

SS SB 666 -- JOINT EMPLOYERS

SPONSOR: Onder (Schroer)

COMMITTEE ACTION: Voted "Do Pass" by the Standing Committee on General Laws by a vote of 11 to 0. Voted "Do Pass" by the Standing Committee on Rules- Legislative Oversight by a vote of 9 to 1.

JOINT EMPLOYERS

This bill specifies that neither a franchisee nor a franchisee's employees shall be considered employees of a franchisor for any purpose unless the franchisor exercises direct and immediate control over the franchisee. The terms franchisee and franchisor are given the same meaning as in federal law (Section 285.075, RSMo).

PROFESSIONAL EMPLOYER ORGANIZATIONS

This bill establishes the "Professional Employer Organization Act."

The bill requires any person that provides, advertises, or otherwise holds itself out as providing professional employer services must be registered with the Secretary of State. Professional Employer Organizations (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 of State may 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.

This bill requires PEOs to pay an initial registration fee not to exceed \$500 with an annual renewal fee not exceed \$250. Any PEO seeking limited registration shall pay an initial and annual registration fee not to exceed \$250. The Secretary of State may determine a lower fee to be paid by a PEO and shall determine a fee to be paid by PEO groups. The fee shall not exceed the amount reasonably necessary for the administration of the bill.

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 Secretary of State. 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 under such agreement.

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

Any person may be sanctioned by the Secretary of State for violating provisions of this bill. Such sanctions may include revocation of license or the imposition of an administrative penalty of not more than \$1,000, among other potential penalties (Sections 285.700 to 285.750).

PROPONENTS: Supporters say that this bill would offer statutory and operational certainty for PEOs and their customers. PEOs provide human resource, payroll, and other administrative services,

so that small businesses can focus on their customers. Currently, 41 states require PEOs to register with the state. This bill would provide protections and create stability with regard to the use of PEOs. The bill defines and standardizes the PEO employer relationship.

Testifying for the bill were Senator Onder; National Association of Professional Employer Organizations; and the Missouri Chamber of Commerce and Industry.

OPPONENTS: There was no opposition voiced to the committee.