

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 5583-01  
Bill No.: SB 877  
Subject: Employee-Employers; Insurance, Financial Institutions and Professional  
 Registration, Department of  
Type: Original  
Date: February 15, 2016

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Bill Summary: This proposal enacts new provisions of law relating to professional employer organizations.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2017	FY 2018	FY 2019
General Revenue	(\$421,469)	(\$169,936)	(\$129,182)
<b>Total Estimated Net Effect on General Revenue</b>	<b>(\$421,469)</b>	<b>(\$169,936)</b>	<b>(\$129,182)</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2017	FY 2018	FY 2019
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

Numbers within parentheses: ( ) indicate costs or losses.

This fiscal note contains 11 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2017</b>	<b>FY 2018</b>	<b>FY 2019</b>
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>			
<b>FUND AFFECTED</b>	<b>FY 2017</b>	<b>FY 2018</b>	<b>FY 2019</b>
General Revenue	3 FTE	3 FTE	3 FTE
<b>Total Estimated Net Effect on FTE</b>	<b>3 FTE</b>	<b>3 FTE</b>	<b>3 FTE</b>

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

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2017</b>	<b>FY 2018</b>	<b>FY 2019</b>
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

## FISCAL ANALYSIS

### ASSUMPTION

Officials at the **Department of Insurance, Financial Institutions, and Professional Registration (DIFP)** assume this proposal will have a negative fiscal impact on their organization.

DIFP will be required to set up a new section to manage Professional Employer Organization (PEO) registrations, collect fees, investigate and review records for compliance, and establish a hearing process for the findings. Therefore, the department will require one Auditor II FTE (review compliance), one Senior Office Support Assistant FTE (provide clerical and hearing support to the section), two Accounting Specialist I/II FTE (process and review registrations, collect fees, assist with compliance), two Investigator II FTE (investigate complaints), one Senior Counsel FTE (assist with legal and hearing processes) and one Fiscal & Administrative Manager Band 2 FTE (manage the section).

**Oversight** adjusted the fiscal impact to DIFP by reducing the number of new FTE from 8 to 3 based on the implementation of a “new system” designed by ITSD to track the registrations, invoicing, payment of fees through SAM II.

The system ITSD is going to create will include a website, that will allow PEOs to register online. Also, ITSD is going to create within this electronic system the ability to invoice and process payments. This assumption is based on the estimated 5,670 hours for IT Consultants in FY17 (equivalent to 2 FTEs) to create this system and website, it will also have the ability to create and generate reports that will track registrations and payments. In FY18 1134 hours for IT Consultant is being shown as a fiscal impact based on the need to make modifications, corrections that may be required to the new system created by ITSD to accommodate and monitor the registration of PEOs.

**Oversight** is reducing the number of requested FTEs based on the number of current staff employed by DIFP, the new system created by ITSD that will allow registrations, processing of payments and monitoring of PEOs to be done electronically thus reducing the need to add new personnel. Also, it is estimated 400 PEOs will register and make payments electronically each year, 33.33 per month or 1.1 per day and 41 that may in noncompliance or 3.4 per month.

Therefore, the following table indicates current staff, by position title, currently employed by DIFP, the number of new staff DIFP is requesting and the recommendation being made by Oversight.

ASSUMPTION (continued)

<b>Positions Titles</b>	<b># of Positions Currently at DIFP</b>	<b># of Requested Positions by Title</b>	<b>Oversight Recommendation</b>
Auditor II	0	1	1
Senior Office Support Assistant (Keyboarding)	2	1	0
Accounting Specialist I/II	1	2	1
Investigator I	4	0	0
Investigator II	36	2	0
Senior Counsel	7	1	0
Labor & Industrial Manager B1	1	0	1
Labor & Industrial Manager B2	2	1	0

Auditor II - DIFP estimates approximately 400 PEO registrations each year. Registrations, invoicing, and collection of fees will be electronically processed. Therefore, this will require a yearly desk audit of registered PEOs, renewals, non-renewals and delinquent payments which will be tracked and reports generated by the new ITSD system. DIFP estimates approximately 10 or 41 of these registrations may require further in depth review or approximately 3.4 a month, a reasonable caseload to be handled by one Auditor II.

Accounting Specialist I - DIFP estimates approximately 400 PEO registrations each year. Registrations, invoicing, and collection of fees will be electronically processed. Therefore, this will require yearly desk audit of registered PEOs, renewals, non-renewals and delinquent payments which will be tracked and reports generated by the new ITSD system. DIFP estimates approximately 10% or 41 of these registrations may require further in depth review or approximately 3.4 a month, a reasonable caseload to be handled by one Accounting Specialist I.

**Oversight** assumes the addition of an Auditor II and Accounting Specialist I to DIFP will be sufficient to monitor and track registrations and payments of PEOs. Oversight also assumes these two positions can absorb the estimated 3.4 cases per month that may need additional follow up due to noncompliance with requirements of this proposal.

ASSUMPTION (continued)

Senior Office Support Assistant (Keyboarding) - DIFP currently has 2 FTE in this position title and should be able to handle the additional work related to the addition of 3 FTE. A new system designed by ITSD will allow the requirements of this proposal to be completed electronically. Therefore, any additional supply requests, travel requests, purchase order processing related to 3 additional FTE should be minimal. The 3 new FTEs will be responsible for correspondence, printing, monitoring of PEOs, and filing of hard copy records.

Investigator II - DIFP estimates approximately 400 PEO registrations each year. Registrations, invoicing, and collection of fees will be electronically processed. Therefore, this will require a yearly desk audit of registered PEOs, renewals, non-renewals and delinquent payments. DIFP estimates approximately 41 of these registrations may require further in depth review or approximately 3.4 a month. Currently, DIFP has employed 4 Investigator I's and 36 Investigator II's for a total of 40 Investigators on staff at DIFP.

**Oversight** assumes these 40 investigators currently employed by DIFP can absorb the projected 3.4 cases per month that may require follow up due to noncompliance with the requirements of this proposal. Therefore, Oversight will not show an impact to hire additional Investigator(s).

Senior Counsel - DIFP estimates approximately 400 PEO registrations each year. Registrations, invoicing, and collection of fees will be electronically processed. Therefore, this will require yearly desk audit of registered PEOs, renewals, non-renewals and delinquent payments. DIFP estimates approximately 41 of these registrations may require further in depth review or approximately 3.4 a month.

**Oversight** will not show an impact to hire an additional Senior Counsel based on the estimated 3.4 per month additional cases due to noncompliance with the requirements of this proposal could be absorbed by the 7 Senior Counsels currently employed by DIFP.

**Oversight** assumes the Auditor II, Investigator I/II, Accounting Specialist I, and Senior Counsel will work closely and interdependently on researching and resolving the estimated 41 PEOs or 3.4 cases per month that may be in noncompliance with this proposal each year.

**Oversight** adjusted DIFP's request for a new Fiscal Manager Band 2 position to zero, and will show an impact for a new Fiscal Manager Band 1 position. The positions of Auditor II, Accounting Specialist I, Investigator II, and Senior Counsel require a high level of skill and ability to work independently with minimal supervision and therefore, a Manager Band 1 position should be sufficient.

ASSUMPTION (continued)

**Oversight** assumes should additional staff be required once the new ITSD system is in place and PEOs have begun registration and payment, additional staff can be requested through the appropriation process.

Additional one-time equipment costs and on-going expenses are included at the standard rates.

<b>Equipment Requested by DIFP</b>	<b># Requested by DIFP based on Adding 8 FTE</b>	<b>Oversight Recommendation based on Adding 4 FTE</b>
Personal Computers	7	2
Laptops*	1	1
Second Monitor	7	3

**Oversight** assumes the Auditor II position will travel and require a laptop which can be docked and used as a personal computer when in the office. Oversight assumes the other 2 FTE's would be issued a personal computer.

ITSD will be required to develop a tracking system for the PEOs fees and registrations.

**Oversight** will include in the costs for FY17 the fiscal impact of a new system, at a cost of \$425,250 which comprises of 5,670 hours for IT consultants at a rate of \$75 per hour. And will include in the fiscal impact for FY18 the costs to maintain the new system of \$87,176 which is calculated at 1134 hours (20% of 5,670) for IT consultants at a rate of \$75 per hour and inclusion of a 2.5% inflation rate. Oversight adjusted the ITSD costs in FY19 to 567 hours (10% of 5,670) for IT consultants at a rate of \$75 per hour and included the inflationary rate of 2.5% for each of the two previous fiscal years for a cost of \$44,651.

Section 285.745, states that PEOs registered under this legislation shall be treated as "lessor employing units". Section 288.032.2(5) changes the type of general business entity that, by definition, can be considered a "lessor employing unit" from an independently established business to a registered professional employer organization only.

Section 285.715:

This section sets forth the filing time requirements for PEOs registering within Missouri and grants the department authority to issue initial, renewal, limited and interim registrations. The requirements include an annual renewal process. This section also requires the department to make the listing of PEOs available to the public by electronic or other means.

ASSUMPTION (continued)

Section 285.720:

This section establishes fees which can be charged for the PEO filings. It is assumed both the fees collected and costs to administer the activities would be General Revenue.

Based on the information provided by the Department of Labor and Industrial Relations for fiscal note HB 757 (1648-01), there are approximately 47 PEOs operating in the State of Missouri, 247 Lessor Employee Units operating in Missouri. The LEU's operating in Missouri do not include any of the 47 PEOs operating in this state. Also, there are approximately 853 non-Missouri based PEOs and it is estimated 85 of those would apply for registration within Missouri. Initial registration fee income would be \$160,500 (321 X \$500) and limited registration fee income would be \$21,250 (85 X \$250) for a total of \$181,750 in FY2017. In FY2018 and FY2019 the department assumes approximately 386 would renew at \$250 and 20 would be new registrations at \$500 for a total of \$106,500.

Section 285.750:

This section assigns the responsibility for conducting hearings and imposing penalties on those who knowingly violate this legislation.

The department will investigate and establish an appeals process for persons who knowingly violate the provisions of this legislation. Based on the information provided by the Department of Labor and Industrial Relations for fiscal note HB 757 (1648-01), 10% of registered PEOs would be reviewed or investigated for violations.

Officials at the **Department of Labor and Industrial Relations (DOLIR)** assume this proposal will not have a fiscal impact on their organization.

Officials from the **Office of the Secretary of State (SOS)** state many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to the SOS for Administrative Rules is less than \$2,500. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, the SOS also recognizes that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what the office can sustain with the core budget. Therefore, the SOS reserves the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

ASSUMPTION (continued)

**Oversight** assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriation process.

Officials at the **Department of Social Services** and **Department of Mental Health** each defer to the Office of Administration.

Officials at the **Department of Transportation, Department of Revenue, Office of Administration - Facilities Management, Design and Construction, Office of Administration - Personnel, Office of Administration - Purchasing, Department of Conservation, Joint Committee on Administrative Rules, and Department of Economic Development** each assume this proposal will not have a fiscal impact on their respective organizations.

<u>FISCAL IMPACT - State Government</u>	FY 2017 (10 Mo.)	FY 2018	FY 2019
<b>GENERAL REVENUE</b>			
<u>Revenue - DIFP</u>			
Administrative Sanctions	\$2,000	\$2,000	\$2,000
Registration / Renewal Fees	<u>\$181,750</u>	<u>\$106,500</u>	<u>\$106,500</u>
Total	<u><b>\$183,750</b></u>	<u><b>\$108,500</b></u>	<u><b>\$108,500</b></u>
<u>Costs - DIFP</u>			
Personnel - 3 FTE	(\$97,380)	(\$118,025)	(\$119,205)
Fringe Benefits	(\$51,834)	(\$62,520)	(\$62,843)
Equipment	(\$22,044)	\$0	\$0
Expenses	(\$8,711)	(\$10,715)	(\$10,983)
ITSD	<u>(\$425,250)</u>	<u>(\$87,176)</u>	<u>(\$44,651)</u>
Total Costs	<u>(\$605,219)</u>	<u>(\$278,436)</u>	<u>(\$237,682)</u>
FTE Change - DIFP	3 FTE	3 FTE	3 FTE
<b>ESTIMATED NET EFFECT ON GENERAL REVENUE</b>	<u><b>(\$421,469)</b></u>	<u><b>(\$169,936)</b></u>	<u><b>(\$129,182)</b></u>
<b>NET FTE CHANGES ON GENERAL REVENUE</b>	<b>3 FTE</b>	<b>3 FTE</b>	<b>3 FTE</b>

<u>FISCAL IMPACT - Local Government</u>	FY 2017 (10 Mo.)	FY 2018	FY 2019
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

This act establishes regulations and registration requirements relating to professional employer organizations (PEOs).

Under this act, no person is permitted to provide, advertise, or otherwise hold itself out as providing professional employer services unless such person is registered with the Department of Insurance, Financial Institutions, and Professional Registration under the provisions of this act.

A PEO is eligible for limited registration if it is domiciled outside the state, licensed as a PEO in another state, does not maintain an office in this state or directly solicit clients in this state, and does not have more than 50 employees employed or domiciled in this state on any given day. PEOs may further register as a PEO Group.

The Department shall maintain a list of PEOs registered in this state. The Department may prescribe forms to be used for registration but shall permit the acceptance of electronic filings by either the PEO or an independent qualified assurance organization authorized by the PEO to act on the PEOs behalf.

PEOs shall pay an initial registration fee not to exceed \$500 with an annual renewal fee not exceed \$250. PEOs seeking limited registration shall pay a registration fee not to exceed \$250. The Department shall determine a fee to be paid by PEO groups. 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 one hundred thousand dollars to the department. PEOs seeking limited registration are not required to meet these stipulations.

The act 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.

ASSUMPTION (continued)

Persons may be sanctioned by the Department for providing professional employer services without registering with the Department, or for providing false or fraudulent information to the Department 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.

For purposes of this act, covered employees shall be considered employees solely of the client and not the PEO. Moreover, the client shall have the sole right of direction and control of the professional or licensed activities of covered employees and of the client's business.

With respect to a bid, contract, purchase order, or agreement entered into with the state or a political subdivision of the state, a 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.

For purposes of workers' compensation laws as well as retirement and welfare benefit plans, both the client and the PEO shall be considered an employer, however the responsibility to obtain workers' compensation coverage for covered employees shall be specifically allocated in the professional employer agreement.

The act modifies the definition of "lessor employing unit" for the purposes of unemployment law provisions to include PEOs.

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 Insurance, Financial Institutions and Professional Registration  
Department of Revenue  
Office of Secretary of State  
Joint Committee on Administrative Rules  
Office of Administration - Facilities Management, Design and Construction  
Office of Administration - Personnel  
Office of Administration - Purchasing  
Department of Economic Development  
Department of Conservation  
Department of Transportation

SOURCES OF INFORMATION (continued)

Department of Social Services  
Department of Mental Health  
Department of Labor and Industrial Relations

Mickey Wilson, CPA

Director  
February 15, 2016



Ross Strope  
Assistant Director  
February 15, 2016