



1 to a professional employer agreement and this chapter. In a co-  
2 employment relationship:

3 (1) The professional employer organization is entitled to  
4 enforce only those employer rights, and is subject to  
5 only those obligations specifically allocated to the  
6 professional employer organization by the professional  
7 employer agreement and this chapter;

8 (2) The client is entitled to enforce those rights, and is  
9 obligated to provide and perform those employer  
10 obligations allocated to the client by the  
11 professional employer agreement and this chapter; and

12 (3) The client is entitled to enforce any right and is  
13 obligated to perform any obligation of an employer not  
14 specifically allocated to the professional employer  
15 organization by the professional employer agreement or  
16 this chapter.

17 "Covered employee" means an individual having a co-  
18 employment relationship with a professional employer  
19 organization and a client who meets all of the following  
20 criteria:

- 1           (1) The individual has received written notice of co-  
2           employment with the professional employer  
3           organization; and
- 4           (2) The individual's co-employment relationship is  
5           pursuant to a professional employer agreement subject  
6           to this chapter. Individuals who are officers,  
7           directors, shareholders, partners, and managers of the  
8           client shall be covered employees to the extent that  
9           the professional employer organization and the client  
10          have expressly agreed in the professional employer  
11          agreement that the individuals shall be covered  
12          employees and provided that the individuals meet the  
13          criteria of this definition and act as operational  
14          managers or perform day-to-day operational services  
15          for the client.

16           "Department" means the department of commerce and consumer  
17          affairs.

18           "Director" means the director of commerce and consumer  
19          affairs.

20           "Professional employer organization group" means two or  
21          more professional employer organizations that are majority-owned



1 or commonly controlled by the same entity, parent, or  
2 controlling person or persons.

3 "Professional employer agreement" means a written contract  
4 by and between a client and a professional employer organization  
5 that provides for the following:

- 6 (1) The co-employment of covered employees; and
- 7 (2) The allocation of employer rights and obligations  
8 between the client and the professional employer  
9 organization with respect to the covered employees.

10 "Professional employer organization":

- 11 (1) Means any person engaged in the business of providing  
12 professional employer services. A person engaged in  
13 the business of providing professional employer  
14 services shall be subject to this chapter regardless  
15 of whether the person uses such a term or conducts  
16 business expressly as a "professional employer  
17 organization", "PEO", "staff leasing company",  
18 "registered staff leasing company", "employee leasing  
19 company", "administrative employer", or any other such  
20 name.

- 21 (2) Shall not be deemed to include any of the following:



1 (A) Arrangements wherein a person, whose principal  
2 business activity is not entering into  
3 professional employer arrangements and that does  
4 not hold itself out as a professional employer  
5 organization, shares employees with a commonly  
6 owned company within the meaning of section  
7 414(b) and (c) of the Internal Revenue Code of  
8 1986, as amended;

9 (B) Independent contractor arrangements by which a  
10 person assumes responsibility for the product  
11 produced or service performed by a person or the  
12 person's agents and retains and exercises primary  
13 direction and control over the work performed by  
14 the individuals whose services are supplied under  
15 those arrangements; or

16 (C) The providing of temporary help services.

17 "Professional employer services" means the service of  
18 entering into co-employment relationships under this chapter in  
19 which all or a majority of the employees providing services to a  
20 client or to a division or work unit of client are covered  
21 employees.



1 "Registrant" means a professional employer organization  
2 registered under this chapter.

3 "Temporary help services" means services consisting of a  
4 person:

- 5 (1) Recruiting and hiring the person's own employees;
- 6 (2) Finding other organizations that need the services of  
7 those employees;
- 8 (3) Assigning those employees to perform work at, or  
9 services for the other organizations, to support or  
10 supplement the other organizations' workforces, or to  
11 provide assistance in special work situations such as,  
12 but not limited to employee absences, skill shortages,  
13 seasonal workloads, or to perform special assignments  
14 or projects; and
- 15 (4) Customarily attempting to reassign the employees to  
16 other organizations when they finish each assignment.

17 § -2 Registration requirements. (a) No person shall  
18 provide, advertise, or otherwise hold oneself out as providing  
19 professional employer services in this State, unless the person  
20 is registered under this chapter.

21 (b) Each applicant for registration under this chapter  
22 shall provide the department with the following information:



- 1           (1) The name or names under which the professional  
2                   employer organization conducts business;
- 3           (2) The address of the principal place of business of the  
4                   professional employer organization and the address of  
5                   each office that the professional employer  
6                   organization maintains in this State;
- 7           (3) The professional employer organization's taxpayer or  
8                   employer identification number;
- 9           (4) A list, by jurisdiction, of each name under which the  
10                  professional employer organization has operated in the  
11                  preceding five years, including any alternative names,  
12                  names of predecessors and, if known, successor  
13                  business entities;
- 14          (5) A statement of ownership, which shall include the name  
15                  and evidence of the business experience of any person  
16                  that, individually or acting in concert with one or  
17                  more other persons, owns or controls, directly or  
18                  indirectly, twenty-five per cent or more of the equity  
19                  interests of the professional employer organization;
- 20          (6) A statement of management, which shall include the  
21                  name and evidence of the business experience of any  
22                  person who serves as president, chief executive



1           officer, or otherwise has the authority to act as  
2           senior executive officer of the professional employer  
3           organization;

4           (7) Proof of valid workers' compensation coverage; and

5           (8) A financial statement setting forth the financial  
6           condition of the professional employer organization or  
7           professional employer organization group. At the time  
8           of application for a new license, the applicant shall  
9           submit the most recent audit of the applicant, which  
10          may not be older than thirteen months. Thereafter, a  
11          professional employer organization or professional  
12          employer organization group shall file on an annual  
13          basis, within one hundred and eighty days after the  
14          end of the professional employer organization or  
15          professional employer organization group's fiscal  
16          year, a succeeding audit. An applicant may apply for  
17          an extension with the department but the request shall  
18          be accompanied by a letter from the auditor stating  
19          the reasons for the delay and the anticipated audit  
20          completion date. A professional employer organization  
21          that provides proof to the agency that it has been  
22          operating in the State prior to January 1, 2010, shall



1 have twenty-four months from January 1, 2010, to  
2 submit a financial audit as specified in this section.  
3 The financial statement shall be prepared in  
4 accordance with generally accepted accounting  
5 principles audited by an independent certified public  
6 accountant licensed to practice in the State, and  
7 shall be without qualification as to the going concern  
8 status of the professional employer organization. A  
9 professional employer organization group may submit  
10 combined or consolidated audited financial statements  
11 to meet the requirements of this section. A  
12 professional employer organization that has not had  
13 sufficient operating history to have audited  
14 financials based upon at least twelve months of  
15 operating history shall meet the financial capacity  
16 requirements of section -4 and present financial  
17 statements reviewed by a certified public accountant.

18 (c) Each professional employer organization operating  
19 within this State as of January 1, 2010, shall complete its  
20 initial registration not later than one hundred and eighty days  
21 after January 1, 2010. The initial registration shall be valid  
22 until one hundred and eighty days after the end of the



1 professional employer organization's first fiscal year under  
2 registration; provided that the professional employer  
3 organization's first fiscal year ends more than one year after  
4 January 1, 2010.

5 Each professional employer organization not operating  
6 within this State as of January 1, 2010, shall complete its  
7 initial registration prior to commencement of operations within  
8 this State.

9 (d) Within one hundred and eighty days after the end of a  
10 registrant's fiscal year, the registrant shall renew its  
11 registration by notifying the department of any changes in the  
12 information provided in the registrant's most recent  
13 registration or renewal. A registrant's existing registration  
14 shall remain in effect during the pendency of a renewal  
15 application.

16 (e) Professional employer organizations in a professional  
17 employer organization group may satisfy registration  
18 requirements on a combined or consolidated basis; provided that  
19 each member of the professional employer organization group  
20 guarantees the obligations under this chapter of each other  
21 member of the professional employer organization group. In the  
22 case of a professional employer organization group that submits



1 a combined or consolidated audited financial statement that  
2 includes entities that are not professional employer  
3 organizations or that are not in the professional employer  
4 organization group, the controlling entity of the professional  
5 employer organization group under the consolidated or combined  
6 statement shall guarantee the obligations of the professional  
7 employer organizations in the professional employer organization  
8 group.

9 (f) The department shall maintain a list of professional  
10 employer organizations registered under this chapter that is  
11 readily available to the public by electronic or other means.

12 (g) The department may prescribe forms necessary to  
13 promote the efficient administration of this section.

14 (h) The department, to the extent practicable, shall  
15 permit by adoption of rules in accordance with chapter 91 the  
16 acceptance of electronic filings, including the applications,  
17 documents, reports, and other filings required under this  
18 chapter. The department, by adoption of rules, may provide for  
19 the acceptance of electronic filings and other assurance by a  
20 bonded, independent, and qualified assurance organization  
21 approved by the director; provided that the assurance  
22 organization provides satisfactory assurance of compliance



1 acceptable to the department consistent with the requirements of  
2 this chapter and the rules adopted thereunder. Use of an  
3 approved assurance organization shall be optional and not  
4 mandatory for a registrant. Nothing in this subsection shall  
5 limit or change the department's authority to register or  
6 terminate registration of a professional employer organization  
7 or to investigate or enforce this chapter.

8 (i) All records, reports, and other information obtained  
9 from a professional employer organization pursuant to this  
10 chapter, except to the extent necessary for the proper  
11 administration of this chapter by the department, shall be  
12 confidential and shall not be published or made available for  
13 public inspection other than to public employees in the  
14 performance of their public duties.

15 § -3 Fees. (a) Upon filing an initial registration  
16 statement under this chapter, a professional employer  
17 organization shall pay to the department an initial registration  
18 fee not to exceed \$1,500. Upon each annual renewal of a  
19 registration statement filed pursuant to this chapter, a  
20 professional employer organization shall pay a renewal fee not  
21 to exceed \$1,500. The department shall determine by rule any  
22 fee to be charged for a group registration. A professional



1 employer organization seeking to register electronically shall  
2 pay an initial and annual fee not to exceed \$1,500.

3       § -4 **Financial capability.** (a) Each professional  
4 employer organization or collectively, each professional  
5 employer organization group, shall maintain positive working  
6 capital as defined by generally accepted accounting principles  
7 at registration as reflected in the financial statements  
8 submitted to the department with the initial registration and  
9 each annual renewal. A professional employer organization that  
10 provides proof to the agency that it has been operating in the  
11 State prior to January 1, 2010, shall have twenty-four months  
12 from January 1, 2010, to prove compliance with this section.

13       (b) As an alternative to subsection (a), a professional  
14 employer organization or professional employer organization  
15 group may provide a bond, irrevocable letter of credit, or  
16 securities with a minimum market value in an amount sufficient  
17 to cover the deficit that provides proof of positive working  
18 capital to the department. The bond shall be held by a  
19 depository designated by the department and shall be of  
20 sufficient amount to secure the payment by the professional  
21 employer organization of all taxes, wages, benefits, or other  
22 entitlements with respect to the covered employees.



1           § -5 General requirements. (a) Except as specifically  
2 provided in this chapter, the co-employment relationship between  
3 the client and the professional employer organization, and  
4 between each co-employer and each covered employee, shall be  
5 governed by the professional employer agreement. Each  
6 professional employer agreement shall specify the following:

7           (1) The professional employer organization shall have  
8 responsibility to pay wages to covered employees; to  
9 withhold, collect, report and remit payroll-related  
10 and unemployment taxes; and, to the extent the  
11 professional employer organization has assumed  
12 responsibility in the professional employer agreement,  
13 to make payments for employee benefits for covered  
14 employees. As used in this section, the term "wages"  
15 does not include any obligation between a client and a  
16 covered employee for payments beyond or in addition to  
17 the covered employee's salary, draw, or regular rate  
18 of pay, such as bonuses, commissions, severance pay,  
19 deferred compensation, profit sharing, or vacation,  
20 sick, or other paid time off pay, unless the  
21 professional employer organization has expressly



1           agreed to assume liability for those payments in the  
2           professional employer agreement; and

3           (2) The professional employer organization shall have a  
4           right to hire, discipline, and terminate a covered  
5           employee, as may be necessary to fulfill the  
6           professional employer organization's responsibilities  
7           under this chapter and the professional employer  
8           agreement. The client shall have a right to hire,  
9           discipline, and terminate a covered employee.

10          (b) Except to the extent otherwise expressly provided by  
11          the applicable professional employer agreement:

12          (1) A client shall be solely responsible for the quality,  
13          adequacy, or safety of the goods or services produced  
14          or sold in client's business;

15          (2) A client shall be solely responsible for directing,  
16          supervising, training, and controlling the work of the  
17          covered employees with respect to the business  
18          activities of the client and shall be solely  
19          responsible for the acts, errors, or omissions of the  
20          covered employees with regard to those activities;

21          (3) A client shall not be liable for the acts, errors, or  
22          omissions of a professional employer organization or a



1 covered employee of the client and the professional  
2 employer organization when the covered employee is  
3 acting under the express direction and control of the  
4 professional employer organization;

5 (4) A professional employer organization shall not be  
6 liable for the acts, errors, or omissions of a client  
7 or a covered employee of the client when the covered  
8 employee is acting under the express direction and  
9 control of the client;

10 (5) Nothing in this subsection shall serve to limit any  
11 contractual liability or obligation specifically  
12 provided in the written professional employer  
13 agreement;

14 (6) A covered employee is not, solely as the result of  
15 being a covered employee of a professional employer  
16 organization, an employee of the professional employer  
17 organization for purposes of general liability  
18 insurance, fidelity bonds, surety bonds, employer's  
19 liability exclusive of workers' compensation, or  
20 liquor liability insurance carried by the professional  
21 employer organization unless the covered employees are  
22 included by specific reference in the professional



1 employer agreement and applicable prearranged  
2 employment contract, insurance contract, or bond.

3 § -6 Workers' compensation. The protection of the  
4 exclusive remedy provision of the workers' compensation law  
5 shall apply to the professional employer organization, the  
6 client, and to all covered employees and other employees of the  
7 client irrespective of which co-employer obtains the workers'  
8 compensation coverage. Exclusive remedy protection shall extend  
9 for both coverage A and coverage B of a workers' compensation  
10 policy.

11 § -7 Enforcement. (a) No person may:

12 (1) Offer or provide professional employer services or use  
13 the names PEO, professional employer organization,  
14 staff leasing, employee leasing, administrative  
15 employer, or other title representing professional  
16 employer services without first becoming registered  
17 pursuant to this chapter; or

18 (2) Knowingly provide false or fraudulent information to  
19 the department in conjunction with any registration,  
20 renewal, or in any report required pursuant to this  
21 chapter.



1 (b) Disciplinary action may be taken by the department  
2 against any person for a violation of subsection (a) or for:

3 (1) Being convicted of a crime that relates to the  
4 operation of a professional employer organization and  
5 involves fraud or deceit;

6 (2) Knowingly making a material misrepresentation to the  
7 department or other governmental agency; or

8 (3) Willfully violating this chapter or any order issued  
9 by or rule adopted by the department pursuant to this  
10 chapter.

11 (c) If the director finds, after notice and an opportunity  
12 to be heard, that a professional employer organization or a  
13 controlling person of a professional employer organization has  
14 violated this Act, the director shall impose one or more of the  
15 following disciplinary actions:

16 (1) A denial of an application for registration;

17 (2) Revocation, restriction, or refusal to renew a  
18 registration;

19 (3) Imposition of an administrative fine in an amount not  
20 to exceed \$1,000 for each violation;

21 (4) Probation, subject to specified conditions; or

22 (5) A cease order.



1           §   -8   Conflict with chapter 373K. In case of any  
2 conflict between this chapter and chapter 373K, this chapter  
3 shall prevail."

4           SECTION 2. This Act shall take effect on January 1, 2010.  
5

INTRODUCED BY:

Carol Fulkerson

Rosslyn A. Baker

Will Eyer

Andrzej



**Report Title:**

Professional Employer Organization

**Description:**

Requires professional employer organizations to register with the department of commerce and consumer affairs.





LINDA LINGLE  
GOVERNOR  
JAMES R. AIONA, JR.  
LT. GOVERNOR

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LAWRENCE M. REIFURTH  
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DEPUTY DIRECTOR

**PRESENTATION OF THE  
PROFESSIONAL AND VOCATIONAL LICENSING DIVISION**

TO THE SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

TWENTY-FIFTH STATE LEGISLATURE  
REGULAR SESSION of 2009

Wednesday, February 25, 2009  
8:30 a.m.

**TESTIMONY ON SENATE BILL NO. 1062, RELATING TO PROFESSIONAL  
EMPLOYER ORGANIZATIONS.**

TO THE HONORABLE ROSALYN H. BAKER, CHAIR,  
AND MEMBERS OF THE COMMITTEE:

My name is Celia Suzuki, Program Specialist of the Professional and Vocational Licensing Division, Department of Commerce and Consumer Affairs ("Department").

The Department appreciates the opportunity to testify on Senate Bill No. 1062, Relating to Professional Employer Organizations.

The companion bill, House Bill No. 1427, was heard by the House Committee on Economic Revitalization, Business and Military Affairs and passed out with amendments on February 5, 2009.

Senate Bill No. 1062 creates a new chapter to regulate professional employer organizations by having them register with the Department. Section 26H-6, Hawaii

Revised Statutes, requires that new regulatory measures being considered for enactment be referred to the Auditor for a sunrise analysis before any measure is enacted. The statute further requires that the analysis shall set forth the probable effects of regulation, assess whether its enactment is consistent with the legislative policies of the Hawaii Regulatory Licensing Reform Act, and assess alternative forms of regulation.

Therefore, the Department strongly supports a sunrise study on this measure, as mandated by law, before regulating professional employer organizations. Thank you for the opportunity to testify on Senate Bill No. 1062.



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of Professional Employer Organizations

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February 24, 2009

Senator Rosalyn Baker, Chair  
Senate Committee on Commerce and Consumer Protection  
Conference Room 229  
State Capitol  
415 South Beretania Street  
Honolulu, Hawaii 96813

**Re: Support for SB 1062 Relating to Registration of Professional Employer Organizations**

Dear Chairwoman Baker and Members of the Committee:

On behalf of the National Association of Professional Employer Organizations, (NAPEO),<sup>1</sup> I am writing to express support for Senate Bill 1062, a measure which creates transparency through the registration of professional employer organizations (PEOs) in Hawaii.

By way of background, Professional Employer Organizations are businesses that partner with existing small businesses to enable them to cost-effectively outsource the management of human resources, employee benefits, payroll and workers' compensation so that PEO clients can focus on their core competencies to maintain and grow their bottom line. By forming an employment relationship with these small businesses and their employees, PEOs are able to offer enhanced access to employee benefits that makes a small business of 10 feel like they are part of a company of 10,000.

Last year, NAPEO and our local members participated in an interim legislative working group to discuss PEOs and their interaction with the workers' compensation insurance system specifically, and on a broader level, PEOs and their interaction with state government. During this discussion with members of the legislature, the insurance community and the PEO industry, the central theme of *transparency* continued to surface as a driver for further statutory clarification in the state of Hawaii. To date, 36 states across the country regulate the PEO industry through licensing, registration and/or certification programs to provide a level of transparency to consumers and state agencies that regulate aspects of the PEO employment relationship including workers' compensation, unemployment insurance and welfare benefit plans.

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<sup>1</sup> The National Association of Professional Employer Organizations (NAPEO) is a national trade association of the professional employer organization (PEO) industry, representing a membership that generates more than 90% of the industry's total PEO gross revenues.

NAPEO supports Senate Bill 1062 because it is consistent with the discussions that arose out of the interim legislative working group to provide a necessary and consistent framework for identifying and regulating PEOs located in and operating in Hawaii. Specifically, this bill will:

1. Require transparency through annual registration of all PEOs, both domestic and mainland, and ensure proper documentation is provided to the state (i.e. proof of workers' comp, unemployment insurance, etc.);
2. Ensure PEOs are financially solvent through annual financial disclosures to ensure that small businesses that partner with PEOs are not harmed;
3. Detail clear responsibilities of both the PEO and client to ensure consumers are aware of the rights and responsibilities involved in the PEO relationship;
4. Provide enforcement tools to punish and ban bad actors from doing business in the state.

NAPEO strongly supports both transparency and regulatory frameworks that create minimum standards and operational requirements. This legislation provides clear and transparent rules for PEOs that will be helpful to small businesses that engage PEOs as well as providing the state with proper regulatory standards governing this important industry.

NAPEO firmly believes that this important legislation will help protect consumers, achieve greater efficiencies at the state regulatory level and lead to a more robust, competitive and compliant PEO industry in the state of Hawaii. We urge you to carefully consider this legislation and to vote in support. If you have any questions about this bill or NAPEO's views, please do not hesitate to contact me. Thank you for your consideration.

Sincerely,



Todd J. Cohn  
Assistant Director, State Government Affairs

Cc: John Radcliffe, Capitol Consultants of Hawaii  
G.A. "Red" Morris, Capitol Consultants of Hawaii  
Barron Guss, Altres HR



Chair, Senator Rosalyn H. Baker  
Vice-chair, Senator David Y. Ige  
Committee: Commerce & Consumer Protection  
From: Society for Human Resource Management (SHRM) Hawaii  
(808) 523-3695 or e-mail: shrmhawaii@hawaii.biz.rr.com  
Testimony date: Wednesday, February 25, 2009

### **Strong Support of SB 1062**

SHRM Hawaii is the local chapter of a National professional organization of Human Resource professionals. Our 1,200+ Hawaii membership includes those from small and large companies, local, mainland or internationally owned - tasked with meeting the needs of employees and employers in a balanced manner, and ensuring compliance with laws affecting the workplace. We (HR Professionals) are the people that implement the legislation you pass, on a day-to-day front line level.

SHRM Hawaii strongly supports SB1062, requiring Professional Employer Organizations (PEOs) to register with the department of commerce and consumer affairs.

Federal and state regulations on payroll, workers' comp and all those relating to employment extremely complex – Business owners considering the use of a PEO, they may not be aware of minimum standards that should be met/maintained. Due to this complexity and difficulty business owners face in evaluating PEO's SHRM Hawaii supports registration of companies that perform PEO services to ensure minimum standards.

Further, because a PEO acts as a “pass through” for payroll and medical benefits, for companies of all sizes, and all industries - it is particularly important that there are standards for a PEO's financial standing and it's status as a business of “going concern”, as a PEO's financial failure would have far reaching impact on the business that outsource to them and the employees that they administratively employ through their services agreement.

It is for these reasons SHRM Hawaii strongly supports the PEO registration requirement and minimum standards set by SB1062.

Thank you for the opportunity to testify. SHRM Hawaii offers the assistance of its Legislative Committee members in discussing this matter further.

February 24, 2009

Senator Rosalyn H. Baker, Chair  
Committee on Commerce and Consumer Protection  
State Capitol  
Conference Room 229  
415 South Beretania Street  
Honolulu, Hawaii 96813

**Re: Support for SB1062 Relating to Professional Employer Organizations**

Dear Senator Baker:

My name is Barron Guss, President and second-generation owner of ALTRES, Inc., a 40-year old Hawaii company. I am here today to testify in support of SB1062, Relating to Professional Employer Organizations.

**Background**

Professional Employer Organizations act as the human resources and administrative arm of over 2,000 of Hawaii's small businesses. In this capacity, a PEO prepares payroll, provides workers' compensation, health insurance and enhanced lifestyle benefits to the employees of the clients they serve, which now number over 20,000.

For close to 30 years, ALTRES has been providing these services and promoting the benefits of the PEO relationship for Hawaii's businesses. Since that time, the industry has grown with a solid list of local providers of these services. In recent years, the Legislature has recognized PEOs with the passing of Act 225, which clarified the manner in which PEOs handle the monies they receive for distribution on behalf of their clients and employees as well as how the General Excise Tax is applied.

**Why Registration**

In Hawaii, we are very fortunate that the local PEO providers have been reputable and professional in the manner in which they conduct business, but this has not been the case in some areas of the mainland. PEO failures can have a negative impact on local government, businesses and their employees. It can come in the form of failure to pay taxes, including withholding, social security and retirement benefits, as well as sometimes creating a lapse in insurance coverage, leaving individuals to fend for themselves.

Traditionally, an industry asks for licensure and registration to protect its home turf and to provide a competitive advantage for its incumbent businesses. That's not true in this case, as in my 29-year history of promoting these services, I have come across businesses that have subscribed to the services of a mainland PEO only to discover that there has been no adherence to Hawaii State laws, including our pre-paid health act, TDI, as well using non-admitted carriers for workers' compensation insurance. Registration would allow Hawaii authorities to put these foreign businesses on notice for our requirements as well as ensure that Hawaii's businesses and their employees are protected from these bad faith providers.

### **Transparency**

In last Session, there was a working group formed to study the current status of PEOs in the State and their effect, if any, on labor issues, insurance practices and general business issues. It was agreed that there were no issues with the industry locally, but the establishment of transparency and operational standards would be a prudent measure, given the past problems on the mainland. Currently, there are over 35 states that have adopted PEO registration and the National Association of Professional Employer Organizations (NAPEO) is working to ensure that the other 15 will not have to worry about exposure in this area.

The proposed Legislation calls for declaration of the PEO as well as adherence to certain operational standards, including audited financial statements, positive net worth, and proof of coverage for workers' compensation insurance. I would like to work with the various committees to strengthen the Bill to include proof of coverage for medical insurance, if applicable, as well as TDI.

### **Revenue Positive**

NAPEO cites that over 25 of its current members claim to have employment relationships with persons in the State of Hawaii. It is important to note that there are a number of PEOs in the State that currently do not belong to NAPEO, as well as service providers that do not necessarily show up on the radar, bringing the potential number of service providers to more than 50.

There is currently a proposed \$1,500 service fee for each registration, bringing a positive financial impact of \$75,000 to the State.

February 24, 2009  
Page Three

**Summary**

Coming from an industry that stresses that its main benefit is to provide simplicity for business owners, it is ironic that I am asking for more government regulation and paperwork. However, I feel it is imperative that our industry and the State move toward creating an environment of transparency and accountability in the PEO industry.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Barron L. Guss", with a long horizontal flourish extending to the right.

Barron L. Guss  
President and CEO

BLG:lo