

Honolulu, Hawaii

APR 21 2006

RE: H.C.R. No. 147
H.D. 1

Honorable Robert Bunda
President of the Senate
Twenty-Third State Legislature
Regular Session of 2006
State of Hawaii

Sir:

Your Committee on Human Services, to which was referred
H.C.R. No. 147, H.D. 1, entitled:

"HOUSE CONCURRENT RESOLUTION REQUESTING THE ATTORNEY GENERAL
TO PROVIDE A DEFINITIVE LEGAL OPINION REGARDING WHETHER
CHAPTERS 383, 386, 392, AND 393 HAWAII REVISED STATUTES, EACH
EXCLUDE FROM THE DEFINITION OF "EMPLOYMENT" THOSE INDIVIDUALS
WHO PERFORM ATTENDANT CARE AND DAY CARE SERVICES AUTHORIZED
UNDER THE SOCIAL SECURITY ACT, AS AMENDED, IN THE EMPLOY OF
PERSONS, INCLUDING CORPORATIONS AND PRIVATE AGENCIES, WHO
CONTRACT WITH THE DEPARTMENT OF HUMAN SERVICES AND WHO ARE
THE RECIPIENTS OF SOCIAL SERVICE PAYMENTS,"

begs leave to report as follows:

The purpose of this measure is to request the Attorney
General to provide a definitive legal opinion regarding the
definition of "employment" as used in sections 386-1, 392-3, and
393-5, Hawaii Revised Statutes.

Your Committee received testimony in support of the measure
from Home & Community Services of Hawaii, Inc., Primary Care
Providers, and four hundred sixty-six individuals. The Attorney
General and the Department of Labor and Industrial Relations
submitted comments on this measure.

This measure requests the Attorney General to provide a
definitive legal opinion to the Legislature regarding the
"domestic" exemption to state employment laws with respect to
persons, including corporations and private agencies, who contract



with the Department of Human Services to provide attendant and day care services. Your Committee notes that the Attorney General's written testimony raises concerns regarding this measure's provisions. Your Committee finds that a formal legal opinion will promote ongoing discussion regarding the need to amend chapters 383, 386, 392, and 393, Hawaii Revised Statutes, in the future.

As affirmed by the record of votes of the members of your Committee on Human Services that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 147, H.D. 1, and recommends that it be referred to the Committee on Labor.

Respectfully submitted on
behalf of the members of the
Committee on Human Services,


SUZANNE CHUN OAKLAND, Chair



