

## **Small Business Regulatory Review Board**

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### **MINUTES OF REGULAR MEETING**

**August 18, 2010**

**Conference Room 410 - No. 1 Capitol District Building, Honolulu, Hawaii**

**I. CALL TO ORDER:** Chair Pang called the meeting to order at 10:30 a.m. with a quorum present.

**MEMBERS PRESENT:**

- Charles Au
- Bruce Bucky
- David De Luz Jr.
- Dorvin Leis
- Sharon Pang
- Richard Schnitzler
- Peter Yukimura

**ABSENT MEMBER:** None

**STAFF:**

DBEDT

Milton Kwock

Office of the Attorney General

Margaret Ahn

**II. APPROVAL OF July 21, 2010 MINUTES**

Mr. Bucky made a motion to accept the July 21, 2010 minutes as circulated. Mr. De Luz seconded the motion and the Board members unanimously affirmed the motion.

**III. OLD BUSINESS**

**A. Strategic Planning**

Suggestion was made by Chair Pang to hold off on working on any strategic planning meeting until the Governor appoints new Board members.

**B. Nomination to fill Board Vacancy**

The Board reviewed application and resume submitted by Kathy Foxwell. Ms. Foxwell's application was forwarded to the Board to fill the vacancy to represent Maui County.

Board members noted Ms. Foxwell's experience in the hospitality industry as well as her current experience in real estate sales.

Mr. Au offered a motion that the Chair send a letter of appreciation to Ms. Foxwell and to encourage her to reapply when she gained more experience as a business owner. Mr. Bucky seconded the motion and the Board unanimously agreed to the motion.

**IV. NEW BUSINESS**

**A. Review and discussion of proposed amendments to Chapter 16-110, HAR, "Relating to Physical Therapy" (DCCA)**

Ms. Lee Ann Teshima, Executive Officer of the Board of Physical Therapy gave a brief overview of the proposed amendments. According to Ms. Teshima, the amendments were drafted with broad input from industry and would align Hawaii with 45 other states. In brief, the proposed amendments would provide for timely and improved access to physical therapists and allow for shorter visits.

Mr. De Luz made a motion to send a memo to the Governor in support of sending the proposed amendments to public hearings and unless there were any changes to the proposed amendments, as submitted to the Board, that DCCA need not return to the SBRRB after the public hearings. Mr. Leis seconded the motion and the Board unanimously agreed to the motion.

**B. Review and discussion of proposed amendments to Chapter 3-185, HAR, "State Residential Code" (DAGS)**

Mr. Kerry Yoneshige, DAGS Business Management Officer, summarized the proposed amendments, which will provide for statewide adoption of model building codes. Adoption of the proposed amendments will standardize building codes statewide. The amendments focus on public safety and energy conservation and are based on International Code Council guidelines. The Building Code Council develops but does not implement or enforce building codes.

The department engaged key stakeholders in the building industry while developing the proposed amendments. No new licensing requirements will be generated for general contractors or subcontractors. The Building Code Council has a program that will inform and educate businesses as to the amendments proposed. Each county will have two years to adopt the Code with their own amendments.

A motion was made by Mr. Leis to send a memo to the Governor in support of sending the proposed amendments to public hearing. Mr. Au seconded the motion and the Board unanimously agreed to the motion.

**C. Review and discussion of proposed new rules on "Apprenticeship" (DAGS)**

Mr. Yoneshige summarized the new proposed rules for apprenticeship programs. The proposed rules implement Act 17 passed by the 2009 Legislature. The rules impact public works contracts of \$250,000 or more. There will be a 5% preference for bidders that have a registered apprenticeship program recognized by the State Department of Labor & Industrial Relations (DLIR). Once a business is awarded a contract, there will be a monthly certification to insure that the apprenticeship program is still in effect. Bids submitted by businesses with DLIR-recognized apprenticeship programs would reflect a 5% discount for evaluation purposes only. The rules would not affect the contract amount of the winning bidder.

The Board questioned whether small business would qualify for the 5% preference if they hired employees trained under apprenticeship programs administered by trade unions, General Contractors Association, ABC, or community colleges, rather than creating their own program.

The Board questioned what qualifies as an apprenticeship program and how accessible are apprenticeship programs to small businesses.

The Board recommended postponing a decision on the proposed new rules and asked DAGS to provide more information and to return with a representative from DLIR.

**D. Review and discussion of proposed amendments to Chapter 11-177.1, HAR, "Substance Abuse Counselors and Program Administrators" (DOH)**

Mr. Keith Yamamoto, Division Chief, gave a brief overview of the proposed new rules that would create a voluntary certification program for substance abuse professionals. The rules came about as a result of industry requesting that the department create a certification program for substance abuse professionals. 40 other states offer opportunities for substance abuse professionals to be certified and follow international standards. Applicants would bear the cost of certification fees. Oral examination fees would be eliminated by the new rules as proposed.

According to Mr. Yamamoto, while the vast majority of individuals that could take advantage of the certification work for nonprofit organizations and government, there still might be a small business impact.

A motion was made by Mr. Au for DOH to work with the Board to identify stakeholders that may not be aware of the proposed amendments. The motion also recommends that a memo be sent to the Governor in support of sending the proposed amendments to public hearing. Mr. De Luz seconded the motion and the Board unanimously agreed to the motion.

**E. Review and discussion of repeal of Chapter 13-190, HAR, "Dams & Reservoirs Safety" (DLNR)**

Chair Laura Thielen, accompanied by Edwin Matsuda, DLNR Engineering Div/Flood Control & Dam Safety Section Head, Edsel Yamada, attorney & consultant to DLNR and Carty Chang, Acting Chief Engineer, gave a brief overview of the proposed repeal. The rules in question predominately affect large land owners and government and focus on public safety protection. The proposed rule changes were sent to all dam

owners and “interested parties.” Only two owners were identified by the department as small businesses and neither provided any comments to the proposed changes.

After the March 2006 Ko Loko Dam breach on Kauai, the Legislature mandated a self-funded dam safety program with 80% of administrative fees collected going towards improvements which would increase public safety. The fees collected would be used for dam inspection, training and permit reviews. The department adjusted some of the fees due to feedback from some of the dam owners commenting that the fees were too high. There are provisions for administrative fines and criminal penalties if there are violations. Owners must have an operations and maintenance manual including an emergency action plan. The department has made templates for the operations and maintenance manual available online for businesses to use.

The proposed amendments will establish a program that provides incentives to get into compliance sooner than later. The rules encourage continued maintenance and upgrades to dams and reservoirs will increase public safety. Fees will go into the “Dam and Reservoir Safety Fund” and as the reserve builds up and stabilizes the fees may be reduced.

A motion was made by Mr. Schnitzler to send a memo to the Governor in support of sending the proposed amendments to public hearing. Mr. Schnitzler also recommended that the Department need not return to the Board after the public hearings. Mr. Yukimura seconded the motion and the Board unanimously agreed to the motion.

#### **V. REPORT FROM CHAIR**

The Chair updated board members on proposed amendments to Chapter 17-663, HAR, “Supplemental Nutrition Assistance Program” that was forwarded to the SBRRB by the Department of Human Services for consideration that had no perceivable small business impact and was not placed on the agenda for Board discussion and review.

#### **VI. REPORT FROM BOARD MEMBERS**

#### **VII. ANNOUNCEMENTS**

**VIII. NEXT MEETING** – Wednesday September 15, 2010, 250 South Hotel Street, Honolulu, HI, Room 410.

**IX. ADJOURNMENT** – The meeting adjourned at 1:20 p.m.