

## Small Business Regulatory Review Board

### MEETING MINUTES February 17, 2022

- I. **CALL TO ORDER:** Chair Cundiff called the meeting to order at 10:05 a.m., with a quorum present, which was open to the public.

**MEMBERS PRESENT:**

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

**ABSENT MEMBERS:**

- Dr. Nancy Atmospera-Walch

**STAFF: DBEDT**

Dori Palcovich  
Jet'aime Ariola

**Office of the Attorney General**

Alison Kato

### II. APPROVAL OF January 20, 2022 MINUTES

Vice Chair Albitz motioned to accept the January 20, 2022 meeting minutes, as presented. Second Vice Chair Shick seconded the motion, and the Board members unanimously agreed.

### III. NEW BUSINESS – Before Public Hearing

- A. Discussion and Action on Proposed New Hawaii Administrative Rules (HAR) to Title 12 Chapter 43, Rules of Practice and Procedure Before the Hawaii Labor Relations Board, promulgated by Hawaii Labor Relations Board, Department of Labor and Industrial Relations (DLIR)

Discussion leader and Vice Chair Albitz explained that the Hawaii Labor Relations Board (HLRB) is submitting proposed Chapter 43 which streamlines the practice and procedures that are currently in Chapters 41 and 42. There does not appear to be anything that adversely impacts small business; in fact, small businesses will benefit from the procedures such as the self-representing processes.

Mr. Marcus Oshiro, Chairperson of HLRB introduced some of his HLRB colleagues in the event specific information may be asked by this Board. He explained the background of HLRB and that it is administratively attached and operates independently from DLIR and the executive and legislative branches.

HLRB is a quasi-judicial three-member body and functions as an appellate board; the HLRB adjudicates complaints between public employers, unions and employees involving prohibited practices. The current rules in chapter 41 and 42 have not been amended since 1981 and 1983, respectively.

In 2002, the Hawaii legislature transferred cases from Hawaii Occupational, Safety and Health (HIOSH) under Chapter 396 from the Labor and Industrial Appeals Board to HLRB; however, the legislature did not direct the promulgation of any rules. Since that time, HLRB has reviewed hundreds of HIOSH cases under the existing Chapters 41 and 42. Thus, the main purpose of proposed Chapter 43 is to streamline the procedure of contested case hearings in front of HLRB by incorporating Chapters 41 and 42 which has been an on-going process over the past several years.

Mr. Oshiro also explained that there is no apparent small business impact based on the proposed rules nor are there any imposed fees or indirect costs that would impact small businesses.

Vice Chair Albitz noted that she was impressed with HLRB's stakeholder outreach efforts where numerous organizations were contacted. Chair Cundiff echoed Vice Chair Albitz's comments and commended Mr. Oshiro's due diligence for attending prior meetings of this Board as well as the level of outreach into the community to the stakeholders for input, which was very extensive. These actions clearly allow for a much smoother and easier process.

In response to Mr. Ritchie's question regarding the expressed positive impact on small businesses, HLRB member Ms. Sesnita Moepono, explained that HLRB created an electronic filing system in the proposed rules that come before HLRB, which is free to all the parties. The system allows individuals, attorneys and small businesses to maneuver a file on-line anywhere in the world and retrieve all of the filings connected to the initial filing anywhere in the world as long as Internet is service accessible.

In addition, Ms. Moepono, explained that all the processes for the self-contested case hearings were combined into one chapter; this process has proven to be easier to refer to one set of rules rather than two separate chapters.

Vice Chair Albitz motioned to send the proposed new chapter to public hearing. Mr. Ritchie seconded the motion, and the Board members unanimously agreed.

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

A. Update on the Board's Proposed Phase II Website Project

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

**V. LEGISLATIVE MATTERS**

- A. Discussion and Action on the Upcoming Governor's Message Submitted for Consideration for the Gubernatorial Nomination of William Lydgate to the Small Business Regulatory Review Board to expire June 30, 2026

Vice Chair Albitz motioned to nominate and provide testimony in support of Mr. Lydgate's nomination to the Small Business Regulatory Review Board. Second Vice Chair Shick seconded the motion, and the Board members unanimously agreed.

**VI. NEXT MEETING** - Thursday, March 10, 2022 at 10:00 a.m.

**VII. ADJOURNMENT** – Vice Chair Albitz made a motion to adjourn the meeting and Second Vice Chair Shick seconded the motion; the meeting adjourned at 10:40 a.m.