

HB 1703 -- PROFESSIONAL EMPLOYER ORGANIZATION ACT

SPONSOR: Lant

PROFESSIONAL EMPLOYER ORGANIZATION ACT (Sections 285.700 and 285.705, RSMo)

This bill establishes the Professional Employer Organization Act regarding the regulation of professional employer organizations and defines the terms used in these provisions.

PROFESSIONAL EMPLOYER AGREEMENT (Sections 285.710, 285.730, 285.735 and 285.740)

The provisions of the bill must not affect, modify, or amend any collective bargaining agreement or the rights or obligations of any client; professional employer organization (PEO); or covered employee under the federal National Labor Relations Act, the federal Railway Labor Act, or Sections 105.500 to 105.530 regarding labor organizations. Nothing in the act or in any professional employer agreement can diminish, abolish, or remove rights of covered employees to a client or obligations of the client to a covered employee existing prior to the effective date of the professional employer agreement or affect, modify, or amend any contractual relationship or restrictive covenant between a covered employee and any client in effect at the time a professional employer agreement becomes effective. A professional employer agreement must also not prohibit or amend any contractual relationship or restrictive covenant that is entered into subsequently between a client or a covered employee. A PEO must have no responsibility or liability in connection with, or arising out of, any such existing or new contractual relationship or restrictive covenant unless the PEO has specifically agreed otherwise in writing or create any new or additional enforceable right of a covered employee against a PEO that is not specifically provided by the professional employer agreement or this act.

Neither the provisions of the bill nor any professional employer agreement can affect, modify, or amend any state, local, or federal licensing, registration, or certification requirement applicable to any client or covered employee. A covered employee who must be licensed, registered, or certified according to law or regulation is deemed solely an employee of the client for purposes of any license, registration, or certification requirement. A PEO must not be deemed to engage in any occupation, trade, profession, or other activity that is subject to licensing, registration, or certification requirements, or is otherwise regulated by a governmental entity solely by entering into and maintaining a coemployment relationship with a covered employee who is subject to

the requirements or regulation. A client must have the sole right of direction and control of the professional or licensed activities of covered employees and of the client's business. The covered employees and clients must remain subject to regulation by the regulatory or governmental entity responsible for licensing, registration, or certification of the covered employees or clients.

For purposes of determination of tax credits and other economic incentives provided by this state or other government entity and based on employment, covered employees must be deemed employees solely of the client. A client must be entitled to the benefit of any tax credit, economic incentive, or other benefit arising as the result of the employment of covered employees of the client. Notwithstanding that the PEO is the W-2 reporting employer, the client must continue to qualify for the benefit, incentive, or credit. If the grant or amount of any incentive is based on the number of employees, each client must be treated as employing only those covered employees coemployed by the client. Covered employees working for other clients of the PEO must not be counted. Each PEO will provide, upon request by a client or an agency or department of this state, employment information reasonably required by any agency or department of this state responsible for administration of any tax credit or economic incentive and necessary to support any request, claim, application, or other action by a client seeking any tax credit or economic incentive.

With respect to a bid, contract, purchase order, or agreement entered into with the state or a political subdivision of the state, a client company's status or certification as a small, minority-owned, disadvantaged, or woman-owned business enterprise or as a historically underutilized business is not affected because the client company has entered into an agreement with a PEO or uses the services of a PEO.

REGISTRATION (Sections 285.715, 285.720, 285.725, 285.745, and 285.750)

The bill specifies the criteria for the registration of persons providing professional employer services in Missouri. A process for limited registration is allowed. Regulations governing the employer employee relationship, contractual agreements pertaining to professional employer services companies, and the regulation of both clients and professional employers regarding insurance, employee rights, taxation, workers' compensation responsibilities, and the payment of wages are specified in the bill.

Upon filing an initial registration statement, a PEO must pay an initial registration fee not to exceed \$500 and a renewal fee not to exceed \$250.

Each PEO or collectively each PEO group shall maintain positive working capital or if there is not enough capital a bond, irrevocable letter of credit, or securities with a minimum market value equaling the deficiency plus \$100,000 to the department, except as provided in Section 285.715.

For purposes of the unemployment compensation laws, a PEO registered under this act must be treated as a "lessor employing unit" under Section 288.032.

On the termination of a contract between a PEO and a client or the failure by a PEO to submit reports or make tax payments as required by this act, the client must be treated as a new employer without a previous experience record unless that client is otherwise eligible for an experience rating.

A person may not knowingly offer or provide professional employer services or use the names PEO, professional employer organization, staff leasing, employee leasing, administrative employer, or other title representing professional employer services without first becoming registered under this act.

This bill is similar to HCS HB 757 (2015).