CONFERENCE COMMITTEE REP. NO. 176

Honolulu, Hawaii April 26, 2013 RE: H.B. No. 144 H.D. 2 S.D. 2 C.D. 1

Honorable Joseph M. Souki Speaker, House of Representatives Twenty-Seventh State Legislature Regular Session of 2013 State of Hawaii

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

Sir and Madam:

Your Committee on Conference on the disagreeing vote of the House of Representatives to the amendments proposed by the Senate in H.B. No. 144, H.D. 2, S.D. 2, entitled:

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

having met, and after full and free discussion, has agreed to recommend and does recommend to the respective Houses the final passage of this bill in an amended form.

The purpose of this measure is to, among other things, consolidate and clarify the laws relating to professional employer organizations (PEO) to ensure that only business entities that qualify as PEOs and meet the statutory requirements under Chapter 373L, Hawaii Revised Statutes, can be eligible for a state general excise tax waiver, under section 237-24.7, Hawaii Revised Statutes.

Your Committee on Conference recognizes that many businesses currently operate under various names and forms of professional employer agreements with client companies, making it difficult to recognize any meaningful distinctions between these similarly

HB144 CD1 HCCR HMS 2013-3648

CONFERENCE COMMITTEE REP. NO. 176 Page 2

structured organizations. Your Committee on Conference finds that this measure more narrowly defines "professional employer organization" to facilitate the initial vetting of PEOs in the registration process. Furthermore, it is your Committee on Conference's intent that agencies enforcing other employment laws may independently determine under the applicable definitions in those laws whether the PEO, the client company, or both can be held liable for violations of those other employment laws.

Accordingly, your Committee on Conference has amended this measure by:

- (1) Clarifying that the PEO must be responsible for providing its employees' statutory benefits by complying with the unemployment insurance, workers' compensation, temporary disability insurance, and prepaid health care laws for all workers performing services pursuant to the professional employer agreement between the PEO and the client company and shall provide notice of such to covered employees;
- (2) Removing language requiring the Director of Labor and Industrial Relations to establish rules regarding fees and other requirements for PEOs pursuant to Chapter 91, Hawaii Revised Statutes;
- (3) Amending the General Excise Tax exemption for professional employer organizations to account for the repeal of Chapter 373K, Hawaii Revised Statutes;
- (4) Providing clarifying language regarding the bond or letter of credit requirement;
- (5) Appropriating \$13,000 of general funds for fiscal year 2013-2014 to the Department of Labor and Indústrial Relations to carry out the purpose of this measure;
- (6) Changing its effective date to July 1, 2013; and

HB144 CD1 HCCR HMS 2013-3648

(7) Making technical, nonsubstantive amendments for clarity, consistency, and style.

CONFERENCE COMMITTEE REP. NO. 176 Page 3

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of H.B. No. 144, H.D. 2, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 144, H.D. 2, S.D. 2, C.D. 1.

Respectfully submitted on behalf of the managers:

ON THE PART OF THE SENATE

ROSALYN 🙌 BAKER, Chair

WILL ESPERO, Co-Chair

ON THE PART OF THE HOUSE

MARK M. NAKASHIMA, Co-Chair

L.K. MCKELVEY, Co-Chair ANGUS

HASHEM, Co-Chair MARK.



Hawaii State Legislature

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Record of Votes of a Conference Committee

Bill / Concurrent Resolution No.: HB 144, HD 2, SD 2				Date/Time: 4/26/13 3:30					
The recommendation of the House and Senate managers is to pass with amendments (CD).									
The Committee is reconsidering its previous decision.									
The recommendation of the Senate Manager(s) is to AGREE to the House amendments made to the Senate Measure					The recommendation of the House Manager(s) is to AGREE to the Senate amendments made to the House Measure.				
Senate Managers	A	WR	N	E	House Managers	A	WR	N	E
BAKER, Rosalyn H., Chr.	$\overline{\mathbf{V}}$,			NAKASHIMA, Mark M., Co-Chr.	V			
ESPERO, Will, Co-Chr.	$\overline{\mathbf{V}}$	/			MCKELVEY, Angus L.K., Co-Chr.	\checkmark			†
SLOM, Sam	$\overline{\mathbf{V}}$				HASHEM, Mark J., Co-Chr.	$\overline{\mathbf{V}}$	/		-
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A = Aye $WR = Aye$ with Reservations $N = Nay$ $E = Excused$									
					House Recompriendation is:				
Adopted Not Adopted				Adopted Not Adopted					
Senate Lead Chair's or Designee's Signature:				House Lead Chair's or Designee's Signature:					
Distribution: Original Yellow Pink Goldenrod File with Conference Committee Report House Clerk's Office Senate Clerk's Office Drafting Agency									