

February 10, 2003

S 20. REGULATE PROFESSIONAL EMPLOYER ORG. TO REQUIRE LICENSURE OF PROFESSIONAL EMPLOYER ORGANIZATIONS. Enacts new Art. 89 of GS Ch. 58 establishing licensing requirements for employee leasing services. Creates NC Professional Employer Organization Advisory Council consisting of the State Comm'r's of Insurance and Labor and the Chair of the NC Industrial Comm'n, or their designees, three members appointed by the Governor, two from a list provided by the Industrial Comm'n and one who is not involved with the employee leasing services industry, and two members of the General Assembly, one nominated by the Speaker of the House and another by the Pres. Pro Tem., terms to begin Jan. 1, 2004. Requires that licensees submit a license application and meet the following requirements: (1) be at least 18 years of age and of good moral character and have experience with and serve as an officer or controlling person of a professional employer organization; (2) satisfy a criminal background check conducted by the Comm'r of Insurance; (3) acquire and maintain a surety bond in an amount determined by Comm'r; and (4) submit an application fee of \$1,000 and yearly filing fee of \$1,000. Once issued, licenses remain in effect until terminated or surrendered. Act also specifies terms which must be included in contract between licensee and its clients and requires that licensee withhold payroll taxes and maintain workers' compensation insurance and pay unemployment taxes on employees. Imposes disciplinary action, including civil penalties, upon licensees convicted of various crimes or for failure to obtain license or provide notice to Comm'r of discontinuance of benefits insurance. Amends GS 114-19.12 to authorize the Dep't of Insurance to obtain criminal history and fingerprints of license applicants from State and National Repositories of Criminal Histories. Act is effective Jan. 1, 2004, and requires that all professional employer organizations doing business in NC as of that date obtain license within 180 days. Directs the Dep't of Insurance to report to 2005 General Assembly on implementation, administration and enforcement of Act and recommend statutory changes.

Intro. by Bingham, Rand.

Ref. to Judiciary II	GS 58, 114
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July 10, 2003

S 20. REGULATE PROFESSIONAL EMPLOYER ORGANIZATION. Intro. 2/10/03. Senate committee substitute makes the following changes to 1st edition. Revises definitional section and makes conforming changes. Increases the number of members of the NC Professional Employer Organization Advisory Council from eight to eleven and modifies provision on terms for the initial members. Deletes provision pertaining to the Council's consultation with representatives from the employment leasing services. Modifies provisions on the qualifications to serve as a controlling person of a licensee. Modifies provisions pertaining to surety bonds and provides for letters of credit in lieu of bonds. Modifies provisions on license application. Deletes separate sections pertaining to financial responsibility and background investigations and incorporates provisions regarding these matters into section on license application. Modifies section on fees. Modifies section on license issuance and adds requirements for license maintenance. Revises section on limited licenses and section on assignment of licenses and change of name or location. Deletes part in prior edition pertaining to acquisitions and mergers. Modifies provision pertaining to licensee notice to employees. Modifies requirements for contracts between licensees and client companies. Amends sections on employee benefit plans and workers' compensation insurance. Adds a new section on liabilities. Amends sections on benefit plan notice and grounds for disciplinary action. Deletes sec. 2 of prior edition (adding a new GS 114-19.12 pertaining to criminal records checks of applicants for licensure). Removes provision in section on effective date stating that the act shall not become effective until funds have been appropriated for implementation. Makes technical changes.

June 28, 2004

S 20. REGULATE PROFESSIONAL EMPLOYER ORGANIZATION. Intro. 2/10/03. House committee substitute makes the following changes to 2nd edition. (1) Adds provisions making clear that the provisions of the new law apply to each entity subject to licensure under the law whether the entity has actually become licensed or not. (2) Adds new GS 58-89-31 providing that

for purposes of determining tax credits and other economic incentives provided by the state based on employment, employees who are the subject of a contract are considered employees of the client company (3) Raises the surety bond requirement from \$75,000 to \$100,000 and specifies that the surety bond is to be kept in effect while the license is in effect or any obligations or liabilities of the licensee remain outstanding. (4) In several instances in which attestations are required regarding financial statements, the 2nd edition required the attestations by the chief financial officer, chief executive officer, and controlling person; this committee substitute deletes the requirement of the attestation by the controlling person. (5) Deletes from the bill's proposed GS 58-89-165 a provision granting to any person damaged by acts in violation of the licensing law the right to bring a civil action against the person committing the violation. (6) Changes provision with respect to licensure of entities already engaged in professional employer services in the state, so that they may continue to operate pending approving of their application so long as the application is filed by April 1, 2005. (7) Changes effective date from Jan. 1, 2004, to Jan. 1, 2005.

July 7, 2004

S 20. REGULATE PROFESSIONAL EMPLOYER ORGANIZATION. Intro. 2/10/03. House amendments make the following changes to 3rd edition. Make technical changes only.

July 12, 2004

S 20. REGULATE PROFESSIONAL EMPLOYER ORGANIZATION. Intro. 2/10/03. House amendment makes the following changes to 4th edition. Amends GS 58-89-120 to clarify that nothing in sec. shall affect the levy and collection of unemployment insurance contributions or the assignment of discrete employer numbers under GS 96-8 and -9.

July 13, 2004

S 20. REGULATE PROFESSIONAL EMPLOYER ORGANIZATION. Intro. 2/10/03. House amendment makes the following changes to 4th edition. Amends new GS 58-89-120 to provide that a person licensed to provide professional employer services is considered the employer of an assigned employee for the purposes of Ch. 105 relating to taxation.

August 6, 2004

SL 2004-162 (S 20). REGULATE PROFESSIONAL EMPLOYER ORGANIZATIONS. AN ACT TO REQUIRE LICENSURE OF PROFESSIONAL EMPLOYER ORGANIZATIONS. Summarized in *Daily Bulletin* 2/10/03, 7/10/03, 6/28/04, 7/7/04, 7/12/04, and 7/13/04. Enacted August 2, 2004. Effective January 1, 2005.