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Senate Bill 1037 (Substitute S-1 as reported)
Senate Bill 1038 (Substitute S-1 as reported)
Sponsor: Senator Alan L. Cropsey (S.B. 1037)
Senator Jason E. Allen (S.B. 1038)

Committee: Commerce and Tourism

## CONTENT

<u>Senate Bill 1037 (S-1)</u> would create the "Michigan Professional Employer Organization Regulatory Act" to do all of the following:

- -- Prohibit a person from holding itself out as providing professional employer services in Michigan unless licensed as a professional employer organization (PEO).
- -- Specify requirements for operation and licensure of PEOs, including financial reporting and auditing.
- -- Require each PEO operating in Michigan on the proposed Act's effective date to apply with the Department of Energy, Labor, and Economic Growth (DELEG) for a license within 180 days.
- -- Require a PEO not operating in Michigan on the Act's effective date to apply for licensure before commencing operations in the State.
- -- Establish fees for initial licensure and renewal of a PEO license.
- -- Provide for limited licensure of certain PEOs domiciled outside of Michigan.
- -- Establish working capital and bonding requirements for PEOs.
- -- Establish requirements for professional employer agreements between PEOs and their clients, including the responsibility for obtaining workers' compensation insurance coverage for employees.
- -- Prescribe responsibilities of PEOs and their clients with regard to supervision of employees, legal liability, pay and benefits, and payment of taxes.
- -- Provide that neither the Act nor a professional employer agreement would affect certain rights, agreements, or requirements.
- -- Specify certain prohibitions and sanctions.

<u>Senate Bill 1038 (S-1)</u> would amend the Michigan Employment Security Act to require a PEO to elect and use either client-based reporting or PEO-based reporting for employer reporting and contributions required under the Act, and establish requirements for both reporting methods. The bill is tie-barred to Senate Bill 1037.

The bills would take effect on January 1, 2011.

Proposed MCL 421.13m (S.B. 1038)

## Legislative Analyst: Patrick Affholter

## **FISCAL IMPACT**

<u>Senate Bill 1037 (S-1)</u> would create a new licensure program within the Department of Energy, Labor, and Economic Growth for professional employer organizations. According to DELEG, there are over 600 PEOs that would be subject to licensure. The bill would set application fees at \$1,500 for individual PEOs and for PEO groups. The bill also would require an annual license fee of \$1,500 per individual and per group. These would be paid

on a three-year renewal cycle. The Department would be authorized to adjust the level of fees every three years based on changes in the Detroit consumer price index. Revenue from application fees is estimated at \$900,000. License fee revenue is estimated at \$2.7 million every three years. This revenue would be available for the administrative costs of the Bureau of Occupational Regulation. Department staff have indicated that administering the new licensure program would increase costs by approximately \$100,000 to \$150,000 per year and require the addition of 1.0 to 1.5 full-time equivalent employees.

The bill would provide for administrative fines of up to \$5,000 for violations of the proposed Act. Any fine revenue received would be deposited in the General Fund. The amount of revenue would depend on the number of violations and the amount of the fines assessed.

<u>Senate Bill 1038 (S-1)</u> would permit professional employment organizations to elect one of two allowable methods for reporting wages and unemployment contributions to the Unemployment Insurance Agency, and, for certain professional employment organizations, would create alternative unemployment contribution tax rates during a transitional period. State unemployment taxes are paid by employers and deposited into the Unemployment Compensation Fund, which is used to pay unemployment benefits to unemployed workers who meet eligibility requirements.

Currently, PEOs report wages and unemployment contributions for client employers at the PEO level and pay unemployment taxes based on the PEO's contribution rate. The bill would permit PEOs to report wages and unemployment contributions that were either PEO-based or client-based; however, a PEO operating as of January 1, 2011, that was not fully experience rated (that is, a PEO in the first four years of operation) or in business with a PEO that was fully experience rated, would be required to use client-based reporting.

For PEOs adopting client-based reporting, the bill would provide for different contribution rates, depending on the client employer's own experience and the length of time the client employer was with a PEO that selected client-based reporting. In general, these transitional rates would treat some companies as fully experience rated after two years of experience instead of the four years required currently. The impact of these changes on unemployment tax revenue would depend on the selections made by PEOs and the experience ratings of their individual client companies. Over time, a shift to client-based reporting would link contribution rates more closely to client employers' actual unemployment experience and tend to increase revenue to the Unemployment Compensation Fund.

Due to the extended period of high unemployment experienced in Michigan, the Unemployment Compensation Fund is currently in deficit. As of May 14, 2010, the outstanding loans from the Federal government totaled nearly \$3.88 billion.

Date Completed: 5-19-10 Fiscal Analyst: Elizabeth Pratt

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.