

Small Business Regulatory Review Board “Working Group”

MINUTES OF REGULAR MEETING

September 3, 2008

Conference Room 436 - No. 1 Capitol Building, Honolulu, HI

I. CALL TO ORDER: Ms. Palcovich called the meeting to order at 1:38 p.m., with a quorum present.

MEMBERS PRESENT:

- Sharon L. Pang
- David De Luz, Jr.
- Donald Dymond
- Tim Lyons
- Dale Evans
- Paul Yuen
- Dori Palcovich

ABSENT MEMBERS:

- Lynne Woods
- Kyle Yamashita
- Melissa Pavlicek

STAFF: DBEDT Office of the Attorney General
Steve Bretschneider Margaret Ahn
Angeline Aniya

II. INTRODUCTION OF MEMBERS: Ms. Palcovich started the meeting with a round table introduction of the members where each member introduced themselves and the companies/agencies they are associated with. Ms. Pang arrived during the members' introductions and assumed the leadership of the meeting, thereafter.

III. DISCUSSION AND RECOMMENDATION OF WORKING GROUP OFFICERS: To develop the organization of the working group officers, Ms. Pang brought to the floor the need for a Vice Chair. Ms. Palcovich recommended the nomination of Ms. Pang as Vice Chair; the members unanimously agreed. A discussion followed as to whether the working group would need a Second Vice Chair. Mr. De Luz stated that there was no need for a Second Vice Chair due to potential quorum problems.

IV. DISCUSSION AND RECOMMENDATION OF INVESTIGATIVE TASK FORCES: Vice Chair Pang explained that this group, on behalf of the Small Business Regulatory Review Board (SBRRB), is required to provide recommendations to Chapter 201M, HRS to the 2009 legislature. This recommendation will also be printed in the SBRRB's 2008 annual report due in December.

Mr. De Luz recommended that this group not create investigative task forces, and recommended that this group disseminate into two separate groups where one group review and make recommendations to section 201M-2 and the other group review and make recommendations to the remaining 201M, HRS; the members unanimously agreed. Additionally, both groups will consider if the small business bill of rights may be incorporated.

V. DISCUSSION OF HB2781 HD2 SD2 CD1, “RELATING TO SMALL BUSINESS”—ACT 230 and 201M, HRS: Vice Chair Pang initiated a round table discussion regarding Act 230, how this working group would work together in gathering information, what each members' interests are, and on which group each member could best contribute. Mr. Lyons mentioned problems with specific words and their application when the bill of rights was drafted; Mr. Dymond mentioned concern as to how the bill of rights can fit into the impact statement; Mr. De Luz mentioned concern on the application and the language in Act 230 and Chapter 201M, HRS; Mr. Yuen mentioned that there is no correct way to approach the matter; Ms. Evans discussed the difficulty of regulating business, expressed concern with the SBRRB's experience and perspective in understanding rules, requested a definition of the SBRRB's purpose and goals, relayed incidences regarding the transportation industry as related to the taxi business, and also noted specific issues and problems that had ensued but were never addressed. Ms. Ahn reminded the members that the working group is governed by Sunshine Law.

Upon much discussion, the following two groups were established: 201M-2 Group - consisting of Vice Chair Pang, Messrs. Lyons and De Luz, Ms. Palcovich, and Representative Yamashita, and 201M, HRS Group – consisting of Messrs. Dymond and Yuen, Ms. Evans, and Ms. Pavlicek. Vice Chair Pang explained that each group will meet separately, though in the same room, and will reconvene after a period of time and report back to the whole group.

The following comments were made when the two groups reconvened:

- 1) 201M-2 Group – Mr. De Luz reported that proposed draft language was inserted in Chapter 201M-2(a), stating that the agencies will need to be clear when a proposal affects small business and that it will be subject to the SBRRB’s review. Language is also proposed in 201M-2(b) and 201M-4(c), which is expected to strengthen the interaction with agencies and advisory groups when drafting administrative rules.
- 2) 201M, HRS Group – Mr. Dymond reported that this group looked at 201M-3, 201M-4 and 201M-5. It was discussed that in 201M-3, “Small business statement after public hearing,” if there are no changes to the rules after public hearing, then it may be prudent and expeditious to add language indicating there may be no need to submit the statement, or something to that effect. Mr. Yuen indicated that the bill of rights is currently un-codified language which means it will not appear in the Hawaii Revised Statutes. Because memory and knowledge of these rights may simply disappear after a year or two, it was recommended that the working group consider that the “bill of rights” be codified either in 201M, HRS or in another rule.

Vice Chair Pang noted that today’s discussions have been productive and useful, and further discussions for recommendations will ensue next month.

VI. ANNOUNCEMENTS: Nothing was reported.

VII. NEXT MEETING: Wednesday, October 1, 2008 at 1:30 p.m., 250 South Hotel Street, Honolulu, HI, Conference Room 436

VIII. ADJOURNMENT: Vice Chair Pang adjourned the meeting at 3:38 p.m.