



HOUSE COMMITTEE ON APPROPRIATIONS

FISCAL NOTE

HOUSE BILL NO. 1055

PRINTERS NO. 1665

PRIME SPONSOR: Mustio

COST / (SAVINGS)

FUND	FY 2010/11	FY 2011/12
General Fund	\$0	\$0
Workmen's Compensation Administration Fund	\$0	\$145,363
Administration Fund	\$0	\$145,363

SUMMARY: Creates a freestanding act to regulate the professional employer organization (PEO) industry. This legislation would take effect in 180 days.

ANALYSIS: This legislation would create a freestanding act known as the "Professional Employer Organization Registration and Recognition Act". The major provisions of this legislation are summarized as follows:

- A person engaged in the business of providing PEO services will be subject to registration and regulation under the legislation, regardless of its use of the term or conducting business as a professional employer organization, PEO, staff leasing company, registered staff leasing company, employee leasing company, administrative employer or any other name.
- Nothing contained in professional employer agreements can affect, modify or amend any existing collective bargaining agreement nor shall it remove the existing contracts or rights of covered employees.
- Nothing in the legislation or a professional employer agreement will affect any Federal, State or local licensing, registration or certification requirement applicable to any client or covered employee.
- For purposes of determination of tax credits and other economic incentives provided by the Commonwealth or other government entity based on employment, covered employees will be deemed employees solely of the client.
- This legislation provides for the following PEO registration requirements:
 - PEOs must supply the Department of Labor and Industry with various informational items in order to register, including proof of workers' compensation coverage, background financial information, and complete information on existing clients and their employees.

- PEOs will be required to apply for registration within 30 days of the effective date of the legislation (initial registration will be valid for the year when applied for and through the end of the next calendar year)
 - Subsequent registrations will be for 12 months, and renewal applications will have to be filed no later than 90 days before the end of the current registration.
 - The legislation creates a "limited registration" option for PEOs that are based in other states and who have less than 50 covered employees in the Commonwealth; provided that the PEOs licensed or registered in another jurisdiction have PEO registration/ licensing requirements that, in the estimation of the department, are at least as stringent as those set forth in the legislation.
- This legislation requires the Department of Labor & Industry to do the following:
 - Review all applications for PEO registration
 - Maintain a list of registered PEOs in the Commonwealth, with access made available to the public
 - Prescribe forms necessary to promote the efficient administration of this act
 - Conduct audits, inspections and investigations as necessary
 - Handle all appeals for a denial of an application for registration or a revocation of a registration
 - May impose an administrative penalty in an amount not to exceed \$1,000 for each violation, or both, if after notice and hearing the PEO knowingly violated any provision of the act
 - Collect all fees and publish notice of intent to revise fees or establish additional fees in the Pennsylvania Bulletin with at least 60 days notice:
 - \$500 for initial registration
 - \$750 for initial group registration
 - \$250 for renewal registration
 - \$250 for limited registration
- The legislation requires each registrant to maintain positive working capital or provide a surety bond, a trust agreement, or irrevocable line of credit with a minimum value sufficient to establish positive working capital of plus \$100,000
 - Within 60 days after the end of each calendar quarter, a registrant shall submit to the department a certification that all applicable Federal, State and local taxes and required insurance premiums have been paid for all covered employees in this Commonwealth on a timely basis for that quarter.
- The PEO is entitled to exercise only those rights, and is obligated to perform only those duties/ responsibilities, specifically required by this act or set forth in the professional employer agreement.
 - The client retains the exclusive right to direction and control of the covered employees as is necessary to conduct the client's business unless otherwise expressly agreed by the PEO and the client.
 - Except as provided by law, the coemployment relationship between the client and the PEO, and between each coemployer and each covered employee, shall be governed by the professional employer agreement which must be in writing and signed by both the client and the PEO.

- The PEO must provide the procedures by which the client or PEO may terminate the professional employer agreement and must provide written notice to each covered employee affected by the agreement of the nature of the coemployment relationship.
- The legislation states that a client and a PEO shall each be deemed an employer for purposes of sponsoring retirement and welfare benefit plans where that benefit plan offered to the covered employees of a single PEO shall be considered, for purposes of Commonwealth law and regulation, to be a single employer welfare benefit plan and shall not be considered a multiple employer welfare arrangement.
- The responsibility to provide workers' compensation coverage for the covered employees must be specifically allocated in the professional employer agreement to either the client or the PEO.
- The legislation makes clear that the current provisions of the Unemployment Compensation Law apply with respect to PEOs (client being the employer).
 - A client may authorize a PEO to file employer reports pursuant to Section 304 of the Unemployment Compensation Law and pay unemployment compensation contributions, interest and penalties on the client's behalf.

FISCAL IMPACT: According to the Governor's Budget Office, total first-year costs would be \$630,902. This is comprised of 1 supervisor, 4 specialized staff with total personnel costs of \$363,852. Software upgrades would total \$230,000. Training, travel, equipment, and supplies would total \$37,050. This would be offset by initial fee revenue of \$157,500 which is based on the \$750 initial fee for an estimated 210 group PEO's. The net impact for the first full year would equal \$473,402 and be split equally between the Workmen's Compensation Administration Fund and the Administration Fund. Because this legislation does not take effect for 180 days, the net cost in 2011-12 will be \$290,726 assuming an actual effective date around 1/ 1/ 12. The reduction can be attributed to 50% of the personnel costs and 50% of the travel not occurring until 2012.

According to the Department of Labor & Industry, the regulations provided by this legislation would fall under the purview of the Bureau of Workers' Compensation, funded by the Workmen's Compensation Administration Fund by assessments on insurers or self-insurers, and the Office of Unemployment Compensation Tax Services, funded by the Administration Fund utilizing federal funds. This legislation will have no adverse impact on the General Fund

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House Appropriations Committee (R)

DATE: May 20, 2011

Estimates are calculated using the best information available. Actual costs and revenue impact incurred may vary from estimates.