

Honolulu, Hawaii

MAY 01 2012

RE: S.B. No. 2424  
S.D. 2  
H.D. 2  
C.D. 1

Honorable Shan S. Tsutsui  
President of the Senate  
Twenty-Sixth State Legislature  
Regular Session of 2012  
State of Hawaii

Honorable Calvin K.Y. Say  
Speaker, House of Representatives  
Twenty-Sixth State Legislature  
Regular Session of 2012  
State of Hawaii

Sirs:

Your Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House of Representatives in S.B. No. 2424, S.D. 2, H.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 facilitate the implementation of the professional employer organization law established by Act 129, Session Laws of Hawaii 2010. Among other things, this measure:

- (1) Establishes the professional employer organization special fund;
- (2) Gives additional powers and duties to the Director of Labor and Industrial Relations regarding the registration and regulation of professional employer organizations;



- (3) Amends bond level requirements for professional employer organizations;
- (4) Repeals chapter 373K, Hawaii Revised Statutes, but incorporates the general excise tax exemption into chapter 373L, Hawaii Revised Statutes; and
- (5) Appropriates funds to the Department of Labor and Industrial Relations.

Your Committee on Conference finds that Act 225, Session Laws of Hawaii 2007, established a new chapter in the Hawaii Revised Statutes on professional employment organizations. The main purpose of Act 225 was to provide a general excise tax exemption for these organizations. Your Committee on Conference further finds that Act 129, Session Laws of Hawaii 2010, established registration requirements for professional employer organizations in Hawaii. Although the registration requirements went into effect July 1, 2011, amendments to the existing statute are needed before the Department of Labor and Industrial Relations can fully implement the law.

Your Committee on Conference additionally finds that this measure eliminates duplicative provisions relating to professional employer organizations and facilitates the implementation of the professional employer organization law, as established by Act 129, Session Laws of Hawaii 2010.

Your Committee on Conference has amended this measure by:

- (1) Specifying an application fee of \$100;
- (2) Specifying the following biennial renewal fees based on the average annual count of covered employees:
  - (A) \$2,500 for 0 - 100 covered employees;
  - (B) \$3,000 for 101 - 250 covered employees;
  - (C) \$5,000 for 251 - 499 covered employees; and
  - (D) \$10,000 for 500 or more covered employees;
- (3) Specifying a restoration fee of \$500;



- (4) Clarifying that during the term of the agreement between a professional employer organization and its client company, the professional employer organization shall be deemed the employer for purposes of unemployment insurance, workers' compensation, temporary disability insurance, and prepaid health care coverage;
- (5) Clarifying when written notice of the relationship between the professional employer organization and the client company must be provided to each covered employee of the client company;
- (6) Requiring a professional employer organization to provide written notice to the Department of Labor and Industrial Relations of the relationship between the professional employer organization and the client company within five business days of both the initiation and termination of the relationship, and requiring the Department to keep the notice confidential;
- (7) Deleting the definition of "assurance organization" and corresponding provisions relating to assurance organizations acting on a professional employer organization's behalf for registration and bonding purposes;
- (8) Deleting the definition of "co-employment" and making corresponding clarifying amendments to the terms "covered employee" and "professional employer agreement";
- (9) Clarifying the financial statements required as part of the registration information for professional employer organizations;
- (10) Clarifying that any bond posted shall name the Director of Labor and Industrial Relations as the obligee and may be cancelled by either the professional employer organization or the surety in specific circumstances;
- (11) Clarifying the purpose of the bond, including fulfilling the obligations of the professional employer organization to the State, client companies, and covered employees who may suffer loss in specific circumstances;
- (12) Clarifying that the Department of Labor and Industrial Relations may immediately apply to the court to enjoin a



professional employer organization that fails to have a current bond in effect and does not cease doing business;

- (13) Clarifying that an action on the bond may be brought for claims of loss resulting from noncompliance and failure to make payments by a professional employer organization;
- (14) Retaining the authorization for the Director of Labor and Industrial Relations to establish .5 full-time equivalent permanent additional positions, including a disability compensation enforcement specialist IV and office assistant IV, but deleting authorization for the establishment of an auditor IV position;
- (15) Inserting an appropriation of \$177,500 out of the general fund, to be deposited to the credit of the professional employer organization special fund;
- (16) Specifying an appropriation of \$177,500 out of the professional employer organization special fund, and itemizing the purposes of the appropriation;
- (17) Inserting an effective date of upon approval; provided that the appropriation sections of this measure shall take effect on July 1, 2012; and
- (18) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

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 S.B. No. 2424, S.D. 2, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2424, S.D. 2, H.D. 2, C.D. 1.



Respectfully submitted on behalf  
of the managers:

ON THE PART OF THE HOUSE

ON THE PART OF THE SENATE

*Paul Rhoads*

KARL RHOADS, Co-Chair

*Angus L.K. McKelvey*

ANGUS L.K. MCKELVEY, Co-Chair

*Robert N. Herkes*

ROBERT N. HERKES, Co-Chair

*Ken Ito*

KEN ITO, Co-Chair

*Kyle T. Yamashita*

KYLE T. YAMASHITA, Co-Chair

*Rosalyn H. Baker*

ROSALYN H. BAKER, Chair

*David Y. Ige*

DAVID Y. IGE, Co-Chair

*Clayton Hee*

CLAYTON HEE, Co-Chair

*Will Espero*

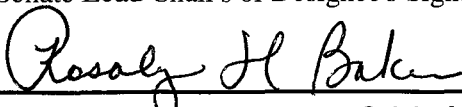
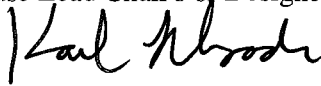
WILL ESPERO, Co-Chair



Hawaii State Legislature

CCR 156-12

Record of Votes of a  
Conference Committee

Bill / Concurrent Resolution No.: <b>SB 2424, SD 2, HD 2</b>					Date/Time: <b>4-30-2012 / 9:50 am</b>				
<input checked="" type="checkbox"/> The recommendation of the House and Senate managers is to pass with amendments (CD).									
<input type="checkbox"/> The Committee is reconsidering its previous decision.									
<input type="checkbox"/> The recommendation of the Senate Manager(s) is to AGREE to the House amendments made to the Senate Measure					<input type="checkbox"/> 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.	✓				RHOADS, Karl, Co-Chr.	✓			
IGE, David Y., Co-Chr.				✓	MCKELVEY, Angus L.K., Co-Chr.	✓			
HEE, Clayton, Co-Chr.	✓				HERKES, Robert N., Co-Chr.	✓			
ESPERO, Will, Co-Chr.	✓				ITO, Ken, Co-Chr.	✓			
					YAMASHITA, Kyle T., Co-Chr.	✓			
					JOHANSON, Aaron Ling	✓			
TOTAL	3	-	-	1	TOTAL	6	0	0	0
A = Aye		WR = Aye with Reservations			N = Nay		E = Excused		
Senate Recommendation is:					House Recommendation is:				
<input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted					<input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Senate Lead Chair's or Designee's Signature:					House Lead Chair's or Designee's Signature:				
									
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