

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4505-07
Bill No.: Perfected SS for SCS for SB 600
Subject: Employee-Employers; Department of Insurance, Financial Institutions and Professional Registration; Professional Registration and Licensing; Workers' Compensation
Type: Original
Date: February 28, 2018

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

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2019	FY 2020	FY 2021
General Revenue Fund	(\$115,474)	(\$180,673)	(\$181,224)
Total Estimated Net Effect on General Revenue	(\$115,474)	(\$180,673)	(\$181,224)

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 <u>Other</u> State Funds	(\$73,600)	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 8 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

In response to a previous version, officials from the **Office of the Secretary of State (SOS)** assumed 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 \$193,974 in FY 2019, \$223,673 in FY 2020, and \$225,474 in FY 2021 to provide for the implementation of the changes in this proposal.

SOS notes the U.S. Bureau of Labor Statics 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

ASSUMPTION (continued)

type of business with a decline of 6% in renewal registration the following years for various 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 785.750.3(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 Labor and Industrial Relations, Department of Revenue, Joint Committee on Administrative Rules, Department of Social Services, Department of Mental Health, Department of Economic Development, and Department of Transportation** each assume the proposal will have no fiscal impact on their respective organizations.

In response to a previous version, officials from the **Office of Administration-Personnel, Office of Administration-Purchasing, Department of Transportation, Missouri Department of Conservation, Department of Insurance, Financial Institutions and Professional Registration, and Office of Administration-Administrative Hearing Commission** each assume the proposal will have no fiscal impact on their respective organizations.

ASSUMPTION (continued)

Senate Amendment 1

Oversight assumes that Senate Amendment 1 will have a fiscal impact.

<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	<u>(\$9,400)</u>	<u>(\$400)</u>	<u>(\$400)</u>
<u>Total Cost -SOS</u>	<u>(\$193,974)</u>	<u>(\$223,673)</u>	<u>(\$225,474)</u>
FTE Change - SOS	4 FTE	4 FTE	4 FTE
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>(\$115,474)</u>	<u>(\$180,673)</u>	<u>(\$181,224)</u>
Estimated Net FTE Change on the General Revenue Fund	4 FTE	4 FTE	4 FTE
TECHNOLOGY TRUST FUND			
<u>Cost - SOS</u>	<u>(\$73,600)</u>	<u>\$0</u>	<u>\$0</u>
Equipment and Expense			
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

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 Secretary of State. PEOs 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 Secretary of State shall maintain a list of PEOs registered in this state. The Secretary 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 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 Secretary may determine a lower fee to be paid by a PEO. The Secretary 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 Secretary of State. 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 under such agreement.

The responsibility to obtain workers' compensation coverage shall be specifically allocated in the

FISCAL DESCRIPTION (continued)

professional employer agreement to either the PEO or the client.

If the coemployment relationship between a PEO and a client is terminated, the client shall utilize an experience modification rating that reflects its individual experience. The PEO shall provide a client its workers' compensation information within 5 business days of receiving or giving notice that the relationship has been terminated.

A client may request its workers' compensation information at any time and the PEO shall provide such information to the client within 5 business days of receiving such request. Such information shall also be provided to any future client insurer if requested by such client.

A client is additionally required to provide prospective insurers with its workers' compensation information upon receiving such information from the PEO. A client is further required to disclose to a prospective insurer its current or previous relationship with a PEO. Violation of either of these provisions is subject to a Class A misdemeanor.

If a third party requests verification of a client's experience modification factor for a client in certain types of insurance policies from a PEO, the PEO shall, within five business days of receipt of receiving the client's consent, provide the information to the third party. If the client refuses to grant consent to a request for information, the PEO shall notify the requesting third party that the client has refused to consent to the disclosure of the information.

Persons may be sanctioned by the Secretary of State for violating provisions of 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 legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

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

Ross Strobe

A handwritten signature in black ink, appearing to read "Ross Strobe", with a stylized flourish at the end.

Acting Director
February 28, 2018