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TO THE HOUSE COMMITTEE ON LABOR & PUBLIC EMPLOYMENT

TWENTY-FOURTH LEGISLATURE
Regular Session of 2008

Tuesday, February 5, 2008
8:30 a.m.

**TESTIMONY ON HOUSE BILL NO. 2407 – RELATING TO WORKERS’
COMPENSATION.**

TO THE HONORABLE ALEX SONSON, CHAIR, AND MEMBERS OF THE
COMMITTEE:

My name is J. P. Schmidt, State Insurance Commissioner (“Commissioner”), testifying on behalf of the Department of Commerce and Consumer Affairs (“Department”). The Department supports the intent of this bill, with suggested amendments.

The purpose of this bill is to require professional employment organizations (“PEO”) to: (1) register with the Commissioner; (2) maintain separate records for payroll and work-related injuries and illnesses; and (3) provide each client company with the payroll and loss experience records related to workers’ compensation insurance. This bill also prohibits an insurer from issuing a workers’ compensation policy to any PEO that is not registered.

Since the Commissioner has jurisdiction over insurers (rather than employers), the Department recommends that PEO’s register with the Department of Labor and Industrial Relations (“DLIR”). The references to the Commissioner made on page 1, line 8 and page 2, lines 3-4, in section 1 of the bill and page 2, line 12 in section 2 of the bill should be revised to refer to DLIR.

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We thank this Committee for the opportunity to present testimony on this matter and ask for your favorable consideration.



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February 4, 2008

The Honorable Alex Sonson
Chair, House Labor and Public Employment Committee
Hawaii State Capitol, Room 323
415 South Beretania Street
Honolulu, Hawaii 96813

Re: HB 2407- Opposed

Dear Chairman Sonson and Members of the House Labor and Public Employment Committee:

The National Association of Professional Employer Organizations (NAPEO) is submitting this testimony to express its opposition to HB 2407, a measure that addresses workers' compensation insurance for professional employer organizations (PEOs).

This bill, sponsored by Representative Herkes, is a model piece of legislation developed by the National Conference of Insurance Legislators (NCOIL) relating to workers' compensation and professional employer organizations (PEOs). While NAPEO worked with legislators on the NCOIL Workers' Compensation Committee to develop parts of this model, we believe the final product, of which HB 2407 is representative of, fails to address the many operational issues PEOs and their small businesses clients need addressed in such a piece of legislation. NAPEO vigorously opposed the final product of the NCOIL Workers' Compensation Committee and similarly, strongly opposes passage of HB 2407 in its current form in Hawaii this legislative session.

While NAPEO believes the NCOIL PEO model act and by extension HB 2407 represents a good starting point for discussion of the workers' compensation system for professional employer organizations, we believe the language falls short in both its approach and scope. Specifically, we believe:

- HB 2407 fails to address the many operational issues PEOs and their small business clients need addressed in any comprehensive measure to overhaul

workers' compensation including the how master and multiple coordinated policies would be constructed and issued by insurance carriers;

- HB 2407 seems to contain inconsistencies on the manner in which PEO client data needs to be reported by the PEO and carriers;
- As introduced, HB 2407 would likely result in an expansion in the residual workers' compensation markets.

NAPEO commends Representative Herkes for beginning the discussion surrounding responsible changes in the workers' compensation system for PEOs and insurance carriers, however, we firmly believe that any such legislative proposal should embrace the following principles:

- It should reduce the burden upon the residual market by providing flexibility for insurance carriers to provide various voluntary market policy platforms to the PEO industry, including master, multiple coordinated, and client-based policies;
- It should protect the experience rating system by tracking individual client experience modification data in PEO relationships; and
- It should preserve the integrity of the workers' compensation system by applying exclusive remedy to both the PEO and the client.

While we oppose the legislation in its current form, we ask that the committee defer action on this bill so that representatives from the PEO industry, insurance industry, the legislature and other stakeholder groups can come together to discuss responsible legislative changes for the state, the PEO industry and insurance carriers that helps protect the experience rating system, reduces the burden upon the residual market, and preserves the integrity of the workers' compensation system.

I have sent Representative Herkes a similar letter asking that he defer action on this bill in its current form so that all parties have an opportunity to openly discuss responsible changes that truly benefit all parties. Once again, NAPEO appreciates the opportunity to submit this testimony and looks forward to working with this committee and other interested parties on this important issue.

Respectfully,



Todd J. Cohn
Assistant Director of State Government Affairs
NAPEO¹

¹ NAPEO, the National Association of Professional Employer Organizations is the recognized "Voice of the PEO Industry." Established in 1984, NAPEO has nearly 500 member companies in all 50 states, which represent more than 70 percent of the industry's revenues. PEOs provide employment services to clients ranging from small to mid-sized businesses. PEO clients include many different types of businesses ranging from retailers, engineers, and plumbers to accounting firms, high-tech companies, and small manufacturers.



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February 4, 2008

The Honorable Alex Sonson
 Chair, House Labor and Public Employment Committee
 Hawaii State Capitol, Room 323
 415 South Beretania Street
 Honolulu, HI 96813

Subject: HB 2407
 Relating to Workers' Compensation
 Opposed

Dear Chairman Sonson and Members of the House Labor and Public Employment Committee:

My name is Barron Guss and I am the President and CEO of ALTRES, Inc., a 38-year old Hawaii-based employment services firm. I stand before you today to oppose HB 2407.

Since 1980, we have been providing Professional Employer Organization (PEO) services to the businesses of Hawaii. Our client base ranges from small, home-based businesses to restaurants and hotels in Waikiki. Though these businesses are diverse, they all share one common thread – they are faced with the ever-increasing complexities of employment administration and compliance. Through the use of our PEO services, these businesses can reduce labor costs and focus on their customers while providing their employees and their families comprehensive and affordable employee benefits. State and Federal governments also enjoy the benefits of a PEO relationship as they enjoy single-source reporting and revenue collection.

Although the introduction of this Bill was well-intentioned, in its current form it is not congruent to the state of the art in this area. HB 2407 is modeled after the model legislation developed by the National Conference of Insurance Legislators (NCOIL) to address the need for the insurance industry to have a mechanism to track individual experience and utilization by customers of PEOs.

Since 2002, the National Association of Insurance Commissioners (NAIC) and the (National Council on Compensation Insurance) NCCI have worked together with NAPEO (National Association of Professional Employer Organizations) to address the many areas of concern that the insurance industry has when businesses enter into a

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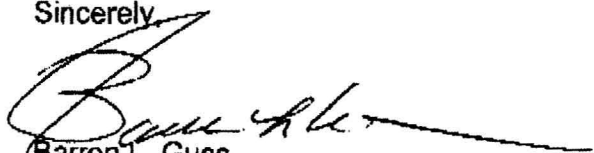
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PEO relationship. As recently as June of 2007, the NAIC adopted a new set of guidelines for the industry to follow when working with PEOs. HB 2407 lacks the developmental and collaborative efforts of the NAIC initiative. The NAIC guidelines would provide a better starting point for development of legislation.

I would urge the Committee to defer action on this Bill to give the representative of the PEO industry, insurance industry and legislature an opportunity to create legislative changes that are responsible, comprehensive and protective of the worker's compensation system.

I appreciate this opportunity to submit testimony.

Sincerely



Barron L. Guss
President and CEO

BLG:lo