5HQOT09>

#### **C. To Join via Telephone: Dial 1-669-900-6833 with Meeting ID 883 5814 0200 Passcode 066739**

When the Chairperson asks for public testimony during the meeting, you may indicate that you want to provide oral testimony by using the raise hand function or, if calling in by telephone, entering \* and 9 on your phone keypad. When recognized by the Chairperson, you will be unmuted. If calling in by phone, you can unmute and mute yourself by pressing \* and 6 on your keypad.

Members of the public may also submit written testimony via e-mail to: [DBEDT.sbrrb.info@hawaii.gov](mailto:DBEDT.sbrrb.info@hawaii.gov) or mailed to SBRRB, No. 1 Capitol District Building, 250 S. Hotel Street, Room 506A, Honolulu, HI 96813, or P.O. Box 2359, Honolulu, HI 96804. All written testimony should be received no later than 4:30 p.m., Wednesday, April 19, 2023.

Copies of the Board Packet will be available on-line for review at: [Agendas & minutes – Small Business Regulatory Review Board \(hawaii.gov\)](#). An electronic draft of the minutes for this meeting will also be made available at the same location when completed.

The Board may go into Executive Session under Section 92-5 (a)(4), HRS to Consult with the Board's Attorney on Questions and Issues Concerning the Board's Powers, Duties, Immunities, Privileges and Liabilities.

#### **I. Call to Order**

#### **II. Approval of March 14, 2023 Meeting Minutes**

#### **IV. Legislative Matters**

- A. Discussion and Update of the following legislative matters:
  - 1. Governor’s Message 654 Submitted for Consideration for the Gubernatorial Nomination of Sanford Morioka to the Small Business Regulatory Review Board for a term to expire June 30, 2027
  - 2. Governor’s Message Submitted for Consideration for the Gubernatorial Nomination of Jennifer Salisbury to the Small Business Regulatory Review Board for a term to expire June 30, 2027
  - 3. Senate Bill 1196 SD1 HD1, Relating to Boards and Commissions – Clarifies that the authorization for board and commission holdover members to continue in office until a successor is nominated and appointed, but not beyond the end of the second regular legislative session following the expiration of the member’s term of office, takes precedence over all conflicting statutes concerning holdover members

#### **V. Administrative Matters**

- A. Updates on the Board’s Upcoming Advocacy Activities and Programs in accordance with the Board’s Powers under Section 201M-5, Hawaii Revised Statutes
  - 1. Board’s Budget Request
  - 2. Presentations to Industry Associations
  - 3. Staff’s Small Business Outreach
  - 4. Director Letters and Meetings with State Agencies and Counties

#### **VI. Next Meeting:** Thursday, May 18, 2023 at 10:00 a.m., held at Leiopapa A Kamehameha Building, 235 Beretania Street, Conference Room 405, Honolulu, HI 96813

#### **VII. Adjournment**

If you need an auxiliary aid/service or other accommodation due to a disability, contact Jet’aime Ariola at 808 587-0737 and [jetaime.k.ariola@hawaii.gov](mailto:jetaime.k.ariola@hawaii.gov) as soon as possible, preferably at least three (3) working days prior to the meeting. Requests made as early as possible have a greater likelihood of being fulfilled.

Upon request, this notice is available in alternate/accessible formats.

## **II. Approval of March 14, 2023 Meeting Minutes**

## Small Business Regulatory Review Board

### MEETING MINUTES - **DRAFT**

March 14, 2023

- I. **CALL TO ORDER:** Chair Cundiff called the meeting to order at 10:02 a.m., with a quorum present.

**MEMBERS PRESENT:**

- Robert Cundiff, Chair
- Mary Albitz, Vice Chair
- Jonathan Shick, 2<sup>nd</sup> Vice Chair
- Garth Yamanaka
- James (Kimo) Lee
- Taryn Rodighiero
- Tessa Gomes
- Sanford Morioka
- Mark Ritchie

**ABSENT MEMBERS:**

- Dr. Nancy Atmospera-Walsh
- William Lydgate

**STAFF:** DBEDT

Dori Palcovich  
Jet'aime Ariola

Office of the Attorney General

Alison Kato

II. **APPROVAL OF January 19, 2023 MINUTES**

Vice Chair Albitz motioned to accept the January 19, 2023 meeting minutes, as presented. Mr. Lee seconded the motion, and the Board members unanimously agreed.

III. **OLD BUSINESS** – After Public Hearing

- A. Discussion and Action on the Small Business Statement After Public Hearing and the Proposed Amendments to HAR Title 11 Chapter 55, Water Pollution Control, as follows, promulgated by DOH
- a. Appendix C – Discharges of Storm Water Associated with Construction Activities
  - b. Appendix J – Occasional or Unintentional Discharges from Recycle Water Systems
  - c. Appendix L – Discharges of Circulation Water from Decorative Ponds or Tanks

Discussion leader Mr. Morioka previously reviewed the proposed rule amendments with Mr. Darryl Lum, Engineering Section Supervisor at DOH's Clean Water Branch, and based on their discussion, the rules appear not to have an impact on small business.

Mr. Lum explained that the rule changes are for the National Pollutant Discharge Elimination System (NPDES) permits. These permits are required because the Clean Water Branch's mission is to protect the public's health for everyone who uses state waters and to protect and restore the state waters for marine life and wildlife.

Thus, one of the tools to carry out this mission is the NPDES permits, which is a federal permitting system that DOH administers. The purpose of the permits is to impose legally binding water pollution control requirements on a discharger to minimize the impact on state waters and to ensure that the state's water quality standards and applicable federal requirements are not violated.

There are a total of 11 appendices in Chapter 55 that have been in existence since the 1990's with the exception of one appendix that was issued in 2013. The subject three general permits (Appendices C, J, and L) will expire on February 8, 2024, and in order to utilize these general permits, they must be readopted and reissued; therefore, it is essential that these rule amendments move forward.

Mr. Lum has concurred that the proposed rule changes would not adversely impact small businesses. An early stakeholder outreach was performed in February 2023 with approximately 1,800 emails sent out. In total, only 6 substantive comments were submitted to DOH, 3 from government agencies and 3 from small business consultants; none of the comments/recommendations changed the subject rules.

Mr. Morioka thanked Mr. Lum for the detailed information that was provided today as it tremendously helps to understand the issues regarding any impact on small businesses. Second Vice Chair Shick concurred, stating that because of the extensive outreach, there may likely be very little, if any, concerns during the public hearing.

Second Vice Chair Shick motioned to move the proposed rules to public hearing. Ms. Rodighiero seconded the motion, and the Board members unanimously agreed.

#### **IV. LEGISLATIVE Matters**

- A. Review of House Bill 511, Related to the Small Business Regulatory Review Board – for appropriation for staffing, commissioner inter-island travel, and other related operating expenses associated with the small business regulatory review board under the Department of Business, Economic Development and Tourism

Chair Cundiff stated that this bill was introduced by House Representative Gene Ward. The bill unfortunately died due to it not being scheduled for a hearing, but that does not impact the Board's current allotted budget with DBEDT. However, because the bill is "on the radar," it may help with next year's legislative session.

B. Discussion and Action on the Upcoming Governor's Message Submitted for Consideration for the Gubernatorial Nomination of Sanford Morioka to the Small Business Regulatory Review Board for a term to expire June 30, 2027

Mr. Lee motioned to provide testimony in support of Mr. Morioka's upcoming nomination to the Small Business Regulatory Review Board. Vice Chair Shick seconded the motion, Mr. Morioka abstained, and the remaining Board members agreed.

C. Discussion and Action on the Upcoming Governor's Message Submitted for Consideration for the Gubernatorial Nomination of Jennifer Salisbury to the Small Business Regulatory Review Board for a term to expire June 30, 2027

Vice Chair Albitz referred Ms. Jennifer Salisbury, PhD, as a member to this Board, stating that they have known each other for six to seven years. Ms. Salisbury is very ethical, very smart and is very interested in contributing to this Board; her business is largely in real estate developing. Written testimony in support of Ms. Salisbury from Maui Chamber of Commerce was submitted and reviewed by the members.

Vice Chair Albitz motioned to provide testimony in support of Ms. Salisbury's expected upcoming nomination to the Small Business Regulatory Review Board. Ms. Rodighiero seconded the motion, and the Board members unanimously agreed.

**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

Chair Cundiff reminded the members of the Board's goals discussed at the January 2023 board meeting. To date, over 40 letters were sent out to Hawaii chambers and trade associations. Presentations are scheduled with the Maui Liquor Commission in March and the Chinese Chamber of Commerce in April.

Vice Chair Albitz will also be doing a presentation for the Maui Chamber of Commerce's radio show on March 28<sup>th</sup>. In addition, last week, Vice Chair Albitz and DBEDT's Ms. Ariola did a virtual presentation to the Maui Economic Development Board, which went well.

Correspondence to the state directors is drafted and on schedule but waiting for all the directors to be confirmed by the Senate. Chair Cundiff suggested that we begin scheduling with those directors who have been preliminarily confirmed by the Senate.

Ms. Palcovich noted that she and Ms. Ariola will be meeting soon with DBEDT's Deputy Director Mr. Dane Wicker to discuss the Board's goals and monthly benchmarks. Chair Cundiff added that he met with DBEDT's Director Mr. Chris Sadayasu who is very supportive of this Board and Hawaii small businesses. Also noted was that Ms. Ariola has been performing outreach two days a week by venturing out into the communities where there are many small businesses to meet; recently she ventured into the Kapolei and Ewa Beach areas.

- VI. NEXT MEETING** - Thursday, April 20, 2023 at 10:00 a.m. in conference room 405 at Leiopapa A Kamehameha Building – State Office Tower – 235 Beretania Street, Honolulu, HI 96813.
- VII. ADJOURNMENT** – Mr. Morioka motioned to adjourn the meeting and Mr. Lee seconded the motion; the meeting adjourned at 10:50 a.m.

DRAFT

## **IV. LEGISLATIVE MATTERS**

### **A. Discussion and Update of the following legislative matters:**

- 1. Governor's Message 654 Submitted for Consideration for the Gubernatorial Nomination of Sanford Morioka to the Small Business Regulatory Review Board for a term to expire June 30, 2027**
- 2. Governor's Message Submitted for Consideration for the Gubernatorial Nomination of Jennifer Salisbury to the Small Business Regulatory Review Board for a term to expire June 30, 2027**
- 3. Senate Bill 1196 SD1 HD1, Relating to Boards and Commissions**



**Measure Title:** Submitting for consideration and confirmation to the Small Business Regulatory Review Board, Gubernatorial Nominee, SANFORD MORIOKA, for a term to expire 06-30-2027.

**Report Title:** Small Business Regulatory Review Board

**Description:**

**Companion:**

**Package:**

**Current Referral:** EET

**Introducer(s):**

<a href="#">Sort by Date</a>	Status Text
4/10/2023	S The committee(s) on EET has scheduled a public hearing on 04-13-23 1:00PM; Conference Room 229 & Videoconference.
3/30/2023	S Referred to EET.
3/30/2023	S Received.

**S** = Senate | **H** = House | **D** = Data Systems | **\$** = Appropriation measure | **ConAm** = Constitutional Amendment

Some of the above items require Adobe Acrobat Reader. Please visit [Adobe's download page](#) for detailed instructions.



**Measure Title:** RELATING TO BOARDS AND COMMISSIONS.

**Report Title:** Boards; Commissions; Holdover Member; Limitation

**Description:** Clarifies that the authorization for board and commission holdover members to continue in office until a successor is nominated and appointed, but not beyond the end of the second regular legislative session following the expiration of the member's term of office, takes precedence over all conflicting statutes concerning holdover members. Effective 6/30/3000. (HD1)

**Companion:** [HB545](#)

**Package:** None

**Current Referral:** LGO, JHA

**Introducer(s):** KIM, CHANG, DELA CRUZ, KEITH-AGARAN, KEOHOKALOLE, MORIWAKI, WAKAI, Ihara

<a href="#">Sort by Date</a>	Status Text
4/4/2023	H Received notice of disagreement (Sen. Com. No. 557).
4/4/2023	S Senate disagrees with House amendments.
4/4/2023	S Received from House (Hse. Com. No. 566).
4/3/2023	H Passed Third Reading with none voting aye with reservations; none voting no (0) and Representative(s) Aiu, Cochran, Nishimoto excused (3). Transmitted to Senate.
4/3/2023	H Reported from JHA (Stand. Com. Rep. No. 1873), recommending passage on Third Reading.
3/29/2023	H The committee on JHA recommend that the measure be PASSED, UNAMENDED. The votes were as follows: 8 Ayes: Representative(s) Tarnas, Takayama, Ganaden, Hashimoto, Ichiyama, Kong, Mizuno, Souza; Ayes with reservations: none; Noes: none; and 2 Excused: Representative(s) Holt, Ilagan.
3/24/2023	H Bill scheduled to be heard by JHA on Wednesday, 03-29-23 2:00PM in House conference room 325 VIA VIDEOCONFERENCE.
3/24/2023	H Passed Second Reading as amended in HD 1 and referred to the committee(s) on JHA with none voting aye with reservations; none voting no (0) and Representative(s) Ilagan excused (1).
3/24/2023	H Reported from LGO (Stand. Com. Rep. No. 1553) as amended in HD 1, recommending passage on Second Reading and referral to JHA.
3/23/2023	H The committee on LGO recommend that the measure be PASSED, WITH AMENDMENTS. The votes were as follows: 5 Ayes: Representative(s) Matayoshi, Garrett, Kapela, Sayama, Alcos; Ayes with reservations: none; Noes: none; and 2 Excused: Representative(s) Martinez, Tam.
3/20/2023	H Bill scheduled to be heard by LGO on Thursday, 03-23-23 9:30AM in House conference room 309 VIA VIDEOCONFERENCE.
3/9/2023	H Referred to LGO, JHA, referral sheet 17
3/9/2023	H Pass First Reading
3/7/2023	H Received from Senate (Sen. Com. No. 383) in amended form (SD 1).

3/7/2023	S	Report adopted; Passed Third Reading. Ayes, 24; Aye(s) with reservations: none . Noes, 0 (none). Excused, 1 (Senator(s) Fukunaga). Transmitted to House.
3/3/2023	S	One Day Notice 03-07-23.
3/3/2023	S	Reported from JDC (Stand. Com. Rep. No. 843) with recommendation of passage on Third Reading.
3/1/2023	S	The committee(s) on JDC recommend(s) that the measure be PASSED, UNAMENDED. The votes in JDC were as follows: 4 Aye(s): Senator(s) Rhoads, Gabbard, Elefante, San Buenaventura; Aye(s) with reservations: none ; 0 No(es): none; and 1 Excused: Senator(s) Awa.
2/24/2023	S	The committee(s) on JDC will hold a public decision making on 03-01-23 9:30AM; Conference Room 016 & Videoconference.
2/15/2023	S	Report adopted; Passed Second Reading, as amended (SD 1) and referred to JDC.
2/15/2023	S	Reported from GVO (Stand. Com. Rep. No. 329) with recommendation of passage on Second Reading, as amended (SD 1) and referral to JDC.
2/9/2023	S	The committee(s) on GVO recommend(s) that the measure be PASSED, WITH AMENDMENTS. The votes in GVO were as follows: 4 Aye(s): Senator(s) McKelvey, Gabbard, Wakai, Awa; Aye(s) with reservations: none ; 0 No(es): none; and 1 Excused: Senator(s) San Buenaventura.
2/3/2023	S	The committee(s) on GVO has scheduled a public hearing on 02-09-23 3:00PM; Conference Room 225 & Videoconference.
1/27/2023	S	Referred to GVO, JDC.
1/25/2023	S	Passed First Reading.
1/25/2023	S	Introduced.

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**SB1196 SD1 HD1**

## **V. Administrative Matters**

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

1. Board's Budget Request
2. Presentations to Industry Associations
3. Staff's Small Business Outreach
4. Director Letters and Meetings with State Agencies and Counties