In: 2/6

State of Wisconsin
2013 - 2014 LEGISLATURE

LRB-0221/P2 PS
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DOA:.....Quinn, BB0026 – Transfer regulation of charitable organizations, professional fundraisers, and fundraising counsel from DSPS to DFI

FOR 2013-2015 BUDGET — NOT READY FOR INTRODUCTION

Insert

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1 AN ACT ...; **relating to:** the budget.

Analysis by the Legislative Reference Bureau

SAFETY AND PROFESSIONAL SERVICES

PROFESSIONAL REGULATION

Under current law, DSPS regulates professional employer organizations and professional employer groups that contract with clients for, among other services, the nontemporary placement of employees with those clients. Also under current law, DSPS regulates the fund–raising activities of charitable organizations, professional fund–raisers, and fund–raising counsel.

This bill transfers the regulation of professional employer organizations, professional employer groups, charitable organizations, professional fund–raisers, and fund–raising counsel from DSPS to DFI. Under the bill, DFI registers all of those persons and administers the specific laws governing their practices. The bill also gives DFI a number of general powers and duties concerning the regulation of those persons that are similar to the powers and duties that DSPS exercises under current law with respect to the various professions DSPS, or a board under DSPS, regulates, including the following:

1. Under the bill, DFI may issue subpoenas for the attendance of witnesses and the production of documents or other materials before a disciplinary or other proceeding concerning a practice regulated by DFI under the bill.

2. Under the bill, DFI is required to establish the content and form of each type of registration it issues to a professional employer organization, professional employer group, charitable organization, professional fund–raiser, or fund–raising counsel, and DFI may require a registered person to display in the person's office or primary place of business the person's certificate of registration and a notice describing the procedures for filing a complaint with DFI concerning the person's professional conduct.

3. The bill requires DFI to obtain the social security number of an individual who applies for a registration under the bill, or the person's federal employer identification number if the person is a business. The bill restricts DFI's use and disclosure of social security numbers, as well as other personal identifying information under certain circumstances, that DFI obtains in connection with its regulatory functions under the bill.

4. Concerning the renewal of a registration, the bill requires DFI to give notice to a registered person before a registration's renewal date. Also, under the bill DFI may deny an application for initial registration or registration renewal if the applicant fails to comply with any applicable requirement or if DFI determines that denial of the application is necessary to protect the public health, safety, or welfare. If DFI denies an application for initial registration or registration renewal, DFI must provide a notice of denial to the applicant that states the reasons for the denial and informs the applicant that the denial may be appealed to the department.

5. The bill requires DFI to deny an application for a registration or take certain actions against a person registered by DFI if the person is liable for delinquent state taxes or if the person is delinquent in paying child support or fails to comply with a subpoena or warrant issued by the department of children and families or a county child support agency concerning a child support or paternity proceeding.

6. Under the bill, DFI may investigate an applicant for registration and may investigate whether an applicant for registration or a registered person has a criminal history.

7. Under the bill, DFI may conduct investigations and hold hearings to determine whether any person has violated the laws DFI administers under the bill. In addition to any disciplinary action DFI may take against a registrant or applicant for registration, a person who violates the laws DFI administers under the bill may be subject to an injunction or criminal penalties. The bill also authorizes DFI to issue an administrative warning against a registrant in lieu of conducting a disciplinary proceeding if certain requirements are met.

8. Under the bill, DFI may conduct investigations, hold hearings, and make findings concerning a person's performance of a practice or use of a title without a required registration issued by DFI. DFI may enjoin such a person from continuing to perform a practice or use a title contrary to the laws DFI administers under the bill, or DFI may petition a circuit court to issue a temporary restraining order or an injunction against that person. If a person violates an order of DFI or a court enjoining the person's unlawful use of a title or performance of a practice regulated by DFI, that person may be subject to criminal penalties.

9. Under the bill, DFI is required to determine the fee for an initial registration and registration renewal, including any late fee, for each type of registration DFI administers under the bill. DFI may accept fee payments by means of a debit or credit card. Current fees remain in effect until adjusted by DFI.

For further information see the ***state*** fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 45.44 (1) (a) 11m. of the statutes is created to read:

2 45.44 **(1)** (a) 11m. A registration issued under s. 202.13 or 202.14.

3 **SECTION 2.** 46.90 (5m) (br) 5g. of the statutes is created to read:

4 46.90 **(5m)** (br) 5g. Refer the case to the department of financial institutions
5 if the financial exploitation, neglect, self–neglect, or abuse involves an individual
6 who is required to be registered under s. 202.13 or 202.14.

7 **SECTION 3.** 49.857 (1) (d) 14m. of the statutes is created to read:

8 49.857 **(1)** (d) 14m. A registration issued under ss. 202.12 to 202.14 or 202.22.

9 **SECTION 4.** 54.15 (8) (a) 3. of the statutes is amended to read:

10 54.15 **(8)** (a) 3. Any license, certificate, permit, or registration of the proposed
11 guardian that is required under chs. 202 or 440 to 480 or by the laws of another state
12 for the practice of a profession or occupation has been suspended or revoked.

13 **SECTION 5.** 55.043 (4) (b) 5g. of the statutes is created to read:

14 55.043 **(4)** (b) 5g. Refer the case to the department of financial institutions if
15 the financial exploitation, neglect, self–neglect, or abuse involves an individual who
16 is required to be registered under s. 202.13 or 202.14.

17 **SECTION 6.** 73.0301 (1) (d) 6. of the statutes is amended to read:

18 73.0301 **(1)** (d) 6. A license or certificate of registration issued by the
19 department of financial institutions, or a division of it, under ss. 138.09, 138.12,

138.14, 202.12 to 202.14, 202.22, 217.06, 218.0101 to 218.0163, 218.02, 218.04, 218.05, 224.72, 224.725, 224.93 or under subch. IV of ch. 551.

SECTION 7. 108.02 (21e) (intro.) of the statutes is amended to read:

108.02 **(21e)** PROFESSIONAL EMPLOYER ORGANIZATION. (intro.) "Professional employer organization" means any person who is currently registered as a professional employer organization with the department of ~~safety and professional services~~ financial institutions in accordance with subch. III of ch. ~~461~~ 202, who contracts to provide the nontemporary, ongoing employee workforce of more than one client under a written leasing contract, the majority of whose clients are not under the same ownership, management, or control as the person other than through the terms of the contract, and who under contract and in fact:

SECTION 8. 125.06 (11) of the statutes is amended to read:

125.06 **(11)** AUCTION SALES. The sale by an auction house at public auction of a collection of sealed bottles of intoxicating liquor or unopened beer cans for the purpose of settling an estate or disposing of the collection or the auction sale of sealed bottles or containers of wine or of unopened bottles of intoxicating liquor or fermented malt beverages by a charitable organization, as defined in s. ~~440.41~~ 202.11 (1), at an auction held to raise money for the charitable organization.

SECTION 9. 134.73 (1) (a) of the statutes is amended to read:

134.73 **(1)** (a) "Contribution" has the meaning given in s. ~~440.41~~ 202.11 (5).

SECTION 10. 134.73 (1) (c) of the statutes is amended to read:

134.73 **(1)** (c) "Solicit" has the meaning given in s. ~~440.41~~ 202.11 (8).

SECTION 11. 165.825 of the statutes is amended to read:

165.825 Information link~~; department of health services~~. The department of justice shall cooperate with the departments of safety and

professional services ~~and~~, health services, and financial institutions in developing and maintaining a computer linkup to provide access to the information obtained from a criminal history search.

SECTION 12. 181.0203 (3) of the statutes is amended to read:

181.0203 **(3)** NOTIFICATION OF REPORTING REQUIREMENTS. Upon filing articles of incorporation of a corporation, the department shall inform the corporation of the reporting requirements under s. ~~440.42~~ 202.12 for charitable organizations that solicit contributions.

SECTION 13. 196.208 (5p) (a) 1. of the statutes is amended to read:

196.208 **(5p)** (a) 1. "Charitable organization" has the meaning given in s. ~~440.41~~ 202.11 (1).

SECTION 14. Chapter 202 of the statutes is created to read:

CHAPTER 202

REGULATION OF PROFESSIONAL EMPLOYER ORGANIZATIONS AND THE SOLICITATION OF FUNDS FOR A CHARITABLE PURPOSE

SUBCHAPTER I

GENERAL PROVISIONS

202.01 Definitions. In this subchapter:

(1) "Applicant" means any of the following:

(a) A person applying to the department for an initial registration.

(b) A person applying to the department for renewal of a registration.

(2) "Controlling person" has the meaning given in 202.21 (3).

(3) "Department" means the department of financial institutions.

1 **(4)** "Registrant" means a person who is registered under ss. 202.12 to 202.14
2 or 202.22.

3 **(5)** "Registration" means a registration the department issues under ss. 202.12
4 to 202.14 or 202.22.

5 **202.02 General duties and powers. (1)** The department may issue
6 subpoenas for the attendance of witnesses and the production of documents or other
7 materials prior to the commencement of a disciplinary or other proceeding under this
8 chapter.

9 **(2)** The department shall establish the content and form of each type of
10 registration. Upon the request of a registrant and payment of a $10 fee, the
11 department may issue to a registrant a wall certificate.

12 **(3)** The department may require a registrant to do any of the following:

13 (a) Display the registrant's certificate of registration in a conspicuous place in
14 the registrant's office or place of business.

15 (b) Post a notice in a conspicuous place in the registrant's office or place of
16 business describing the procedures for filing a complaint against the registrant.

17 **(4)** (a) The department shall require each applicant to provide his or her social
18 security number with the applicant's application for a registration or registration
19 renewal, or, if the applicant is not an individual, the department shall require the
20 applicant to provide its federal employer identification number.

21 (b) If an applicant is an individual who does not have a social security number,
22 the applicant shall submit a statement to the department made or subscribed under
23 oath that the applicant does not have a social security number. The department of
24 children and families shall prescribe the form of the statement. A registration issued
25 in reliance upon a false statement submitted under this paragraph is invalid.

1 (c) The department may not disclose a social security number obtained under
2 par. (a) to any person except the department of children and families to administer
3 s. 49.22 and the department of revenue to request certifications under s. 73.0301 and
4 administer state taxes.

5 **(5)** The department shall cooperate with the departments of justice, health
6 services, and children and families to develop and maintain a computer linkup to
7 provide access to information regarding the current status of a registration,
8 including whether the registration has been restricted in any way.

9 **(6)** (a) The department may conduct an investigation to determine whether an
10 applicant satisfies any of the eligibility requirements specified for the registration,
11 including whether the applicant does not have an arrest or conviction record. In
12 conducting an investigation under this paragraph, the department may require an
13 applicant to provide any information that is necessary for the investigation, except
14 that, for an investigation of an arrest or conviction record, the department shall
15 comply with the requirements under par. (d).

16 (b) A registrant who is convicted of a felony or misdemeanor anywhere shall
17 send a notice of the conviction by 1st class mail to the department within 48 hours
18 after the entry of the judgment of conviction.

19 (c) The department may investigate whether an applicant or registrant has
20 been charged with or convicted of a crime.

21 (d) 1. Except as provided in subd. 2., the department may not require that an
22 applicant or registrant be fingerprinted or submit fingerprints in connection with a
23 registration.

24 2. The department may require a person for whom the department conducts
25 an investigation under par. (c) to be photographed and fingerprinted on 2 fingerprint

1 cards, each bearing a complete set of the person's fingerprints. The department of
2 justice may submit the fingerprint cards to the federal bureau of investigation to
3 verify the identity of the persons fingerprinted and obtain records of their criminal
4 arrests and convictions.

5 (e) The department shall charge an applicant the fees, costs, or other expenses
6 the department incurs for conducting an investigation under this subsection.

7 **(7)** The department may require the electronic submission of an application for
8 registration or registration renewal or any other document or information that may
9 be submitted to the department under this chapter.

10 **202.025 Registration renewal; denial of registration or registration**
11 **renewal. (1)** NOTICE OF RENEWAL. (a) The department shall give a notice of renewal
12 to each registrant at least 30 days before the renewal date of the registration. The
13 department may give that notice by electronic transmission.

14 (b) Failure to receive a notice of renewal is not a defense in any disciplinary
15 proceeding against a registrant or in any proceeding against a former registrant for
16 practicing without a registration. Failure to receive a notice of renewal does not
17 relieve a registrant from the obligation to pay a penalty for late renewal under sub.
18 (2).

19 **(2)** LATE RENEWAL. (a) If the department does not receive an application to
20 renew a registration before the applicable renewal date, the registrant may restore
21 the registration by paying, within 60 days after the renewal date, the renewal fee and
22 late fee determined by the department under s. 202.08.

23 **(3)** DENIAL OF REGISTRATION OR REGISTRATION RENEWAL. (a) 1. Notwithstanding
24 ss. 202.12 to 202.14 and 202.23, if the department determines that an applicant for
25 registration or registration renewal has failed to comply with any applicable

1 requirement for renewal, or that the denial of an application for registration or
2 registration renewal is necessary to protect the public health, safety, or welfare, the
3 department may summarily deny the application for registration or registration
4 renewal.

5 2. If the department denies an application for registration or registration
6 renewal under subd. 1., the department shall provide the applicant with a notice of
7 denial that states the facts or conduct giving rise to the denial and states that the
8 applicant may, within 30 days after the date stated on the notice of denial, file a
9 written request with the department for the department to review the denial at a
10 hearing.

11 (b) This subsection does not apply to a denial of a registration or registration
12 renewal under s. 202.03 or 202.035 (2) (b).

13 **202.03 Registration denial, nonrenewal, or revocation based on tax**
14 **delinquency.** Notwithstanding ss. 202.12 to 202.14 and 202.22, the department
15 shall deny an application for an initial registration or for registration renewal, or
16 revoke a registration, if the department of revenue certifies under s. 73.0301 that the
17 applicant or registrant is liable for delinquent taxes, as defined in s. 73.0301 (1) (c).

18 **202.035 Delinquency in support payments; failure to comply with**
19 **subpoena or warrant. (1)** In this section, "support" has the meaning given in s.
20 49.857 (1) (g).

21 **(2)** Notwithstanding ss. 202.12 to 202.14 and 202.22, the department shall do
22 all of the following, subject to the memorandum of understanding between the
23 department and the department of children and families under s. 49.857:

24 (a) Restrict, limit, or suspend a registration, or deny an application for an
25 initial registration, if the registrant, applicant, or a controlling person of the

1 registrant or applicant is delinquent in paying support or fails to comply, after
2 appropriate notice, with a subpoena or warrant related to support or paternity
3 proceedings that is issued by the department of children and families or a county
4 child support agency under s. 59.53 (5).

5 (b) Deny an application for registration renewal if the registrant or a
6 controlling person of the registrant is delinquent in paying support or fails to comply,
7 after appropriate notice, with a subpoena or warrant related to support or paternity
8 proceedings that is issued by the department of children and families or a county
9 child support agency under s. 59.53 (5).

10 **202.04 Voluntary surrender of registration.** A registrant may voluntarily
11 surrender his or her registration. The department may refuse to accept that
12 surrender if a complaint has been filed or a disciplinary proceeding has been
13 commenced against the registrant.

14 **202.05 Nondisclosure of certain personal information. (1)** In this
15 section:

16 (a) "List" means information compiled or maintained by the department that
17 contains the personal identifiers of at least 10 individuals.

18 (b) "Personal identifier" means a social security number, telephone number,
19 street name and number, electronic mail address, or post–office box number.

20 **(2)** If a form that the department requires an individual to complete in
21 connection with a registration or registration renewal under this chapter requires
22 the individual to provide a personal identifier of the individual, the form shall
23 include a place for the individual to declare that the individual's personal identifier
24 may not be disclosed on any list that the department furnishes to another person.

1 **(3)** If the department requires an individual to provide in person or by
2 telephone or other electronic means a personal identifier of the individual in
3 connection with a registration or registration renewal under this chapter, the
4 department shall provide the individual an opportunity to declare that the
5 individual's personal identifier may not be disclosed on any list that the department
6 furnishes to another person.

7 **(4)** Upon request, the department shall provide to a registrant who is an
8 individual a form that includes a place for the individual to declare that the
9 individual's personal identifier may not be disclosed on any list that the department
10 furnishes to another person.

11 **(5)** (a) Except as provided in par. (b), the department may not disclose on any
12 list that it furnishes to another person a personal identifier of any individual who has
13 made a declaration under sub. (2), (3), or (4).

14 (b) Paragraph (a) does not apply to a list that the department furnishes to
15 another state agency, a law enforcement agency, or a federal governmental agency.
16 A state agency that receives a list from the department containing a personal
17 identifier of an individual who has made a declaration under sub. (2), (3), or (4) may
18 not disclose the personal identifier to any person other than a state agency, a law
19 enforcement agency, or a federal governmental agency.

20 **202.055 Change of name or address. (1)** An applicant or registrant that
21 undergoes a change of name or address shall notify the department of the applicant's
22 or registrant's new name or address within 30 days after the change in writing or in
23 accordance with other notification procedures approved by the department.

1 **(2)** The department may serve any process, notice, or demand on a registrant
2 by mailing it to the last–known address of the registrant as indicated in the
3 department's records, or by other means established by the department by rule.
4 **(3)** Any person who fails to comply with sub. (1) shall be subject to a forfeiture
5 of $50.
6 **202.06 Disciplinary proceedings; enforcement of laws requiring**
7 **registration. (1)** INVESTIGATIONS. The department may conduct investigations and
8 hold hearings to determine whether any person has violated this chapter or any rule
9 promulgated under this chapter.
10 **(2)** DISCIPLINARY ACTION. The department may reprimand a registrant or deny,
11 limit, suspend, revoke, restrict, refuse to renew, or otherwise withhold a registration
12 if the department finds that an applicant, registrant, or controlling person has done
13 any of the following:
14 (a) Made a material misrepresentation or false statement in an application for
15 registration or registration renewal or in any other information submitted to the
16 department or in a report under s. 108.067.
17 (b) Violated this chapter or a rule promulgated under this chapter.
18 **(3)** FORFEITURE. In addition to or in lieu of a reprimand or a denial, limitation,
19 suspension, revocation, restriction, nonrenewal, or other withholding of a
20 registration under sub. (2), the department may assess against an applicant,
21 registrant, or controlling person a forfeiture of not more than $1,000 for each
22 violation.
23 **(5)** INJUNCTION. If it appears upon complaint to the department or the
24 department otherwise knows that any person has violated this chapter, the
25 department or the district attorney of the proper county may investigate and may,

1 in addition to any other remedies, bring action in the name of and on behalf of the
2 state against that person to enjoin the person from committing further violations of
3 this chapter.

4 **(6)** PRACTICE WITHOUT A REGISTRATION. (a) If, after holding a public hearing, the
5 department determines that a person has engaged in a practice or used a title
6 without a required registration, the department may issue a special order enjoining
7 the person from continuing the practice or use of the title.

8 (b) In lieu of holding a public hearing, if the department has reason to believe
9 that a person has engaged in a practice or used a title without a required registration,
10 the department may petition the circuit court for a temporary restraining order or
11 an injunction as provided in ch. 813.

12 (c) 1. Any person who violates a special order issued under par. (a) may be
13 required to forfeit not more than $10,000 for each offense. Each day of continued
14 violation constitutes a separate offense. The attorney general or any district
15 attorney may commence an action in the name of the state to recover a forfeiture
16 under this subdivision.

17 2. Any person who violates a temporary restraining order or an injunction
18 issued by a court upon a petition under par. (b) may be fined not less than $25 nor
19 more than $5,000 or imprisoned for not more than one year in the county jail or both.

20 **(7)** JUDICIAL REVIEW. Any person who is aggrieved by any action taken under
21 this chapter by the department, its officers, or agents may apply for judicial review
22 as provided in ch. 227.

23 **202.07 Administrative warnings. (1)** If the department determines during
24 an investigation of a complaint against a registrant that there is evidence that the
25 registrant committed misconduct, the department may close the investigation by

issuing an administrative warning to the registrant if the department determines that no further disciplinary action is warranted, the complaint involves a first occurrence of a minor violation, and the issuance of an administrative warning adequately protects the public.

(2) A registrant may obtain review of an administrative warning through a personal appearance before the department.

(3) (a) An administrative warning does not constitute an adjudication of guilt or the imposition of discipline and, except as provided in par. (b), may not be used as evidence that the registrant is guilty of the alleged misconduct.

(b) If the department receives a subsequent complaint of misconduct by a registrant against whom the department issued an administrative warning, the department may reopen the matter that gave rise to the administrative warning and commence disciplinary proceedings against the registrant, and the administrative warning may be used as evidence that the registrant had actual notice that the misconduct that was the basis for the administrative warning was contrary to law.

(4) An administrative warning is a public record subject to inspection or copying under s. 19.35.

(1) (B)

202.08 Fees. The department shall determine the fees for an initial registration and for a registration renewal, including late fees for each type of registration under ss. 202.12 to 202.14 and 202.22 based on the department's administrative and enforcement costs under this chapter.

202.09 Debit or credit card payments; collection of registration for nonpayment by financial institution. **(1)** If the department permits the payment of a fee by use of a debit or credit card, the department may charge a service charge for each transaction in addition to the fee being paid. The service charge shall

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1 be sufficient to cover the cost to the department of permitting the payment of a fee
2 by debit or credit card.

3 **(2)** If a registrant pays a fee required under this chapter by check or by debit
4 or credit card and the check is not paid by the financial institution upon which the
5 check is drawn or if the demand for payment under the debit or credit card
6 transaction is not paid by the financial institution upon which demand is made, the
7 department may cancel the registration after 60 days after the department receives
8 a notice of nonpayment from the financial institution, subject to sub. (3).

9 **(3)** At least 20 days before canceling a registration under sub. (2), the
10 department shall provide a notice to the registrant that informs the registrant that
11 the check or demand for payment under the debit or credit card transaction was not
12 paid by the financial institution and that the registrant's registration may be
13 canceled, unless the registrant does all of the following before that date:

14 (a) Pays the fee for which the unpaid check or demand for payment under the
15 debit or credit card transaction was issued.

16 (b) Pays any applicable late fee.

17 (c) Pays the charge for an unpaid draft established by the depository selection
18 board under s. 20.905 (2).

19 **(4)** The department may extend the date for cancellation to allow the registrant
20 additional time to comply with sub. (3) (a) to (c).

21 **(5)** The department may reinstate a registration that it cancelled under this
22 section only if the former registrant complies with sub. (3) (a) to (c) and pays a $30
23 reinstatement fee.

24 **202.095 Rules.** The department shall promulgate rules to implement this
25 chapter.

202.11 **(5m)** "Department" means the department of financial institutions.

202.21 **(3m)** "Department" means the department of financial institutions.

SECTION 15. 321.60 (1) (a) 12. of the statutes is amended to read:

321.60 **(1)** (a) 12. A license or certificate of registration issued by the department of financial institutions, or a division of it, under ss. 138.09, 138.12, 138.14, 202.13, 202.14, 217.06, 218.0101 to 218.0163, 218.02, 218.04, 218.05, 224.72, 224.725, or 224.93 or subch. IV of ch. 551.

SECTION 16. 440.03 (7m) of the statutes is amended to read:

440.03 **(7m)** The department may promulgate rules that establish procedures for submitting an application for a credential or credential renewal by electronic transmission. Any rules promulgated under this subsection shall specify procedures for complying with any requirement that a fee be submitted with the application. The rules may also waive any requirement in chs. 440 to 480 that an application submitted to the department, an examining board or an affiliated credentialing board be executed, verified, signed, sworn or made under oath, notwithstanding ss. 440.26 (2) (b), ~~440.42 (2) (intro.),~~ 440.91 (2) (intro.), 443.06 (1) (a), 443.10 (2) (a), 445.04 (2), 445.08 (4), 445.095 (1) (a), 448.05 (7), 450.09 (1) (a), 452.10 (1) and 480.08 (2m).

SECTION 17. 440.03 (13) (b) 29. of the statutes is repealed.

SECTION 18. 440.03 (13) (b) 57m. of the statutes is repealed.

SECTION 19. 440.03 (13) (b) 58. of the statutes is repealed.

SECTION 20. 440.05 (intro.) of the statutes is amended to read:

440.05 Standard fees. (intro.) The following standard fees apply to all initial credentials, except as provided in ss. ~~440.42, 440.43, 440.44,~~ 440.51, 444.03, 444.11, 446.02 (2) (c), 447.04 (2) (c) 2., 449.17 (1m) (d), and 449.18 (2) (d):

1 **SECTION 21.** 440.08 (2) (a) 23m. of the statutes is repealed.

2 **SECTION 22.** 440.08 (2) (a) 35m. of the statutes is repealed.

3 **SECTION 23.** 440.08 (2) (a) 63p. of the statutes is repealed.

4 **SECTION 24.** 440.08 (2) (a) 63t. of the statutes is repealed.

5 **SECTION 25.** Subchapter IV (title) of chapter 440 [precedes 440.41] of the
6 statutes is renumbered subchapter II (title) of chapter 202 [precedes 202.11].

7 **SECTION 26.** 440.41 (intro.) of the statutes is renumbered 202.11 (intro.).

8 **SECTION 27.** 440.41 (1) of the statutes is renumbered 202.11 (1).

9 **SECTION 28.** 440.41 (2) (intro.) of the statutes is renumbered 202.11 (2) (intro.).

10 **SECTION 29.** 440.41 (2) (a) of the statutes is renumbered 202.11 (2) (a).

11 **SECTION 30.** 440.41 (2) (b) of the statutes is renumbered 202.11 (2) (b) and
12 amended to read:

13 202.11 **(2)** (b) A benevolent, educational, philanthropic, humane, scientific,
14 patriotic, social welfare or advocacy, public health, environmental conservation,
15 civic, or other eleemosynary objective.

16 **SECTION 31.** 440.41 (3) of the statutes is renumbered 202.11 (3) and amended
17 to read:

18 202.11 **(3)** "Charitable sales promotion" means an advertising or sales
19 campaign~~,~~ <u>that is</u> conducted by a person who is regularly and primarily engaged in
20 trade or commerce for profit other than in connection with soliciting~~, which~~ <u>and that</u>
21 represents that the purchase or use of goods or services offered will benefit, in whole
22 or in part, a charitable organization or charitable purpose.

23 **SECTION 32.** 440.41 (4) of the statutes is renumbered 202.11 (4).

24 **SECTION 33.** 440.41 (5) of the statutes is renumbered 202.11 (5) (intro.) and
25 amended to read:

1 202.11 **(5)** (intro.) "Contribution" means a grant or pledge of money, credit,
2 property, or other thing of any kind or value, except used clothing or household goods,
3 to a charitable organization or for a charitable purpose. "Contribution" does not
4 include income from ~~bingo~~ any of the following:

5 (a) Bingo or raffles conducted under ch. 563~~, a~~.

6 (b) A government grant~~, or a~~.

7 (c) A bona fide fee, due, or assessment paid by a member of a charitable
8 organization, except that, if initial membership in a charitable organization is
9 conferred solely as consideration for making a grant or pledge of money to the
10 charitable organization in response to a solicitation, ~~the~~ that grant or pledge of
11 money is a contribution.

12 **SECTION 34.** 440.41 (6) of the statutes is renumbered 202.11 (6) (intro.) and
13 amended to read:

14 202.11 **(6)** (intro.) "Fund–raising counsel" means a person who, for
15 compensation, plans, manages, advises, consults, or prepares material for, or with
16 respect to, solicitation in this state for a charitable organization, but who does not
17 solicit ~~and who does not~~ in this state or employ, engage, or provide any person who
18 is paid to solicit ~~contributions~~ in this state. "Fund–raising counsel" does not include
19 ~~an~~ any of the following:

20 (a) An attorney, investment counselor, or employee of a financial institution
21 who, in the normal course of his or her work as an attorney, investment counselor,
22 or employee of a financial institution, advises a person to make a contribution ~~or a~~.

23 (b) A bona fide employee, volunteer, or salaried officer of a charitable
24 organization.

1 **SECTION 35.** 440.41 (7) of the statutes is renumbered 202.11 (7) (intro.) and
2 amended to read:
3 202.11 **(7)** (intro.) "Professional fund–raiser" means a person who, for
4 compensation, solicits in this state or employs, engages, or provides, directly or
5 indirectly, another person who is paid to solicit in this state. "Professional
6 fund–raiser" does not include ~~an~~ any of the following:
7 (a) An attorney, investment counselor, or employee of a financial institution
8 who, in the normal course of his or her work as an attorney, investment counselor,
9 or employee of a financial institution, advises a person to make a charitable
10 contribution~~, a~~.
11 (b) A bona fide employee, volunteer, wholly owned subsidiary, or salaried officer
12 of a charitable organization~~, an~~.
13 (c) An employee of a temporary help agency who is placed with a charitable
14 organization ~~or a~~.
15 (d) A bona fide employee of a person who employs another person to solicit in
16 this state.
17 **SECTION 36.** 440.41 (8) of the statutes is renumbered 202.11 (8).
18 **SECTION 37.** 440.41 (9) (intro.) of the statutes is renumbered 202.11 (9) (intro.).
19 **SECTION 38.** 440.41 (9) (a) of the statutes is renumbered 202.11 (9) (a).
20 **SECTION 39.** 440.41 (9) (b) of the statutes is renumbered 202.11 (9) (b) and
21 amended to read:
22 202.11 **(9)** (b) An announcement to the news media or by radio, television,
23 telephone, telegraph, or other transmission of images or information concerning ~~the~~
24 a request for ~~contributions~~ a contribution by or for a charitable organization or for
25 a charitable purpose.

1 **SECTION 40.** 440.41 (9) (c) of the statutes is renumbered 202.11 (9) (c) and
2 amended to read:

3 202.11 **(9)** (c) The distribution or posting of a handbill, written advertisement,
4 or other publication ~~which~~ that directly or by implication seeks ~~contributions~~ a
5 contribution.

6 **SECTION 41.** 440.41 (9) (d) (intro.) of the statutes is renumbered 202.11 (9) (d)
7 (intro.) and amended to read:

8 202.11 **(9)** (d) (intro.) The sale of, or offer or attempt to sell, a membership or
9 an advertisement, advertising space, book, card, tag, coupon, device, magazine,
10 merchandise, subscription, flower, ticket, candy, cookie, or other tangible item in
11 connection with any of the following:

12 **SECTION 42.** 440.41 (9) (d) 1. of the statutes is renumbered 202.11 (9) (d) 1.

13 **SECTION 43.** 440.41 (9) (d) 2. of the statutes is renumbered 202.11 (9) (d) 2.

14 **SECTION 44.** 440.41 (9) (d) 3. of the statutes is renumbered 202.11 (9) (d) 3.

15 **SECTION 45.** 440.41 (10) of the statutes is renumbered 202.11 (10).

16 **SECTION 46.** 440.42 of the statutes is renumbered 202.12, and 202.12 (1) (b) 3.,
17 (c) and (d), (2) (b), (c), (g) and (L) 1. and 2., (3) (a) 2., (5) (a) 1., 2., 3., 3m. and 5. and
18 (7) (a), (b) and (c), as renumbered, are amended to read:

19 202.12 **(1)** (b) 3. Pays to the department ~~a $15~~ the registration fee determined
20 by the department under s. 202.08.

21 (c) The department shall issue a certificate of registration to each charitable
22 organization that is registered under this subsection. Renewal applications shall be
23 submitted to the department, ~~on~~ in a form ~~provided~~ and manner prescribed by the
24 department, ~~on or before the expiration date specified in s. 440.08 (2) (a)~~ by August

1 1 of each year and shall include a registration statement that complies with sub. (2)
2 and the renewal fee determined by the department under s. ~~440.03 (9) (a)~~ 202.08.
3 (d) ~~Within 20 days after receiving~~ Upon the department's review of an
4 application for registration or for renewal of a registration under this subsection, the
5 department shall notify the charitable organization of any deficiencies in the
6 application, registration statement, or fee payment.
7 **(2)** (b) The address and telephone number, and electronic mail address, if
8 available of the charitable organization and the address and telephone number of
9 any offices in this state or, if the charitable organization does not have an address,
10 the name, address, and telephone number of the person having custody of its
11 financial records.
12 (c) The names and the addresses of the officers, directors ~~and~~, trustees, and ~~the~~
13 principal salaried employees of the charitable organization.
14 (g) A statement of whether the charitable organization has ever had its
15 authority to solicit denied, suspended, revoked, or enjoined by a court or other
16 governmental authority.
17 (L) 1. A copy of the charitable organization's charter, articles of organization,
18 agreement of association, instrument of trust, constitution, or other organizational
19 instrument and bylaws.
20 2. A statement of the place where and the date when the charitable
21 organization was legally established, the form of its organization, and whether it has
22 tax–exempt status.
23 **(3)** (a) 2. A statement of support, revenue, expenses, and changes in fund
24 balance.

1 **(5)** (a) 1. A person that is exempt from filing a federal annual information
2 return under section 6033 (a) ~~(2)~~ (3) (A) (i) and (iii) and (C) (i) of the ~~internal revenue~~
3 ~~code~~ Internal Revenue Code.

4 2. A candidate for national, state, or local office or a political party or other
5 committee or group required to file financial information with the federal elections
6 commission or a filing officer under s. 11.02.

7 3. Except as provided in par. (b) and in rules promulgated under sub. (8), a
8 charitable organization ~~which~~ that does not intend to raise or receive contributions
9 in excess of $5,000 during a fiscal year, if all of its functions, including solicitation,
10 are performed by persons who are unpaid for their services and if no part of its assets
11 or income inures to the benefit of, or is paid to, any officer or member of the charitable
12 organization.

13 3m. A fraternal, civic, benevolent, patriotic, or social organization that solicits
14 contributions solely from its membership.

15 5. A nonprofit, postsecondary educational institution accredited by a regional
16 accrediting agency or association approved under 20 USC 1099b, or an educational
17 institution and its authorized charitable foundations ~~which~~ that solicit contributions
18 only from its students and their families, alumni, faculty, trustees, corporations,
19 foundations, and patients.

20 **(7)** (a) Before a fund–raising counsel performs any material services for a
21 charitable organization that is required to be registered under sub. (1), the charitable
22 organization shall contract in writing with the fund–raising counsel, except as
23 provided in par. (c). Requirements for the contract are specified in s. ~~440.43~~ 202.13
24 (3).

(b) Before a professional fund–raiser performs any material services for a charitable organization that is required to be registered under sub. (1), the charitable organization shall contract in writing with the professional fund–raiser. Requirements for the contract are specified in s. ~~440.44~~ 202.14 (4).

(c) Paragraph (a) does not apply if the fund–raising counsel is exempt under s. ~~440.43~~ 202.13 (6) from contracting in writing with the charitable organization.

SECTION 47. 440.43 of the statutes is renumbered 202.13, and 202.13 (1) (a), (b) 3. and (c), (3), (5) and (6), as renumbered, are amended to read:

202.13 **(1)** (a) Except as provided in sub. (6), no fund–raising counsel may at any time have custody of contributions from a solicitation for a charitable organization that is required to be registered under s. ~~440.42~~ 202.12 (1) unless the fund–raising counsel is registered with the department under this subsection.

(b) 3. Pays to the department ~~a $50~~ the registration fee determined by the department under s. 202.08, except that no registration fee is required under this subdivision for an individual who is eligible for the veterans fee waiver program under s. 45.44.

(c) The department shall issue a certificate of registration to each fund–raising counsel that is registered under this subsection. Renewal applications shall be submitted to the department, ~~on~~ in a form ~~provided~~ and manner prescribed by the department, ~~on or before the date specified in s. 440.08 (2) (a)~~ by September 1 of each even–numbered year and shall include the renewal fee determined by the department under s. ~~440.03 (9) (a)~~ 202.08 and evidence satisfactory to the department that the fund–raising counsel maintains a bond that is approved under sub. (2).

1 **(3)** CONTRACT. Except as provided in sub. (6), before a fund–raising counsel
2 performs any material services for a charitable organization that is required to be
3 registered under s. ~~440.42~~ 202.12 (1), the charitable organization and the
4 fund–raising counsel shall contract in writing, and the fund–raising counsel shall
5 file the contract with the department. The contract shall contain information that
6 will enable the department to identify the services that the fund–raising counsel is
7 to provide, including whether the fund–raising counsel will at any time have custody
8 of contributions.

9 **(5)** DEPARTMENT DISCLOSURE. The department shall not disclose information
10 under sub. (4) (c) 1. except to the extent necessary for investigative or law
11 enforcement purposes and except that the department may, if requested under s.
12 49.22 (2m), disclose information regarding the name, address, or employer of or
13 financial information related to an individual to the department of children and
14 families or a county child support agency under s. 59.53 (5).

15 **(6)** EXCEPTIONS. This section does not apply to a fund–raising counsel who does
16 not intend to earn more than $1,000 per year as a fund–raising counsel, except that
17 a fund–raising counsel who does not intend to earn more than $1,000 but does earn
18 more than $1,000 in a year shall, beginning 30 days after actually earning more than
19 $1,000 in a year, comply with sub. (3) and, if the fund–raising counsel at any time has
20 custody of contributions for a charitable organization that is required to be registered
21 under s. ~~440.42~~ 202.12 (1), register under sub. (1).

22 **SECTION 48.** 440.44 of the statutes is renumbered 202.14, and 202.14 (1) (a),
23 (b) 3., (c) and (d), (3) (intro.), (4) (a), (7), (8), (9) (a) 2. and (10), as renumbered, are
24 amended to read:

202.14 **(1)** (a) No professional fund–raiser may solicit in this state for a charitable organization that is required to be registered under s. ~~440.42~~ 202.12 (1) unless the professional fund–raiser is registered under this subsection.

(b) 3. Pays ~~to the department a $50~~ the registration fee determined by the department under s. 202.08, except that no registration fee is required under this subdivision for an individual who is eligible for the veterans fee waiver program under s. 45.44.

(c) The department shall issue a certificate of registration to each professional fund–raiser that is registered under this subsection. Renewal applications shall be submitted to the department, ~~on~~ in a form ~~provided~~ and manner prescribed by the department, ~~on or before the date specified in s. 440.08 (2) (a)~~ by September 1 of each even–numbered year and shall include the renewal fee determined by the department under s. ~~440.03 (9) (a)~~ 202.08 and evidence satisfactory to the department that the professional fund–raiser maintains a bond that is approved under sub. (2).

(d) ~~Within 20 days after receiving~~ Upon the department's review of an application for registration or for renewal of a registration under this subsection, the department shall notify the professional fund–raiser of any deficiencies in the application, bond, or fee payment.

(3) (intro.) Before performing services under a contract with a charitable organization that is required to be registered under s. ~~440.42~~ 202.12 (1), a professional fund–raiser shall file with the department a completed solicitation notice in the form and manner prescribed by the department. The charitable organization on whose behalf the professional fund–raiser is acting shall file with the department a written confirmation that the solicitation notice and any

accompanying material are true and complete to the best of its knowledge. The solicitation notice shall include all of the following:

(4) (a) A professional fund–raiser and a charitable organization that is required to be registered under s. ~~440.42~~ 202.12 (1) shall enter into a written contract that clearly states the respective obligations of the professional fund–raiser and the charitable organization and states the amount of gross revenue, raised under the contract, that the charitable organization will receive. The amount of the gross revenue that the charitable organization will receive shall be expressed as a fixed percentage of the gross revenue or as an estimated percentage of the gross revenue, as provided in pars. (b) to (d).

(7) FINANCIAL REPORT. Within 90 days after completing services under a contract described in sub. (4), and on the anniversary of the signing of a contract described under sub. (4) lasting more than one year, the professional fund–raiser shall, if the charitable organization is required to be registered under s. ~~440.42~~ 202.12 (1), account in writing to the charitable organization for all contributions received and all expenses incurred under the contract. The charitable organization shall retain the accounting for at least 3 years and make it available to the department upon request.

(8) DEPOSITING CONTRIBUTIONS. A professional fund–raiser shall deposit, in its entirety, a contribution of money received by the professional fund–raiser, on behalf of a charitable organization required to be registered under s. ~~440.42~~ 202.12 (1), in an account at a financial institution within 5 days after its receipt. The account shall be in the name of the charitable organization. The charitable organization shall have sole control of all withdrawals from the account.

1 **(9)** (a) 2. The name and residence address of each employee, agent, or other
2 person involved in the solicitation.

3 **(10)** NONDISCLOSURE. The department may not disclose information under sub.
4 (9) (a) 1. to any person except to the extent necessary for investigative or law
5 enforcement purposes and except that the department may, if requested under s.
6 49.22 (2m), disclose information regarding the name, address, or employer of or
7 financial information related to an individual to the department of children and
8 families or a county child support agency under s. 59.53 (5).

9 **SECTION 49.** 440.45 of the statutes is renumbered 202.15 and amended to read:

10 **202.15 Charitable sales promotions.** If a commercial coventurer conducts
11 a charitable sales promotion on behalf of a charitable organization that is required
12 to be registered under s. ~~440.42~~ 202.12 (1), the commercial coventurer shall disclose
13 in each advertisement for the charitable sales promotion the dollar amount, or
14 percentage of price, per unit of goods or services purchased or used that will benefit
15 the charitable organization or charitable purpose. If the actual dollar amount or
16 percentage cannot reasonably be determined on the date of the advertisement, the
17 commercial coventurer shall disclose an estimated dollar amount or percentage. The
18 estimate shall be based upon all of the relevant facts known to the commercial
19 coventurer and to the charitable organization regarding the charitable sales
20 promotion.

21 **SECTION 50.** 440.455 of the statutes is renumbered 202.155, and 202.155 (1)
22 (intro.) and (b), (2) and (3) (intro.), as renumbered, are amended to read:

23 202.155 **(1)** (intro.) Except as provided in sub. (4), if a professional fund–raiser
24 or unpaid solicitor solicits a contribution for a charitable organization that is
25 required to be registered under s. ~~440.42~~ 202.12 (1), the professional fund–raiser or

unpaid solicitor shall, at the time of the solicitation or with a written confirmation of a solicitation, prior to accepting a contribution, make the following disclosures to the person from whom the contribution is solicited:

(b) That a financial statement of the charitable organization disclosing assets, liabilities, fund balances, revenue, and expenses for the preceding fiscal year will be provided to the person upon request.

(2) The financial statement under sub. (1) (b) shall, at a minimum, divide expenses into categories of management and general, program services and fund–raising. If the charitable organization is required to file an annual financial report under s. ~~440.42~~ 202.12 (3) (a), the financial statement under sub. (1) (b) shall be consistent with that annual financial report.

(3) (intro.) In addition to the requirements under subs. (1) and (2), except as provided in sub. (4), if a professional fund–raiser solicits on behalf of a charitable organization that is required to be registered under s. ~~440.42~~ 202.12 (1), all of the following apply:

SECTION 51. 440.46 of the statutes is renumbered 202.16, and 202.16 (1) (intro.), (b), (c), (e) and (g), as renumbered, are amended to read:

202.16 **(1)** (intro.) No person may, in the planning, management, or execution of a solicitation or charitable sales promotion, do any of the following:

(b) Imply that a contribution is for or on behalf of a charitable organization or use any emblem, device, or printed matter belonging to or associated with a charitable organization without first being authorized in writing to do so by the charitable organization.

(c) Use a name, symbol, or statement so closely related or similar to that used by another charitable organization that the use of the name, symbol, or statement would tend to confuse or mislead a person being solicited.

(e) Lead anyone in any manner to believe that another person sponsors, endorses, or approves a solicitation or charitable sales promotion if the other person has not sponsored, endorsed, or approved the solicitation or charitable sales promotion in writing.

(g) Represent directly or by implication that a charitable organization will receive a fixed or estimated percentage of the gross revenue raised greater than that established under s. ~~440.44~~ 202.14 (4).

SECTION 52. 440.47 of the statutes is renumbered 202.17, and 202.17 (1), (2), (3) and (5), as renumbered, are amended to read:

202.17 **(1)** PUBLIC RECORDS. Except as provided in ss. ~~440.43~~ 202.13 (5) and ~~440.44~~ 202.14 (10), registration statements, applications, reports, contracts, and agreements of charitable organizations, fund–raising counsel, professional fund–raisers, and unpaid solicitors and all other documents and information retained by or filed with the department under this subchapter are available for inspection or copying under s. 19.35 (1).

(2) FISCAL RECORDS; INSPECTION; RETENTION. All charitable organizations, fund–raising counsels, professional fund–raisers, and unpaid solicitors shall keep true records concerning activities regulated by this subchapter in a form that will enable them accurately to provide the information required by this subchapter. Upon demand, those records shall be made available to the department for inspection and copying. The records shall be retained by the charitable organization,

fund–raising counsel, professional fund–raiser, or unpaid solicitor for at least 3 years after the end of the fiscal year to which they relate.

(3) EXCHANGE OF INFORMATION. The department may exchange with the appropriate authority of any other state or of the United States information with respect to charitable organizations, fund–raising counsel, professional fund–raisers, unpaid solicitors, and commercial coventurers.

(5) SUBSTITUTE SERVICE UPON DEPARTMENT ~~OF FINANCIAL INSTITUTIONS~~. A charitable organization, fund–raising counsel, professional fund–raiser, or commercial coventurer that has its principal place of business outside of this state or is organized under laws other than the laws of this state and that is subject to this subchapter shall be considered to have irrevocably appointed the department ~~of financial institutions~~ as its agent for the service of process or notice directed to the charitable organization, fund–raising counsel, professional fund–raiser, or commercial coventurer or to any of its partners, principal officers, or directors in an action or proceeding brought under this subchapter. Service of process or notice upon the department ~~of financial institutions~~ shall be made by personally delivering to and leaving with the department ~~of financial institutions~~ a copy of the process or notice. That service shall be sufficient service if the department ~~of financial institutions~~ immediately sends notice of the service and a copy of the process or notice to the charitable organization, fund–raising counsel, professional fund–raiser, commercial coventurer, or other person to whom it is directed by registered mail, with return receipt requested, at the last address known to the department ~~of financial institutions~~.

SECTION 53. 440.475 of the statutes is repealed.

1 **SECTION 54.** 440.48 of the statutes is renumbered 202.18, and 202.18 (1) (b),
2 (c) 1. and 2. (intro.) and a., (d) and (e), as renumbered, are amended to read:
3 202.18 **(1)** (b) Upon finding that a person has violated this subchapter or the
4 applicable rules promulgated under s. 202.095 or this subchapter, the court may
5 make any necessary order or judgment, including but not limited to injunctions,
6 restitution, and, notwithstanding s. 814.04, award of reasonable attorney fees and
7 costs of investigation and litigation, and, except as provided in par. (c), may impose
8 a forfeiture of not less than $100 nor more than $10,000 for each violation.
9 (c) 1. A person who violates s. ~~440.47~~ 202.17 (4) (b) may be required to forfeit
10 not more than $5,000, unless the person establishes reasonable cause for the
11 violation.
12 2. (intro.) A person who, with intent to avoid, prevent, or interfere with a civil
13 investigation under this subsection, does any of the following may be required to
14 forfeit not more than $5,000:
15 a. Alters or by any other means falsifies, removes from any place, conceals,
16 withholds, destroys, or mutilates any documentary material in the possession,
17 custody, or control of a person subject to notice of the taking of testimony or
18 examination of documents under s. ~~440.47~~ 202.17 (4).
19 (d) A charitable organization, fund–raising counsel, professional fund–raiser,
20 commercial coventurer, or any other person who violates the terms of an injunction
21 or other order entered under this subsection may be required to forfeit, in addition
22 to all other remedies, not less than $1,000 nor more than $10,000 for each violation.
23 The department of justice may recover the forfeiture in a civil action. Each separate
24 violation of an order entered under this subsection is a separate offense, except that

each day of a violation through continuing failure to obey an order is a separate offense.

(e) No charitable organization may indemnify an officer, employee, or director for any costs, fees, restitution, or forfeitures assessed against that individual by the court under par. (b), (c), or (d) unless the court determines that the individual acted in good faith and reasonably believed the conduct was in or not opposed to the best interests of the charitable organization.

SECTION 55. Chapter 461 (title) of the statutes is renumbered subchapter III (title) of chapter 202 [precedes 202.21].

SECTION 56. 461.01 of the statutes is renumbered 202.21, and 202.21 (intro.), (1) and (6) of the statutes, as renumbered, are amended to read:

202.21 Definitions. (intro.) In this ~~chapter~~ subchapter:

(1) "Applicant" means a professional employer organization or a professional employer group that applies for registration under s. ~~461.02~~ 202.22.

(6) "Registrant" means a professional employer organization or a professional employer group that is registered under s. ~~461.02~~ 202.22.

SECTION 57. 461.02 (title) of the statutes is renumbered 202.22 (title).

SECTION 58. 461.02 (1) of the statutes is renumbered 202.22 (1), and 202.22 (1) (b), as renumbered, is amended to read:

202.22 **(1)** (b) No person may designate as the person's title, or append to the person's name the words or letters, "professional employer organization," "P.E.O.," "professional employer group," "P.E.G.," "staff leasing company," "registered staff leasing company," "employee leasing company," or "administrative employer," or other similar titles or letters, or use ~~these~~ those titles, words, or letters to describe the person's business or represent that the person or the person's business is

registered or licensed as a "professional employer organization," "P.E.O.," "professional employer group," "P.E.G.," "staff leasing company," "registered staff leasing company," "employee leasing company," or "administrative employer," unless the person is registered ~~by the department~~ under this ~~chapter~~ section.

SECTION 59. 461.02 (2) of the statutes is renumbered 202.22 (2), and 202.22 (2) (intro.), (d) and (e), as renumbered, are amended to read:

202.22 **(2)** APPLICATION FOR REGISTRATION. (intro.) Except as provided in sub. (7) (b), an applicant for registration under this section shall submit to the department an application for registration ~~on~~ in a form and manner prescribed by the department, together with the registration fee determined by the department under s. ~~440.03 (9) (a)~~ 202.08 and all of the following:

(d) A statement of ownership, which shall include the name and business experience of every controlling person, as defined in s. ~~461.01~~ 202.21 (3) (a), of the applicant.

(e) A statement of management, which shall include the name and business experience of every controlling person, as defined in s. ~~461.01~~ 202.21 (3) (b), of the applicant.

SECTION 60. 461.02 (3) of the statutes is repealed.

SECTION 61. 461.02 (4) of the statutes is renumbered 202.22 (4), and 202.22 (4) (a), as renumbered, is amended to read:

202.22 **(4)** (a) ~~Renewal applications~~ A registrant shall ~~be submitted~~ submit a renewal application, together with the ~~applicable~~ renewal fee determined by the department under s. ~~440.03 (9) (a)~~ 202.08, to the department ~~on~~ in a form ~~provided~~ and manner prescribed by the department ~~on or before the applicable renewal date specified under s. 440.08 (2) (a)~~ by July 1 of each year. Except as provided in pars.

(b) and (c) and sub. (7) (b), ~~the~~ a registrant shall submit with each renewal application ~~shall be accompanied by~~ a financial statement, as ~~that term is used~~ specified in sub. (2) (f) 1., updated to reflect the current financial condition of the registrant.

SECTION 62. 461.02 (5) (title) of the statutes is renumbered 202.22 (5) (title).

SECTION 63. 461.02 (5) (a) of the statutes is renumbered 202.22 (5) (a) and amended to read:

202.22 **(5)** (a) Except as provided in sub. (7) (b), a professional employer organization or professional employer group that is domiciled outside this state, that is registered or licensed as a professional employer organization or professional employer group in another state, that does not maintain an office in this state or directly solicit clients that are located or domiciled in this state, and that has no more than 50 employees performing services for clients in this state on any given day may apply for small operations registration under this section by ~~filing with~~ submitting to the department ~~a~~ an application for small operations registration in a form and manner prescribed by the department and paying the initial ~~credential~~ registration fee determined by the department under s. ~~440.03 (9) (a)~~ 202.08. An applicant that is seeking small operations registration shall, in addition to the information required under sub. (2) (a) to (e), provide the department with information and documentation showing that the applicant meets the qualifications specified in this paragraph for small operations registration.

SECTION 64. 461.02 (5) (b) of the statutes is repealed.

SECTION 65. 461.02 (5) (c) of the statutes is repealed.

SECTION 66. 461.02 (5) (d) of the statutes is renumbered 202.22 (5) (d).

1 **SECTION 67.** 461.02 (5) (e) of the statutes is renumbered 202.22 (5) (e) and
2 amended to read:

3 202.22 **(5)** (e) A professional employer organization or professional employer
4 group registered under this subsection is not required to comply with the financial
5 capability requirement under s. ~~461.03~~ 202.23.

6 **SECTION 68.** 461.02 (6) of the statutes is renumbered 202.22 (6) and amended
7 to read:

8 202.22 **(6)** PROFESSIONAL EMPLOYER GROUP REGISTRATION. Except as provided in
9 sub. (7) (b), 2 or more professional employer organizations that are part of a
10 professional employer group may register under this section or renew a registration
11 by providing the information required under sub. (2), (4), or (5) on a combined or
12 consolidated basis, paying the initial ~~credential~~ registration or renewal fee
13 determined by the department under s. ~~440.03 (9) (a)~~ 202.08, and guaranteeing each
14 other's obligations. If a professional employer group provides a combined or
15 consolidated financial statement under sub. (2) (f) 1. that includes the financial
16 condition of entities that are not part of the professional employer group, the
17 controlling person ~~controlling the professional employer group~~ shall guarantee the
18 obligations of the professional employer organizations in the professional employer
19 group.

20 **SECTION 69.** 461.02 (7) of the statutes is renumbered 202.22 (7), and 202.22 (7)
21 (a), (b) and (c), as renumbered, are amended to read:

22 202.22 **(7)** (a) The department shall by rule provide for registration of a
23 professional employer organization or professional employer group on acceptance by
24 the department of a registration form, financial statement, or any other information
25 or documentation required under sub. (2), (4), (5), or (6), s. ~~461.03~~ 202.23, or rules

promulgated under s. ~~461.06~~ 202.095 or 202.26 in the form of an electronic record, as defined in s. 137.11 (7) and, if a signature is required, on acceptance of an electronic signature, as defined in s. 137.11 (8).

(b) The department may by rule provide for registration of a professional employer organization or professional employer group without compliance with sub. (2), (4), (5), or (6), s. ~~461.03~~ 202.23, or rules promulgated under s. ~~461.06~~ 202.095 or 202.26 on acceptance by the department of assurance, provided by a bonded, independent, and qualified assurance organization that has been approved by the department, ~~that provides assurance~~ satisfactory to the department that the professional employer organization or professional employer group is qualified to operate as a professional employer organization or a professional employer group in this state.

(c) This subsection does not limit the authority of the department to require a professional employer organization or professional employer group to register as provided in sub. (2), (4), (5), or (6), to maintain proof of financial capability as required under s. ~~461.03~~ 202.23, or to comply with this chapter and the rules promulgated under s. ~~461.06~~ 202.095 or 202.26; to investigate an applicant or registrant and deny registration or renewal registration under sub. (8), or to investigate an applicant, registrant. or controlling person and take disciplinary action under s. ~~461.05~~ 202.06.

SECTION 70. 461.02 (8) of the statutes is renumbered 202.22 (8) and amended to read:

202.22 **(8)** ISSUANCE OF REGISTRATION. The department shall investigate each applicant or registrant who submits to the department an application for registration or registration renewal under this section, together with the applicable

registration or registration renewal fee, to determine whether the applicant or registrant is qualified for registration or for renewal registration. Except as provided in ~~s. 440.12 and 440.13~~ ss. 202.03 and 202.035, the department shall issue a registration or renewal registration if, after completing the investigation, the department determines that the applicant or registrant meets the applicable requirements under this chapter and rules promulgated under s. ~~461.06~~ 202.095 or 202.26 for issuance or renewal of a registration and is satisfied that the applicant or registrant will comply with this chapter and those rules.

SECTION 71. 461.02 (9) of the statutes is renumbered 202.22 (9).

SECTION 72. 461.03 of the statutes is renumbered 202.23 and amended to read:

202.23 Financial capability. Except as provided in s. ~~461.02~~ 202.22 (5) (e) or (7) (b), a professional employer organization or professional employer group shall maintain one of the following:

(1) WORKING CAPITAL REQUIREMENT. Working capital, as defined by generally accepted accounting principals, of not less than $100,000, as shown in the financial statement submitted to the department under s. ~~461.02~~ 202.22 (2) (f) 1., (4), or (6). If a professional employer organization or professional employer group has less than $100,000 in working capital, the department may issue a registration or renewal registration contingent on the registrant meeting the working capital requirement of this subsection no later than 180 days after the issuance of the registration or renewal registration. During the period of contingent registration, the registrant shall submit quarterly financial statements to the department accompanied by an attestation by the chief executive officer of the registrant that all wages, salaries, employee benefits, worker's compensation insurance premiums, payroll taxes, unemployment insurance contributions, and other amounts that are payable to or

with respect to an employee of the registrant performing services for a client were paid by the registrant when due.

(2) ALTERNATIVE COMMITMENT. A bond, certificate of deposit, escrow account, or irrevocable letter of credit in an amount that is not less than $100,000 or, if the financial statement submitted to the department under s. ~~461.02~~ 202.22 (2) (f) 1., (4), or (6) indicates a deficit in working capital, a bond, certificate of deposit, escrow account, or irrevocable letter of credit in an amount that is not less than $100,000 plus an amount that is sufficient to cover that deficit. The commitment described in this subsection shall be in a form approved by the department, shall be held in a depository designated by the department, and shall secure the payment by the professional employer organization or professional employer group of any wages, salaries, employee benefits, worker's compensation insurance premiums, payroll taxes, unemployment insurance contributions, or other amounts that are payable to or with respect to an employee performing services for a client if the professional employer organization or professional employer group does not make those payments when due. The commitment shall be established in favor of or be made payable to the department, for the benefit of the state and any employee to whom or with respect to whom the professional employer organization or professional employer group does not make a payment described in this subsection when due. The professional employer organization or professional employer group shall file with the department any agreement, instrument, or other document that is necessary to enforce the commitment against the professional employer organization or professional employer group, or against any relevant 3rd party, or both.

SECTION 73. 461.04 of the statutes is renumbered 202.24, and 202.24 (3), as renumbered, is amended to read:

1 202.24 **(3)** LICENSING. Nothing in this ~~chapter~~ subchapter or in any contract for
2 the provision of the nontemporary, ongoing workforce of a client may be construed
3 to affect or impair any federal, state, or local licensing, registration, or certification
4 requirement that is applicable to a client or to an employee performing services for
5 a client.

6 **SECTION 74.** 461.05 of the statutes is repealed.

7 **SECTION 75.** 461.06 of the statutes is renumbered 202.26, and 202.26 (intro.),
8 (1) and (3), as renumbered, are amended to read:

9 **202.26 Rules.** (intro.) The rules the department ~~shall promulgate rules to~~
10 promulgates under s. 202.095 that implement this ~~chapter. Those rules~~ subchapter
11 shall include rules providing for all of the following:

12 **(1)** Alternative registration of professional employer organizations under s.
13 ~~461.02~~ 202.22 (7) (a) and (b).

14 **(3)** Minimum requirements for issuance or renewal of a registration under s.
15 ~~461.02~~ 202.22 (8).

16 **SECTION 76.** 461.10 of the statutes is renumbered 202.29 and amended to read:

17 **202.29 Short title.** This ~~chapter~~ subchapter shall be known as the "Wisconsin
18 Professional Employer Organizations Act."

19 **SECTION 77.** 635.02 (7) (b) 3. of the statutes is amended to read:

20 635.02 **(7)** (b) 3. A professional employer organization, as defined in s. ~~461.01~~
21 202.21 (5), or a professional employer group, as defined in s. ~~461.01~~ 202.21 (4), that
22 provides health care benefits to more than 50 employees performing services for a
23 client, as defined in s. ~~461.01~~ 202.21 (2).

24 **SECTION 9138. Nonstatutory provisions; Safety and Professional**
25 **Services.**

1 (1) TRANSFER OF REGULATION OF CHARITABLE ORGANIZATIONS, FUND–RAISING
2 COUNSEL, PROFESSIONAL FUND–RAISERS, PROFESSIONAL EMPLOYER ORGANIZATIONS, AND
3 PROFESSIONAL EMPLOYER GROUPS.

4 (a) *Assets and liabilities.* On the effective date of this paragraph, the assets and
5 liabilities of the department of safety and professional services primarily related to
6 the regulation of charitable organizations, fund–raising counsel, professional
7 fund–raisers, professional employer organizations, and professional employer
8 groups, as determined by the secretary of administration, including any
9 unencumbered moneys from fees the department of safety and professional services
10 has collected from charitable organizations, fund–raising counsel, professional
11 fund–raisers, professional employer organizations, and professional employer
12 groups, shall become the assets and liabilities of the department of financial
13 institutions.

14 (b) *Tangible personal property.* On the effective date of this paragraph, all
15 tangible personal property, including records, of the department of safety and
16 professional services that is primarily related to the regulation of charitable
17 organizations, fund–raising counsel, professional fund–raisers, professional
18 employer organizations, and professional employer groups, as determined by the
19 secretary of administration, is transferred to the department of financial
20 institutions.

21 (c) *Contracts.* All contracts entered into by the department of safety and
22 professional services in effect on the effective date of this paragraph that are
23 primarily related to the regulation of charitable organizations, fund–raising counsel,
24 professional fund–raisers, professional employer organizations, and professional
25 employer groups, as determined by the secretary of administration, remain in effect

1 and are transferred to the department of financial institutions. The department of
2 financial institutions shall carry out any obligations under such a contract until the
3 contract is modified or rescinded by the department of financial institutions to the
4 extent allowed under the contract.

5 (d) *Employee transfers.* On the effective date of this paragraph, all positions,
6 and the incumbent employees who hold those positions, in the department of safety
7 and professional services with duties that are primarily related to the regulation of
8 charitable organizations, fund–raising counsel, professional fund–raisers,
9 professional employer organizations, and professional employer groups, as
10 determined by the secretary of administration, are transferred to the department of
11 financial institutions.

12 (e) *Employee status.* Employees transferred under paragraph (d) have all the
13 rights and the same status under subchapter V of chapter 111 and chapter 230 of the
14 statutes in the department of financial institutions that they enjoyed in the
15 department of safety and professional services immediately before the transfer.
16 Notwithstanding section 230.28 (4) of the statutes, no employee so transferred who
17 has attained permanent status in class is required to serve a probationary period.

18 (f) *Rules and orders.* All rules promulgated by the department of safety and
19 professional services that relate to the regulation of charitable organizations,
20 fund–raising counsel, professional fund–raisers, professional employer
21 organizations, and professional employer groups, that are in effect on the effective
22 date of this paragraph, remain in effect until their specified expiration dates or until
23 amended or repealed by the department of financial institutions. All orders issued
24 by the department of safety and professional services relating to the regulation of
25 charitable organizations, fund–raising counsel, professional fund–raisers,

1 professional employer organizations, and professional employer groups that are in
2 effect on the effective date of this paragraph remain in effect until their specified
3 expiration dates or until modified or rescinded by the department of financial
4 institutions.

5 (g) *Pending matters.* Any matter pending with the department of safety and
6 professional services on the effective date of this paragraph that is primarily related
7 to the regulation of charitable organizations, fund–raising counsel, professional
8 fund–raisers, professional employer organizations, and professional employer
9 groups, as determined by the secretary of administration, is transferred to the
10 department of financial institutions and all materials submitted to or actions taken
11 by the department of safety and professional services with respect to the pending
12 matters are considered as having been submitted to or taken by the department of
13 financial institutions.

14 (h) *Fees.* All fees for initial registrations and renewals of registrations under
15 subchapter IV of chapter 440 of the statutes and under chapter 461 of the statutes
16 that are in effect on the day before the effective date of this paragraph shall remain
17 in effect until modified by the department of financial institutions under section
18 202.08 of the statutes, as created by this act.

19 **SECTION 9438. Effective dates; Safety and Professional Services.**

20 (1) REGULATION OF CHARITABLE ORGANIZATIONS, FUND–RAISING COUNSEL,
21 PROFESSIONAL FUND–RAISERS, PROFESSIONAL EMPLOYER ORGANIZATIONS, AND
22 PROFESSIONAL EMPLOYER GROUPS. The amendment of sections 54.15 (8) (a) 3., 73.0301
23 (1) (d) 6., 108.02 (21e) (intro.), 125.06 (11), 134.73 (1) (a) and (c), 165.825, 181.0203
24 (3), 196.208 (5p) (a) 1., 321.60 (1) (a) 12., 440.03 (7m), 440.05 (intro.), and 635.02 (7)
25 (b) 3. of the statutes, the repeal of sections 440.03 (13) (b) 29., 57m., and 58., 440.08

1 (2) (a) 23m., 35m., 63p., 63t., 440.475, and 461.02 (3) and (5) (b) and (c), and 461.05
2 of the statutes, the renumbering of chapter 461 (title), subchapter IV (title) of chapter
3 440, and sections 440.41 (intro.), (1), (2) (intro.) and (a), (4), (8), (9) (intro.), (a), and
4 (d) 1., 2., and 3., and (10), 461.02 (title), (5) (title) and (d), and (9), of the statutes, the
5 renumbering and amendment of sections 440.41 (2) (b), (3), (5), (6), (7), and (9) (b),
6 (c), and (d) (intro.), 440.42, 440.43, 440.44, 440.45, 440.455, 440.46, 440.47, 440.48,
7 461.01, 461.02 (1), (2), (4), (5) (a) and (e), (6), (7), and (8), 461.03, 461.04, 461.06, and
8 461.10 of the statutes, the creation of chapter 202 and sections 45.44 (1) (a) 11m.,
9 46.90 (5m) (br) 5g., 49.857 (1) (d) 14m., and 55.043 (4) (b) 5g. of the statutes, and
10 SECTION 9138 (1) of this act take effect on October 1, 2013, or on the first day of the
11 4th month beginning after publication, whichever is later.
12 **(END)**

(2) (B)

sub. (1)

INSERT 14–21

(b) Before the department makes any fee adjustment under par. (a), the department shall send a notification of the proposed fee adjustments to the cochairpersons of the joint committee on finance. If the cochairpersons of the committee do not notify the secretary of financial institutions within 14 working days after the date of the department's notification that the committee has scheduled a meeting for the purpose of reviewing the proposed fee adjustments, the fee adjustments may be made as proposed. The department shall notify registrants of the fee adjustments by posting the fee adjustments on the department's Internet site and in registration renewal notices sent to affected registrants under s. 202.025 (1). If, within 14 working days after the date of the department's notification, the cochairpersons of the committee notify the secretary of financial institutions that the committee has scheduled a meeting for the purpose of reviewing the proposed fee adjustments, the fee adjustments may be made only upon approval of the committee.

END INSERT 14–21