

DEPARTMENT OF FINANCE BILL ANALYSIS

AMENDMENT DATE: Original
POSITION: Oppose

BILL NUMBER: AB 975
AUTHOR: F. Ma
RELATED BILLS: AB 2570 (2009-10)

BILL SUMMARY: Professional Employer Organizations

This bill would require a Professional Employer Organization (PEO) to register with the Employment Development Department (EDD) and deem a PEO to be the employing unit for its contracted clients and their employees. This bill would require the EDD to develop rules and regulations to establish a method for quarterly reporting and remittance of tax payments (including unemployment insurance, personal income tax and employment training tax).

FISCAL SUMMARY

The EDD estimates one-time costs of \$5.2 million and ongoing cost of \$10 million. These costs are associated with the manual processing of the PEO data as well as for the oversight and registration of PEOs. These estimates do not include the potentially significant cost of reprogramming all information technology (IT) programs associated with tax reporting and collections (internal to EDD and external systems that channel information to EDD). Costs are funded on a tax sharing ratio as EDD is both federal and state funded. As such, over 40 percent of the costs would be General Fund. Any request for additional expenditure authority is subject to review and approval through the annual budget process.

It should be noted that any system changes at this time could have a negative impact on various high-priority IT projects within EDD including the Automated Collection Enhancement System (ACES) and the Single Client Database (SCDB) conversion.

COMMENTS

Finance opposes this bill due to the significant cost to register and oversee PEOs and track wage and tax data in subaccounts as well as the potential risk to existing IT projects.

Currently, a professional employer organization (PEO) is a single source provider of integrated services enabling business owners to cost-effectively outsource certain management activities including human resources, employee benefits, payroll and workers' compensation and other strategic services, such as, recruiting, risk/safety management, and training and development. The PEO hires a client company's employees, becoming the employer of record for tax and insurance purposes, then leases the employees back to the client company. This practice is known as co-employment, employee leasing, or staff leasing. PEOs do not include temporary services employers, independent contractors, leasing employers, labor organizations, or third party insurers.

Currently, PEOs report wage information and remit taxes, contributions and personal income tax withholding to EDD on behalf of their clients as payroll agents.

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Analyst/Principal (0240) K. Shelton	Date	Program Budget Manager Todd Jerue	Date
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Department Deputy Director	Date
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Governor's Office:	By:	Date:	Position Approved _____
			Position Disapproved _____

BILL ANALYSIS Form DF-43 (Rev 03/95 Buff)

F. Ma

Original

AB 975

COMMENTS (continued)

While this is likely a useful service to small businesses without employees having skills in human resources, there can be negative consequences, such as collecting payroll taxes and insurance payments but failing to submit payments to the appropriate authorities, using PEOs to circumvent labor law, manipulating the legal nature of the company to avoid high workers compensation and pension and health plan payments. Notwithstanding the problems of PEOs related to abuse of service, the registration and quarterly reporting requirements could serve as a deterrent to fraudulent business practices associated with PEOs.

This bill would require a PEO to register with the EDD and would require EDD to establish a regulatory structure for their oversight. This bill also would:

- Establish methods for reporting employee information (wages and tax contributions) to EDD.
- Allow the EDD to require each worksite employee of a single client to report under a separate and unique subaccount which can only be used to determine experience rates for that client.
- Require regulations to permit a PEO to report this information electronically as a single electronic filing.

Neither the existing EDD information technology systems nor the systems in development accommodate the registration and establishment of PEO accounts with subaccounts.

Code/Department Agency or Revenue Type	SO	(Fiscal Impact by Fiscal Year)								Fund Code
	LA	(Dollars in Thousands)								
	CO	PROP	2010-2011		2011-2012		2012-2013			
RV	98	FC	FC	FC	FC	FC	FC	FC		
7100/EDD	SO	No	--	C	\$2,236	C	\$4,310	0001		
7100/EDD	SO	No	--	C	\$2,496	C	\$4,700	0870		
7100/EDD	SO	No	--	C	\$442	C	\$900	0588		
7100/EDD	SO	No	--	C	\$46	C	\$90	0514		
<u>Fund Code</u>	<u>Title</u>									
0001	General Fund									
0514	Employment Training Fund									
0588	Unemployment Compensation Disability Fd									
0870	Unemployment Administration Fund									