

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 0249-01  
Bill No.: SB 266  
Subject: Employee - Employers; Insurance, Financial Institutions and Professional Registration, Department of  
Type: Original  
Date: February 16, 2017

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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 2018	FY 2019	FY 2020
General Revenue Fund	(\$777,846)	(\$547,030)	(\$554,708)
<b>Total Estimated Net Effect on General Revenue</b>	<b>(\$777,846)</b>	<b>(\$547,030)</b>	<b>(\$554,708)</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2018	FY 2019	FY 2020
<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 8 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2018</b>	<b>FY 2019</b>	<b>FY 2020</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 2018</b>	<b>FY 2019</b>	<b>FY 2020</b>
General Revenue Fund	8 FTE	8 FTE	8 FTE
<b>Total Estimated Net Effect on FTE</b>	<b>8 FTE</b>	<b>8 FTE</b>	<b>8 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 2018</b>	<b>FY 2019</b>	<b>FY 2020</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 would have a negative fiscal impact on their organization and provided the following information:

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 FTEs (process and review registrations, collect fees, assist with compliance), two Investigator II FTEs (investigate complaints), one Senior Counsel FTE (assist with legal and hearing processes) and one Fiscal & Administrative Manager Band 2 FTE (manage the section).

ITSD will be required to develop a tracking system for the PEO's fees and registrations.

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 285.706:

This section creates the "Professional Employer Organization Board". The following board-specific expenses are being calculated to determine the additional appropriation needed to support the board.

The five board member will receive \$50 per diem for the annual meeting ( $5 * \$50.00 = \$250$ ) as well as travel expenses estimated to be \$214 per member or ( $5 * \$214.00 = \$1,070$ ) for total meeting expenses of \$1,320.

#### 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.

#### Section 285.720:

This section established 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.

ASSUMPTION (continued)

Based on the information provided by the Department of Labor and Industrial Relations for fiscal note HB 757 (1648-01) from 2016, there are approximately 47 PEOs operating in the State of Missouri and 247 Lessor Employee Units operating in Missouri. The LEU's operating in Missouri do not include any of the 47 PEO's operating in this state. Also, there are approximately 853 non-Missouri based PEO's 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 FY2018. In FY2019 and FY2020 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) from 2016, 10% of registered PEOs would be reviewed or investigated for violations. The department estimates \$2,000 of Administrative sanctions.

**Oversight** will show a negative fiscal impact to the General Revenue Fund in the amount of \$777,846 in FY2018, \$547,030 in FY2019, and \$554,708 in FY 2020. This impact is the net difference between estimated revenue and expenses. The revenue from administrative sanctions and PEO filing fees is estimated to be \$183,750 in FY2018, \$108,500 in FY2019, and \$108,500 in FY2020. The costs for additional FTEs, equipment, general expenses, and ITSD expense is estimated to be \$961,596 in FY2018, \$655,530 in FY2019, and \$663,208 in FY2020.

Officials at the **Office of Administration - Personnel** assume this proposal would not have a fiscal impact on their organization.

Officials at the **Department of Social Services** defers to Office of Administration - Personnel for a fiscal impact.

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

<u>FISCAL IMPACT - State Government</u>	FY 2018 (10 Mo.)	FY 2019	FY 2020
<b>GENERAL REVENUE FUND</b>			
<u>Revenue - DIFP</u>			
Administrative Sanctions - §285.750	\$2,000	\$2,000	\$2,000
Fees - PEO Filings - §285.720	<u>\$181,750</u>	<u>\$106,500</u>	<u>\$106,500</u>
Total Revenue	\$183,750	\$108,500	\$108,500
<u>Costs - DIFP</u>			
Additional Staff - Salaries - 8 FTEs	(\$287,959)	(\$348,954)	(\$352,441)
Additional Staff - Fringe Benefits	(\$145,882)	(\$176,002)	(\$176,955)
Equipment	(\$67,021)	\$0	\$0
Expenses	(\$35,484)	(\$43,398)	(\$44,457)
ITSD Costs	<u>(\$425,250)</u>	<u>(\$87,176)</u>	<u>(\$89,355)</u>
Total Costs	<u>(\$961,596)</u>	<u>(\$655,530)</u>	<u>(\$663,208)</u>
FTE Change - General Revenue Fund	8 FTE	8 FTE	8 FTE
<b>ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND</b>	<b><u>(\$777,846)</u></b>	<b><u>(\$547,030)</u></b>	<b><u>(\$554,708)</u></b>
Net FTE Change - General Revenue Fund	8 FTE	8 FTE	8 FTE
 <u>FISCAL IMPACT - Local Government</u>	 FY 2018 (10 Mo.)	 FY 2019	 FY 2020
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

Any small business considered a “lessor employing unit” under section 288.032, would have to register as a Professional Employer Organization (PEO).

FISCAL DESCRIPTION

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

## FISCAL DESCRIPTION (continued)

### REGISTRATION OF 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. PEO's may register individually or as a group. PEOs may further apply for limited registration. 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.

The Department of Insurance shall maintain a list of PEOs registered in this state. The Department is permitted to produce 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 behalf of a PEO.

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 an initial and annual registration fee not to exceed \$250. The Department may determine a lower fee to be paid by a PEO. 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.

### PEO BOARD

This act establishes the Professional Employer Organization Board, which shall consist of 5 members appointed by the Governor with the advice and consent of the Senate. The board is required to hold an annual meeting at which it is required to elect a chairperson and secretary. The Division of Professional Registration is required to provide staffing for the board.

### REQUIREMENTS OF PEOS AND CLIENTS OF PEOS

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 requirements.

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.

## FISCAL DESCRIPTION (continued)

### PENALTIES

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.

### DEFINITIONS

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.

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

### WOMAN AND MINORITY-OWNED BUSINESSES

This act provides that 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.

### LARGE DEDUCTIBLE AGREEMENTS

The act creates new provisions of law relating to large deductible agreements. Specifically, insurers that issue certain workers' compensation policies are required to:

- Require full collateralization of the outstanding obligations owed under a large deductible agreement; and
- Limit the size of a policyholder's obligations under a large deductible agreement to no greater than 20% of the total net worth of the policyholder at each policy inception as determined by an audited financial statement as of the most recently available fiscal year end.

Any insurer determined to be in a financially hazardous condition by the Director of the Department of Insurance, Financial Institutions and Professional Registration is prohibited from issuing or renewing a policy that includes a large deductible agreement.

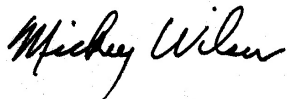
FISCAL DESCRIPTION (continued)

The provisions of this act relating to large deductible agreements only apply to large deductible agreement issued or renewed by an insurer on or after January 1, 2018.

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

SOURCES OF INFORMATION

Department of Insurance, Financial Institutions and Professional Registration  
Office of Administration - Personnel  
Department of Social Services  
Office of Administration - Purchasing  
Department of Conservation  
Department of Economic Development  
Joint Committee on Administrative Rules  
Department of Mental Health  
Department of Revenue  
Office of Secretary of State  
Department of Transportation



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