

2009 DRAFTING REQUEST

Bill

Received: **03/23/2009**

Received By: **tkuczens**

Wanted: **As time permits**

Identical to LRB:

For: **Scott Newcomer (608) 266-3007**

By/Representing: **Eric Knight**

This file may be shown to any legislator: **NO**

Drafter: **tkuczens**

May Contact:

Addl. Drafters:

Subject: **Occupational Reg. - prof lic**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Newcomer@legis.wisconsin.gov**

Carbon copy (CC:) to: **tracy.kuczenski@legis.wisconsin.gov**
Hector.Colon@wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Changes to regulations governing professional employer organizations

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
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/P1	tkuczens 04/27/2009	wjackson 04/28/2009	mduchek 04/28/2009	_____	mbarman 04/28/2009		
	tkuczens 05/08/2009	bkraft 05/08/2009		_____			
/1	tkuczens 05/14/2009	wjackson 05/15/2009	jfrantze 05/08/2009	_____	cduerst 05/08/2009		
				_____	cduerst		

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/2

phenry _____
05/15/2009 _____

05/08/2009

sbasford _____
05/15/2009 _____

mbarman _____
05/19/2009 _____

FE Sent For: **NONE**

<END>

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/1		1/2 WLj 5/15	jfrantze 05/08/2009	_____	cduerst 05/08/2009		
			5/15 ph	ph/rdb	cduerst - re-submit to attach D-Note electronically		

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/?	tkuczens						
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/pl WLj 4/28

[Handwritten signature]
4/28

[Handwritten initials]
4/28

FE Sent For:

<END>

Kuczenski, Tracy

From: Malaise, Gordon
Sent: Friday, March 20, 2009 11:05 AM
To: Kuczenski, Tracy
Subject: FW: PEO/ Proposed Revisions to Ch. 461

Importance: High

Attachments: Martin Memo 120808 .doc



Martin Memo
120808 .doc (74 K..

Tracy:

Attached are some changes that DORL wants to make to ch. 461 relating to PEO's to make that chapter more consistent with DORL's practices in regulating and licensing other professions.

Even though I drafted ch. 461 originally, I am forwarding this request to you because:

1. The request relates to DORL's practices and procedures, an area in which you are more familiar than I.
2. Chapter 461 falls into the drafting area of Occupational Licensing. The only reason why I drafted ch. 461 in the first place is that it began as an employment draft in ch. 103, but then morphed into an occupational regulation draft because the requester wanted DORL rather than DWD to administer the program. So rather than switch horses in midstream I carried on, but now that it has been enacted as a DORL chapter it is an occupational regulation draft.

Of course, if you feel that I should do this draft because I am more familiar with ch. 461, we can discuss.

Gordon

-----Original Message-----

From: Knight, Eric
Sent: Friday, March 20, 2009 10:42 AM
To: Malaise, Gordon
Subject: FW: PEO/ Proposed Revisions to Ch. 461
Importance: High

Gordon:

You work with our office to write AB760 last session and it looks like per the Request of Reg & Licensing we need to make updates to the legislation. Please see attachment, I am not sure how we accomplish this, do we do it with an amendment or with new legislation?

Eric Knight
Office of Rep. Scott Newcomer
608-266-3007
888-529-0033
Eric.Knight@legis.wi.gov

-----Original Message-----

From: Dan Schwartzter [mailto:dan@smgltd.org]
Sent: Friday, March 20, 2009 10:35 AM
To: Knight, Eric

Cc: Rep.Newcomer
Subject: FW: PEO/ Proposed Revisions to Ch. 461
Importance: High

Hi Eric,

Attached is the language that DRL needs. Not sure why, but they now say they need this "passed" by June. I have my doubts as to how successful we will be getting it passed by then.

Anyway, can you get a draft started and we'll meet with Sheridan on the need to rush this.

Thanks
Dan

-----Original Message-----

From: Colon, Hector - DRL [mailto:Hector.Colon@wisconsin.gov]
Sent: Monday, March 16, 2009 9:19 AM
To: 'Scott Tyre'; dan@smglted.org
Subject: FW: PEO/ Proposed Revisions to Ch. 461
Importance: High

Scott and Dan, it was nice meeting with you today. Attached is the memo that I said I would get you. Please let me know if you need anything else. Also, can you please keep me in the loop on how this progresses along?
Thanks.

-----Original Message-----

From: Jefferson-Moore, Ruby - DRL
Sent: Friday, March 13, 2009 7:14 AM
To: Colon, Hector - DRL
Subject: FW: PEO/ Proposed Revisions to Ch. 461
Importance: High

Larry's memo.

-----Original Message-----

From: Martin, Larry - DRL
Sent: Wednesday, January 21, 2009 6:08 PM
To: Adam Peer; Scott Tyre
Cc: Jefferson-Moore, Ruby - DRL; Pond, Cathy - DRL
Subject: FW: PEO/ Proposed Revisions to Ch. 461
Importance: High

Hi Adam and Scott:

I believe I had forwarded the memo above to both of you in mid-December, but have not heard anything back from either of you. I was having email issues on my end at the time, so I am worried that you may not have ever received the email. So....here it is again! Ruby did a great memo that summarizes the Department's request for revisions to Wis. Stats., ch. 461, which relates to the regulation of professional employer organizations and professional employer groups. Could you both please review this, let me know your thoughts and then can we work with you both to quickly move this through as legislation yet this spring? As you recall, we really need this passed and signed before summer for us to be able to fully implement the regulation of the profession. Thanks guys!

Larry

Larry J. Martin
Executive Assistant
Office of the Secretary
Wisconsin Department of Regulation & Licensing 1400 East Washington Avenue PO Box 8935
Madison, WI 53708-8935 larry.martin@wisconsin.gov
608-266-8608



State of Wisconsin
DEPARTMENT OF REGULATION AND LICENSING
CORRESPONDENCE / MEMORANDUM

DATE: December 9, 2008

TO: **Larry Martin**
Executive Assistant

FROM: Ruby Jefferson-Moore
Office of Legal Counsel

SUBJECT: Professional Employer Organizations - Proposed Revisions to Wis. Stats., Chapter 461

The following is a summary of the proposed revisions to Wis. Stats., ch. 461, relating to the registration of professional employer organizations and professional employer groups:

(1) Limited Registrations

Under Wis. Stats., § 461.02 (5), the department is authorized to grant a "limited registration" to a professional employer organization or a professional employer group that satisfies the requirements under that subsection.

limited registration

The department proposes to change the references to "limited registration" found in the statutes to "non-resident registration", "out-of-state registration", "permit" or some other acceptable term. This change is being proposed primarily because the term "limited" is used by the department and its attached boards, to denote a restriction on a licensee's or registrant's scope of practice. See the definition of "limit" found in Wis. Stats., § 440.01 (1) (d).

In general, such restrictions may be imposed in conjunction with the initial grant of a registration or in conjunction with the imposition of discipline.

Under Wis. Stats., § 461.05 (2), the department may deny a full registration by issuing a limited registration which restricts a registrant's practice. In addition, under that same provision, if the department finds that a registrant has engaged in conduct prohibited under the statutes, the department may impose discipline by placing limitations on the registrant's registration. Note that the use of the term "limited" registration that is found in Wis. Stats., § 461.05 (2), is consistent with the use found in statutes governing the licensing of other professions regulated by the department and its attached boards. See, Wis. Stats., ch. 440-480.

✓

(2) Renewal Date

Under Wis. Stats., § 461.02 (4), a professional employer organization or a professional employer group may renew a registration by, no later than 180 days after the end of the registrant's fiscal year, satisfying the requirements in that section. The department proposes to revise the statutes to remove the reference to the 180-day time period, and to include a specific renewal date (July 31) so that it more consistent with the renewal timelines established by the department and its attached boards.

✓

(3) Extensions for Renewal

Under Wis. Stats., § 461.02 (4), a professional employer organization or a professional employer group may apply for an extension of time within which to renew a registration, by providing with the application for renewal, a letter from the certified public accountant who is auditing the registrant's financial statement stating the reasons for the delay and the anticipated completion date of the audit. The department proposes that the statutes be revised to state that the extension of time would apply only to the filing of financial statements, not to the renewal of the registration. Again, as stated above, the revision would be consistent with the renewal timelines established by the department and its attached boards.

If you have any questions regarding this matter, please contact me at (608) 266-3679.



State of Wisconsin
2009 - 2010 LEGISLATURE

PI
LRB-2426/2
TKK:Y:....
d note
RMEUN WLJ

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

4/27/09
by 4/28/09

1

Gen Cat

AN ACT ...; relating to: professional employer organizations and professional employer groups

Analysis by the Legislative Reference Bureau

DRL

Under current law, a person that wishes to provide or offer professional employer services in this state must register with the Department of Regulation and Licensing (~~department~~) as a professional employer organization (PEO) or a professional employer group (PEG). A PEO or PEG that is domiciled outside of Wisconsin, registered or licensed as a PEO or PEG in another state, and that meets other requirements established for these registrants may apply to ~~the department~~ for "limited registration." This bill changes the name of the credential from "limited" to "reciprocal," which is consistent with other credentials administered by ~~the department~~.

DRL

DRL

Under current law, a PEO or PEG that wishes to renew its registration must apply for renewal no later than 180 days after the end of the PEO or PEG's fiscal year. The PEO or PEG must submit a copy of an updated financial statement with the application for renewal. The PEO or PEG may apply to ~~the department~~ for an extension of the renewal period if the PEO or PEG submits with the application for renewal a letter from the certified public accountant that is auditing the PEO or PEG's financial statement.

25

DRL

25

This bill provides that a PEO or PEG must apply to ~~the department~~ for renewal by a specific date, July 31 of each year, which is consistent with other credentials administered by ~~the department~~. The bill provides that a PEO or PEG may apply

DRL

DRL

for on
to the DRL
department

but

department for an extension of time to submit an updated financial statement, not the application for renewal.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 SECTION 1. 440.08 (2) (a) 63p. of the statutes is created to read:

2 440.08 (2) (a) 63p. Professional employer organization or professional
3 employer group: July 31 of each year.

as created by 2007 Wisconsin Act 189,

4 SECTION 2. 461.02 (4) (title) of the statutes is repealed and recreated to read:

5 461.02 (4) (title) REGISTRATION RENEWAL; EXTENSION FOR FILING UPDATED
6 FINANCIAL STATEMENT.

7 SECTION 3. 461.02 (4) of the statutes is renumbered 461.02 (4) (a) and amended
8 to read:

strike extra space

9 461.02 (4) (a) A On or before the applicable renewal date specified under s.
10 440.08 (2) (a), a registrant that wishes to renew its registration shall, by no later than
11 180 days after the end of the registrant's fiscal year, renew that registration by
12 notifying submit to the department of any changes in the information specified in
13 sub. (2) (a) to (e), filing, on forms furnished by the department, a renewal application,
14 together with an updated financial statement as described in sub. (2) (f), and paying
15 the renewal credential fee determined by the department under s. 440.03 (9) (a). A
16 renewal of registration is valid for one year after the date of renewal.

17 (b) A registrant may apply to the department for an extension of the time within
18 which to renew a registration submit the updated financial statement required
19 under par. (a) by providing with the renewal application a letter from the certified
20 public accountant who is auditing the registrant's financial statement stating the

1 reasons for the delay and the anticipated completion date of the audit. A renewal
2 ~~registration is valid for one year after the date of renewal.~~

3 History: 2007 a. 189.

3 SECTION 4. 461.02 (5) of the statutes is amended to read:

4 461.02 (5) LIMITED RECIPROCAL REGISTRATION. (a) A professional employer
5 organization or professional employer group that is domiciled outside this state, that
6 is registered or licensed as a professional employer organization or professional
7 employer group in another state, that does not maintain an office in this state or
8 directly solicit clients that are located or domiciled in this state, and that has no more
9 than 50 employees performing services for clients in this state on any given day may
10 apply for limited reciprocal registration under this section by filing with the
11 department a limited reciprocal registration form prescribed by the department and
12 paying the initial credential fee determined by the department under s. 440.03 (9)
13 (a). An applicant that is seeking limited reciprocal registration shall, in addition to
14 the information provided under sub. (2), provide the department with information
15 and documentation showing that the applicant meets the qualifications specified in
16 this paragraph for limited reciprocal registration.

17 (b) A professional employer organization or professional employer group
18 seeking limited reciprocal registration that has employees performing services for
19 clients in this state on July 1, 2009, shall register with the department as provided
20 in sub. (3) (a), and the initial limited reciprocal registration shall be valid as provided
21 in sub. (3) (a).

22 (c) A professional employer organization or professional employer group
23 seeking limited reciprocal registration that does not have employees performing
24 services for clients in this state on July 1, 2009, shall register with the department

1 as provided in sub. (3) (b), before contracting with a client in this state, and the initial
2 limited reciprocal registration shall be valid as provided in sub. (3) (b).

3 (d) A registrant professional employer organization or professional employer
4 group registered under this subsection that wishes to renew its limited reciprocal registration
5 shall, in addition to complying with sub. (4), provide the department with
6 information and documentation showing that the registrant continues to meet the
7 qualifications specified in par. (a) for limited reciprocal registration, and the limited
8 reciprocal registration shall be valid as provided in sub. (4).

9 (e) A limited registrant professional employer organization or professional
10 employer group registered under this subsection is not required to comply with the
11 financial capability requirement under s. 461.03.

History: 2007 a. 189.

(END)

Professional employer organization or Professional employer group

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2426/?dn

TKK:.....

Wlj

Date

Rep. Newcomer:

At your request, and with input from a memo prepared by the Department of Regulation and Licensing (department) and included in your drafting request dated March 20, 2009, this bill makes several changes to chapter 461 governing professional employer organizations and professional employer groups. Please review the draft carefully to ensure that I have accomplished your intent.

I have several questions, unrelated to your instructions but related to this chapter, for your consideration.

“Professional employer services” not defined.

No definition is provided in chapter 461 for “professional employer services,” yet, under the chapter, no person may “offer or provide professional employer services” unless the person is registered as a professional employer organization or professional employer group. There are ~~four~~ references to the term in chapter 461. See ss. 461.02 (1), (3) (b), and (7) (b) and 461.04 (1), stats. Do you wish to provide a definition for this term? The absence of a definition for this term could cause the following problems:

SIX

1. Without a definition for “professional employer services,” a person may not know whether they need to apply for registration or comply with the financial capability requirements established under the chapter. Without proper registration, a person may unwillingly or unknowingly run afoul of these requirements.
2. It could be difficult for the department to enforce compliance with the chapter if there is confusion about whether certain activities constitute “professional employer services.”

Criminal background checks.

Under current law, the department is authorized to conduct criminal background checks of applicants for or holders of a credential issued by the department or by an examining board or affiliated credentialing board attached to the department. See s. 440.03 (13) (b), stats. (which lists all such credential holders by name).

Under 2007 Act 189, the department is authorized to conduct a criminal background check on applicants for or holders of registration as a “professional employer

organization or professional employer group.” See s. 440.03 (13) (b) 57m., stats. However, professional employer organizations and professional employer groups are defined as “persons,” not individuals.

A person is defined under s. 990.01 (26), stats., to include all partnerships, associations and bodies politic or corporate.” While it is possible that a PEO or PEG may be an individual, it seems more likely that a PEO or PEG would be a would be a “partnership, association [or] body politic or corporate.” It would be impractical, if not impossible, to conduct a criminal background check of a PEO or PEG that is a “partnership, association [or] body politic or corporate.” *

I propose one of two alternatives:

1. Eliminate the authority granted to the department to conduct a criminal background check on applicants for or holders of registration as a professional employer organization or professional employer group.
2. Change the authority granted to the department so that one of the following applies:
 - a. The department may investigate the criminal background of PEO or PEG if the PEO or PEG is an individual. This change would mean that some PEOs and PEGs would be subject to the investigation requirement but others that are organized as a “partnership, association [or] body politic or corporate” would not.
 - b. The department may investigate the criminal background of a controlling person of a PEO or PEG, as defined in s. 461.01 (3) (b).

Please let me know if you wish to make any changes to the bill or have any questions regarding this drafter's note. *

Tracy K. Kuczenski
Legislative Attorney
Phone: (608) 266-9867
E-mail: tracy.kuczenski@legis.wisconsin.gov

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2426/P1dn
TKK:wlj:md

April 28, 2009

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1. Without a definition for “professional employer services” a person may not know whether they need to apply for registration or comply with the financial capability requirements established under the chapter. Without proper registration, a person may unwillingly or unknowingly run afoul of these requirements.
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Tracy K. Kuczenski
Legislative Attorney
Phone: (608) 266-9867
E-mail: tracy.kuczenski@legis.wisconsin.gov

Kuczenski, Tracy

From: Knight, Eric
Sent: Wednesday, May 06, 2009 11:00 AM
To: Kuczenski, Tracy
Subject: RE: Draft review: LRB 09-2426/P1 Topic: Changes to regulations governing professional employer organizations

Yes

Eric Knight
Office of Rep. Scott Newcomer
608-266-3007
888-529-0033
Eric.Knight@legis.wi.gov

From: Kuczenski, Tracy
Sent: Wednesday, May 06, 2009 9:12 AM
To: Knight, Eric
Subject: FW: Draft review: LRB 09-2426/P1 Topic: Changes to regulations governing professional employer organizations

Hi Eric -

DRL has forward the following responses to my d-note questions, and has proposed additional changes to the PEO chapter, 461. In addition, I just received a phone call from Mr. Colon asking me to change the term "reciprocal registration" to "permit."

As Rep. Newcomer is the requester on this bill, it is not appropriate for me to make these changes until I have received the go-ahead from the Representative and/or instructions to work directly with DRL.

Am I authorized to take drafting instructions directly from DRL on this bill?

Thanks,
Tracy

Tracy K. Kuczenski
Legislative Attorney
Wisconsin Legislative Reference Bureau
(608) 266-9867
Tracy.Kuczenski@legis.wisconsin.gov

From: Colon, Hector - DRL [mailto:Hector.Colon@wisconsin.gov]
Sent: Monday, May 04, 2009 3:07 PM
To: Kuczenski, Tracy
Subject: RE: Draft review: LRB 09-2426/P1 Topic: Changes to regulations governing professional employer organizations

Tracy, we have reviewed your questions attached to this draft. We think that rather than defining PEO services, we should amend 461.02 to say: "No person may operate as a professional employer organization, advertise that the person

5/6/2009

is a professional employer organization, or otherwise hold itself out as a professional employer organization unless the person first registers with the department as provided in this section. Regarding the background checks, we would propose keeping it as is. We feel that there is already authority in 461 (1) AND (2) (intro) and (c).

Can you also please make these additional changes: S. 461.02 does not specifically state that the use of titles "professional employer organization" and "professional employer group" by unregistered person is prohibited; it should. S. 461.02 should also state that no person may operate as a "professional employer group" unless the person is registered.

Thanks for working on this for us. When do you think we can get this?

Héctor Colón
Executive Assistant/Legislative Liaison
Office of the Secretary
1400 E. Washington Avenue
P.O Box 8935
Madison, WI 53708-8935
Phone: 608-266-8608
Fax: 608-261-2381

From: Kuczenski, Tracy [mailto:Tracy.Kuczenski@legis.wisconsin.gov]
Sent: Tuesday, April 28, 2009 3:13 PM
To: Colon, Hector - DRL
Subject: FW: Draft review: LRB 09-2426/P1 Topic: Changes to regulations governing professional employer organizations

Hector -- As promised, here is LRB 09-2426/p1. Thanks for your patience.

Tracy K. Kuczenski
Legislative Attorney
Wisconsin Legislative Reference Bureau
(608) 266-9867
Tracy.Kuczenski@legis.wisconsin.gov

From: Barman, Mike
Sent: Tuesday, April 28, 2009 2:31 PM
To: Kuczenski, Tracy
Subject: Draft review: LRB 09-2426/P1 Topic: Changes to regulations governing professional employer organizations

Draft Requester: Scott Newcomer

Following is the PDF version of draft LRB 09-2426/P1 and drafter's note.



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-2426/PT

TKK:wlj:md

insert

d-note

RMN12

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

SA
X-ref

Inserts

TODAY
5/8/09

- regen.

1 **AN ACT to renumber and amend** 461.02 (4); **to amend** 461.02 (5); **to repeal**
2 **and recreate** 461.02 (4) (title); and **to create** 440.08 (2) (a) 63p. of the statutes;
3 **relating to:** professional employer organizations and professional employer
4 groups.

beginning on July 1, 2009, ^

Analysis by the Legislative Reference Bureau

>

Under current law, a person that wishes to provide or offer professional employer services in this state must register with the Department of Regulation and Licensing (DRL) as a professional employer organization (PEO) or a professional employer group (PEG). A PEO or PEG that is domiciled outside of Wisconsin, registered or licensed as a PEO or PEG in another state, and that meets other requirements established for these registrants may apply to DRL for "limited registration." This bill changes the name of the credential from "limited" to "reciprocal," which is consistent with other credentials administered by DRL.

~

Under current law, a PEO or PEG that wishes to renew its registration must apply for renewal no later than 180 days after the end of the PEO's or PEG's fiscal year. The PEO or PEG must submit a copy of an updated financial statement with the application for renewal. The PEO or PEG may apply to DRL for an extension of the renewal period if the PEO or PEG submits with the application for renewal a letter from the certified public accountant that is auditing the PEO's or PEG's financial statement.

This bill provides that a PEO or PEG must apply to DRL for renewal by July 31 of each year, which is consistent with other credentials administered by DRL. The

bill provides that a PEO or PEG may apply to DRL for an extension of time to submit an updated financial statement, but not for an application for renewal.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 440.08 (2) (a) 63p. of the statutes is created to read:

440.08 (2) (a) 63p. Professional employer organization or professional employer group, July 31 of each year.

SECTION 2. 461.02 (4) (title) of the statutes, as created by 2007 Wisconsin Act 189, is repealed and recreated to read:

461.02 (4) (title) REGISTRATION RENEWAL; EXTENSION FOR FILING UPDATED FINANCIAL STATEMENT.

SECTION 3. 461.02 (4) of the statutes is renumbered 461.02 (4) (a) and amended to read:

461.02 (4) (a) ~~A~~ On or before the applicable renewal date specified under s. 440.08 (2) (a), a registrant that wishes to renew its registration shall, by no later than 180 days after the end of the registrant's fiscal year, renew that registration by notifying submit to the department of any changes in the information specified in sub. (2) (a) to (e), filing, on forms furnished by the department, a renewal application, together with an updated financial statement as described in sub. (2) (f), and paying the renewal credential fee determined by the department under s. 440.03 (9) (a). A renewal of registration is valid for one year after the date of renewal.

(b) A registrant may apply to the department for an extension of the time within which to renew a registration submit the updated financial statement required under par. (a) by providing with the renewal application a letter from the certified public accountant who is auditing the registrant's financial statement stating the

INVERT ANALYSIS

INVERT 2-4 and BudC

as created by 2007 Wisconsin Act 189

and except as provided in ~~sub. (2) (a) and sub. (2) (b)~~ para. (b) and sub. (2) (b)

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Insert 3-3

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1 reasons for the delay and the anticipated completion date of the audit. A renewal
2 registration is valid for one year after the date of renewal.

as created by 2007 Wisconsin Act 189,

3 SECTION 4. 461.02 (5) ^{(d) and (e)} of the statutes ^{are} is amended to read:

4 461.02 (5) LIMITED RECIPROCAL REGISTRATION. (a) A professional employer

5 organization or professional employer group that is domiciled outside this state, that
6 is registered or licensed as a professional employer organization or professional
7 employer group in another state, that does not maintain an office in this state or
8 directly solicit clients that are located or domiciled in this state, and that has no more
9 than 50 employees performing services for clients in this state on any given day may

10 apply for limited reciprocal ^{a permit} registration under this section by filing with the
11 department a limited reciprocal registration form prescribed by the department and
12 paying the initial credential fee determined by the department under s. 440.03 (9)

13 (a). An applicant that is seeking limited reciprocal registration shall, in addition to
14 the information provided under sub. (2), provide the department with information
15 and documentation showing that the applicant meets the qualifications specified in
16 this paragraph for limited reciprocal registration.

17 (b) A professional employer organization or professional employer group
18 seeking limited reciprocal registration that has employees performing services for
19 clients in this state on July 1, 2009, shall register with the department as provided
20 in sub. (3) (a), and the initial limited reciprocal registration shall be valid as provided
21 in sub. (3) (a).

22 (c) A professional employer organization or professional employer group
23 seeking limited reciprocal registration that does not have employees performing
24 services for clients in this state on July 1, 2009, shall register with the department

Except as provided in sub. (3)(b),

1 as provided in sub. (3) (b), before contracting with a client in this state, and the initial
2 limited reciprocal registration shall be valid as provided in sub. (3) (b).

3 (d) A registrant professional employer organization or professional employer
4 group registered under this subsection that wishes to renew its limited reciprocal
5 registration shall, in addition to complying with sub. (4), provide the department
6 with information and documentation showing that the registrant professional
7 employer organization or professional employer group continues to meet the
8 qualifications specified in par. (a) for limited reciprocal registration, and the limited
9 reciprocal registration shall be valid as provided in sub. (4).

10 (e) A limited registrant professional employer organization or professional
11 employer group registered under this subsection is not required to comply with the
12 financial capability requirement under s. 461.03.

INSERT 4-13A and B

13 (END)

D-note

SECTION # Effective date

This act takes effect on July 1, 2009, or on the day after publication, whichever is later.

beginning on July 1, 2009

1 **INSERT ANALYSIS**

Under current law, no person may offer or provide professional employer services or advertise that the person provides professional employer services or is a professional employer organization unless the person is registered with DRL. This bill prohibits a person from operating as a professional employer organization or professional employer group or advertising that the person is a professional employer organization or professional employer group unless the person is registered with DRL.

This bill also prohibits a person from using the titles, "professional employer organization," "PEO," "professional employer group," "PEG," or similar titles unless the person is registered as a PEO or PEG by DRL.

2 **INSERT 2-4A**

as created by 2007 Wisconsin Act 189

3 **SECTION 1.** 461.01 (5) of the statutes is amended to read:

4 461.01 (5) "Professional employer organization" means a person that is
5 engaged in the business of entering into written contracts for the provision of the
6 nontemporary, ongoing employee workforce of a client and providing services under
7 those contracts and that under those contracts has the obligation to pay the
8 employees providing services for those clients from its own accounts, regardless of
9 whether the person uses the term "professional employer organization," "PEO,"
10 "staff leasing company," "registered staff leasing company," "employee leasing
11 company," or "administrative employer," or uses any other name, as part of the
12 person's business name or to describe the person's business.

History: 2007 a. 189.

13 **SECTION 2.** 461.02 (1) of the statutes is renumbered 461.02 (1) (a) and amended

as created by 2007 Wisconsin Act 189

14 to read:

15 461.02 (1) **REGISTRATION REQUIRED; USE OF TITLES.** (a) No person may offer or
16 provide operate as a professional employer services organization or professional
17 employer group, advertise that the person is a professional employer organization
18 or that the person provides professional employer services professional employer

move

SECTION #.

461.02 (1) (title) of the statutes, as created by 2007 Wisconsin Act 189 is amended to read:

461.02 (1) (title)

1 group, or otherwise hold itself out as a professional employer organization or
2 professional employer group unless the person first registers with the department
3 as provided in this section. ~~To register under this section, a person shall file the~~
4 ~~registration form under sub. (2) and pay the initial credential fee determined by the~~
5 ~~department under s. 440.03 (9) (a).~~

History: 2007 a. 189.
NOTE: NOTE: This section is created eff. 7-1-09 by 2007 Wis. Act 189. NOTE:
History: 2007 a. 189.

↑ as created by 2007
Wisconsin Act 189 ↑

6 **SECTION 3.** 461.02 (1) (b) of the statutes is created to read:

7 461.02 (1) (b) No person may designate as the person's title, or append to the
8 person's name the words or letters, "professional employer organization," "P.E.O.,"
9 "professional employer group," "P.E.G.," "staff leasing company," "registered staff
10 leasing company," "employee leasing company," or "administrative employer," or
11 other similar titles or letters, or use these titles, words, or letters to describe the
12 person's business or represent that the person or the person's business is registered
13 or licensed as "professional employer organization," "P.E.O.," "professional employer
14 group," "P.E.G.," "staff leasing company," "registered staff leasing company,"
15 "employee leasing company," or "administrative employer," unless the person is
16 registered by the department under this chapter.

↑ as created by 2007 Wisconsin
Act 189 ↑

17 **SECTION 4.** 461.02 (3) (b) of the statutes is amended to read:

18 461.02 (3) (b) Any person that is not engaged in the business of providing
19 operating as a professional employer services organization or a professional
20 employer group in this state on July 1, 2009, shall register with the department
21 before engaging in that business operating as a professional employer organization
22 or professional employer group in this state. An initial registration under this

End
Insert
2-4A

Begin
Insert
2-4C

1 paragraph is valid until 180 days after the end of the first fiscal year of the registrant
2 that ends after the date of initial registration.

3 History: 2007 a. 189.

INSERT 4-13 B

↑ as created by 2007
Wisconsin Act 189 ↑

4 **SECTION 5.** 461.02 (7) (b) of the statutes is amended to read:

5 461.02 (7) (b) The department may by rule provide for registration of a
6 professional employer organization or professional employer group without
7 compliance with sub. (2), (4), (5), or (6), s. 461.03, or rules promulgated under s.
8 461.06 on acceptance by the department of assurance provided by a bonded,
9 independent, and qualified assurance organization that has been approved by the
10 department that provides assurance satisfactory to the department that the
11 professional employer organization or professional employer group is qualified to
12 engage in the business of providing operate as a professional employer services
13 organization or a professional employer group in this state.

14 History: 2007 a. 189.

14 **SECTION 6.** 461.04 (1) (intro.) of the statutes is amended to read:

↑ as created by 2007
Wisconsin Act 189 ↑

15 461.04 (1) (intro.) move PROFESSIONAL EMPLOYER SERVICES ORGANIZATION AND

16 PROFESSIONAL EMPLOYER GROUP NOT INSURANCE. A professional employer organization
17 or professional employer group that offers, markets, sells, administers, or provides
18 professional employer services that include the provision of employee benefit plans
19 for the employees of the professional employer organization or professional employer
20 group performing services for a client is not engaged in the business or sale of
21 insurance or in the business of an employee benefit plan administrator under ch. 633.
22 This subsection shall be liberally construed to permit professional employer
23 organizations and professional employer groups to provide employee benefit plans
24 as provided in this subsection without being considered to be engaged in the business

1 or sale of insurance or in the business of an employee benefit plan administrator
2 under ch. 633. If a professional employer organization or professional employer
3 group provides life insurance, health care, or disability income benefits for its
4 employees performing services for a client, all of the following apply:

History: 2007 a. 189.

2009-2010 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2426/P1ins
TKK:wlj:md

1 **INSERT 2-4B**

2 **SECTION 1.** 461.02 (2) (intro.) of the statutes, as created by 2007 Wisconsin Act
3 189, is amended to read:

4 461.02 (2) REGISTRATION FORM. To Except as provided in sub. (7) (b), to apply
5 for registration under this section, an applicant shall file with the department a
6 registration form prescribed by the department that contains all of the following
7 information:

8 History: 2007 a. 189.

8 **INSERT 3-3**

9 **SECTION 2.** 461.02 (5) (a) of the statutes, as created by 2007 Wisconsin Act 189,
10 is amended to read:

11 461.02 (5) (a) A Except as provided in sub. (7) (b), a professional employer
12 organization or professional employer group that is domiciled outside this state, that
13 is registered or licensed as a professional employer organization or professional
14 employer group in another state, that does not maintain an office in this state or
15 directly solicit clients that are located or domiciled in this state, and that has no more
16 than 50 employees performing services for clients in this state on any given day may
17 apply for limited registration under this section by filing with the department a
18 limited registration form prescribed by the department and paying the initial
19 credential fee determined by the department under s. 440.03 (9) (a). An applicant
20 that is seeking limited registration shall, in addition to the information provided
21 under sub. (2), provide the department with information and documentation
22 showing that the applicant meets the qualifications specified in this paragraph for
23 limited registration.

CS
LIMITED REGISTRATION

(intro.)

J

X X

1 (b) ~~A~~ [→] Except as provided in sub. (7) (b), a professional employer organization
 2 or professional employer group seeking limited registration that has employees
 3 performing services for clients in this state on July 1, 2009, shall register with the
 4 department as provided in sub. (3) (a), and the initial limited registration shall be
 5 valid as provided in sub. (3) (a).

6 (c) ~~A~~ [→] Except as provided in sub. (7) (b), a professional employer organization
 7 or professional employer group seeking limited registration that does not have
 8 employees performing services for clients in this state on July 1, 2009, shall register
 9 with the department as provided in sub. (3) (b), before contracting with a client in this
 10 state, and the initial limited registration shall be valid as provided in sub. (3) (b).

History: 2007 a. 189.

INSERT 4-13A

SECTION 3. 461.02 (6) of the statutes, as created by 2007 Wisconsin Act 189, is amended to read:

14 461.02 (6) PROFESSIONAL EMPLOYER GROUP REGISTRATION. ~~Two~~ Except as
 15 provided in sub. (7) (b), ⁽²⁾ ~~two~~ ^e or more professional employer organizations that are
 16 part of a professional employer group may register under this section or renew a
 17 registration by providing the information required under sub. (2), (4), or (5) on a
 18 combined or consolidated basis, paying the initial credential or renewal fee
 19 determined by the department under s. 440.03 (9) (a), and guaranteeing each other's
 20 obligations. If a professional employer group provides a combined or consolidated
 21 financial statement under sub. (2) (f) that includes the financial condition of entities
 22 that are not part of the professional employer group, the person controlling the

- 1 professional employer group shall guarantee the obligations of the professional
- 2 employer organizations in the professional employer group.

History: 2007 a. 189.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2426/P1dn

TKK:vlj:md

bjk

Date

Rep. Newcomer:

draft

This *bill* makes additional modifications to Chapter 461 in response to a May 4, 2009, e-mail from Hector Colon at the Department of Regulation and Licensing, telephone communications with Mr. Colon and Ruby Jefferson-Moore on May 8, 2009, and e-mail communications with your office. Please review the draft carefully to ensure that it accomplishes the objectives of your office and of the Department of Regulation and Licensing. 7

> Note that I eliminated the last two sentences of s. 461.02 (1), which repeat material specified under sub. (2) and (8). Okay? S

Also, because I created a new paragraph (b) under s. 461.02 (1), stats., to prohibit a person from using certain titles (including professional employer organization and PEO) unless the person is registered, I removed redundant material regarding how a professional employer organization identifies itself from the definition of "professional employer organization" at s. 461.01 (5), stats. Okay?

Tracy K. Kuczenski
Legislative Attorney
Phone: (608) 266-9867
E-mail: tracy.kuczenski@legis.wisconsin.gov

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2426/1dn
TKK:bjk:jf

May 8, 2009

Rep. Newcomer:

This draft makes additional modifications to Chapter 461 in response to a May 4, 2009, e-mail from Hector Colon at the Department of Regulation and Licensing, telephone communications with Mr. Colon and Ruby Jefferson-Moore on May 7, 2009, and e-mail communications with your office. Please review the draft carefully to ensure that it accomplishes the objectives of your office and of the Department of Regulation and Licensing.

Note that I eliminated the last sentence of s. 461.02 (1), which repeats material specified under subs. (2) and (8). Okay?

Also, because I created a new paragraph (b) under s. 461.02 (1), stats., to prohibit a person from using certain titles (including professional employer organization and PEO) unless the person is registered, I removed redundant material regarding how a professional employer organization identifies itself from the definition of "professional employer organization" at s. 461.01 (5), stats. Okay?

Tracy K. Kuczenski
Legislative Attorney
Phone: (608) 266-9867
E-mail: tracy.kuczenski@legis.wisconsin.gov

Kuczenski, Tracy

From: Colon, Hector - DRL [Hector.Colon@wisconsin.gov]
Sent: Thursday, May 14, 2009 2:40 PM
To: Kuczenski, Tracy
Subject: RE: Draft review: LRB 09-2426/1 Topic: Changes to regulations governing professional employer organizations

Please see my comments in Red.

Héctor Colón
 Executive Assistant/Legislative Liaison
 Office of the Secretary
 1400 E. Washington Avenue
 P.O Box 8935
 Madison, WI 53708-8935
 Phone: 608-266-8608
 Fax: 608-261-2381

From: Kuczenski, Tracy [mailto:Tracy.Kuczenski@legis.wisconsin.gov]
Sent: Wednesday, May 13, 2009 10:54 AM
To: Colon, Hector - DRL
Subject: RE: Draft review: LRB 09-2426/1 Topic: Changes to regulations governing professional employer organizations

Hi Hector --

Here are my responses to Ruby's questions:

- ✓ 1. The registration fee is currently required under s. 461.02 (8); however, I agree that the fee could be appropriately moved to s. 461.02 (2) (intro) as Ruby suggested and I'd be happy to make that change. Please make this change per Ruby's suggestion
- ✓ 2. The different titles included in s. 461.02 (1) (b) were taken directly from current law s. 461.01 (5), stats. Under current law s. 461.01 (5), a person that:

"is engaged in the business of entering into written contracts for the provision of the nontemporary, ongoing employee workforce of a client..." is a professional employer organization *"regardless of whether the person uses the term "professional employer organization," "PEO," "staff leasing company," "registered staff leasing company," "employee leasing company," or "administrative employer..."*

Proposed s. 461.02 (1), stats. (as amended by LRB 2426/1), will requires a person who operates as a "professional employer organization" to be registered. Reading these two provisions together, it doesn't matter what the business calls itself: if it "is engaged in the business of entering into written contracts for the provision of the nontemporary, ongoing employee workforce of a client..." it is a PEO and must register.

I simply removed the "regardless of whether the person uses the term" language from s. 461.01 (5) and modified it a bit to fit within the structure of s. 461.02 (1) (b).

If, as Ruby suggests, "staff leasing companies," "registered staff leasing companies," "employee leasing companies," or "administrative employers" don't fit the definition of "professional employer organizations" under s. 461.01 (5), then these words should not have been included in the current definition of "professional employer organization," and should not be included in the proposed title protection provision at s. 461.02 (1) (b). Leave the definition as is in the original draft.

- ✓ 3. See discussion in 2., above. Leave the definition as is in the original draft.

5/14/2009

4. It appears that Ruby's comment was cut off. However, Ruby's question regarding the discrepancy between the renewal date after the initial registration and the July 1 renewal date under ch. 440 is a good one, but is ultimately a policy question for the agency and the legislature. There may be a legitimate reason that an initial registration under this chapter was permitted to last longer than the regular, or renewal, registration, but, since I was not involved in the drafting of the original chapter, I don't know the answer to that question.

I'd be happy to eliminate the language from s. 461.02 (3) (a) and (b). Please do this.

Let me know if you have any other comments, questions, or instructions.

Tracy

Tracy K. Kuczenski
Legislative Attorney
Wisconsin Legislative Reference Bureau
 (608) 266-9867
Tracy.Kuczenski@legis.wisconsin.gov

From: Colon, Hector - DRL [mailto:Hector.Colon@wisconsin.gov]

Sent: Tuesday, May 12, 2009 4:43 PM

To: Kuczenski, Tracy

Subject: RE: Draft review: LRB 09-2426/1 Topic: Changes to regulations governing professional employer organizations

These were Ruby's comments. I'm still checking with some others.

- 1) In paragraph 2 of Tracy's memo, she is proposing to eliminate the last sentence in s. 461.02 (1), which refers to submitting an application and paying a fee. We need a requirement in the statutes stating that an applicant has to pay the registration fee. If the reference to the fee is eliminated under s. 461.02 (1), I recommend that it be added under s. 461.02 (2) (intro.). [See Sections 4 and 6.]
- 2) In the last paragraph of Tracy's memo, she proposed to prohibit a person from using certain titles unless the person is registered. In Section 5 of the proposed draft, Tracy creates s. 461.02 (1) (b) in which she lists certain prohibited titles. Please verify with Scott, Dan and/or Adam whether all staff leasing companies, registered staff leasing companies, employee leasing companies and administrative employers operate as professional employer organizations. If not, we should consider whether those companies should be prohibited from using the titles. The initial idea was to prohibit the use of the titles and initials for professional employer organization (PEO) and professional employer group (PEG).
- 3) Tracy's revision to s. 461.01 (5) is fine.
- 4) Section 7. The last sentence in s. 461.02 (3) (b) reads: "An initial registration under this paragraph is valid until 180 days after the end of the first fiscal year of the registrant that ends after the date of initial registration." Similar language is found in s. 461.02 (3) (a). Do we want to retain this language if we are trying to change the renewal date to July 1 of each year? For example, if a company's fiscal year ends on March

Your thoughts on Ruby's comments.

Héctor Colón
 Executive Assistant/Legislative Liaison
 Office of the Secretary
 1400 E. Washington Avenue
 P.O. Box 8935
 Madison, WI 53708-8935
 Phone: 608-266-8608
 Fax: 608-261-2381

From: Kuczenski, Tracy [mailto:Tracy.Kuczenski@legis.wisconsin.gov]

Sent: Tuesday, May 12, 2009 4:38 PM

To: Colon, Hector - DRL

5/14/2009

Subject: RE: Draft review: LRB 09-2426/1 Topic: Changes to regulations governing professional employer organizations

Okay.

Tracy K. Kuczenski
Legislative Attorney
Wisconsin Legislative Reference Bureau
(608) 266-9867
Tracy.Kuczenski@legis.wisconsin.gov

From: Colon, Hector - DRL [mailto:Hector.Colon@wisconsin.gov]

Sent: Tuesday, May 12, 2009 3:54 PM

To: Duerst, Christina

Cc: Kuczenski, Tracy

Subject: RE: Draft review: LRB 09-2426/1 Topic: Changes to regulations governing professional employer organizations

I think we still have some issues with this. I'll get back to you.

Héctor Colón
Executive Assistant/Legislative Liaison
Office of the Secretary
1400 E. Washington Avenue
P.O Box 8935
Madison, WI 53708-8935
Phone: 608-266-8608
Fax: 608-261-2381

From: Duerst, Christina [mailto:Christina.Duerst@legis.wisconsin.gov]

Sent: Friday, May 08, 2009 4:36 PM

To: Colon, Hector - DRL

Subject: Draft review: LRB 09-2426/1 Topic: Changes to regulations governing professional employer organizations

Draft Requester: Scott Newcomer

Following is the PDF version of draft LRB 09-2426/1 and drafter's note.



stays

insert
RMNR

2009 BILL

in 4/14/09
by 4/15/09

Regen

1 AN ACT *to renumber and amend* 461.02 (1) and 461.02 (4); *to amend* 461.01
 2 (5), 461.02 (1) (title), 461.02 (2) (intro.), 461.02 (3) (b), 461.02 (5), 461.02 (6),
 3 461.02 (7) (b) and 461.04 (1) (intro.); *to repeal and recreate* 461.02 (4) (title);
 4 and *to create* 440.08 (2) (a) 63p. and 461.02 (1) (b) of the statutes; **relating to:**
 5 professional employer organizations and professional employer groups.

Ined Analysis

Analysis by the Legislative Reference Bureau

Under current law, beginning on July 1, 2009, a person that wishes to provide or offer professional employer services in this state must register with the Department of Regulation and Licensing (DRL) as a professional employer organization (PEO) or a professional employer group (PEG). A PEO or PEG that wishes to renew its registration must apply for renewal no later than 180 days after the end of the PEO's or PEG's fiscal year. The PEO or PEG must submit a copy of an updated financial statement with the application for renewal. The PEO or PEG may apply to DRL for an extension of the renewal period if the PEO or PEG submits with the application for renewal a letter from the certified public accountant that is auditing the PEO's or PEG's financial statement.

This bill provides that a PEO or PEG must ^{annually} apply to DRL for renewal ^{of a registration} by July 31 of each year, which is consistent with other credentials administered by DRL. The bill provides that a PEO or PEG may apply to DRL for an extension of time to submit an updated financial statement, but not for an application for renewal.

Under current law, beginning on July 1, 2009, no person may offer or provide professional employer services or advertise that the person provides professional

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employer services or is a professional employer organization unless the person is registered with DRL. This bill prohibits a person from operating as a professional employer organization or professional employer group or advertising that the person is a professional employer organization or professional employer group unless the person is registered with DRL.

This bill also prohibits a person from using the titles, "professional employer organization," "PEO," "professional employer group," "PEG," or similar titles unless the person is registered as a PEO or PEG by DRL.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 440.08 (2) (a) 63p. of the statutes is created to read:

2 440.08 (2) (a) 63p. Professional employer organization or professional
3 employer group: July 31 of each year.

4 **SECTION 2.** 461.01 (5) of the statutes, as created by 2007 Wisconsin Act 189, is
5 amended to read:

6 461.01 (5) "Professional employer organization" means a person that is
7 engaged in the business of entering into written contracts for the provision of the
8 nontemporary, ongoing employee workforce of a client and providing services under
9 those contracts and that under those contracts has the obligation to pay the
10 employees providing services for those clients from its own accounts, ~~regardless of~~
11 ~~whether the person uses the term "professional employer organization," "PEO,"~~
12 ~~"staff leasing company," "registered staff leasing company," "employee leasing~~
13 ~~company," or "administrative employer," or uses any other name, as part of the~~
14 ~~person's business name or to describe the person's business.~~

15 **SECTION 3.** 461.02 (1) (title) of the statutes, as created by 2007 Wisconsin Act
16 189, is amended to read:

17 461.02 (1) (title) REGISTRATION REQUIRED; USE OF TITLES.

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1 **SECTION 4.** 461.02 (1) of the statutes, as created by 2007 Wisconsin Act 189, is
2 renumbered 461.02 (1) (a) and amended to read:

3 461.02 (1) (a) No person may ~~offer or provide~~ operate as a professional employer
4 services organization or professional employer group, advertise that the person is a
5 professional employer organization or ~~that the person provides professional~~
6 ~~employer services~~ professional employer group, or otherwise hold itself out as a
7 professional employer organization or professional employer group unless the
8 person first registers with the department as provided in this section. ~~To register~~
9 ~~under this section, a person shall file the registration form under sub. (2) and pay the~~
10 ~~initial credential fee determined by the department under s. 440.03 (9) (a).~~

11 **SECTION 5.** 461.02 (1) (b) of the statutes, as created by 2007 Wisconsin Act 189,
12 is created to read:

13 461.02 (1) (b) No person may designate as the person's title, or append to the
14 person's name the words or letters, "professional employer organization," "P.E.O.,"
15 "professional employer group," "P.E.G.," "staff leasing company," "registered staff
16 leasing company," "employee leasing company," or "administrative employer," or
17 other similar titles or letters, or use these titles, words, or letters to describe the
18 person's business or represent that the person or the person's business is registered
19 or licensed as "professional employer organization," "P.E.O.," "professional employer
20 group," "P.E.G.," "staff leasing company," "registered staff leasing company,"
21 "employee leasing company," or "administrative employer," unless the person is
22 registered by the department under this chapter.

23 **SECTION 6.** 461.02 (2) (intro.) of the statutes, as created by 2007 Wisconsin Act
24 189, is amended to read:

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SECTION 6

Insert 4-1

1 461.02 (2) REGISTRATION FORM. (intro.) ~~To~~ Except as provided in sub. (7) (b), to
2 apply for registration under this section, an applicant shall file with the department
3 a registration form prescribed by the department that contains all of the following
4 information:

5 **SECTION 7.** 461.02 (3) (b) of the statutes, as created by 2007 Wisconsin Act 189,
6 is amended to read:

7 461.02 (3) (b) Any person that is not engaged in the business of providing
8 operating as a professional employer services organization or a professional
9 employer group in this state on July 1, 2009, shall register with the department
10 before engaging in that business operating as a professional employer organization
11 or professional employer group in this state. ~~An initial registration under this~~
12 ~~paragraph is valid until 180 days after the end of the first fiscal year of the registrant~~
13 ~~that ends after the date of initial registration.~~

14 **SECTION 8.** 461.02 (4) (title) of the statutes, as created by 2007 Wisconsin Act
15 189, is repealed and recreated to read:

16 461.02 (4) (title) REGISTRATION RENEWAL; EXTENSION FOR FILING UPDATED
17 FINANCIAL STATEMENT.

18 **SECTION 9.** 461.02 (4) of the statutes, as created by 2007 Wisconsin Act 189, is
19 renumbered 461.02 (4) (a) and amended to read:

20 461.02 (4) (a) ~~A~~ On or before the applicable renewal date specified under s.
21 440.08 (2) (a), and except as provided in par. (b) and sub. (7) (b), a registrant that
22 wishes to renew its registration shall, ~~by no later than 180 days after the end of the~~
23 ~~registrant's fiscal year, renew that registration by notifying~~ submit to the
24 department of any changes in the information specified in sub. (2) (a) to (e), filing,
25 on forms furnished by the department, a renewal application, together with an

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1 updated financial statement as described in sub. (2) (f), and paying the renewal
2 credential fee determined by the department under s. 440.03 (9) (a). A renewal of
3 registration is valid for one year after the date of renewal.

4 (b) A registrant may apply to the department for an extension of the time within
5 which to ~~renew a registration~~ submit the updated financial statement required
6 under par. (a) by providing with the renewal application a letter from the certified
7 public accountant who is auditing the registrant's financial statement stating the
8 reasons for the delay and the anticipated completion date of the audit. ~~A renewal~~
9 ~~registration is valid for one year after the date of renewal.~~

10 **SECTION 10.** 461.02 (5) of the statutes, as created by 2007 Wisconsin Act 189,
11 is amended to read:

12 461.02 (5) LIMITED REGISTRATION. (a) ~~A~~ Except as provided in sub. (7) (b), a
13 professional employer organization or professional employer group that is domiciled
14 outside this state, that is registered or licensed as a professional employer
15 organization or professional employer group in another state, that does not maintain
16 an office in this state or directly solicit clients that are located or domiciled in this
17 state, and that has no more than 50 employees performing services for clients in this
18 state on any given day may apply for limited registration under this section by filing
19 with the department a limited registration form prescribed by the department and
20 paying the initial credential fee determined by the department under s. 440.03 (9)
21 (a). An applicant that is seeking limited registration shall, in addition to the
22 information provided under sub. (2), provide the department with information and
23 documentation showing that the applicant meets the qualifications specified in this
24 paragraph for limited registration.

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1 (b) ~~A~~ Except as provided in sub. (7) (b), a professional employer organization
2 or professional employer group seeking limited registration that has employees
3 performing services for clients in this state on July 1, 2009, shall register with the
4 department as provided in sub. (3) (a), and the initial limited registration shall be
5 valid as provided in sub. (3) (a).

6 (c) ~~A~~ Except as provided in sub. (7) (b), a professional employer organization
7 or professional employer group seeking limited registration that does not have
8 employees performing services for clients in this state on July 1, 2009, shall register
9 with the department as provided in sub. (3) (b), before contracting with a client in this
10 state, and the initial limited registration shall be valid as provided in sub. (3) (b).

11 (d) ~~A registrant~~ Except as provided in sub. (7) (b), a professional employer
12 organization or professional employer group registered under this subsection that
13 wishes to renew its limited registration shall, in addition to complying with sub. (4),
14 provide the department with information and documentation showing that the
15 ~~registrant~~ professional employer organization or professional employer group
16 continues to meet the qualifications specified in par. (a) for limited registration, and
17 the limited registration shall be valid as provided in sub. (4).

18 (e) ~~A limited registrant~~ professional employer organization or professional
19 employer group registered under this subsection is not required to comply with the
20 financial capability requirement under s. 461.03.

21 **SECTION 11.** 461.02 (6) of the statutes, as created by 2007 Wisconsin Act 189,
22 is amended to read:

23 461.02 (6) PROFESSIONAL EMPLOYER GROUP REGISTRATION. ~~Two~~ Except as
24 provided in sub. (7) (b), 2 or more professional employer organizations that are part
25 of a professional employer group may register under this section or renew a

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1 registration by providing the information required under sub. (2), (4), or (5) on a
2 combined or consolidated basis, paying the initial credential or renewal fee
3 determined by the department under s. 440.03 (9) (a), and guaranteeing each other's
4 obligations. If a professional employer group provides a combined or consolidated
5 financial statement under sub. (2) (f) that includes the financial condition of entities
6 that are not part of the professional employer group, the person controlling the
7 professional employer group shall guarantee the obligations of the professional
8 employer organizations in the professional employer group.

9 **SECTION 12.** 461.02 (7) (b) of the statutes, as created by 2007 Wisconsin Act 189,
10 is amended to read:

11 461.02 (7) (b) The department may by rule provide for registration of a
12 professional employer organization or professional employer group without
13 compliance with sub. (2), (4), (5), or (6), s. 461.03, or rules promulgated under s.
14 461.06 on acceptance by the department of assurance provided by a bonded,
15 independent, and qualified assurance organization that has been approved by the
16 department that provides assurance satisfactory to the department that the
17 professional employer organization or professional employer group is qualified to
18 ~~engage in the business of providing~~ operate as a professional employer services
19 organization or a professional employer group in this state.

20 **SECTION 13.** 461.04 (1) (intro.) of the statutes, as created by 2007 Wisconsin Act
21 189, is amended to read:

22 461.04 (1) PROFESSIONAL EMPLOYER SERVICES ORGANIZATION AND PROFESSIONAL
23 EMPLOYER GROUP NOT INSURANCE. (intro.) A professional employer organization or
24 professional employer group that offers, markets, sells, administers, or provides
25 ~~professional employer services~~ that include the provision of employee benefit plans

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1 for the employees of the professional employer organization or professional employer
2 group performing services for a client is not engaged in the business or sale of
3 insurance or in the business of an employee benefit plan administrator under ch. 633.
4 This subsection shall be liberally construed to permit professional employer
5 organizations and professional employer groups to provide employee benefit plans
6 as provided in this subsection without being considered to be engaged in the business
7 or sale of insurance or in the business of an employee benefit plan administrator
8 under ch. 633. If a professional employer organization or professional employer
9 group provides life insurance, health care, or disability income benefits for its
10 employees performing services for a client, all of the following apply:

SECTION 14. Effective date.

11
12 (1) This act takes effect on July 1, 2009, or on the day after publication,
13 whichever is later.

14 (END)

1 **INSERT ANALYSIS**

✓ An initial registration issued by DRL is valid until 180 days after the end of the first fiscal year of the PEO or PEG that ends more than one year after July 1, 2009.

2 **INSERT 4-1**

3 461.02 (2) REGISTRATION APPLICATION FORM. ^(intro.) ~~To apply~~ Except as provided in sub.
4 ~~(7) (b), an applicant for registration under this section, an applicant shall file with~~
5 ~~submit to the department a~~ ^{Strike Space} an application for registration on a form prescribed by
6 ~~the department, together with the registration fee determined by the department~~
7 under s. 440.03 (9) (a), that contains all of the following information:

8 History: 2007 a. 189.

^{as created by 2007 Wisconsin Act 189,}
8 ~~SECTION 461.02 (3) (a) of the statutes~~ is amended to read:

9 461.02 (3) (a) Each professional employer organization or professional
10 employer group that is operating in this state on July 1, 2009, shall register with the
11 department by no later than 180 days after that date. ~~An initial registration under~~
12 ~~this paragraph is valid until 180 days after the end of the first fiscal year of the~~
13 ~~registrant that ends more than one year after July 1, 2009.~~

14 History: 2007 a. 189.

14 **INSERT 7-20**

^{as created by 2007 Wisconsin Act 189,}
15 ~~SECTION 461.02 (8) of the statutes~~ is amended to read:

16 461.02 (8) ISSUANCE OF REGISTRATION. ~~On receipt of an application for~~
17 ~~registration or for renewal of a registration under subs. (3) to (7) and of the initial~~
18 ~~credential fee or renewal fee determined by the department under s. 440.03 (9) (a),~~
19 ~~the~~ The department shall investigate the applicant or registrant each applicant or
20 registrant who submits to the department an application for registration or
21 registration renewal under this section, together with the applicable registration or
22 registration renewal fee, to determine whether the applicant or registrant is

1 qualified for registration or for renewal registration. Except as provided in s. 440.12
2 and 440.13, the department shall issue a registration or renewal registration if, after
3 completing the investigation, the department determines that the applicant or
4 registrant meets the requirements under this chapter and rules promulgated under
5 s. 461.06 for issuance or renewal of a registration and is satisfied that the applicant
6 or registrant will comply with this chapter and those rules.

History: 2007 a. 189.

Barman, Mike

From: Knight, Eric
Sent: Tuesday, May 19, 2009 10:22 AM
To: LRB.Legal
Subject: Draft Review: LRB 09-2426/2 Topic: Changes to regulations governing professional employer organizations

Please Jacket LRB 09-2426/2 for the ASSEMBLY.