

SENATE APPROPRIATIONS COMMITTEE

FISCAL NOTE

BILL NO. House Bill 1055

PRINTER'S NO. 3577

AMOUNT

No Fiscal Impact

FUND

General Fund

DATE INTRODUCED

March 14, 2011

PRIME SPONSOR

Representative Mustio

HISTORY OF BILL

Referred to LABOR AND INDUSTRY, March 14, 2011

Reported as amended, April 12, 2011

First consideration, April 12, 2011

Laid on the table, April 12, 2011

Removed from table, April 13, 2011

Second consideration, with amendments, April 27, 2011

Re-committed to APPROPRIATIONS, April 27, 2011

(Remarks see House Journal Page 746), April 27, 2011

Re-reported as committed, May 23, 2011

Third consideration and final passage, May 23, 2011 (198-0)

In the Senate

Referred to LABOR AND INDUSTRY, June 3, 2011

Reported as amended, May 22, 2012

First consideration, May 22, 2012

Re-referred to APPROPRIATIONS, June 5, 2012

Re-reported as committed, June 18, 2012

DESCRIPTION AND PURPOSE OF BILL

House Bill 1055 creates the Professional Employer Organization Act. The bill applies to a person engaged in the business of providing professional employer services through a professional employer organization (PEO). The PEO enters into a professional employer agreement defined by the legislation to be a contract between a client and a PEO which provides for coemployment of covered employees; for allocation of employer rights and obligations between the client and the PEO with respect to covered employees; and that the PEO and client assume the responsibilities of the act. Nothing in the legislation affects, modifies, or amends existing collective bargaining agreements or affects future ones. Nothing in the law will affect any Federal, state or local licensing, registration or certification requirements for the client or the covered employees. For purposes of determining eligibility for tax credits and other economic incentives provided by the Commonwealth or other government entities, covered employees are deemed to be employees solely of the client.

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The bill states that the PEO is entitled to exercise only those rights, and is obligated to perform only those duties/responsibilities specifically required by the legislation and the professional employer agreement. The client retains the exclusive right to direct and control covered employees as is necessary to conduct his or her business unless otherwise expressly agreed by the PEO and the client.

The coemployment relationship between the client and the PEO, and between the coemployer and each covered employee, is to 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 procedures by which the client or the 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 the 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 not a multiple employer welfare arrangement.

The bill states that 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.

Upon request, the bill requires that the PEO make available personal identifying information, employer identification numbers, a federal employment identification number, provisions of the professional employer agreements and client lists to a rating organization licensed under the Workers' Compensation Act, as required to comply with the rating organization's statutory obligations.

For unemployment compensation coverage, the client may authorize the PEO to file employer reports and pay unemployment compensation contributions, interest, and penalties on the client's behalf.

The bill takes effect in 180 days.

FISCAL IMPACT:

The bill does not require any agency of the Commonwealth to regulate or enforce the provisions of this act. Therefore the operational and relational standards and requirements provided for PEOs and clients in this legislation will have no fiscal impact on the Commonwealth.