

STAND. COM. REP. NO.

2794

Honolulu, Hawaii

MAR 02 2012

RE: S.B. No. 2424  
S.D. 2

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

Sir:

Your Committee on Ways and Means, to which was referred S.B. No. 2424, S.D. 1, entitled:

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

begs leave to report as follows:

The purpose and intent of this measure is to facilitate the implementation of the professional employer organization law established by Act 129, Session Laws of Hawaii 2010.

More specifically, this measure:

- (1) Establishes the professional employer organization special fund;
- (2) Gives additional powers and duties to the Director of Labor and Industrial Relations regarding the registration and regulation of professional employer organizations;
- (3) Amends definitions in chapter 373L, Hawaii Revised Statutes, for the purpose of consistency;
- (4) Amends bond level requirements for professional employer organizations;
- (5) Repeals chapter 373K, Hawaii Revised Statutes, relating to professional employment organizations;



- (6) Incorporates an existing general excise tax exemption into chapter 373L, Hawaii Revised Statutes, relating to professional employer organizations; and
- (7) Appropriates funds to the Department of Labor and Industrial Relations.

Written comments in support of this measure were submitted by the Department of Labor and Industrial Relations. Written comments on this measure were submitted by the Department of Budget and Finance, the National Association of Professional Employer Organizations, and the Employer Services Assurance Corporation.

Your Committee finds that Act 225, Session Laws of Hawaii 2007, established chapter 373K, Hawaii Revised Statutes, relating to professional employment organizations. The main purpose of Act 225 was to provide a general excise tax exemption for these organizations. Your Committee also finds that Act 129, Session Laws of Hawaii 2010, established chapter 373L, Hawaii Revised Statutes, relating to professional employer organizations, which provided registration requirements for professional employer organizations in Hawaii. Although the registration requirements went into effect on July 1, 2011, amendments to the existing statutes are needed before the Department of Labor and Industrial Relations can fully implement the law. Your Committee further finds that chapters 373K and 373L, Hawaii Revised Statutes, address the same type of entities, although professional employer organization is the correct term.

Your Committee believes that two chapters in the Hawaii Revised Statutes on the same subject are unnecessary, and that this measure will eliminate duplicative provisions relating to professional employer organizations and facilitate the implementation of the professional employer organization law, as established by Act 129, Session Laws of Hawaii 2010.

Your Committee has amended this measure by:

- (1) Clarifying that the Department of Labor and Industrial Relations is authorized to impose penalties rather than fines;



- (2) Clarifying that, upon adoption of rules pursuant to chapter 91, Hawaii Revised Statutes, the Director of Labor and Industrial Relations shall collect registration fees from professional employer organizations and registrants;
- (3) Replacing the registration fees with unspecified amounts;
- (4) Clarifying the method for calculating the number of covered employees of a professional employer organization;
- (5) Making a conforming amendment to the definition of "leased employee" under section 209E-2, Hawaii Revised Statutes;
- (6) Clarifying the protocol for the acceptance of electronic filings;
- (7) Clarifying bonding requirements to specify that bonds must be issued by an A-rated surety, rather than a federally-insured lending institution;
- (8) Replacing the amount of funds appropriated to the Department of Labor and Industrial Relations with an unspecified amount;
- (9) Adding a savings clause; and
- (10) Making technical nonsubstantive amendments for the purposes of consistency, clarity, and style.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2424, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2424, S.D. 2.



Respectfully submitted on  
behalf of the members of the  
Committee on Ways and Means,

*David Y. Ige*

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DAVID Y. IGE Chair



The Senate  
Twenty-Sixth Legislature  
State of Hawai'i

**Record of Votes**  
**Committee on Ways and Means**  
**WAM**

Bill / Resolution No.:*	Committee Referral:	Date:		
SB 2424, SD 1	CPN/JDL, WAM	2-24-12		
<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
IGE, David Y. (C)	✓			
KIDANI, Michelle N. (VC)	✓			
CHUN OAKLAND, Suzanne	✓			
DELA CRUZ, Donovan M.	✓			
ENGLISH, J. Kalani	✓			
ESPERO, Will	✓			
FUKUNAGA, Carol	✓			
KIM, Donna Mercado	✓			
KAHELE, Gilbert	✓			
KOUCHI, Ronald D.	✓			
RYAN, Pohai	✓			
TOKUDA, Jill N.	✓			
WAKAI, Glenn	✓			
SLOM, Sam			✓	
<b>TOTAL</b>	13	0	1	0
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: <i>Michelle N. Kidani</i>				
<b>Distribution:</b> Original     Yellow     Pink     Goldenrod File with Committee Report     Clerk's Office     Drafting Agency     Committee File Copy				

\*Only one measure per Record of Votes