

NEIL ABERCROMBIE
GOVERNOR



PATRICIA MCMANAMAN
DIRECTOR

BARBARA A. YAMASHITA
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF HUMAN SERVICES

P. O. Box 339
Honolulu, Hawaii 96809-0339

March 29, 2012

TO: The Honorable Marcus R. Oshiro, Chair
House Committee on Finance

FROM: Patricia McManaman, Director

SUBJECT: **S.B. 2810, S.D.1 - RELATING TO EMPLOYMENT EXEMPTION FOR
DOMESTIC SERVICES AUTHORIZED BY THE DEPARTMENT OF
HUMAN SERVICES**

Hearing: Thursday, March 29, 2012; 11:00 a.m.
Conference Room 308, State Capitol

PURPOSE: The purpose of the bill is to amend the definition of "employment" in the workers' compensation, temporary disability insurance, and prepaid health care statutes by clarifying the "domestic services" exclusion for services authorized by the Department of Human Services.

DEPARTMENT'S POSITION: The Department of Human Services (DHS) strongly supports this Administration bill. Sections 386-1, 392-5, and 393-5, Hawaii Revised Statutes, exempt recipients of social service payments with developmental and intellectual disabilities from providing workers' compensation, temporary disability insurance, and prepaid health care. This bill will provide clarification and consistency by exempting the Department of Human Services (DHS), aged recipients and disabled recipients of home and community-based services, and recipients of DHS state-funded home and community-based services, from having to provide workers' compensation, temporary disability insurance, and prepaid health care. This exemption will allow

AN EQUAL OPPORTUNITY AGENCY

greater access to home and community-based services to needy individuals. Without this bill the Department and its contracted health plans will be out of compliance with State labor laws. This will require the Department to utilize money that is currently used to pay for benefits to be used to pay for workers' compensation, health coverage and temporary disability insurance.

If the exemption is not reinstated, through this bill, it is estimated that it will cost approximately \$6 million to pay for the insurance and health care coverage. This amount would have to be taken from benefit services to cover these costs. This exemption will allow the DHS to maintain its current level of home and community-based services to needy individuals.

The DHS requests that the effective date of this bill be changed to upon approval.

Thank you for the opportunity to testify on this bill.



**STATE OF HAWAII
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS**

830 PUNCHBOWL STREET, ROOM 321
HONOLULU, HAWAII 96813
www.hawaii.gov/labor
Phone: (808) 586-8842 / Fax: (808) 586-9099
Email: dlir.director@hawaii.gov

March 29, 2012

To: The Honorable Marcus Oshiro, Chair, Marilyn Lee, Vice Chair, and
Members of the House Committee on Finance

Date: Thursday, March 29, 2012

Time: 11:00 a.m.

Place: Conference Room 308, State Capitol

From: Dwight Y. Takamine, Director
Department of Labor and Industrial Relations (DLIR)

**Re: S.B. No. 2810 S.D. 1 Relating to Employment Exemption for Domestic
Services Authorized by the Department of Human Services**

I. OVERVIEW OF PROPOSED LEGISLATION

This proposal amends Sections 386-1(6), 392-5(19), and 393-7(d), HRS, by adding another class of employees that are excluded from the definition of "employment" and the protections afforded by the Workers' Compensation, Temporary Disability Insurance, and Prepaid Health Care laws. This measure seeks to exclude from the three laws domestic services authorized by the Department of Human Services under the Social Security Act or when provided through state-funded medical assistance to individuals ineligible for Medicaid, when performed by an individual in the employ of a recipient of social service payments.

II. CURRENT LAW

With respect to domestic services, the current statutes exclude from employment only those domestic services performed for persons with developmental and intellectual disabilities under the Medicaid home and community-based services program pursuant to Title 42 Code Federal Regulations.

III. COMMENTS ON THE SENATE BILL

The Department supports the Administration's proposal from the Department of Human Services.