

House _____ Amendment NO. _____

Offered By

1 AMEND House Committee Substitute for Senate Bill No. 326, Page 1, Section A, Line 4, by
2 inserting after said section and line:

3
4 "285.700. 1. Sections 285.700 to 285.750 shall be known and may be cited as the
5 "Professional Employer Organization Act".

6 2. The secretary of state or any person designated by the secretary of state may enforce the
7 provisions of sections 285.700 to 285.750.

8 285.705. As used in sections 285.700 to 285.750, the following terms mean:

9 (1) "Client", any person who enters into a professional employer agreement with a PEO;

10 (2) "Coemployer", either a PEO or a client;

11 (3) "Coemployment relationship", a relationship that is intended to be an ongoing
12 relationship rather than a temporary or project-specific relationship, wherein the rights, duties, and
13 obligations of an employer that arise out of an employment relationship have been allocated
14 between coemployers pursuant to a professional employer agreement and sections 285.700 to
15 285.750. In such a coemployment relationship:

16 (a) The PEO is entitled to enforce only such employer rights and is subject to only those
17 obligations specifically allocated to the PEO by the professional employer agreement or sections
18 285.700 to 285.750;

19 (b) The client is entitled to enforce those rights and obligated to provide and perform those
20 employer obligations allocated to such client by the professional employer agreement and sections
21 285.700 to 285.750; and

22 (c) The client is entitled to enforce any right and obligated to perform any obligation of an
23 employer not specifically allocated to the PEO by the professional employer agreement or sections
24 285.700 to 285.750;

25 (4) "Covered employee", an individual having a coemployment relationship with a PEO and
26 a client who meets the following criteria:

27 (a) The individual has received written notice of coemployment with the PEO; and

28 (b) The individual's coemployment relationship is pursuant to a professional employer
29 agreement subject to sections 285.700 to 285.750.

30
31 Individuals who are officers, directors, shareholders, partners, and managers of the client will be
32 covered employees, except to the extent the PEO and the client have expressly agreed in the
33 professional employer agreement that such individuals would not be covered employees, provided
34 such individuals meet the criteria of this subdivision and act as operational managers or perform
35 day-to-day operational services for the client;

36 (5) "PEO group", any two or more PEOs that are majority owned or commonly controlled

Action Taken _____ Date _____

1 by the same entity, parent, or controlling person;

2 (6) "Person", any individual, partnership, corporation, limited liability company,
3 association, or any other form of legally recognized entity;

4 (7) "Professional employer agreement", a written contract by and between a client and a
5 PEO that provides:

6 (a) For the coemployment of covered employees;

7 (b) For the allocation of employer rights and obligations between the client and the PEO
8 with respect to the covered employees; and

9 (c) That the PEO and the client assume the responsibilities required under sections 285.700
10 to 285.750;

11 (8) "Professional employer organization" or "PEO", any person engaged in the business of
12 providing professional employer services. A person engaged in the business of providing
13 professional employer services shall be subject to registration and regulation under sections 285.700
14 to 285.750 regardless of its use of the term or conducting business as a professional employer
15 organization, PEO, staff leasing company, registered staff leasing company, employee leasing
16 company, administrative employer, or any other name. The following shall not be deemed to be
17 professional employer organizations or the providing of professional employment services for the
18 purposes of sections 285.700 to 285.750:

19 (a) Arrangements wherein a person, whose principal business activity is not entering into
20 professional employer arrangements and does not hold itself out as a PEO, shares employees with a
21 commonly owned company within the meaning of Section 414(b) and (c) of the Internal Revenue
22 Code of 1986, as amended;

23 (b) Independent contractor arrangements by which a person assumes responsibility for the
24 product produced or service performed by such person or his or her agents and retains and exercises
25 primary direction and control over the work performed by the individuals whose services are
26 supplied under such arrangements; and

27 (c) Providing temporary help services;

28 (9) "Professional employer services", the service of entering into coemployment
29 relationships under sections 285.700 to 285.750 in which all or a majority of the employees
30 providing services to a client or to a division or work unit of a client are covered employees;

31 (10) "Registrant", a PEO registered under sections 285.700 to 285.750;

32 (11) "Temporary help services", services consisting of a person:

33 (a) Recruiting and hiring its own employees;

34 (b) Finding other organizations that need the services of those employees;

35 (c) Assigning those employees to perform work at or services for the other organizations to
36 support or supplement the other organizations' workforces, or to provide assistance in special work
37 situations including, but not limited to, employee absences, skill shortages, seasonal workloads, or
38 to perform special assignments or projects; and

39 (d) Customarily attempting to reassign the employees to other organizations when they
40 finish each assignment.

41 285.710. 1. Nothing contained in sections 285.700 to 285.750 or in any professional
42 employer agreement shall affect, modify, or amend any collective bargaining agreement or the
43 rights or obligations of any client, PEO, or covered employee under the federal National Labor
44 Relations Act, the federal Railway Labor Act, or sections 105.500 to 105.530.

45 2. Nothing in sections 285.700 to 285.750 or in any professional employer agreement shall:

46 (1) Diminish, abolish, or remove rights of covered employees to a client or obligations of
47 such client to a covered employee existing prior to the effective date of the professional employer
48 agreement;

1 (2) Affect, modify, or amend any contractual relationship or restrictive covenant between a
2 covered employee and any client in effect at the time a professional employer agreement becomes
3 effective. A professional employer agreement shall also not prohibit or amend any contractual
4 relationship or restrictive covenant that is entered into subsequently between a client or a covered
5 employee. A PEO shall have no responsibility or liability in connection with, or arising out of, any
6 such existing or new contractual relationship or restrictive covenant unless the PEO has specifically
7 agreed otherwise in writing; or

8 (3) Create any new or additional enforceable right of a covered employee against a PEO
9 that is not specifically provided by the professional employer agreement or sections 285.700 to
10 285.750.

11 3. Nothing contained in sections 285.700 to 285.750 or any professional employer
12 agreement shall affect, modify, or amend any state, local, or federal licensing, registration, or
13 certification requirement applicable to any client or covered employee.

14 4. A covered employee who shall be licensed, registered, or certified according to law or
15 regulation is deemed solely an employee of the client for purposes of any such license, registration,
16 or certification requirement.

17 5. A PEO shall not be deemed to engage in any occupation, trade, profession, or other
18 activity that is subject to licensing, registration, or certification requirements, or is otherwise
19 regulated by a governmental entity solely by entering into and maintaining a coemployment
20 relationship with a covered employee who is subject to such requirements or regulation.

21 6. A client shall have the sole right of direction and control of the professional or licensed
22 activities of covered employees and of the client's business. Such covered employees and clients
23 shall remain subject to regulation by the regulatory or governmental entity responsible for licensing,
24 registration, or certification of such covered employees or clients.

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

38 8. With respect to a bid, contract, purchase order, or agreement entered into with the state or
39 a political subdivision of the state, a client company's status or certification as a minority business
40 enterprise or a women's business enterprise, as those terms are defined in section 37.020, shall not
41 be affected because the client company has entered into an agreement with a PEO or uses the
42 services of a PEO.

43 285.715. 1. Except as otherwise provided in sections 285.700 to 285.750, no person shall
44 provide, advertise, or otherwise hold itself out as providing professional employer services in this
45 state, unless such person is registered under sections 285.700 to 285.750.

46 2. Each applicant for registration under sections 285.700 to 285.750 shall provide the
47 secretary of state with the following information:

48 (1) The name or names under which the PEO conducts business;

1 (2) The address of the principal place of business of the PEO and the address of each office
2 it maintains in the state;

3 (3) The PEO's taxpayer or employer identification number;

4 (4) A list by jurisdiction of each name under which the PEO has operated in the preceding
5 five years, including any alternative names, names of predecessors, and, if known, successor
6 business entities;

7 (5) A statement of ownership, which shall include the name and evidence of the business
8 experience of any person that, individually or acting in concert with one or more other persons,
9 owns or controls, directly or indirectly, twenty-five percent or more of the equity interests of the
10 PEO;

11 (6) A statement of management, which shall include the name and evidence of the business
12 experience of any person who serves as president, chief executive officer, or otherwise has the
13 authority to act as senior executive officer of the PEO; and

14 (7) A financial statement setting forth the financial condition of the PEO or PEO group. At
15 the time of application for a new license, the applicant shall submit the most recent audit of the
16 applicant, which shall not be older than thirteen months. Thereafter, a PEO or PEO group shall file
17 on an annual basis, within one hundred eighty days after the end of the PEO's or PEO group's fiscal
18 year, a succeeding audit. An applicant may apply for an extension with the secretary of state, but
19 any such request shall be accompanied by a letter from the auditors stating the reasons for the delay
20 and the anticipated audit completion date. The financial statement shall be prepared in accordance
21 with generally accepted accounting principles and audited by an independent certified public
22 accountant licensed to practice in the jurisdiction in which such accountant is located and shall be
23 without qualification as to the going concern status of the PEO. A PEO or PEO group may submit
24 combined or consolidated audited financial statements to meet the requirements of this section. A
25 PEO that has not had sufficient operating history to have audited financials based upon at least
26 twelve months of operating history shall meet the financial capacity requirements of sections
27 285.700 to 285.750 and present financial statements reviewed by a certified public accountant.

28 3. (1) Each PEO operating within this state as of the effective date of sections 285.700 to
29 285.750 shall complete its initial registration not later than one hundred eighty days after the
30 effective date of sections 285.700 to 285.750. Such initial registration shall be valid until one
31 hundred eighty days from the end of the PEO's first fiscal year that is more than one year after the
32 effective date of sections 285.700 to 285.750.

33 (2) Each PEO not operating within this state as of the effective date of sections 285.700 to
34 285.750 shall complete its initial registration prior to initiating operations within this state. In the
35 event a PEO not registered in this state becomes aware that an existing client not based in this state
36 has employees and operations in this state, the PEO shall either decline to provide PEO services for
37 those employees or notify the secretary of state within five business days of its knowledge of this
38 fact and file a limited registration application under subsection 6 of this section or a full business
39 registration if there are more than fifty covered employees. The secretary of state may issue an
40 interim operating permit for the period the registration applications are pending if the PEO is
41 currently registered or licensed by another state and the secretary of state determines it to be in the
42 best interest of the potential covered employees.

43 4. Within one hundred eighty days after the end of a registration's fiscal year, such registrant
44 shall renew its registration by notifying the secretary of state of any changes in the information
45 provided in such registration's most recent registration or renewal. A registrant's existing
46 registration shall remain in effect during the pendency of a renewal application.

47 5. PEOs in a PEO group may satisfy the reporting and financial requirements of sections
48 285.700 to 285.750 on a combined or consolidated basis, provided that each member of the PEO

1 group guarantees the financial capacity obligations under sections 285.700 to 285.750 of each other
2 member of the PEO group. In the case of a PEO or PEO group that submits a combined or
3 consolidated audited financial statement including entities that are not PEOs or that are not in the
4 PEO group, the controlling entity of the PEO group under the consolidated or combined statement
5 shall guarantee the obligations of the PEOs in the PEO group.

6 6. (1) A PEO is eligible for a limited registration under sections 285.700 to 285.750 if such
7 PEO:

8 (a) Submits a properly executed request for limited registration on a form provided by the
9 secretary of state;

10 (b) Is domiciled outside this state and is licensed or registered as a professional employer
11 organization in another state;

12 (c) Does not maintain an office in this state or directly solicit clients located or domiciled
13 within this state; and

14 (d) Does not have more than fifty covered employees employed or domiciled in this state on
15 any given day.

16 (2) A limited registration is valid for one year, and may be renewed.

17 (3) A PEO seeking limited registration under this section shall provide the secretary of state
18 with information and documentation necessary to show that the PEO qualifies for a limited
19 registration.

20 (4) The provisions of section 285.725 shall not apply to applicants for limited registration.

21 7. The secretary of state shall maintain a list of professional employer organizations
22 registered under sections 285.700 to 285.750 that is readily available to the public by electronic or
23 other means.

24 8. The secretary of state may produce forms necessary to promote the efficient
25 administration of this section.

26 9. The secretary of state shall, to the extent practical, permit the acceptance of electronic
27 filings in conformance with sections 432.200 to 432.295, including applications, documents,
28 reports, and other filings required by sections 285.700 to 285.750. The secretary of state may
29 provide for the acceptance of electronic filings and other assurance by an independent and qualified
30 assurance organization approved by the secretary of state that provides satisfactory assurance of
31 compliance acceptable to the secretary of state consistent with or in lieu of the requirements of
32 sections 285.715 and 285.725 and other requirements of sections 285.700 to 285.750. The secretary
33 of state shall permit a PEO to authorize such an approved assurance organization to act on the PEO's
34 behalf in complying with the registration requirements of sections 285.700 to 285.750, including
35 electronic filings of information and payment of registration fees. Use of such an approved
36 assurance organization shall be optional and not mandatory for a registrant. Nothing in this
37 subsection shall limit or change the secretary's authority to register or terminate registration of a
38 professional employer organization or to investigate or enforce any provision of sections 285.700 to
39 285.750.

40 10. All records, reports, and other information obtained from a PEO under sections 285.700
41 to 285.750, except to the extent necessary for the proper administration of sections 285.700 to
42 285.750 by the secretary of state, shall be confidential and shall not be considered a "public record"
43 as that term is defined in section 610.010.

44 285.720. 1. Upon filing an initial registration statement under sections 285.700 to 285.750,
45 a PEO shall pay an initial registration fee not to exceed five hundred dollars.

46 2. Upon each annual renewal of a registration statement filed under sections 285.700 to
47 285.750, a PEO shall pay a renewal fee not to exceed two hundred fifty dollars.

48 3. The secretary of state shall determine any fee to be charged for a group registration.

1 4. Each PEO seeking limited registration shall pay a fee in the amount not to exceed two
 2 hundred fifty dollars upon initial application for limited registration and upon each renewal of such
 3 limited registration.

4 5. No fee charged under sections 285.700 to 285.750 shall exceed the amount reasonably
 5 necessary for the administration of sections 285.700 to 285.750.

6 285.725. Except as provided by 285.715, each PEO or collectively each PEO group shall
 7 maintain either:

8 (1) Positive working capital as defined by generally accepted accounting principles at
 9 registration as reflected in the financial statements submitted to the secretary of state with the initial
 10 registration and each annual renewal; or

11 (2) A PEO or PEO group that does not have positive working capital may provide a bond,
 12 irrevocable letter of credit, or securities with a minimum market value equaling the deficiency plus
 13 one hundred thousand dollars to the secretary of state. Such bond is to be held by a depository
 14 designated by the secretary securing payment by the PEO of all taxes, wages, benefits, or other
 15 entitlement due to or with respect to covered employees if the PEO does not make such payments
 16 when due.

17 285.730. 1. Except as specifically provided in sections 285.700 to 285.750 or in the
 18 professional employer agreement, in each coemployment relationship:

19 (1) The client shall be entitled to exercise all rights, and shall be obligated to perform all
 20 duties and responsibilities otherwise applicable to an employer in an employment relationship;

21 (2) The PEO shall be entitled to exercise only those rights and obligated to perform only
 22 those duties and responsibilities specifically required under sections 285.700 to 285.750 or set forth
 23 in the professional employer agreement. The rights, duties, and obligations of the PEO as
 24 coemployer with respect to any covered employee shall be limited to those arising pursuant to the
 25 professional employer agreement and sections 285.700 to 285.750 during the term of coemployment
 26 by the PEO of such covered employee; and

27 (3) Unless otherwise expressly agreed by the PEO and the client in a professional employer
 28 agreement, the client retains the exclusive right to direct and control the covered employees as is
 29 necessary to conduct the client's business, to discharge any of the client's fiduciary responsibilities,
 30 or to comply with any licensure requirements applicable to the client or to the covered employees.

31 2. Except as specifically provided under sections 285.700 to 285.750, the coemployment
 32 relationship between the client and the PEO and between each coemployer and each covered
 33 employee shall be governed by the professional employer agreement. Each professional employer
 34 agreement shall include the following:

35 (1) The allocation of rights, duties, and obligations as described in subsection 1 of this
 36 section;

37 (2) A requirement that the PEO shall have responsibility to:

38 (a) Pay wages to covered employees;

39 (b) Withhold, collect, report, and remit payroll-related and unemployment taxes; and

40 (c) To the extent the PEO has assumed responsibility in the professional employer
 41 agreement, to make payments for employee benefits for covered employees.

42
 43 As used in this section, the term "wages" does not include any obligation between a client and a
 44 covered employee for payments beyond or in addition to the covered employee's salary, draw, or
 45 regular rate of pay, such as bonuses, commissions, severance pay, deferred compensation, profit
 46 sharing, vacation, sick, or other paid-time off pay, unless the PEO has expressly agreed to assume
 47 liability for such payments in the professional employer agreement; and

48 (3) A requirement that the PEO shall have a right to hire, discipline, and terminate a

1 covered employee as may be necessary to fulfill the PEO's responsibilities under sections 285.700 to
2 285.750 and the professional employer agreement. The client shall have a right to hire, discipline,
3 and terminate a covered employee.

4 3. With respect to each professional employer agreement entered into by a PEO, such PEO
5 shall provide written notice to each covered employee affected by such agreement of the general
6 nature of the coemployment relationship between and among the PEO, the client, and such covered
7 employee.

8 4. Except to the extent otherwise expressly provided by the applicable professional
9 employer agreement:

10 (1) A client shall be solely responsible for the quality, adequacy, or safety of the goods or
11 services produced or sold in the client's business;

12 (2) A client shall be solely responsible for directing, supervising, training, and controlling
13 the work of the covered employees with respect to the business activities of the client and solely
14 responsible for the acts, errors, or omissions of the covered employees with regard to such activities;

15 (3) A client shall not be liable for the acts, errors, or omissions of a PEO or of any covered
16 employee of the client and a PEO if such covered employee is acting under the express direction
17 and control of the PEO;

18 (4) A PEO shall not be liable for the acts, errors, or omissions of a client or of any covered
19 employee of the client if such covered employee is acting under the express direction and control of
20 the client;

21 (5) Nothing in this subsection shall serve to limit any contractual liability or obligation
22 specifically provided in the written professional employer agreement; and

23 (6) A covered employee is not, solely as the result of being a covered employee of a PEO,
24 an employee of the PEO for purposes of general liability insurance, fidelity bonds, surety bonds,
25 employer's liability that is not covered by workers' compensation, or liquor liability insurance
26 carried by the PEO unless the covered employees are included by specific reference in the
27 professional employer agreement and applicable prearranged employment contract, insurance
28 contract, or bond.

29 5. A PEO under sections 285.700 to 285.750 is not engaged in the sale of insurance or in
30 acting as a third party administrator by offering, marketing, selling, administering, or providing
31 professional employer services that include services and employee benefit plans for covered
32 employees. The provisions of this section shall not supercede or preempt any requirements under
33 section 375.014.

34 6. For purposes of this state or any county, municipality, or other political subdivision
35 thereof:

36 (1) Any tax or assessment imposed upon professional employer services or any business
37 license or other fee that is based upon "gross receipts" shall allow a deduction from the gross
38 income or receipts of the business derived from performing professional employer services that is
39 equal to that portion of the fee charged to a client that represents the actual cost of wages and
40 salaries, benefits, payroll taxes, withholding, or other assessments paid to or on behalf of a covered
41 employee by the professional employer organization under a professional employer agreement;

42 (2) Any tax assessed or assessment or mandated expenditure on a per capita or per
43 employee basis shall be assessed against the client for covered employees and against the
44 professional employer organization for its employees who are not covered employees coemployed
45 with a client. Benefits or monetary consideration that meet the requirements of mandates imposed
46 on a client and that are received by covered employees through the PEO either through payroll or
47 through benefit plans sponsored by the PEO shall be credited against the client's obligation to fulfill
48 such mandates; and

1 (3) In the case of a tax or an assessment imposed or calculated upon the basis of total
2 payroll, the professional employer organization shall be eligible to apply any small
3 business allowance or exemption available to the client for the covered employees for purposes of
4 computing the tax.

5 285.740. 1. The responsibility to obtain workers' compensation coverage for covered
6 employees in compliance with all applicable laws shall be specifically allocated in the professional
7 employer agreement to either the client or the PEO.

8 2. (1) Coverage for both the directly employed workers of a client and the covered
9 employees of that client shall be all in the residual or all in the voluntary market with the same
10 carrier.

11 (2) Workers' compensation coverage for covered employees in the voluntary market may be
12 obtained by either the client through a standard workers' compensation policy or through duly
13 authorized self-insurance or by the PEO through a duly authorized self insurance program, through
14 a master policy issued to the PEO by a carrier authorized to do business in this state, or through a
15 multiple coordinated workers' compensation policy issued by a carrier authorized to do business in
16 this state in the name of the PEO or the client. A PEO authorized to self-insure shall report to the
17 insurer or the appropriate state and rating authorities such client-based information as is necessary to
18 maintain the client's experience rating.

19 (3) Workers' compensation for covered employees in the residual market may be obtained
20 by the client through a residual market policy or by the PEO through a multiple coordinated policy
21 in either the name of the PEO or the client that provides to the appropriate state and rating
22 authorities the client-based information satisfactory to maintain the client's experience rating.

23 3. A PEO that applies for coverage or is covered through the voluntary market shall also
24 maintain and furnish to the insurer sufficient information to permit the calculation of an experience
25 modification factor for each client upon termination of the coemployment relationship. Information
26 reported during the term of the coemployment relationship which is used to calculate an experience
27 modification factor for a client prior to and upon termination of the professional employer
28 agreement shall continue to be used in the future experience ratings of the PEO. Such information
29 shall include:

30 (1) The client's corporate name;

31 (2) The client's taxpayer or employer identification number;

32 (3) Payroll summaries and class codes applicable to each client, and, if requested by the
33 insurer, a listing of all covered employees associated with a given client; and

34 (4) Claims information grouped by client, and any other information maintained by or
35 readily available to the PEO that is necessary for the calculation of an experience modification
36 factor for each client.

37 4. In addition to any other provision of chapter 287, any material violations of this section
38 by a PEO is grounds for cancellation or nonrenewal of the PEO's insurance policy by the insurer. If
39 a PEO has received notice that its workers' compensation insurance policy will be canceled or
40 nonrenewed, the PEO shall notify by certified mail, within ten days after the receipt of the notice,
41 all of the clients for which there is a coemployment relationship covered under the policy to be
42 canceled, provided that notice shall not be required if the PEO has obtained another insurance
43 policy from a carrier authorized to do business in this state, with an effective date that is the same as
44 the date of cancellation or nonrenewal.

45 5. If the coemployment relationship with a client is terminated, the client shall utilize an
46 experience modification factor which reflects its individual experience, including, if applicable,
47 experience incurred for covered employees under the professional employer agreement. The PEO
48 shall provide to the client the client's information that is maintained under subsection 3 of this

1 section within five business days of receiving notice from the client or within five business days of
2 providing notice to the client that the coemployment relationship will terminate. The PEO shall also
3 provide such information to any future client insurer, if requested by such client. The PEO shall
4 notify the insurer of its intent to terminate any client relationship prior to termination when feasible.
5 When prior notice is not feasible, the PEO shall notify its insurer within five business days
6 following actual termination.

7 6. Both the client and the PEO shall be considered the employer for purposes of coverage
8 under chapter 287. The protection of the exclusive remedy provision under section 287.120 shall
9 apply to the PEO, the client, and to all covered employees and other employees of the client
10 irrespective of which coemployer obtains such workers' compensation coverage. Nothing in this
11 section shall be construed to exempt either the client or the PEO from compliance with the
12 provisions of chapter 287.

13 7. A client may request the information maintained under subsection 3 of this section at any
14 time and every PEO shall provide that information to such client within five business days of
15 receiving such a request.

16 8. Any PEO in violation of any provision of this section shall have its registration revoked
17 by the secretary of state.

18 9. A client shall provide any prospective insurer with the information maintained by the
19 PEO under subsection 3 of this section upon receiving such information from the PEO. Failure to
20 provide a future insurer with such information shall be considered a violation of subsection 6 of
21 section 287.128.

22 10. (1) A client shall notify any prospective insurer of the client's previous or current
23 relationship with a PEO. Failure to provide a future insurer with such information shall be
24 considered a violation of subsection 6 of section 287.128.

25 (2) This subsection shall not apply if the PEO did not provide workers' compensation
26 coverage to a client during the coemployment relationship.

27 11. For purposes of chapter 288, a PEO registered under sections 285.700 to 285.750 shall
28 be treated as a "lesser employing unit" under section 288.032.

29 285.750. 1. A person shall not knowingly:

30 (1) Offer or provide professional employer services or use the names PEO, professional
31 employer organization, staff leasing, employee leasing, administrative employer, or other title
32 representing professional employer services without first becoming registered under sections
33 285.700 to 285.750; or

34 (2) Provide false or fraudulent information to the secretary of state in conjunction with any
35 registration, renewal, or in any report required under sections 285.700 to 285.750.

36 2. Disciplinary action shall be taken by the secretary of state for violation of this section for:

37 (1) The conviction of a professional employer organization or a controlling person of a PEO
38 of a crime that relates to the operation of a PEO or the ability of the licensee or a controlling person
39 of a licensee to operate a PEO;

40 (2) Knowingly making a material misrepresentation to the secretary of state or other
41 governmental agency; or

42 (3) A willful violation of sections 285.700 to 285.750 or any order issued by the secretary
43 of state under sections 285.700 to 285.750.

44 3. Upon finding, after notice and opportunity for hearing, that a PEO, a controlling person
45 of a PEO, or a person offering PEO services has violated one or more provisions of this section and
46 subject to appeal, the secretary of state may:

47 (1) Deny an application for a license;

48 (2) Revoke, restrict, or refuse to renew a license;

- 1 (3) Impose an administrative penalty in an amount not to exceed one thousand dollars for
2 each material violation;
3 (4) Place the licensee on probation for the period and subject to conditions that the secretary
4 of state specifies; or
5 (5) Issue a cease and desist order."; and
6

7 Further amend said bill by amending the title, enacting clause, and intersectional references
8 accordingly.