
A BILL FOR AN ACT

RELATING TO PROFESSIONAL EMPLOYER ORGANIZATIONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that Act 225, Session
2 Laws of Hawaii 2007, established a new chapter on professional
3 employment organizations that provided a general excise tax
4 exemption on amounts a client company paid to a professional
5 employment organization.

6 The legislature further finds that Act 129, Session Laws of
7 Hawaii 2010, established a new chapter in the Hawaii Revised
8 Statutes on professional employer organizations. The
9 legislature notes that the proper term for this type of business
10 entity is professional employer organization, as established in
11 Act 129. The legislature also notes that two chapters relating
12 to professional employer organizations are unnecessary.

13 Act 129 established registration requirements for
14 professional employer organizations. Although these
15 requirements went into effect on July 1, 2011, additional
16 operational provisions are needed to enable the department of
17 labor and industrial relations to fully implement Act 129.



1 The purpose of this Act is to:

- 2 (1) Eliminate duplicative provisions relating to
3 professional employer organizations by repealing
4 chapter 373K, Hawaii Revised Statutes, and incorporate
5 the existing general excise tax exemption into chapter
6 373L, Hawaii Revised Statutes; and
- 7 (2) Facilitate the implementation of the professional
8 employer organization law as established by Act 129,
9 Session Laws of Hawaii 2010.

10 SECTION 2. Chapter 373L, Hawaii Revised Statutes, is
11 amended by adding eleven new sections to be appropriately
12 designated and to read as follows:

13 **"§373L-A Professional employer organization special fund.**

14 There is established in the state treasury a special fund to be
15 known as the professional employer organization special fund to
16 be administered by the department to implement and operate the
17 registration of professional employer organizations established
18 by this chapter. Moneys collected as fees or penalties under
19 sections 373L-C, 373L-D, 373L-E, and 373L-H shall be deposited
20 in the fund. Interest earned from the balance of the fund shall
21 become a part of the fund. Moneys in the fund may be expended
22 for personnel and operating expenses and staff training.



1 §373L-B Registration required. No person within the
2 purview of this chapter shall use the terms "professional
3 employer organization," "PEO", "staff leasing company",
4 "registered staff leasing company", "employee leasing company",
5 "administrative employer", or other similar name unless the
6 person is registered and in compliance with this chapter and the
7 rules and regulations of the director.

8 §373L-C Notice of judgments, penalties. (a) Each
9 registered professional employer organization shall provide
10 written notice within thirty days to the department of any
11 judgment, award, or disciplinary sanction imposed against the
12 organization for violating a statutory provision in an action
13 brought by any state or federal regulatory agency.

14 In addition to any other penalties provided by law, the
15 failure of a professional employer organization to comply with
16 this subsection is a violation punishable by a penalty
17 established by the director pursuant to section 373L-F. Any
18 action taken to impose or collect the penalty provided for in
19 this subsection shall not be considered a criminal action.

20 (b) Each professional employer organization shall file
21 with the department the organization's current mailing and
22 business address. It shall be the professional employer



1 organization's duty to provide written notice to the department
2 of any change of address within thirty days of the change.
3 Failure of the professional employer organization to provide the
4 notice shall absolve the department or director from any duty to
5 provide notice of any matter required by law to be provided to
6 the professional employer organization.

7 §373L-D Denial, suspension, revocation, denial of renewal
8 of registration, or penalty. In addition to any other actions
9 authorized by law, the director may deny, suspend, revoke, or
10 deny renewal of registration of any professional employer
11 organization or impose a penalty when the professional employer
12 organization, including its controlling persons:

13 (1) Fails to meet the requirements for registration as
14 provided in this chapter;

15 (2) Fails to satisfy a civil fine, penalty, or restitution
16 order arising out of any administrative or enforcement
17 action brought by any governmental agency for conduct
18 involving fraud or dishonest dealing;

19 (3) Has had an order or judgment entered against it in the
20 past ten years in any criminal, administrative, or
21 enforcement action for conduct involving fraud or



1 dishonest dealing, or for any violation of any state's
2 laws or rules;

3 (4) Fails to post a bond in accordance with this chapter;

4 (5) Makes any false statement, representation, or
5 certification in any document or record required to be
6 maintained under this chapter;

7 (6) Fails to keep, maintain, and disclose, upon request of
8 the department, the books and records required to be
9 maintained under this chapter for inspection or audit
10 for the period of time designated by the director;

11 (7) Fails to timely pay wages, withholding taxes, or any
12 other payments pursuant to the professional employer
13 agreement; or

14 (8) Otherwise violates this chapter, or any rule adopted or
15 final order of the director issued pursuant to this
16 chapter.

17 **§373L-E Fees.** No applicant shall be allowed to register
18 pursuant to this chapter unless the appropriate fees have been
19 paid. Effective July 1, 2012, the director shall collect fees
20 pursuant to this chapter as follows:

21 (1) Application fee §



1 (2) Biennial renewal fee based on the average annual count
2 of covered employees as follows:

- | | | |
|---|--------------------------------------|----|
| 3 | <u>0 - 100 covered employees</u> | \$ |
| 4 | <u>101 - 250 covered employees</u> | \$ |
| 5 | <u>251 - 499 covered employees</u> | \$ |
| 6 | <u>500 or more covered employees</u> | \$ |

7 (3) Restoration fee \$

8 until such time as the director amends the fees by rulemaking in
9 accordance with chapter 91. The fees to be established by the
10 director may include but shall not be limited to an application
11 fee, biennial renewal fee, restoration fee, and other reasonable
12 and necessary fees related to the department's administrative
13 costs. The fees shall be deposited into the professional
14 employer organization special fund established under section
15 373L-A. The number of covered employees for purposes of this
16 section shall be calculated based on the average number of
17 employees reported on a professional employer organization's
18 form UC-B6 (Quarterly Wage, Contribution and Employment and
19 Training Assessment Report) filed with the department for the
20 first quarter of the taxable year, as well as the three quarters
21 preceding the first quarter.



1 §373L-F Responsibilities and duties of the director. The
2 general duties and powers of the director shall include but not
3 be limited to:

4 (1) Adopting, amending, and repealing rules in accordance
5 with chapter 91 to issue, deny, condition, renew, or
6 deny renewal of registrations;

7 (2) Establishing fees and penalties;

8 (3) Inspecting and auditing the books and records of the
9 professional employer organization; and

10 (4) Doing all things necessary to carry out the functions,
11 powers, and duties of this chapter.

12 §373L-G Professional employer agreements; notification to

13 covered employees. (a) The agreement between a professional
14 employer organization and its client company shall state that
15 the professional employer organization shall be deemed the
16 employer for purposes of unemployment insurance, workers'
17 compensation, temporary disability insurance, and prepaid health
18 care coverage.

19 (b) The professional employer organization shall provide
20 written notice of the relationship between the professional
21 employer organization and the client company to each covered
22 employee of the client company within fourteen calendar days.



1 §373L-H Failure to comply; penalty; injunction. (a) If a
2 professional employer organization fails to comply with this
3 chapter or any rule or final order of the director, the
4 professional employer organization shall be liable for a penalty
5 in an amount:

6 (1) Not less than \$1,000; or

7 (2) \$500 for every day during which the failure continues;
8 whichever sum is greater. The director may, in the director's
9 discretion, for good cause shown, remit all or any part of the
10 penalty in excess of \$1,000 to the professional employer
11 organization; provided that the professional employer
12 organization complies with this chapter, rules adopted pursuant
13 to chapter 91, and final orders of the director.

14 (b) If a professional employer organization fails to
15 comply with this chapter, a rule, or an order for a period of
16 thirty consecutive days, the professional employer organization
17 may be enjoined, by the circuit court of the circuit in which
18 the professional employer organization's principal place of
19 business is located, from carrying on business anywhere in the
20 State so long as the noncompliance continues. An action for an
21 injunction under this subsection shall be prosecuted by the



1 attorney general or any county attorney if so requested by the
2 director.

3 **§373L-I Hearings.** Unless otherwise provided by law, in
4 every case in which the director denies, suspends, revokes, or
5 denies renewal of registration, or proposes to impose a penalty
6 on a professional employer organization, the proceeding shall be
7 conducted in accordance with chapter 91 by the director or an
8 appointed hearings officer.

9 In all proceedings before it, the director or hearings
10 officer shall have the same powers respecting administering
11 oaths, compelling the attendance of witnesses and the production
12 of documentary evidence, and examining witnesses, as are
13 possessed by circuit courts. In case of disobedience by any
14 person of any order of the director or hearings officer, or of
15 any subpoena issued by the director or hearings officer, or the
16 refusal of any witness to testify to any matter on which the
17 person may be questioned lawfully, any circuit court judge, on
18 application by the director or hearings officer, shall compel
19 obedience as in the case of disobedience of the requirements of
20 a subpoena issued by a circuit court or a refusal to testify
21 therein.



1 §373L-J Judicial review by circuit court. Any
2 professional employer organization aggrieved by a final decision
3 and order of the director in a contested case, as defined in
4 chapter 91, is entitled to judicial review thereof by the
5 circuit court of the circuit in which the professional employer
6 organization's principal place of business is located. The
7 review shall be as provided by chapter 91.

8 §373L-K Payroll cost exemption. (a) Amounts received by
9 a professional employer organization from a client company equal
10 to amounts that are disbursed by the professional employer
11 organization for employee wages, salaries, payroll taxes,
12 insurance premiums, and benefits, including retirement,
13 vacation, sick leave, health benefits, and similar employment
14 benefits with respect to covered employees at a client company
15 shall not be subject to the general excise tax as provided by
16 section 237-24.75.

17 (b) The general excise tax exemption under section
18 237-24.75 shall not apply to the professional employer
19 organization if:

20 (1) By or through any contract between the client company
21 and any professional employer organization, or
22 otherwise, employees are excluded from any employee



1 rights or employee benefits required by law to be
2 provided to employees of the client company by the
3 client company; or

4 (2) The professional employer organization fails to pay
5 any tax withholding for covered employees or any
6 federal or state taxes for which the professional
7 employer organization is responsible."

8 SECTION 3. Section 209E-2, Hawaii Revised Statutes, is
9 amended by amending the definition of "leased employee" to read
10 as follows:

11 "Leased employee" means an employee under a professional
12 ~~[employment]~~ employer organization arrangement, or other
13 employee leasing arrangement, who is assigned to a particular
14 client company on a substantially full-time basis for at least
15 one year."

16 SECTION 4. Section 237-24.75, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "**§237-24.75 Additional exemptions.** In addition to the
19 amounts exempt under section 237-24, this chapter shall not
20 apply to:

21 (1) Amounts received as a beverage container deposit
22 collected under chapter 342G, part VIII;



1 (2) Amounts received by the operator of the Hawaii
2 convention center for reimbursement of costs or
3 advances made pursuant to a contract with the Hawaii
4 tourism authority under section 201B-7[+]; and[+

5 +](3) Amounts received[+] by a professional [~~employment~~]
6 employer organization from a client company equal to
7 amounts that are disbursed by the professional
8 [~~employment~~] employer organization for employee wages,
9 salaries, payroll taxes, insurance premiums, and
10 benefits, including retirement, vacation, sick leave,
11 health benefits, and similar employment benefits with
12 respect to [~~assigned~~] covered employees at a client
13 company; provided that this exemption shall not apply
14 to a professional [~~employment~~] employer organization
15 if: [~~upon failure of the professional employment~~
16 ~~organization to collect, account for, and pay over any~~
17 ~~income tax withholding for assigned employees or any~~
18 ~~federal or state taxes for which the professional~~
19 ~~employment organization is responsible.~~]

20 (A) By or through any contract between a client
21 company and any professional employer
22 organization, or otherwise, employees are

1 excluded from any employee rights or employee
2 benefits required by law to be provided to
3 employees of the client company by the client
4 company; or

5 (B) The professional employer organization fails to
6 pay any tax withholding for covered employees or
7 any federal or state taxes for which the
8 professional employment organization is
9 responsible.

10 As used in this paragraph, [~~professional employment~~
11 ~~organization~~], professional employer organization,
12 "client company", and [~~assigned employee~~] covered
13 employee shall have the meanings provided in section
14 [~~373K-1.~~] 373L-1."

15 SECTION 5. Section 373L-1, Hawaii Revised Statutes, is
16 amended as follows:

17 1. By adding three new definitions to be appropriately
18 inserted and to read:

19 "Assurance organization" means an independent entity
20 approved by the director to provide accreditation and financial
21 assurance services for professional employer organizations.

1 "Controlling person" means any individual, firm,
2 association, or corporation that directly or indirectly has the
3 power to direct or cause to be directed, the management,
4 control, or activities of the professional employer
5 organization.

6 "Department" means the department of labor and industrial
7 relations."

8 2. By amending the definitions of "client company",
9 "professional employer organization", and "temporary help
10 services" to read:

11 "Client company" means any person [who enters into a
12 professional employer agreement with a professional employer
13 organization.] that contracts with a professional employer
14 organization and is assigned employees by the professional
15 employer organization under that contract.

16 "Professional employer organization" or "organization"
17 means [any person that is a party to a professional employer
18 agreement with a client company regardless of whether the person
19 uses the term or conducts business expressly as a "professional
20 employer organization", "PEO", "staff leasing company",
21 "registered staff leasing company", "employee leasing company",
22 "administrative employer", or any other similar name.] a



1 business entity that offers employees that are assigned to the
2 worksites of its client companies.

3 "Temporary help [services]" means an arrangement by which
4 ~~[a person recruits and hires the person's own employees and:~~

5 ~~(1) Finds other organizations that need the services of~~
6 ~~those employees;~~

7 ~~(2) Assigns those employees to perform work or services~~
8 ~~for other organizations to support or supplement the~~
9 ~~other organizations' workforces or to provide~~
10 ~~assistance in special work situations, including~~

11 ~~employee absences, skill shortages, seasonal~~
12 ~~workloads, or special assignments or projects; and~~

13 ~~(3) Customarily attempts to reassign the employees to~~
14 ~~successive placements with other organizations at the~~
15 ~~end of each assignment.]~~

16 an organization hires its own employees and assigns them to a
17 client to support or supplement the client's workforce in a
18 special situation, including:

19 (1) An employee absence;

20 (2) A temporary skill shortage;

21 (3) A seasonal workload; or

22 (4) A special assignment or project."



1 SECTION 6. Section 373L-2, Hawaii Revised Statutes, is
2 amended to read as follows:

3 " ~~[+]§373L-2[+]~~ **Registration required.** (a) Every
4 professional employer organization shall register with the
5 director by providing all of the information required by this
6 section and by rules adopted by the director pursuant to chapter
7 91 prior to entering into any professional employer agreement
8 with any client company in this State.

9 (b) Registration information required by this section
10 shall include:

- 11 (1) The name or names under which the professional
12 employer organization conducts or will conduct
13 business;
- 14 (2) The address of the principal place of business of the
15 professional employer organization and the address of
16 each office that the professional employer
17 organization maintains in this State;
- 18 (3) The professional employer organization's general
19 excise tax number;
- 20 (4) A copy of the certificate of authority to transact
21 business in this State issued by the director of



- 1 commerce and consumer affairs pursuant to title 23 or
2 title 23A, if applicable;
- 3 (5) A list, organized by jurisdiction, of each name under
4 which the professional employer organization has
5 operated in the preceding five years, including any
6 alternative names; names of predecessors; and, if
7 known, names of successor business entities;
- 8 (6) A statement of ownership, which shall include the name
9 of each person who, individually or acting in concert
10 with any other person or persons, owns or controls,
11 directly or indirectly, twenty-five per cent or more
12 of the equity interests of the professional employer
13 organization;
- 14 (7) A statement of management, which shall include the
15 name of any person who serves as president or chief
16 executive officer or who otherwise has the authority
17 to act as a senior executive officer of the
18 professional employer organization;
- 19 (8) Proof of valid workers' compensation coverage in
20 compliance with all laws of this State;
- 21 (9) Proof of compliance with the Hawaii temporary
22 disability insurance law;



1 (10) Proof of compliance with the Hawaii prepaid health
2 care act [~~as regards all employees of the professional~~
3 ~~employer organization~~];

4 (11) Proof of compliance with the Hawaii employment
5 security law, including payment of any applicable
6 employer liability pursuant to chapter 383; [~~and~~]

7 (12) A financial statement prepared in accordance with
8 generally accepted accounting principles, audited by
9 an independent certified public accountant licensed to
10 practice in the State, and without qualification as to
11 the going concern status of the professional employer
12 organization[~~-~~]; and

13 (13) The name, address, and phone number of the financial
14 institution utilized by the professional employer
15 organization for payroll purposes that operates and
16 maintains branches in the State.

17 (c) Registration under this section shall expire on
18 [~~December 31~~] June 30 of each [~~odd-numbered~~] even-numbered year.

19 Before [~~December 31~~] June 30 of each [~~odd-numbered~~] even-
20 numbered year, the director or the director's authorized
21 delegate shall mail a renewal application for registration to
22 the address on record of the registrant. In connection with



1 renewal of registration, a professional employer organization
 2 shall provide all of the information required by subsection (b).
 3 Failure to renew a registration shall result in forfeiture of
 4 that registration. Registrations that have been forfeited may
 5 be restored within one year of the forfeiture date upon payment
 6 of renewal and restoration fees. Failure to restore a forfeited
 7 registration within one year shall result in the automatic
 8 termination of the registration. Registrations that have been
 9 terminated pursuant to this section shall be required to reapply
 10 for a new registration as a new applicant.

11 (d) The director shall [~~establish fees and requirements~~
 12 ~~for registration, maintenance of registration, renewal, and~~
 13 ~~restoration of registration for professional employer~~
 14 ~~organizations by rule pursuant to chapter 91.] to the extent
 15 practicable permit the acceptance of electronic filings in
 16 conformance with chapter 489E, including applications,
 17 documents, reports, and other filings required under this
 18 chapter. The director may provide for the acceptance of
 19 electronic filings by a professional employer organization. A
 20 professional employer organization may authorize an assurance
 21 organization to act on the professional employer organization's
 22 behalf in complying with the registration requirements of this~~



1 chapter, including electronic filings of information and payment
 2 of registration fees. Use of an approved assurance organization
 3 shall be optional for a professional employer organization.
 4 Nothing in this subsection shall limit or change the director's
 5 authority to register or terminate registration of a
 6 professional employer organization or to investigate or enforce
 7 any provision of this chapter."

8 SECTION 7. Section 373L-3, Hawaii Revised Statutes, is
 9 amended to read as follows:

10 " ~~[+]§373L-3[+]~~ **Bond required.** (a) No professional
 11 employer organization shall enter into a professional employment
 12 agreement with a client company in the State unless the
 13 professional employer organization posts a bond ~~[in the amount~~
 14 ~~of \$250,000, which is a performance or financial guaranty type~~
 15 ~~bond naming the director as the obligee and which may be~~
 16 ~~canceled only if the professional employer organization gives~~
 17 ~~sixty days prior written notice to the surety or if the surety~~
 18 ~~gives thirty days prior written notice to the director of~~
 19 ~~cancellation of the bond. The requirements of this section~~
 20 ~~shall be satisfied by a single bond. If a professional employer~~
 21 ~~organization has more than one branch location, the bond shall~~
 22 ~~cover all locations.]~~ as follows:



1 (1) Professional employer organizations consisting of
2 fewer than one hundred full-time or part-time
3 employees shall post a minimum of \$250,000; provided
4 that the number of employees shall be calculated in
5 the same manner as required under 373L-E; and

6 (2) All other professional employer organizations shall
7 post a bond in an amount equal to:

8 (A) One per cent of the organization's prior year's
9 total wages, benefits, workers' compensation
10 premiums, and unemployment compensation
11 contributions; or

12 (B) \$1,000,000;
13 whichever is less; provided that the amount of the
14 bond shall be no less than \$500,000.

15 (b) Any bond posted pursuant to this section shall be a
16 financial guaranty type bond naming the director as the obligee
17 and may be canceled only if the professional employer
18 organization gives sixty days prior written notice to the surety
19 and if the surety gives forty-five days prior written notice to
20 the director of cancellation of the bond. If a professional
21 employer organization has more than one branch location in the
22 State, the bond shall cover all locations. The requirements of



1 this section shall be satisfied by a single bond. The bond
2 required by this section shall be issued by [a] an A-rated
3 surety [or federally insured lending institution] authorized to
4 do business in the State to indemnify [a] the State, client
5 [company] companies, and covered employees who may suffer loss
6 as a result of nonperformance by a professional employer
7 organization.

8 (c) In lieu of the requirements of subsections (a) and
9 (b), a professional employer organization that is a member of an
10 assurance organization may post a bond through the assurance
11 organization; provided that coverage shall consist of a bond of
12 at least \$1,000,000 issued by an A-rated surety company plus a
13 \$10,000,000 excess bond providing umbrella coverage for the
14 benefit of the State, client companies, and client company
15 employees.

16 [~~(e)~~] (d) [~~Upon cancellation or expiration of the bond, the~~]
17 The surety [or insurer] shall remain [liable] obligated for any
18 claims against the bond [for a period of six months] after
19 cancellation or expiration of the bond; provided that:

20 [~~(1)~~] The debts were incurred while the bond was in effect;
21 and



1 ~~(2) The director notifies the surety or insurer, as the~~
2 ~~case may be, of any claims within ninety days of~~
3 ~~discovery of any claims.]~~

4 (1) The surety was provided written notice of such claim
5 during the six month period immediately following the
6 cancellation or expiration of the bond; and

7 (2) The claim accrued, but only for the amount accrued,
8 before the expiration or cancellation of the bond.

9 ~~[(d)]~~ (e) The surety ~~[or insurer]~~ is not required to release
10 any moneys or collateral to the professional employer
11 organization during the six months after cancellation of the
12 bond.

13 ~~[(e)]~~ (f) Failure to have in effect a current bond shall
14 result in automatic forfeiture of registration pursuant to this
15 chapter and shall require the professional employer organization
16 to immediately cease doing business in the State. A
17 professional employer organization whose registration is
18 forfeited shall apply as a new applicant for registration in
19 order to resume business in the State.

20 (g) The director, or any person claiming to have sustained
21 damage resulting from noncompliance of a professional employer
22 organization with this chapter, may bring an action on the bond



1 to recover such damage. The surety may fulfill its obligation
2 under the bond by depositing the penal sum of the bond with the
3 director. Upon receiving any sum from the surety, the director
4 may deduct all money due to the State resulting from the
5 noncompliance of the professional employer organization. Any
6 remaining balance shall be held by the director for the benefit
7 of all other persons damaged by the noncompliance of the
8 professional employer organization, and the director may deposit
9 such balance with a court of competent jurisdiction in order to
10 resolve competing claims. After all claims are finally resolved
11 or settled, any remaining balance from the bond proceeds shall
12 be returned to the surety."

13 SECTION 8. Chapter 373K, Hawaii Revised Statutes, is
14 repealed.

15 SECTION 9. The director of labor and industrial relations
16 may establish three .5 full-time equivalent (FTE) permanent
17 additional positions, subject to chapters 76 and 89, Hawaii
18 Revised Statutes, to carry out the purposes of chapter 373L,
19 Hawaii Revised Statutes. The positions may include a disability
20 compensation enforcement specialist IV, auditor IV, and office
21 assistant IV.



1 SECTION 10. There is appropriated out of the professional
2 employer organization special fund the sum of \$ or so
3 much thereof as may be necessary for fiscal year 2012-2013 for
4 the department of labor and industrial relations to carry out
5 the purposes of this Act, including the hiring of necessary
6 staff.

7 The sum appropriated shall be expended by the department of
8 labor and industrial relations for the purposes of this Act.

9 SECTION 11. This Act does not affect rights and duties
10 that matured, penalties that were incurred, and proceedings that
11 were begun before its effective date.

12 SECTION 12. In codifying the new sections added by section
13 2 of this Act, the revisor of statutes shall substitute
14 appropriate section numbers for the letters used in designating
15 the new sections in this Act.

16 SECTION 13. Statutory material to be repealed is bracketed
17 and stricken. New statutory material is underscored.

18 SECTION 14. This Act shall take effect on July 1, 3000.



Report Title:

Professional Employer Organizations; Fees and Expenses; Bond Requirements; Appropriation

Description:

Adds powers and duties to the Director of Labor and Industrial Relations regarding the registration and regulation of professional employer organizations. Authorizes various penalties for noncompliance; amends definitions and bond level requirements; and establishes the professional employer organization special fund. Repeals chapter 373K, Hawaii Revised Statutes, but moves the general excise tax exemption provisions to chapter 373L, Hawaii Revised Statutes. Appropriates funds to the Department of Labor and Industrial Relations. Effective July 1, 3000. (SB2424 HD2)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

