

Honolulu, Hawaii

April 26, 2013

RE: H.B. No. 144
H.D. 2
S.D. 2
C.D. 1

Honorable Joseph M. Souki
Speaker, House of Representatives
Twenty-Seventh State Legislature
Regular Session of 2013
State of Hawaii

Honorable Donna Mercado Kim
President of the Senate
Twenty-Seventh State Legislature
Regular Session of 2013
State of Hawaii

Sir and Madam:

Your Committee on Conference on the disagreeing vote of the House of Representatives to the amendments proposed by the Senate in H.B. No. 144, H.D. 2, S.D. 2, entitled:

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

having met, and after full and free discussion, has agreed to recommend and does recommend to the respective Houses the final passage of this bill in an amended form.

The purpose of this measure is to, among other things, consolidate and clarify the laws relating to professional employer organizations (PEO) to ensure that only business entities that qualify as PEOs and meet the statutory requirements under Chapter 373L, Hawaii Revised Statutes, can be eligible for a state general excise tax waiver, under section 237-24.7, Hawaii Revised Statutes.

Your Committee on Conference recognizes that many businesses currently operate under various names and forms of professional employer agreements with client companies, making it difficult to recognize any meaningful distinctions between these similarly

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structured organizations. Your Committee on Conference finds that this measure more narrowly defines "professional employer organization" to facilitate the initial vetting of PEOs in the registration process. Furthermore, it is your Committee on Conference's intent that agencies enforcing other employment laws may independently determine under the applicable definitions in those laws whether the PEO, the client company, or both can be held liable for violations of those other employment laws.

Accordingly, your Committee on Conference has amended this measure by:

- (1) Clarifying that the PEO must be responsible for providing its employees' statutory benefits by complying with the unemployment insurance, workers' compensation, temporary disability insurance, and prepaid health care laws for all workers performing services pursuant to the professional employer agreement between the PEO and the client company and shall provide notice of such to covered employees;
- (2) Removing language requiring the Director of Labor and Industrial Relations to establish rules regarding fees and other requirements for PEOs pursuant to Chapter 91, Hawaii Revised Statutes;
- (3) Amending the General Excise Tax exemption for professional employer organizations to account for the repeal of Chapter 373K, Hawaii Revised Statutes;
- (4) Providing clarifying language regarding the bond or letter of credit requirement;
- (5) Appropriating \$13,000 of general funds for fiscal year 2013-2014 to the Department of Labor and Industrial Relations to carry out the purpose of this measure;
- (6) Changing its effective date to July 1, 2013; and
- (7) Making technical, nonsubstantive amendments for clarity, consistency, and style.



As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of H.B. No. 144, H.D. 2, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 144, H.D. 2, S.D. 2, C.D. 1.

Respectfully submitted on behalf
of the managers:

ON THE PART OF THE SENATE


ON THE PART OF THE HOUSE



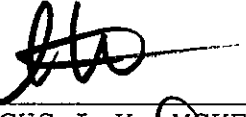
ROSALYN H. BAKER, Chair



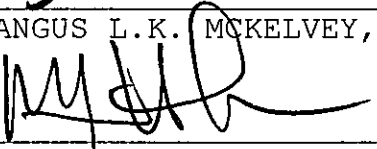
MARK M. NAKASHIMA, Co-Chair



WILL ESPERO, Co-Chair



ANGUS L.K. MCKELVEY, Co-Chair



MARK J. HASHEM, Co-Chair



