STAND. COM. REP. NO. 3110

Honolulu, Hawaii

APR 21 2006

RE: H.C.R. No. 147 H.D. 1

Honorable Robert Bunda President of the Senate Twenty-Third State Legislature Regular Session of 2006 State of Hawaii

Sir:

Your Committee on Human Services, to which was referred H.C.R. No. 147, H.D. 1, entitled:

"HOUSE CONCURRENT RESOLUTION REQUESTING THE ATTORNEY GENERAL TO PROVIDE A DEFINITIVE LEGAL OPINION REGARDING WHETHER CHAPTERS 383, 386, 392, AND 393 HAWAII REVISED STATUTES, EACH EXCLUDE FROM THE DEFINITION OF "EMPLOYMENT" THOSE INDIVIDUALS WHO PERFORM ATTENDANT CARE AND DAY CARE SERVICES AUTHORIZED UNDER THE SOCIAL SECURITY ACT, AS AMENDED, IN THE EMPLOY OF PERSONS, INCLUDING CORPORATIONS AND PRIVATE AGENCIES, WHO CONTRACT WITH THE DEPARTMENT OF HUMAN SERVICES AND WHO ARE THE RECIPIENTS OF SOCIAL SERVICE PAYMENTS,"

begs leave to report as follows:

The purpose of this measure is to request the Attorney General to provide a definitive legal opinion regarding the definition of "employment" as used in sections 386-1, 392-3, and 393-5, Hawaii Revised Statutes.

Your Committee received testimony in support of the measure from Home & Community Services of Hawaii, Inc., Primary Care Providers, and four hundred sixty-six individuals. The Attorney General and the Department of Labor and Industrial Relations submitted comments on this measure.

This measure requests the Attorney General to provide a definitive legal opinion to the Legislature regarding the "domestic" exemption to state employment laws with respect to persons, including corporations and private agencies, who contract

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with the Department of Human Services to provide attendant and day care services. Your Committee notes that the Attorney General's written testimony raises concerns regarding this measure's provisions. Your Committee finds that a formal legal opinion will promote ongoing discussion regarding the need to amend chapters 383, 386, 392, and 393, Hawaii Revised Statutes, in the future.

As affirmed by the record of votes of the members of your Committee on Human Services that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 147, H.D. 1, and recommends that it be referred to the Committee on Labor.

Respectfully submitted on behalf of the members of the Committee on Human Services,



The Senate Twenty-Third Legislature State of Hawaii

Record of Votes of the Committee on Human Services (Bills and Resolutions)

Measure:	Committee Heterral:		Date:	1-10	ρ	
HCR 147	HMS, LBR 4-18-06					
The committee is reconsidering its previous decision on this measure.						
If so, then the previous decision was to:						
The Recommendation is to:						
Pass, unamended (2312)	Pass, with amendr	Hold Recommit (2310) (2313)				
Members	Ay	res Aye	es(WR)	Nays	Excused	
CHUN OAKLAND, Suzanne (C)	V					
IHARA, Jr., Les (VC)						
FUKUNAGA, Carol	ν					
HOOSER, Gary L.					V	
KOKUBUN, Russell S.	L					
TRIMBLE, Gordon						
TOTAL	4	7	0	0	2	
Recommendation:						
Adopted			Not Adopted			
Chair's or Designee's Signature:						
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy						

^{*}Do <u>not</u> list more than one measure per Record of Votes.