

STAND. COM. REP. NO. 2361

Honolulu, Hawaii

FEB 17 2012

RE: S.B. No. 2424

S.D. 1

Honorable Shan S. Tsutsui
President of the Senate
Twenty-Sixth State Legislature
Regular Session of 2012
State of Hawaii

Sir:

Your Committees on Commerce and Consumer Protection and
Judiciary and Labor, to which was referred S.B. No. 2424 entitled:

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

beg leave to report as follows:

The purpose and intent of this measure is to:

- (1) Establish the professional employer organization special fund;
- (2) Add powers and duties to the Director of Labor and Industrial Relations regarding the registration and regulation of Professional Employer Organizations;
- (3) Amend definitions in chapter 373L, Hawaii Revised Statutes, for the purposes of consistency; and
- (4) Amend bond level requirements for professional employer organizations.

Your Committees received testimony in support of this measure from the Department of Labor and Industrial Relations; Department of Commerce and Consumer Affairs; and ALTRES, Inc. Your Committees received comments on this measure from the Department of Budget and Finance, National Association of Professional Employer Organizations, Alpha Surety and Insurance Brokerage, Employer Services Assurance Corporation, and ProService Hawaii.

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Your Committees find that professional employer organizations are businesses that partner with existing small businesses to cost-effectively outsource certain employee management tasks. Your Committees further find that thirty-eight states regulate the professional employer organization industry through licensing or registration programs. Act 129, Session Laws of Hawaii 2010, established registration requirements for professional employer organizations in Hawaii. Although the registration requirements went into effect July 1, 2011, amendments to the existing statute are needed before the Department of Labor and Industrial Relations can fully implement the law.

Your Committees note that Act 225, Session Laws of Hawaii 2007, established a new chapter in the Hawaii Revised Statutes on professional employment organizations. The main purpose of Act 225 was to provide a general excise tax exemption for these organizations. Your Committees note that both chapters in the Hawaii Revised Statutes cover the same type of entities, although professional employer organization is the correct term. Your Committees conclude that two chapters on the same subject are unnecessary, however, your Committees do believe that there is merit to preserving the general excise tax provisions established by Act 225 and codified in section 373K-2, Hawaii Revised Statutes.

Your Committees have amended this measure by:

- (1) Amending the scope of written notices of judgment, award, or sanctions a professional employer organization must provide to the Department of Labor and Industrial Relations;
- (2) Amending the conditions under which the Director of Labor and Industrial Relations may deny, suspect, revoke, fine, or deny renewal of registration of a professional employer organization;
- (3) Specifying the amount of fees the Department of Commerce and Consumer Affairs shall collect, including application, initial registration, biennial renewal, and restoration fees;
- (4) Amending the responsibilities and duties of the Director of Labor and Industrial Relations;



- (5) Deleting language that would have created new sections in chapter 373L relating to unlicensed activities and penalties, cease and desist orders, and permanent cease and desist orders;
- (6) Amending language relating to professional employer agreements;
- (7) Establishing hearing requirements and judicial review provisions to review decisions made by the Director of Labor and Industrial Relations regarding licensure or fining of professional employer organizations;
- (8) Adding a payroll cost exemption for professional employer organizations first established in section 373K-2, Hawaii Revised Statutes;
- (9) Adding definitions of "assurance organization" and "controlling person";
- (10) Amending the required information, yearly expiration date, use of a qualified assurance organization for registration, and bond requirements for professional employer organizations, Hawaii Revised Statutes;
- (11) Repealing chapter 373K, Hawaii Revised Statutes, relating to professional employment organizations;
- (12) Permitting the Director of Labor and Industrial Relations to establish three .5 full-time permanent additional positions, to carry out the requirements of chapter 373L, Hawaii Revised Statutes;
- (13) Making an appropriation of \$177,500 out of the professional employer organization special fund to carry out the purposes of this measure;
- (14) Inserting a purpose section to reflect the amended purpose of this measure;
- (15) Inserting an effective date of July 1, 2050, to ensure further discussion; and

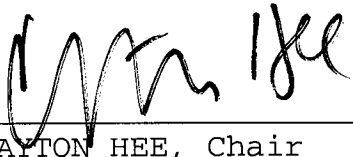


- (16) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

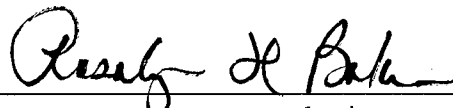
Your Committees note that the amended measure is the result of collaboration among interested stakeholders. Discussions continue on the fees contained in this measure, with a necessary balance sought between the Department of Labor and Industrial Relations' needs to execute the registration requirements and fees that the professional employer organizations believe are appropriate. Your Committees are encouraged by the progress reached by all interested parties, but find that continuing discussion is necessary.

As affirmed by the records of votes of the members of your Committees on Commerce and Consumer Protection and Judiciary and Labor that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2424, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2424, S.D. 1, and be referred to the Committee on Ways and Means.

Respectfully submitted on
behalf of the members of the
Committees on Commerce and
Consumer Protection and
Judiciary and Labor,



CLAYTON HEE, Chair




ROSALYN H. BAKER, Chair



The Senate
Twenty-Sixth Legislature
State of Hawai'i

Record of Votes
Committee on Commerce and Consumer Protection
CPN

Bill / Resolution No.:*	Committee Referral:	Date:		
SB 2424	CPN/JDL, WAM	2-14-12		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
BAKER, Rosalyn H. (C)	✓			
TANIGUCHI, Brian T. (VC)	✓			
GALUTERIA, Brickwood				✓
GREEN, M.D., Josh	✓			
NISHIHARA, Clarence K.	✓			
SOLOMON, Malama	✓			
SLOM, Sam			✓	
TOTAL	5	0	1	1
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes

