

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

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March 20, 2012

To: The Honorable Karl Rhoads, Chair, Kyle Yamashita, Vice Chair, and
Members of the House Committee on Labor & Public Employment

Date: Tuesday, March 20, 2012

Time: 10:00 a.m.

Place: Conference Room 309, State Capitol

From: Dwight Y. Takamine, Director
Department of Labor and Industrial Relations (DLIR)

**Re: S.B. No. 2810 S.D. 1 Relating to Employment Exemption for Domestic
Services Authorized by the Department of Human Services**

I. OVERVIEW OF PROPOSED LEGISLATION

This proposal amends Sections 386-1(6), 392-5(19), and 393-7(d), Hawaii Revised Statutes (HRS), by adding another class of employees that are excluded from the definition of "employment" and the protections afforded by the Workers' Compensation, Temporary Disability Insurance, and Prepaid Health Care laws. This measure seeks to exclude from the three laws domestic services authorized by the Department of Human Services under the Social Security Act or when provided through state-funded medical assistance to individuals ineligible for Medicaid, when performed by an individual in the employ of a recipient of social service payments.

II. CURRENT LAW

With respect to domestic services, the current statutes exclude from employment only those domestic services performed for persons with developmental and intellectual disabilities under the Medicaid home and community-based services program pursuant to Title 42 Code Federal Regulations.

III. COMMENTS ON THE SENATE BILL

The Department supports the Administration's proposal from the Department of Human Services.

NEIL ABERCROMBIE
GOVERNOR



PATRICIA MCMANAMAN
DIRECTOR

BARBARA A. YAMASHITA
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF HUMAN SERVICES

P. O. Box 339
Honolulu, Hawaii 96809-0339

March 20, 2012

TO: The Honorable Karl Rhoads, Chair
House Committee on Labor & Public Employment

FROM: Patricia McManaman, Director

SUBJECT: **S.B. 2810, S.D.1 - RELATING TO EMPLOYMENT EXEMPTION FOR
DOMESTIC SERVICES AUTHORIZED BY THE DEPARTMENT OF
HUMAN SERVICES**

Hearing: Tuesday, March 20, 2012; 10:00 a.m.
Conference Room 309, State Capitol

PURPOSE: The purpose of the bill is to amend the definition of "employment" in the workers' compensation, temporary disability insurance, and prepaid health care statutes by clarifying the "domestic services" exclusion for services authorized by the Department of Human Services.

DEPARTMENT'S POSITION: The Department of Human Services (DHS) strongly supports this Administration bill. Sections 386-1, 392-5, and 393-5, Hawaii Revised Statutes, exempt recipients of social service payments with developmental and intellectual disabilities from providing workers' compensation, temporary disability insurance, and prepaid health care. This bill will provide clarification and consistency by exempting the Department of Human Services (DHS), aged recipients and disabled recipients of home and community-based services, and recipients of DHS state-funded home and community-based services, from having to provide workers' compensation, temporary disability insurance, and prepaid health care. This exemption will allow

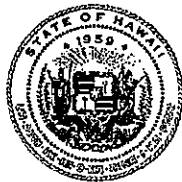
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greater access to home and community-based services to needy individuals. Without this bill the Department and its contracted health plans will be out of compliance with State labor laws. This will require the Department to utilize money that is currently used to pay for benefits to be used to pay for workers' compensation, health coverage and temporary disability insurance.

If the exemption is not reinstated, through this bill, it is estimated that it will cost approximately \$6 million to pay for the insurance and health care coverage. This amount would have to be taken from benefit services to cover these costs. This exemption will allow the DHS to maintain its current level of home and community-based services to needy individuals.

Thank you for the opportunity to testify on this bill.

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



LORETTA J. FUDDY, A.C.S.W., M.P.H.
DIRECTOR OF HEALTH

STATE OF HAWAII
DEPARTMENT OF HEALTH
P.O. Box 3378
HONOLULU, HAWAII 96801-3378

In reply, please refer to:
File:

House Committee on Labor and Public Employment

March 20, 2012

**Testimony of Loretta J. Fuddy, A.C.S.W., M.P.H.
Director of Health**

**WRITTEN
ONLY**

**SB2810 SD1, Relating to Employment Exemption for Domestic Services Authorized
by the Department of Human Services**

- 1 **Department's Position:** Support
- 2 **Fiscal Implications:** No impacts to Department of Health
- 3 **Purpose and Justification:** The purpose of this bill is to create a "domestic service" exemption for
- 4 recipients of social service payments with developmental and intellectual disabilities. Due to the nature
- 5 of their condition, such clients may not be fully able to manage Activities of Daily Living such as
- 6 chores, cooking, and transportation. This bill waives typical "employer" taxes and maximizes the
- 7 resources these clients have available for domestic services.
- 8
- 9 Thank you for the opportunity to testify.