
HOUSE CONCURRENT RESOLUTION

CLARIFYING AND DECLARING THE LEGISLATURE'S INTENTION TO TREAT ALL INDIVIDUAL SOCIAL CARE PROVIDERS WHO CONTRACT WITH THE DEPARTMENT OF HUMAN SERVICES TO PERFORM ATTENDANT CARE AND DAY CARE SERVICES AUTHORIZED BY THE DEPARTMENT OF HUMAN SERVICES UNDER THE SOCIAL SECURITY ACT, AS AMENDED, AS RECIPIENTS OF SOCIAL SERVICE PAYMENTS.

1 WHEREAS, the Department of Human Services contracts with
2 individual social care providers, including corporations, to
3 perform attendant care and day care services authorized by the
4 Department of Human Services under the Social Security Act, as
5 amended; and

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7 WHEREAS, under the Department of Human Services' contracts,
8 these individual social care providers are the recipients of
9 social service payments; and

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11 WHEREAS, these individual social care providers subcontract
12 with or employ individuals to provide attendant care and day
13 care services authorized by the Department of Human Services
14 under the Social Security Act, as amended; and

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16 WHEREAS, Hawaii's Workers' Compensation Law, pursuant to
17 section 386-1, Hawaii Revised Statutes, provides that
18 "employment" does not include service that is "[d]omestic, which
19 includes attendant care, and day care services authorized by the
20 department of human services under the Social Security Act, as
21 amended, performed by an individual in the employ of a recipient
22 of social service payments"; and

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24 WHEREAS, Hawaii's Temporary Disability Insurance Law,
25 pursuant to section 392-5, Hawaii Revised Statutes, provides
26 that "employment" shall not include services that are
27 "[d]omestic, which includes attendant care, and day care
28 services authorized by the department of human services under



1 the Social Security Act, as amended, performed by an individual
2 in the employ of a recipient of social service payments"; and
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4 WHEREAS, Hawaii's Prepaid Health Care Law, pursuant to
5 section 393-5, Hawaii Revised Statutes, provides that:
6 "employment" does not include services that are "[d]omestic,
7 which includes attendant care, and day care services authorized
8 by the department of human services under the Social Security
9 Act, as amended, performed by an individual in the employ of a
10 recipient of social service payments"; and
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12 WHEREAS, in enacting these "domestic" exemptions, the
13 Legislature of the State of Hawaii found in 1978 that: "if the
14 specific exemptions to the State's wage loss replacement and
15 employment insurance programs are not adopted, the attendant
16 care-chore services and in-home child care service payments must
17 be adjusted to include the recipient/employer's contribution to
18 the following programs: State Unemployment Insurance Benefits
19 (UIB); State Worker's Compensation (WC); State Temporary
20 Disability Insurance (TDI); and Prepaid Health Insurance
21 (PPHI)"; and
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23 WHEREAS, the "domestic" exemption is not included in the
24 current Hawaii Employment Security Law; and
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26 WHEREAS, the Legislature intended the "domestic" exemption
27 to be included in the Hawaii Employment Security Law; and
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29 WHEREAS, the State of Hawaii does not wish to, and it was
30 the intent of the Legislature not to, increase the social
31 service payments to these individual social care providers to
32 include the providers' contributions to state unemployment
33 insurance benefits, state workers' compensation, state temporary
34 disability insurance, and prepaid health care insurance; and
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36 WHEREAS, the Legislature wishes to clarify its intent to
37 consider these individual social care providers as recipients of
38 social service payments under their contracts with the
39 Department of Human Services and not employees, and that they
40 are exempt under the Workers' Compensation Law, the Temporary
41 Disability Law, and the Prepaid Health Care Law; now, therefore,
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43 BE IT RESOLVED by the House of Representatives of the
44 Twenty-third Legislature of the State of Hawaii, Regular Session



H.C.R. NO. 147

1 of 2006, the Senate concurring, that the Legislature wishes to
 2 clarify and declares its intention to treat all individual
 3 social care providers who contract with the Department of Human
 4 Services to perform attendant care and day care services
 5 authorized by the Department of Human Services under the Social
 6 Security Act, as amended, as recipients of social service
 7 payments described in the "domestic" exemptions under the
 8 relevant sections of the Hawaii Workers' Compensation law,
 9 Temporary Disability Law, and Prepaid Health Care Law; and

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 11 BE IT FURTHER RESOLVED that certified copies of this
 12 Concurrent Resolution be transmitted to the Governor and the
 13 Directors of Human Services and Labor and Industrial Relations.
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OFFERED BY: *Fide T. P. Cabulle*

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