

Small Business Regulatory Review Board

MEETING MINUTES January 20, 2022

- I. **CALL TO ORDER:** Chair Cundiff called the meeting to order at 10:04 a.m., with a quorum present, which was open to the public.

MEMBERS PRESENT:

- Robert Cundiff, Chair
- Mary Albitz, Vice Chair
- Jonathan Shick, 2nd Vice Chair
- Garth Yamanaka
- Dr. Nancy Atmospera-Walch
- James (Kimo) Lee
- Taryn Rodighiero
- Mark Ritchie

ABSENT MEMBERS:

- William Lydgate

STAFF: DBEDT

Dori Palcovich
Jet'aime Ariola

Office of the Attorney General

Jennifer Waihee-Polk

II. APPROVAL OF December 9, 2021 MINUTES

Mr. Ritchie motioned to accept the December 9, 2021 meeting minutes, as amended, due to modifications to correct sub-section formatting in Section III. A. Vice Chair Albitz seconded the motion, and the Board members unanimously agreed.

III. NEW BUSINESS – Before Public Hearing

- A. Discussion and Action on Proposed Amendments to HAR Title 16 Chapter 116, Travel Agencies, promulgated by Department of Commerce and Consumer Affairs (DCCA)

Discussion leader Ms. Atmospera-Walch asked Ms. Sandra Matsushima, Executive Officer at DCCA’s Professional and Vocational Licensing Division, to brief the members on the subject proposal.

Ms. Matsushima explained that the rule changes include clarifying and formalizing current program practices, requiring a separate registration of a branch office, establishing a separate client trust account, adding a new section to allow a charter tour operator to hold a client trust account in a federally insured financial institution located out-of-state, and amendments to the fee schedule.

There were no concerns or questions from the public or from small businesses; and no adverse financial impacts are expected from the rule changes. Regarding the lack of backing of the trust accounts from local financial affiliates, Ms. Matsushima stated that this is an administrative issue that is connected to the regulatory requirements that local banks have been reluctant to assist with and manage.

Testifier Mr. Bill Smith, Vice President and General Manager of Vacations Hawaii, who submitted testimony in support of the rule changes, stated that his business has been in operation for 70 years. When the company first began doing charters, everything was fine. However, subsequently the Department of Transportation (DOT) has placed many more restrictions on charters. For example, for banks to be able to hold monies from the charter trips, they are required to receive passenger lists and release each form per passenger. Local banks simply do not have the ability to complete and manage the required regulatory reports; as such, it has become very difficult for local banks to work with the charters.

Mr. Smith added that previously an outside mainland service was hired to do the reporting and releasing of the charter reports to DOT, to the banks and to Vacations Hawaii but it has proven to be a lengthy, cumbersome process.

Ms. Atmospera-Walch motioned to move the proposed amendments forward to public hearing. Ms. Rodighiero seconded the motion, and the Board members unanimously agreed.

B. Discussion and Action on Proposed Amendments to HAR Title 16 Chapter 115, Professional Engineers, Architects, Surveyors, and Landscape Architects, promulgated by DCCA

Ms. Sandra Matsushima, Executive Officer at DCCA's Professional and Vocational Licensing Division, summarized the proposed amendments which include two new engineering practices for professional licenses; they are for environmental engineers and fire protection engineers. The amendments also include adding new sections to specify the certified educational requirements for architects pursuant to the statutes.

Ms. Matsushima added that the proposal is anticipated to have no adverse effects on businesses or to have any additional direct costs for businesses to bear. In addition, there was considerable support and a sense of urgency from small businesses for the changes to occur.

Both Chair Cundiff and Second Vice Chair Shick noted that it was very prudent to add environmental and fire protection engineers into the rules as it will likely open up opportunities for new small businesses to focus on specific disciplines.

Ms. Atmospera-Walsh motioned to move the proposed amendments forward to public hearing. Second Vice Chair Shick seconded the motion, and the Board members unanimously agreed.

IV. OLD BUSINESS – After Public Hearing

- A. Discussion and Action on the Small Business Statement After Public Hearing and Proposed Amendments to HAR Title 3 Chapter 40, Rules Governing Public Use of the Land Survey Division Maps, Descriptions, and Records, and Schedule of Fees for Services Maps, and Other Record Data, promulgated by Department of Accounting and General Services (DAGS)

Discussion leader Mr. Ritchie reminded the members that the pre-public hearing for the proposed rule amendments occurred last year, which included updating and cleaning up of the rules; there is one small business impact that raises the mail service fees from \$10 to \$15 per hour.

Mr. Meyer Cummins, Land Boundary Surveyor at DAGS, explained that no one showed up at the public hearing and no written comments were received. He noted that the small increase in the fees will not go back to DAGS’s internal funds but will go into the general funds. He also noted that DAGS attempts, as much as possible, to help mitigate the costs to the small business professionals.

Mr. Yamanaka surmised that increasing the fees in the rules may help prompt DAGS to review the fees on a more regular basis rather than waiting 20 to 30 years. Mr. Cummins appreciated Mr. Yamanaka’s suggestion and stated that a template has been created to help staff members in the future to move forward more easily with any fee changes.

Mr. Ritchie motioned to move the proposed rule amendments, after the public hearing, to the Governor for approval. Vice Chair Albitz seconded the motion, and the Board members unanimously agreed.

V. ADMINISTRATIVE MATTERS

- A. Discussion and Action on the Board’s Investigative Taskforce’s Resulting Findings Deliberation and Decision-Making” on the Proposed Phase II Website, in accordance with Section 92-2.5(b)(1)(C), Hawaii Revised Statutes (HRS)

Chair Cundiff motioned to accept the Board’s investigative taskforce’s resulting findings for deliberation and decision-making on the proposed Phase II website project from NIC Hawaii, and that Mr. Mark Ritchie represent the Board at a meeting held on February 3, 2022 with the Access Hawaii Committee; Second Vice Chair Shick seconded the motion, and the Board members unanimously agreed.

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

Chair Cundiff mentioned that due to the pandemic, DBEDT staff is performing more outreach on Facebook and other media venues in an attempt to drive businesses to the Board’s website.

It was requested that DBEDT staff re-send to the members the Agency/Discussion Leader Listing showing contact information and which agencies each board member is assigned to.

Chair Cundiff recognized Mr. Marcus Oshiro, Chairperson and Representative of the Public to the Hawaii Labor Relations Board (HLRB), during the meeting. Mr. Oshiro has been attending the Board meetings for observation and educational purposes due to HLRB presenting administrative rule changes at the February board meeting. Further, Mr. Oshiro has been extremely supportive of this Board's process, and he has done a great deal of outreach to the community.

VI. LEGISLATIVE MATTERS

- A. Discussion and Action on the Upcoming Governor's Message Submitted for Consideration for the Gubernatorial Nomination of James (Kimo) Lee to the Small Business Regulatory Review Board to expire June 30, 2024

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

VII. NEXT MEETING - Thursday, February 17, 2022 at 10:00 a.m.

VIII. ADJOURNMENT – Second Vice Chair Shick motioned to adjourn the meeting and Ms. Atmospera-Walch seconded the motion; the meeting adjourned at 10:57 a.m.