

Honolulu, Hawaii

Feb 10 , 2012

RE: H.B. No. 2645  
H.D. 1

Honorable Calvin K.Y. Say  
Speaker, House of Representatives  
Twenty-Sixth State Legislature  
Regular Session of 2012  
State of Hawaii

Sir:

Your Committee on Economic Revitalization & Business, to which was referred H.B. No. 2645 entitled:

"A BILL FOR AN ACT RELATING TO PROFESSIONAL EMPLOYER ORGANIZATIONS,"

begs leave to report as follows:

The purpose of this measure is to facilitate regulation of professional employer organizations by the Department of Labor and Industrial Relations by:

- (1) Establishing the Professional Employer Special Fund;
- (2) Authorizing the Director of Labor and Industrial Relations to make rules and impose penalties against professional employer organizations for noncompliance with chapter 373L, Hawaii Revised Statutes, or the rules of the Director;
- (3) Making conforming amendments to existing sections of the Hawaii Revised Statutes to promote conformity across statutory chapters;
- (4) Specifying bond amounts required for professional employer organizations; and
- (5) Making technical, nonsubstantive changes for the purposes of clarity and consistency.



The Department of Labor and Industrial Relations and Department of Commerce and Consumer Affairs testified in support of this measure. ProService Hawaii testified in support of the intent of this measure. Employer Services Assurance Corporation and National Association of Professional Employer Organizations provided comments on this measure.

Your Committee has amended this measure by among other things:

- (1) Amending the sources of funding for the Professional Employer Organization Special Fund;
- (2) Adding a definition for "controlling persons";
- (3) Allowing the Director of Labor and Industrial Relations to fine a professional employer organization and its controlling persons for failing to meet the requirements of the chapter;
- (4) Removing the language that specifies that the Director shall ensure the segregation of accounts through client trust accounts and establishing grounds for disciplinary action and practices;
- (5) Deleting provisions relating to the Director's authority to issue cease and desist orders and the procedures therefor, for specified acts and practices that violate the professional employer organization laws;
- (6) Specifying that professional employer organizations shall be responsible for all obligations of assigned employees at the client companies worksites for purposes of Hawaii Revised Statutes, chapter 383, relating to the State's unemployment laws; chapter 386, relating to Workers' Compensation laws; chapter 392, relating to temporary disability insurance; and chapter 393, relating to Hawaii Prepaid Health Care Act;
- (7) Specifying that professional employer organization registration shall expire on June 30 of each even-numbered year;



- (8) Including language to explain how a professional employer organization may restore a forfeited registration;
- (9) Changing the effective date to July 1, 2112, to facilitate further discussion;
- (10) Making conforming amendments to ensure consistency throughout the Hawaii Revised Statutes; and
- (11) Making technical, nonsubstantive amendments for the purposes of clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Economic Revitalization & Business that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2645, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2645, H.D. 1, and be referred to the Committees on Consumer Protection & Commerce and Judiciary.

Respectfully submitted on  
behalf of the members of the  
Committee on Economic  
Revitalization & Business,



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ANGUS L.K. MCKELVEY, Chair



State of Hawaii  
House of Representatives  
The Twenty-sixth Legislature

**HSCR 282-12**

**Record of Votes of the Committee on Economic Revitalization & Business**

<b>Bill/Resolution No.:</b> <b>HB 2645</b>	<b>Committee Referral:</b> <b>ERB, CPE/JUD, FIN</b>	<b>Date:</b> <b>2/7/12</b>		
<input type="checkbox"/> The committee is reconsidering its previous decision on the measure.				
<b>The recommendation is to:</b> <input type="checkbox"/> Pass, unamended (as is) <input checked="" type="checkbox"/> Pass, with amendments (HD) <input type="checkbox"/> Hold <input type="checkbox"/> Pass short form bill with HD to recommit for future public hearing (recommit)				
ERB Members	Ayes	Ayes (WR)	Nays	Excused
1. McKELVEY, Angus L.K. (C)	X			
2. CHOY, Isaac W. (VC)	X			
3. AWANA, Karen L.	X			
4. BROWER, Tom	X			
5. EVANS, Cindy	X			
6. HASHEM, Mark J.	X			
7. NISHIMOTO, Scott Y.	X			
8. TOKIOKA, James Kunane				✓
9. TSUJI, Clift	X			
10. MARUMOTO, Barbara C.		✓		
11. PINE, Kymberly Marcos	X			
<b>TOTAL (11)</b>	<b>9</b>	<b>1</b>	<b>-</b>	<b>1</b>
<b>The recommendation is:</b> <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted If joint referral, _____ did not support recommendation. <small>(Committee acronym(s))</small>				
<b>Vice Chair's or designee's signature:</b>				
<b>Distribution:</b> Original (White) – Committee    Duplicate (Yellow) – Chief Clerk's Office    Duplicate (Pink) – HMSO				