



LATE

**STATE OF HAWAII
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS**

830 PUNCHBOWL STREET, ROOM 321
HONOLULU, HAWAII 96813
www.hawaii.gov/labor
Phone: (808) 586-8842 / Fax: (808) 586-9099
Email: dilir.director@hawaii.gov

February 6, 2012

Rosalyn H. Baker, Chair, Brian T. Taniguchi, Vice Chair
Senate Committee on Commerce and Consumer Protection

Clayton Hee, Chair, Maile S.L. Shimabukuro, Vice Chair
Senate Committee on Judiciary and Labor

Tuesday, February 7, 2012
9:20 a.m. Room 229

Written Testimony of Dwight Y. Takamine, Director
Department of Labor and Industrial Relations (DLIR)

Chair Baker, Chair Hee, and members of the Senate Committees on Commerce and Consumer Protection and Judiciary and Labor—thank you for the opportunity to provide testimony on SB2424 RELATING TO PROFESSIONAL EMPLOYER ORGANIZATIONS. The department strongly supports the measure that will facilitate the implementation of the Professional Employer Organizations law in a meaningful way.

DLIR and the Department of Commerce and Consumer Affairs (DCCA) have been working together closely to both implement the current law and to develop recommendations for the legislature's deliberations on this measure. In short, the departments agree that developing a special fund to help defray the costs of implementing the registration of PEO's and a more moderate approach to regulation than provided for in the measure is prudent at this time.

DLIR suggests the following amendments for your consideration:

- Adding "fines" to 373L-C
- Revising the language in 373L-C to replace directors, officers, owners, members, managers, or general partners" and insert "controlling persons". Add another new definition in Section 3 for controlling person.
- Adopting a graduated fee schedule based on the number of average annual covered workers and insert that into 373L-D and delete Section 6.

LATE

S.B. 2424
February 6, 2012
Page 2

- Deleting subsections (4) and (5) in §373L-E (pg. 5, lines 11-16).
- Deleting 373L-F Unlicensed activity; penalties.
- Adding into the statute language regarding the employer agreements, mandatory provisions and disclosures (amend 373L-G)
- Deleting sections 373L-H and 373L-I regarding cease and desist orders.
- Inserting a new section to provide for an administrative appeals process.
- Inserting a new section clarifying that any PEO aggrieved by the administrative appeals process is entitled to judicial review in circuit court.
- Inserting at the end (pg. 12, line 18) "Notwithstanding the provisions of 373K and 373L relating to co-employment of Professional Employer Organizations and Client Companies, the Professional Employer Organization as the paying agent pursuant to Title 26, section 3401(d)(1), shall be deemed to be the employer of record, who shall be responsible for all obligations of assigned employees at the client companies worksites for purposes of chapters 383, 386, 392 and 393."
- Pg. 17, lines 10-12 revise as follows, "(c) Registration under this section shall expire on ~~December 31 of each odd-numbered year.~~ June 30 of each even-numbered year. Before ~~December 31 of each odd-numbered year~~ June 30 of each even-numbered year."
- Pg. 17, line 18 insert as follows, "Failure to renew a registration shall result in forfeiture of that registration. Registrations that have been forfeited may be restored within one year of the forfeiture date upon payment of renewal and restoration fees. Failure to restore a forfeited registration within one year shall result in the automatic termination of the registration. Registrations that have been terminated pursuant to this section shall be required to reapply for a new registration as a new applicant."

~~[(d) The director shall establish fees and requirements for registration, maintenance of registration, renewal, and restoration of registration for professional employer organizations by rule pursuant to chapter 91.]~~
- Inserting provisions for the department to hire three (3) .5 part-time permanent positions and appropriating \$177,500 from the special fund to carry out the purposes of the measure.