

# **HB 144 LATE LATE**



January 29, 2013

Honorable Mark M. Nakashima, Chair  
Honorable Mark J. Hashem, Vice-Chair  
House Committee on Labor and Public Employment  
State Capitol, Room 309  
Honolulu, HI 96813  
Hearing Date: January 29, 2013  
Time: 9 a.m.

**LATE TESTIMONY**

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**Re: House Bill 144: related to Professional Employer Organizations ("PEO")**

Dear Chair Nakashima and Vice-Chair Hashem,

My name is Ray O'Leary, the Executive Director/Administrator of the organization Professional Administrative Co-Employers (PACE), which is one of two trade associations representing the PEO industry. Our primary focus is on the federal level and we do not often get involved in state affairs. However, we have become increasingly alarmed by the excessive regulation at the state level that seems to unfairly target, or at least adversely affect, the smaller companies in our industry. We represent PEOs both large and small and believe fervently that the health of our industry is dependent on having a level playing field for all. While some oversight of our industry may be warranted, stacking the deck in favor of the larger PEOs is both unfair and unwise.

**PACE strongly supports the passing of HB144.** HB 144 would repeal Chapter 373L, Hawai'i Revised Statutes ("HRS"), in its entirety and make certain targeted amendments to other provisions of the PEO law, HRS Chapter 373K, to simplify and improve the implementation of the law, and to clarify and amend the statutory responsibilities between a client company and the PEO. In addition, the bill would simplify the regulation of PEOs by empowering the Director of the Department of Labor and Industrial Relations to notify the Department of Taxation when the GET tax exemption under HRS Section 237-24.75 is being denied for a PEO that violates Chapter 373K, HRS.

Specifically, the audited financial statements and the current \$250,000 bonding requirement, which is included in Chapter 373L, are excessive for the smaller PEO's and the majority of Hawaii's PEO will have trouble meeting this requirement. Insurance companies willing to provide this level of coverage are scarce and very expensive. Only the very large PEOs will be eligible for this coverage. The smaller PEOs will have no options.

Feel free to contact me with any questions or additional input.

Respectfully yours,

A handwritten signature in black ink, appearing to read "Ray M. O'Leary", is written over a faint, larger version of the same signature.

Ray M. O'Leary  
PACE Executive Director/Administrator

# LATE TESTIMONY

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[www.HawaiiWorkplace.com](http://www.HawaiiWorkplace.com)

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House Committee on Labor and Public Employment  
State Capitol, Room 309  
Honolulu, Hawaii 96813  
Hearing Date: January 29, 2013  
Time: 9:00 a.m.

**RE: Testimony in support of House Bill 144 regarding Professional Employer Organizations**

Dear Chari Nakashima and Vice-Chair Hashem,

My name is Mark Watson of Hawaii Workplace, and I am writing in support of House Bill 144. Hawaii Workplace is a small human resource and payroll outsourcing organization on the Big Island.

The role of a PEOs and companies like ours is to support businesses in meeting the already taxing requirements of employment law.

Though the larger PEOs provide a valuable service, many companies will never hire a large PEO firm because they prefer the smaller hands on approach provided by companies like ours.

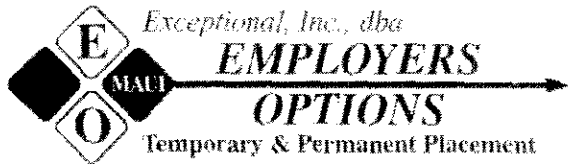
House Bill 144 insures reasonable measures that allow smaller PEOs to continue fulfilling this vital role in the marketplace.

Mahalo for your time and consideration of this testimony.

Respectfully submitted,

*Mark Watson*

Mark Watson  
HR Business Development



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**Re: House Bill 144: related to Professional Employer Organizations ("PEO")**

Dear Chair Nakashima and Vice-Chair Hashem,

My name is Jennifer Brittin-Fulton, and I am the CEO/President of Exceptional Inc. dba Employers Options, a locally owned and operated staffing company, employment agency, payroll services company and PEO. **I submit this testimony in favor of HB 144.**

Jennifer Brittin-Fulton has been involved in the employment industry in Hawaii for over 30 years. Her company represents a wide range of small businesses. Without the options that she provides many businesses would not be able to meet the growing demands that they face when having employees. Employers Options will not be able to meet the current requirements of PEO Licensing without raising their rates to their clients. We feel that the current legislation is anti-small business and favors big business. We ask for your support in small business in Hawaii.

HB 144 would repeal Chapter 373L, Hawai'i Revised Statutes ("HRS"), in its entirety and make certain targeted amendments to other provisions of the PEO law, HRS Chapter 373K, to simplify and improve the implementation of the law, and to clarify and amend the statutory responsibilities between a client company and the PEO.

In addition, the bill would simplify the regulation of PEOs by empowering the Director of the Department of Labor and Industrial Relations to notify the Department of Taxation when the GET tax exemption under HRS Section 237-24.75 is being denied for a PEO that violates Chapter 373K, HRS.

Besides registration and the payment of fees, other technical amendments are provided in the bill that furthers the goals of accountability and consumer protection in a balanced manner.

Mahalo for your consideration and hoped for passage of this important measure.

Respectfully submitted,

Jennifer Brittin-Fulton  
President/CEO Exceptional Inc.



talent  
hrsolutions  
growth realized

January 28, 2013

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State Capitol, Room 309  
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**Re: House Bill 144: related to Professional Employer Organizations ("PEO")**

Dear Chair Nakashima and Vice-Chair Hashem,

My name is Sanjay Mirchandani, and I am the Owner of Talent HR Solutions LLC, a locally owned and operated small boutique PEO. **I submit this testimony in favor of HB 144.**

The existing laws that are in place would impact all businesses in the State of Hawaii. The bonding requirements are the highest in the country at 250K and you not only have to put up collateral for the bond, but you also need to pay a 2-3% annual fee of the total bond to the bank that holds the funds as well as 2-3% to the insurance company that issues the bond. In addition, there are expensive audit requirements which would cost a PEO in excess of 40K a year. The existing laws do not promote any competition in the PEO space and it also decreases innovation and entrepreneurship. Also, the definition of co-employment are misunderstood and places unreasonable statutory requirements on the PEO for the actions of client companies who are fully responsible for their worksite behavior, when the PEO has no control over client worksite employees on a day to day basis. Lastly, the existing laws attempt to solve problems that don't exist and are badly flawed. Please repeal HRS Chapter 373L.

HB 144 would repeal Chapter 373L, Hawai'i Revised Statutes ("HRS"), in its entirety and make certain targeted amendments to other provisions of the PEO law, HRS Chapter 373K, to simplify and improve the implementation of the law, and to clarify and amend the statutory responsibilities between a client company and the PEO.

In addition, the bill would simplify the regulation of PEOs by empowering the Director of the Department of Labor and Industrial Relations to notify the Department of Taxation when the GET tax exemption under HRS Section 237-24.75 is being denied for a PEO that violates Chapter 373K, HRS.

Besides registration and the payment of fees, other technical amendments are provided in the bill that furthers the goals of accountability and consumer protection in a balanced manner.



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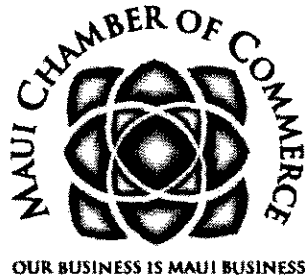
Mahalo for your consideration and hoped for passage of this important measure.

Respectfully submitted,

Name: Sanjay Mirchandani

*Sanjay Mirchandani* 1/29/15

Title: Owner, Talent HR Solutions



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Testimony to the Labor Committee  
State Capitol, Conf. Room 309 at 9am  
January 29, 2013

**RE: SUPPORT OF HB144 RELATING TO PEOs**

The Maui Chamber of Commerce, on behalf of our membership, SUPPORTS this measure relating to PEOs.

Last year, many Employment Agencies contacted the Maui Chamber of Commerce given the passing of a measure which would have essentially put their business out of business. Thankfully, Governor Abercrombie vetoed that bill.

This year, we and the industry are eager to work with the legislature on appropriate legislation for reasonable regulation of the industry. We feel HB144 does just that by repealing Hawaii Revised Statutes (HRS) Chapter 373L in its entirety and making certain targeted amendments to other provisions of the PEO law (HRS, Chapter 373K) to simplify and improve the implementation of the law and clarify and amend the statutory responsibilities between a client company and the PEO.

In addition, this bill simplifies the regulation of PEOs by empowering the Director of the Department of Labor and Industrial Relations to notify the Department of Taxation when the GET tax exemption under HRS Section 237-24.75 is being denied for a PEO that violates HRS Chapter 373K.

Therefore, we stand in strong SUPPORT of HB144.

Please contact me if I can answer any questions or provide you with additional information to help you better understand what our small businesses are up against and the environment they need to survive.

Sincerely,

Pamela Tumpap  
President



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Re: **House Bill 144: related to Professional Employer Organizations ("PEO")**

Dear Chair Nakashima and Vice-Chair Hashem,

My name is Jesus Menendez, and I am the COO/Co-Owner of HRBenefix a locally owned and operated PEO. **I submit this testimony in favor of HB 144.**

HRBenefix is a PEO located in the Big Island currently servicing over 75 different businesses and approximately 900 client worksite employees mainly on the Big Island. We formed this company in December 2010 to provide an alternative option for small and medium-sized businesses in the outer Islands.

HB 144 would repeal Chapter 373L, Hawai'i Revised Statutes ("HRS"), in its entirety and make certain targeted amendments to other provisions of the PEO law, HRS Chapter 373K, to simplify and improve the implementation of the law, and to clarify and amend the statutory responsibilities between a client company and the PEO.

In addition, the bill would simplify the regulation of PEOs by empowering the Director of the Department of Labor and Industrial Relations to notify the Department of Taxation when the GET tax exemption under HRS Section 237-24.75 is being denied for a PEO that violates Chapter 373K, HRS.

Mahalo for your consideration and hoped for passage of this important measure.

Respectfully submitted,

Jesus M Menendez  
Chief Operating Officer