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BILL ANALYSIS

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House Bill 4584 (Substitute H-1 as passed by the House)
Sponsor: Representative Paul Opsommer
House Committee: Commerce
Senate Committee: Reforms, Restructuring, and Reinventing

Date Completed: 6-21-11

CONTENT

The bill would amend the Michigan Professional Employer Organization (PEO) Regulatory Act to do both of the following:

-- Change the Act's effective date from July 1, 2011, to January 1, 2012.
-- Specify that certain provisions of the Act would apply beginning July 1, 2012.

The Act provides for the licensure and regulation of PEOs and professional employer agreements between PEOs and their clients. (For further information on PEOs, please see **BACKGROUND**.)

The Michigan PEO Regulatory Act, which was enacted by Public Act 370 of 2010, is scheduled to take effect on July 1, 2011. The bill would delay the effective date to January 1, 2012.

Under the bill, provisions of the Act that do all of the following would apply beginning July 1, 2012:

-- Prohibit a person from holding itself out as providing professional employer services in Michigan unless licensed as a PEO.
-- Prohibit a person who has been convicted of a felony related to the operation of a PEO from owning or controlling, directly or indirectly, a PEO doing business in Michigan.
-- Allow the Department of Licensing and Regulatory Affairs (LARA) to issue a limited PEO license, under certain circumstances, for a PEO domiciled outside of Michigan.
-- Establish requirements for professional employer agreements between PEOs and their clients, including the responsibility for paying wages, withholding taxes, making payments for benefits for covered employees, and complying with the Worker's Disability Compensation Act.
-- Provide that each such agreement must require the PEO to provide written notice to each covered employee affected by the agreement regarding the general nature of the coemployment relationship between and among the PEO, the client, and the covered employee.
-- Specify certain prohibitions, sanctions, and criminal penalties.

The Act also requires each PEO operating in Michigan on the Act's effective date to file its completed application and submit the required license fee within 180 days after the Act's effective date. Under the bill, beginning July 1, 2012, each PEO operating in Michigan would have to file its completed application and submit the required license fee by February 1, 2013.

MCL 338.3727 et al.

BACKGROUND

Professional employer organizations are independently established businesses that provide employees to a client entity and pay the employees' wages and benefits. Through such arrangements, PEOs enable businesses to concentrate on their core mission while leaving personnel and administrative issues to the PEOs. A PEO is a service provider that allows businesses to outsource such administrative functions as payroll, workers' compensation, human resources, and employee benefits. Reportedly, there are about 700 PEOs operating in all 50 states, covering as many as 3 million workers. According to the National Association of Professional Employer Organizations website, the PEO industry, which is about 30 years old, is growing rapidly. The organization estimates that, in 2008, the PEO industry grew by about $5.0 billion to $68.0 billion in gross revenue. In 2009, the industry grew to $71.0 billion in gross revenue.

For several years, regulation of the industry has been a contentious issue for various reasons, including the practice of "SUTA dumping" (i.e., shifting personnel to another employer in order to avoid responsibility for the full amount of an employer's unemployment insurance rate). ("SUTA" refers to State unemployment tax act.) Whether workers are employees of the PEO or its clients is crucial to the calculation of unemployment and workers' compensation rates, and affects other administrative concerns. Reportedly, more than 30 other states regulate PEOs.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: Josh Sefton

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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.