

STAND. COM. REP. NO.

927

Honolulu, Hawaii

MAR 20 2013

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

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

Madam:

Your Committee on Commerce and Consumer Protection, to which was referred H.B. No. 144, H.D. 2, entitled:

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

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Add definitions and registration and fee requirements to chapter 373K, Hawaii Revised Statutes;
- (2) Require notification to the Department of Taxation of professional employer organization violations for general excise tax exemption purposes;
- (3) Allow professional employer organizations to be successor employers to client companies;
- (4) Establish a sliding scale bond requirement for professional employer organizations based upon annual payrolls; and
- (5) Repeal chapter 373L, Hawaii Revised Statutes.

Your Committee received testimony in support of this measure from the Hawaii Association of Professional Employer Organizations; Hawaii Human Resources, Inc.; and Talent HR



Solutions LLC. Your Committee received comments on this measure from the Department of Labor and Industrial Relations; Department of Taxation; ProService Hawaii; ALTRES, Inc.; and Tax Foundation of Hawaii.

Your Committee finds that chapter 373K, Hawaii Revised Statutes, was codified in 2007 to allow professional employer organizations to become eligible for the general excise tax exemption under section 237-24.75, Hawaii Revised Statutes. Chapter 373L, Hawaii Revised Statutes, was codified in 2010 to regulate the professional employer organization business by enforcing regulation and bonding requirements. Your Committee further finds that effective implementation of both chapters has been hampered by incompatible and ambiguous language.

Your Committee notes that the Senate companion to this measure, S.B. No. 510, S.D. 2, which was previously passed by the Senate, contains language that addresses the major concerns of the Department of Labor and Industrial Relations, Department of Taxation, and large and small professional employer organizations while also maintaining sufficient oversight to safeguard employees' rights and benefits. The language in S.B. No. 510, S.D. 2, is preferable because it simplifies and streamlines existing laws related to professional employer organizations and ties compliance with the regulatory functions required by chapter 373L, Hawaii Revised Statutes, to the general excise tax exemption provided for in section 237-24.75, Hawaii Revised Statutes.

Your Committee additionally finds that the language in S.B. No. 510, S.D. 2, is a collaborative effort between interested parties that ensures all professional employer organizations are appropriately registered with the Department of Labor and Industrial Relations and have all applicable certificates of authority from the Department of Commerce and Consumer Affairs. The language in S.B. No. 510, S.D. 2, also ensures that the general excise tax exemption offered by the Department of Taxation is only available to the professional employer organizations that have complied with all necessary requirements under chapter 373L, Hawaii Revised Statutes.

Accordingly, your Committee has amended this measure by:

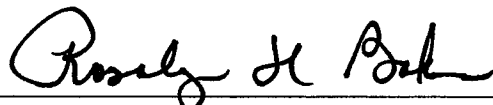
- (1) Deleting its contents and replacing them with the contents of S.B. No. 510, S.D. 2, a substantively similar measure, which:



- (A) Repeals chapter 373K, Hawaii Revised Statutes;
 - (B) Clarifies professional employer organization responsibilities with respect to meeting the statutory requirements of the repealed chapter 373K, Hawaii Revised Statutes, and the nexus between the registration of professional employer organizations and qualification for the state general excise tax exemption;
 - (C) Requires professional employer organizations to obtain a bond on a sliding scale that is based on total payroll amount; and
 - (D) Inserts an effective date of July 1, 2050; and
- (2) Further amending this measure by:
- (A) Specifying that a letter of credit that is equivalent to the required bond amount may be used as a substitute for a surety bond; and
 - (B) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Commerce and Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 144, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 144, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Respectfully submitted on
behalf of the members of the
Committee on Commerce and
Consumer Protection,



ROSALYN H. BAKER, Chair



