

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 5465-01
Bill No.: HB 1656
Subject: Professional Registration and Licensing; Secretary of State
Type: Original
Date: February 5, 2018

Bill Summary: This proposal establishes the “Professional Employer Organization Act”.

FISCAL SUMMARY

| ESTIMATED NET EFFECT ON GENERAL REVENUE FUND | | | |
|--|--------------------|--------------------|--------------------|
| FUND AFFECTED | FY 2019 | FY 2020 | FY 2021 |
| General Revenue Fund | (\$117,324) | (\$180,683) | (\$181,244) |
| Total Estimated Net Effect on General Revenue | (\$117,324) | (\$180,683) | (\$181,244) |

| ESTIMATED NET EFFECT ON OTHER STATE FUNDS | | | |
|--|-------------------|----------------|----------------|
| FUND AFFECTED | FY 2019 | FY 2020 | FY 2021 |
| Technology Trust Fund | (\$73,600) | \$0 | \$0 |
| Total Estimated Net Effect on Other State Funds | (\$73,600) | \$0 | \$0 |

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 7 pages.

| ESTIMATED NET EFFECT ON FEDERAL FUNDS | | | |
|---|----------------|----------------|----------------|
| FUND AFFECTED | FY 2019 | FY 2020 | FY 2021 |
| | | | |
| | | | |
| Total Estimated Net Effect on <u>All</u> Federal Funds | \$0 | \$0 | \$0 |

| ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE) | | | |
|---|----------------|----------------|----------------|
| FUND AFFECTED | FY 2019 | FY 2020 | FY 2021 |
| General Revenue Fund | 4 FTE | 4 FTE | 4 FTE |
| | | | |
| Total Estimated Net Effect on FTE | 4 FTE | 4 FTE | 4 FTE |

Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$100,000 in any of the three fiscal years after implementation of the act.

| ESTIMATED NET EFFECT ON LOCAL FUNDS | | | |
|--|----------------|----------------|----------------|
| FUND AFFECTED | FY 2019 | FY 2020 | FY 2021 |
| Local Government | \$0 | \$0 | \$0 |

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of the Secretary of State (SOS)** assume the following:

Section 285.715 requires registration with the SOS. Under this section several required mandates are not traditionally maintained in current entity creation filings with Business Services. These changes would require procedural changes as well as software changes for the business process for Business Services.

Specifically, 285.715 2. (5) requires "a statement of ownership along with evidence of the business experience of any person that..." current entity creation documents do not require disclosure of ownership information. While SOS does require officers and directors to be reported on some entity types, their experience level or information is never collected. 285.715 2. (7) requires financial data (statements) be submitted. Business Services does not collect this information for any type of entity.

Section 285.715.10, states that "All records, reports, and other information obtained from a Professional Employer Organization (PEO) under sections 285.700 to 285.750, except to the extent necessary for the proper administration of sections 285.700 to 285.750 by the secretary of state, shall be confidential and shall not be considered a "public record" as that term is defined in section 610.010." Currently all information filed with the Business Services Corporations division is public record.

SOS assumes the proposal would require a new program and a new unit for the Business Services Division. If located in Business Services Division, additional office space will be required. SOS also assumes this proposal will require 4 additional FTE: Examiner/processor Tech II (\$25,000 annually), Enforcement Specialist (\$35,000 annually), Supervisor (\$40,000 annually), and an Investigator I (\$37,500 annually).

In summary, SOS assumes a cost of \$195,824 in FY 2019, \$223,683 in FY 2020, and \$225,494 in FY 2021 to provide for the implementation of the changes in this proposal.

SOS notes the U.S. Bureau of Labor Statistics does not track PEOs. A website, Staffmarket.com, states that 64 PEOs are currently operating in the state of Missouri (12/12/2017). Department of Labor and Industrial Relations in a 2015 fiscal note (HB 757) stated that 853 non-Missouri based PEO units operating in Missouri. If foreign PEOs are required to register it is estimated that 10% of current PEOs would participate. SOS estimates an 8% growth rate of new creations of this type of business with a decline of 6% in renewal registration the following years for various

ASSUMPTION (continued)

reasons. It is estimated 5% of registered entities will be reviewed for compliance and investigated. Of those investigated it is likely that few will have violations.

SOS assumes that the initial registration fee will be \$500, the renewal fee \$250, and a penalty fee of \$1,000. SOS estimates there will be a revenue of \$78,500 (\$500 x 149 PEO new registration fees) and \$4,000 in penalty fees in FY 2019, \$6,000 (\$500 x 12 PEO new registration fees), \$35,000 (\$250 x 140 renewal fees), and \$2,000 in penalty fees for a total of \$43,000 for FY 2020, \$6,500 (\$500 x 13 new registration fees), \$35,750 (\$250 x 143 renewal fees), and \$2,000 in penalties for a total of \$44,250 for FY 2021.

SOS also assumes programming expenses of \$73,600 to the Technology Trust Fund in FY 2019.

Oversight assumes subsection 285.720.1 states the initial registration fee should not exceed \$500, Subsection 285.720.2 states that the renewal fee should not exceed \$250, and Subdivision 285.750.3(3) states that the penalty fee should not exceed \$1000. Since SOS is projecting the maximum fees not covering their cost, Oversight will reflect the fee revenue as estimated by SOS.

Officials from the **Attorney General's Office** assume that any potential costs arising from this proposal can be absorbed with existing resources. Attorney General's Office may seek additional appropriations if there is a significant increase in litigation.

Officials from the **Department of Social Services, Department of Insurance, Financial Institutions and Professional Registration, Office of Administration-Personnel, Department of Transportation, Joint Committee on Administrative Rules, Department of Revenue, Department of Labor and Industrial Relations, Missouri Department of Conservation, Department of Economic Development, and Department of Mental Health** each assume the proposal will have no fiscal impact on their respective organizations.

| <u>FISCAL IMPACT - State Government</u> | FY 2019 (10 Mo.) | FY 2020 | FY 2021 |
|--|---------------------------|---------------------------|---------------------------|
| GENERAL REVENUE FUND | | | |
| <u>Revenue - SOS</u> | | | |
| Penalty Fees | \$4,000 | \$2,000 | \$2,000 |
| Initial and Renewal Registration Fees | <u>\$74,500</u> | <u>\$41,000</u> | <u>\$42,250</u> |
| <u>Total Revenue - SOS</u> | <u>\$78,500</u> | <u>\$43,000</u> | <u>\$44,250</u> |
| <u>Cost - SOS</u> | | | |
| Salaries | (\$114,583) | (\$138,875) | (\$140,264) |
| Fringe Benefits | (\$69,991) | (\$84,398) | (\$84,810) |
| Equipment and Expense | (\$11,250) | (\$410) | (\$420) |
| <u>Total Cost -SOS</u> | <u>(\$195,824)</u> | <u>(\$223,683)</u> | <u>(\$225,494)</u> |
| FTE Change - SOS | 4 FTE | 4 FTE | 4 FTE |
| ESTIMATED NET EFFECT ON GENERAL REVENUE FUND | <u>(\$117,324)</u> | <u>(\$180,683)</u> | <u>(\$181,244)</u> |
| Estimated Net FTE Change on the General Revenue Fund | 4 FTE | 4 FTE | 4 FTE |
| TECHNOLOGY TRUST FUND | | | |
| <u>Cost - SOS</u> | | | |
| Equipment and Expense | <u>(\$73,600)</u> | <u>\$0</u> | <u>\$0</u> |
| ESTIMATED NET EFFECT ON TECHNOLOGY TRUST FUND | <u>(\$73,600)</u> | <u>\$0</u> | <u>\$0</u> |
| <u>FISCAL IMPACT - Local Government</u> | | | |
| | FY 2019 (10 Mo.) | FY 2020 | FY 2021 |
| | <u>\$0</u> | <u>\$0</u> | <u>\$0</u> |

FISCAL IMPACT - Small Business

Small businesses would now potentially be required to pay a fee as a result of this proposal.

FISCAL DESCRIPTION

This act establishes regulations and registration requirements for professional employer organizations (PEOs). The bill requires all PEOs to be registered with the Secretary of State. PEO's may register individually or as a group. At the time of registration, and every year thereafter, the PEO or PEO group must file with the Secretary of State an audit performed by an independent certified public accountant. A PEO may be eligible for limited registration if it meets certain requirements.

The Secretary of State shall maintain a list of PEOs registered in this state. PEOs shall pay an initial registration fee not to exceed \$500 with an annual renewal fee not to exceed \$250. However, no fee shall exceed the amount reasonably necessary for the administration of the act.

Each PEO or PEO group shall maintain either positive working capital or provide a bond, irrevocable letter of credit, or securities with a minimum market value equaling the deficiency plus \$100,000 to the department. PEOs seeking limited registration are not required to meet these requirements.

The bill establishes the conditions under which a client and a PEO may enter into a professional employment agreement as well as the rights and responsibilities of each party.

Persons may be sanctioned by the Secretary of State for providing professional employer services without registering with the Secretary of State, or for providing false or fraudulent information to the Secretary of State in conjunction with any registration, renewal, or report required by this act. Such sanctions may include revocation of license or the imposition of an administrative penalty of not more than \$1,000, among other potential penalties.


This bill provides that a client shall 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 such client. The client's status or certification as a minority-owned or woman-owned business enterprise shall not be affected because such client has entered into an agreement with a PEO or uses the services of a PEO. The PEO shall be responsible for providing workers' compensation coverage for covered employees.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Social Services
Department of Insurance, Financial Institutions and Professional Registration
Office of Administration-Personnel
Department of Transportation
Joint Committee on Administrative Rules
Department of Revenue
Department of Labor and Industrial Relations
Department of Mental Health
Missouri Department of Conservation
Attorney General's Office
Department of Economic Development

Ross Strope



Acting Director
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