

## Small Business Regulatory Review Board

### MEETING MINUTES - **DRAFT** December 12, 2024

- I. **CALL TO ORDER:** Chair Shick called the meeting to order at 10:05 a.m., with a quorum present.

**MEMBERS PRESENT:**

- Jonathan Shick, Chair
- Mary Albitz, Vice Chair
- Robert Cundiff
- Garth Yamanaka
- James (Kimo) Lee
- Nikki Ige
- Dr. Jennifer Salisbury
- Mark Ritchie

**ABSENT MEMBERS:**

- Sanford Morioka, 2<sup>nd</sup>  
Vice Chair
- Tessa Gomes

**STAFF:** DBEDT

Jet'aime Ariola  
Dori Palcovich

Office of the Attorney General

Alison Kato

II. **APPROVAL OF November 21, 2024 MINUTES**

Vice Chair Albitz motioned to approve the November 21, 2024 meeting minutes, as presented. Mr. Cundiff 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 HAR Title 13 Chapter 325 General Provisions and 326 Control and Eradication of Invasive Species, promulgated by Department of Land and Natural Resources (DLNR)

Ms. Chelsea Arnott, Program Supervisor from DLNR's Hawaii Invasive Species Council (HISC) provided a short history of the proposed rules and explained that the rule proposal allows HISC, after notice to departments, counties or agents, to access private property to control or eradicate invasive species identified by the HISC.

The hybrid statewide public hearing was held on September 25, 2024; subsequently, HISC proposed to adopt the proposed rules with recommendations. A total of 8 oral testimonies and 7 written testimonies were received at the hearing; 3 people provided oral testimony in person and 5 provided oral testimony on-line via Zoom.

All testimonies were in support of the proposed rules, with the exception of one testifier who did not identify either support or opposition. Two individuals suggested changes to the list of species identified by the Council for control or eradication; as a result, removal of 3 of the listed species was proposed. The final changes also include minor non-substantive edits suggested by the Governor's Office for clarity.

Mr. Nate Dube, Manager with the Oahu Invasive Species Committee, testified that the proposed rules are very important to the State for both eradicating and controlling various invasive species. In response to the Board's questions, Ms. Arnott concurred that there are no notable adverse effects to small business; instead, the proposed changes ultimately support small businesses. Also noted was that the rules do not address deportation of invasive species.

Mr. Ritchie motioned to pass the rules on to the Governor for adoption. Mr. Cundiff 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 HAR Title 18 Chapter 235 Income Tax Low Subchapter 3 Individual Tax Law, promulgated by Department of Taxation (DoTax)

Administrative Rules Specialist Mr. Garison Kurth explained that two people attended the public hearing, which was held on November 19, 2024; there were no written comments. One testifier inquired about tax form HW-4 and was advised that changes to this form will be made after the final rule amendments are adopted.

As stated by discussion leader Mr. Yamanaka, the proposed rules are straight-forward and intended to lessen the amount of refunds at the end of the tax year. Based on the current wording of the rules, DoTax will need to come before this Board each year with the appropriate proposed tax changes.

Ms. Ige motioned to pass the rules on to the Governor for adoption. Dr. Salisbury 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 HAR Title 11 Chapter 280.1, Underground Storage Tanks, promulgated by Department of Health (DOH)

Discussion leader and Vice Chair Albitz noted that there were no small business comments made at the public hearing; she introduced DOH Planner Ms. Noa Klein to discuss what occurred at the recent public hearing.

Ms. Klein explained that small businesses had an opportunity to comment on the revisions from April 1 to May 1, 2024, and at the September 12, 2024 public hearing. However, no recommendations from small businesses were received or incorporated into the proposed rules. Eleven people attended the public hearing; 2 testified and 2 provided written comments.

The subject rules regulate the installation and operation of underground storage tank systems (UST) and the cleanup of releases from the UST systems. Tank system owners and operators are required to clean-up releases and remediate contaminated soil, groundwater, and surface water to a level that is protective of human health and the environment.

Specifically, the major proposed rule changes include two new contaminants and clarifies non-substantive changes that pertain to release detection methods for piping of certain UST systems.

Ms. Klein noted that most UST system sites are gasoline service stations, but the subject chapter also regulates other types of UST systems, including systems storing fuel for emergency generators at sites such as hospitals, airport hydrant systems that dispense jet fuel, and large field-constructed tank systems. In response to an inquiry about the rule's impact on businesses, Ms. Klein stated that the rules should not impact small businesses but may impact gas stations if there is an underground contaminated release.

Chair Shick motioned to pass the rules on to the Governor for adoption. Vice Chair Albitz seconded the motion, and the Board members unanimously agreed.

#### **IV. ADMINISTRATIVE MATTERS**

##### **A. Update on the Board's Upcoming Advocacy Activities and Programs in accordance with the Board's Powers under Section 201M-5, Hawaii Revised Statutes (HRS)**

- 1. Discussion on the Business Revitalization Taskforce's December 10, 2024 meeting pursuant to Act 142 (Sessions Law Hawaii 2024, Senate Bill 2974 Relating to Economic Development, and Tourism establish a task force in order to identify methods to improve Hawaii's general economic competitiveness and business climate, including the mitigations of regulatory tax burdens**

Mr. Yamanaka, this Board's taskforce representative, attended the first meeting held on December 10, 2024 where members were introduced. Mr. Dennis Lin, Deputy Director of Research and Development at the County of Hawaii, was voted in as the Chair of the task force. Ms. Sherry Menor-McNamara, President of Hawaii Chamber of Commerce, was voted in as the Vice Chair.

The taskforce's course of action will be to create different committees that will work on specific topics with the hopes of avoiding any overlap or duplicity so that all members will be able to work in unison. The next meeting has not yet been scheduled.

2. Review and Update of Board’s “Discussion Leader Assignments” for the State and County Agencies’ Hawaii Administrative Rules

Ms. Ige motioned to update and adopt the Board’s discussion leader assignments as outlined below. Vice Chair Albitz seconded the motion, and the Board members unanimously agreed.

Board’s Updated Discussion Leader Assignments

Department of Defense – Dr. Salisbury / Back-up – Mr. Ritchie  
County of Maui – Dr. Salisbury / Back-up – Vice Chair Albitz  
County of Kauai – Nikki Ige / Back-up – Chair Jonathan Shick  
Department of Education – Mr. Cundiff / Back-up – Dr. Salisbury  
Department of Human Resources Development – Sanford Morioka /  
Back-up – Dr. Salisbury  
Department of Land & Natural Resources – Jonathan Shick /  
Back-up – Dr. Salisbury

3. Review of the Board’s 2023–2024 Strategic Goals and Discussion and Action on Upcoming 3 – 5 Year Plan

Board members reviewed the 2023-2024 strategic goals that Mr. Cundiff previously established. When the goals were created, the intent was to establish a roadmap for moving forward. Improvements to the initial goals include the Board’s new website and the increased outreach to the business community. Mr. Cundiff added that there is a need to continue working with the industries as well as setting up meetings with agency heads.

It was agreed that holding a board meeting in 2025 on a neighbor island would be ideal as an upcoming goal. Ms. Ariola added that targeting a neighbor island location that has the same technology capabilities the Board is currently using, and that is physically open to the public, would be ideal. Chair Shick suggested that members Vice Chair Albitz and Dr. Salisbury take the lead on this and coordinate finding an appropriate venue in Maui for an upcoming meeting. It was noted that UH Maui has several tech classes that would be conducive for the board’s meeting.

Ms. Ige questioned how this Board measures its effectiveness as it relates to strategy. Although the Board, as a business advocate, reviews and questions the impact of rules from a small business perspective, she enquired as to how often small businesses approach this Board and request assistance. 2:14

Ms. Ariola responded to Ms. Ige’s concerns by reminding the Board that, in the past, small businesses, i.e., manta ray tourist owners and Uber and Lift drivers, approached this Board because they needed the Board’s assistance with state department of transportation rules. She added that it is a matter of small businesses approaching this Board with rule concerns versus this Board approaching the small businesses when the need arises.

Chair Shick stated that although there is a statutory ability for small businesses to come before this Board with regulatory issues and concerns, it has been minimal. However, it is this Board's responsibility to understand what rights and what tools the Hawaii small businesses have and how to utilize this Board when appropriate situations arise.

Mr. Cundiff noted that because this Board is advisory and only covers rules and regulations by state and county agencies, it is difficult to place metrics around performance. Further, the Board's "regulation for review" is a good mechanism where small business owners have an ability to bring regulatory concerns to the Board directly through its current, updated website which now offers an easy format to utilize.

Vice Chair Albitz added that she has done a lot of presentations on the various islands. However, because the Board only covers rules, there are limitations as the Board is unable to help businesses with regulations that are either a statute or an ordinance.

Mr. Ritchie stated that tapping into the business trade agencies can be very effective because of the large number of businesses that make up these agencies. Ms. Ariola reminded the members that there is a letter from this Board to the chambers and trade associations that is updated, emailed and post-mailed each year in January.

DBEDT staff will update the existing strategic plan for 2025 – 2026 with the information that was discussed today.

4. Update and Discussion on Becker Communications, Inc., regarding the Board's Small Business Outreach

Ms. Ariola stated that Becker Communications has been doing an exceptionally good job since it took over the full range of this Board's social media communications. Becker revamped the Board's Facebook, Twitter and Instagram accounts, and every month, DBEDT's monthly newsletter is linked to this Board's website.

Ms. Ariola announced that Becker is still waiting for the following bios to include in its social media communications: Ms. Gomes

5. Presentations to Industry Associations

Chair Shick will be co-chairing the student ambassador and scholarship committee for the Construction Management Association. Although he is unsure as to what possible opportunities may arise for this Board, he will find out as he is attending the first committee meeting being held today.

6. Staff's Small Business Outreach

There are no updates since the November meeting.

Ms. Ariola suggested that for the upcoming board meetings in 2025, which will now be held at the Capitol Modern Building in conference room 436, to please use the Ewa wing elevator (right-side) due to the building's management locking the Diamond Head wing elevator.

- V. **NEXT MEETING** – Thursday, January 16, 2025 at 10:00 a.m., via Zoom and in Conference room 436 at Capitol Modern Building, 250 S. Hotel Street, Honolulu, HI 96813.
- VI. **ADJOURNMENT** – Vice Chair Albitz motioned to adjourn the meeting and Ms. Ige seconded the motion; the meeting adjourned at 11:25 a.m.

DRAFT