

SB2544

Measure Title: RELATING TO PROFESSIONAL EMPLOYER ORGANIZATIONS.

Report Title: Professional Employer Organizations; Fees

Description: Establishes a sliding scale based upon the average annual count of covered employees for the biennial renewal fees for professional employer organizations. Takes effect on 01/01/17.

Companion:

Package: None

Current Referral: CPH, WAM

Introducer(s): TOKUDA, BAKER, DELA CRUZ, ENGLISH, GALUTERIA, INOUE, KEITH-AGARAN, KIDANI, NISHIHARA, SHIMABUKURO

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February 1, 2016

To: The Honorable Rosalyn H. Baker, Chair,
The Honorable Michele N. Kidani, Vice Chair, and
Members of the Senate Committee on Commerce, Consumer Protection,
and Health

Date: Monday, February 1, 2016
Time: 9:00 a.m.
Place: Conference Room 229, State Capitol

From: Linda Chu Takayama, Director
Department of Labor and Industrial Relations (DLIR)

Re: S.B. No. 2544 Relating to Professional Employer Organizations

I. OVERVIEW OF PROPOSED LEGISLATION

This proposal seeks to statutorily increase the fees imposed upon professional employer organizations (PEO) to generate sufficient revenues to entirely fund the cost to regulate PEOs. The bill proposes to establish the fee amounts by using a sliding scale based on the number of covered employees of a PEO.

II. CURRENT LAW

The Department of Labor & Industrial Relations administers the PEO law and collects the following fees from PEOs: registration fees (initial) of \$500, biennial renewal fees of \$750, and restoration fees of \$1,500. During this biennial period (July 1, 2014 - June 30, 2016), the department collected \$34,250 in fees that, statutorily, are deposited into the general fund.

III. COMMENTS ON THE SENATE BILL

With the exception of two \$13,000 appropriations in FY 14 and FY 15 that passed

through the department to assist the Department of Commerce and Consumer Affairs to process registration applications, the department receives no funding to administer the PEO program. Currently, there are 49 registered PEOs. To entirely fund the cost to establish the program, the department conservatively estimates the biennial cost to be \$300,322.

The department offers these comments concerning the proposal.

- The department is unable to estimate the "per employee" fee to charge the PEOs. The PEO law does not require, nor does the department possess, employee counts from the PEOs. A sliding fee scale based on the number of employees in a PEO will either require PEOs to self-report the employee count, or the department will need to audit PEO payroll to determine that count.
- Alternatively, the sliding scale could be based on the PEO's client companies' payroll. Coordination with the Department of Taxation to access the payroll figures will be required to effectuate this alternative.
- Amendments to the PEO law are required to allow the department to retain the fees collected, rather than have them deposited into the general fund.



February 1, 2016

The Honorable Senator Rosalyn H. Baker, Chair
The Honorable Senator Michelle N. Kidani, Vice Chair
Senate Committee on Commerce, Consumer Protection, and Health

State Capitol
Honolulu, Hawaii 96813

Subject: SB 2544, February 1, 2016, 9:00 am

Dear Senators Baker and Kidani:

My name is Barron Guss, President and second-generation owner of ALTRES, Inc., a 45-year old Hawaii company and Hawaii's original and oldest Professional Employer Organization (PEO).

I am in support of SB 2544 for the purposes of establishing a fee schedule based on a sliding scale to cover the expenses of PEO registration administration borne by the DLIR.

I have concerns with the current draft, as there are no amounts depicted in the fee matrix with which to agree or disagree. In short, to move this bill forward prior to the DLIR presenting not only its budget for the administration, but the fee structure it plans on utilizing to recover the expenses from the General Fund, is premature.

As I understand it from the proposed legislation, there is precedent in the statutes for regulated businesses to cover, in its entirety, the cost regulation. If we are to "pick up the check," then shouldn't we have the right to know exactly what we are paying for? The industry should be presented with the budget prior to this bill moving out and give us a seat at the table, as it's only right if you are asking us to pay for this cost in its entirety.

Finally, Hawaii is not the first state in the union to enact registration legislation. Eighteen other state agencies have found efficiency and cost savings by utilizing the services of ESAC – Employers Services Assurance Corporation - to manage the regulatory process. Many of the PEOs who operate in Hawaii are ESAC registrants and, from my discussions with the ESAC organization, they are prepared to offer their services so the registration process of all operating PEOs in the state can be managed with their systems and processes. I encourage this committee to ask the DLIR to inquire about this solution.

Thank you for your time today, and my hope is that PEOs can be part of the process of bringing efficiency and cost savings to both the PEO businesses and the State of Hawaii.

Sincerely,

A handwritten signature in black ink, appearing to read "Barron L. Guss". The signature is fluid and cursive, with a large initial "B" and "G".

Barron L. Guss
President and CEO