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March 13, 2013

To: The Honorable Rosalyn H. Baker, Chair
The Honorable Brickwood Galuteria, Vice Chair
Members of the Senate Committee on Commerce and Consumer Protection

Date: Thursday, March 14, 2013
Time: 9:30 a.m.
Place: State Capitol, Conference Room 229

Re: House Bill No. 144 HD2 Relating to Professional Employer Organizations ("PEO")

Dear Chair Baker and Vice Chair Galuteria,

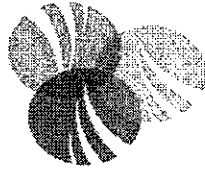
My name is Sanjay Mirchandani, and I am the owner and founder of Talent HR Solutions LLC, a locally owned and operated Professional Employer Organization. I was born and raised in Honolulu, Hawaii and graduated from Kalani High School. I was raised by a Chinese mother and Indian father and was fortunate to have parents that were constantly supportive of my personal, family and career goals. When I was a teenager, I had dreams to someday open a successful and profitable business. I got motivated after helping my parents with their first garage sale. After high school, I went to college at Southern Oregon State University and earned my degree in Business Administration. I moved to San Diego, California and worked for various staffing solution providers for eight years. I got home sick and relocated back to Hawaii in 2001 and started an employment agency called TSG. In 2008, the financial crisis had a huge impact on the job market and to stay in business we had to reinvent our firm. I formed Talent HR Solutions in 2009. Our mission is to help Hawaii businesses save time and money by creating a customized human resource solution that works best for them. We work with around 100 clients and have a little over 500 work-site employees.

I would like to thank you for this opportunity to share with you and the committee our comments as they relate to H.B. No. 144 HD2. **My company and I strongly support H.B. No. 144 HD2.**

HAPEO Members' Priorities

Overall, HAPEO strongly supports H.B. No. 144 HD2, but has concerns about provisions pertaining to the scope of the regulatory functions and the allocation of responsibilities regarding compliance with labor laws that may be out of our direct control.

HAPEO has the following three (3) priorities regarding the proposed PEO legislation:



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- (1) We agree with the Scalable Bond in H.B. No. 144 HD2– It is HAPEO’s priority to have a scalable bond as we have detailed out in our prior testimony to equitably represent the sizes of PEOs in annual taxable payroll. We suggest language be inserted that reads: “The total payroll of the professional employer organization shall be the amount reported on the Internal Revenue Service Form W-3, Transmittal of Wage and Tax Statements, filed with the federal government in the year in which the bond is to become effective.”

There are only four(4) states in the entire United States that require mandatory bonds: Hawai'i, North Dakota, New Mexico, and South Carolina. The other twenty(20) states only require a bond(\$100,000 maximum) if the PEO does not meet the minimum net worth or working capital requirements(on average the net worth of working capital requirement is \$50,000 to \$100,000) Also, some of the other states have 8 times the population as Hawaii and their PEO's makes Hawaii's largest look small.

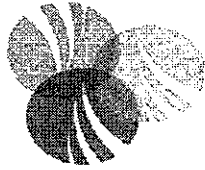
Letter of Credit

HAPEO suggests that a Letter of Credit may be used as a substitute for a surety bond.

- (2) No Financial Audit – We and the DLIR strongly supports H.B. No. 144 HD2 as currently written with no requirement for audited financial statements. The banks also audit our trust and operating accounts once a year. The client trust accounts belong to our clients. The banks require a detailed explanation for each transaction that occurs in our client trust account.
- (3) Definitional Section – HAPEO has been working diligently with DLIR on suggested language changes. DLIR has been open and agreed to some of the suggested changes and has disagreed with other changes. Our dialogue and interaction has been very professional and with the same intent of clearly defining the rights and responsibilities between the DLIR, the PEO and their clients.

We strongly support the language currently in H.B. No. 144 HD2.

Co-employment language – Based on testimony previously submitted, the Hawaii PEO industry has fundamental concerns about imposing liabilities on the PEOs activities in which the PEO is unable to control at the Client company worksite. Currently a similar bill in the Senate (SB510 SD2) defines PEOs as “leasing companies” who hires employees and then assigns them to the client’s worksite. This is an inaccurate and antiquated interpretation of the current PEO contractual and business model. PEOs operate on a co-employment model in which the employer responsibilities are delineated between the PEO (Administrative Employer) and the Client (Worksite Employer). HAPEO as well as the two large PEOs in the state share this concern. The majority of



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the states across the country recognize co-employment and the delineation between the PEO and the client and its employees.

Mahalo for your time and consideration. We look forward to working with all stakeholders to implement effective and reasonable registration and regulations for the PEO industry. We very much appreciate being part of this process and having our voice be heard during this 2013 Legislative Session.

Respectfully submitted,

DocuSigned by:
Sanjay Mirchandani

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Sanjay Mirchandani
Owner
Talent HR Solutions