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**PRESENTATION OF THE  
PROFESSIONAL AND VOCATIONAL LICENSING DIVISION**

TO THE HOUSE COMMITTEE ON ECONOMIC REVITALIZATION & BUSINESS

TWENTY-SIXTH LEGISLATURE  
Regular Session of 2012

Tuesday, February 7, 2012  
8:30 a.m.

**TESTIMONY ON HOUSE BILL NO. 2645, RELATING TO PROFESSIONAL  
EMPLOYER ORGANIZATIONS.**

TO THE HONORABLE ANGUS L.K. MCKELVEY, CHAIR,  
AND MEMBERS OF THE COMMITTEE:

My name is Kenyatta Nichols, Executive Officer for the Professional and Vocational Licensing Division ("PVLD"), Department of Commerce and Consumer Affairs ("Department"). The Department appreciates the opportunity to testify in support of House Bill No. 2645, Relating to Professional Employer Organizations ("PEOs"). The Department supports this bill, with the suggested amendments from the Department of Labor and Industrial Relations ("DLIR").

The purpose of House Bill No. 2645 is to add powers and duties to the director of labor and industrial relations regarding the registration and regulation of professional employer organizations; authorize various penalties for noncompliance with chapter

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373L, HRS; establish a special fund; and to amend definitions in chapter 373L, HRS, to make them consistent with definitions in chapter 373K, HRS.

The DLIR and the Department have been working closely together to implement the current law and on the development of the bill's suggested amendments. The Department and PVLD support DLIR's proposed amendments.

Thank you for the opportunity to testify on House Bill No. 2645.



**Testimony to the House Committee on Economic Revitalization and Business  
Tuesday, February 7, 2012  
8:30 a.m.  
Conference Room 312**

**RE: HOUSE BILL 2645 RELATING TO PROFESSIONAL EMPLOYER  
ORGANIZATIONS**

Chair McKelvey, Vice Chair Choy and Members of the Committee:

**ProService Hawaii supports the intent of registration of Professional Employer Organizations (PEOs), but we respectfully ask that House Bill 2645 be deferred until the provisions currently under Chapters 373K and 373L are fully implemented and their effectiveness can be determined.**

ProService Hawaii provides employee administration services to over 1,000 small businesses in Hawaii, representing over 13,000 employees in Hawaii. As a professional employer organization (PEO), we ensure that our clients remain compliant with Federal and State employment and labor laws, while allowing them to focus on their core business, providing needed and valuable services to the people and the economy of the State. In addition, we ensure that our clients' employees receive timely payment of wages, workers' compensation, TDI and benefits coverage. We also provide HR training and services, dispute resolution, and safety services to our clients and our clients' employees.

ProService Hawaii is accredited with the Employers Services Assurance Corporation (ESAC), a compliance monitoring organization that provides financial assurance to our clients, employees, insurers, taxing authorities, regulators and the general public. Each member PEO is provided a \$1 million surety bond, with an additional \$10 million excess surety bond to cover all member PEOs. The assurances offered by ESAC's program for the PEO industry are similar to the assurances offered by the FDIC for the banking industry, the Security Investor Protection Corporation (SIPC) for the securities industry, and state regulatory guaranty associations for the insurance industry. The rigorous oversight provided by ESAC ensures that member PEOs are compliant and are able to provide services to their clients and employees.

We support the efforts of this legislative body to regulate the PEO industry, as it is in this state's and our industry's best interests to have well-functioning firms serving the community. We support the intent of ensuring that only compliant and well-managed PEOs operate in Hawaii. However, we ask for balance between the need for regulatory oversight of the industry and PEOs' ability to conduct business in the State. We offer the following comments on House Bill 2645:

**Under chapters 373K and 373L, HRS, professional employer organizations are required to register with DLIR, and provide a bond of \$250,000. It must be noted that the current bond amount represents the highest bonding requirement of any state in the nation. In addition, the law enacted in 2010 grants the DLIR oversight for our industry. We believe the current statutory provisions are appropriate and sufficient to address the regulatory concerns of the State. Before enacting further legislation, we should fully implement this current law and determine its effectiveness.**

Under proposed legislation, the bond requirement would increase the bond amount for PEOs with fewer than 100 employees, to \$500,000, and would increase the requirement for larger PEOs to 5% of the sum of all wages, benefits, workers' compensation premiums, and unemployment contributions. In the case of a PEO with \$300 million in such amounts, this would require a bond of \$15 million. This represents a 5,000% increase in the bonding requirements for such PEOs. The costs associated with obtaining such a bond are high and would hinder such PEOs' ability to provide a cost-effective administrative solution for small businesses. More importantly, the increased costs of our services would likely be passed on to clients. Many of these clients are small businesses who are already struggling with high costs of doing business in Hawaii.

We respectfully ask this body to defer this measure, to allow the DLIR to fully implement the current statutory provisions, before enacting further legislation. If this committee is inclined to pass this measure, we ask that the proposal for Section 373L-3 be amended to limit the bond requirement to the current limit of \$250,000. We also ask that language be inserted into this section that states that accreditation by ESAC shall be deemed as satisfaction of the provisions under this section.

Thank you for the opportunity to submit testimony.