



SECRETARY OF STATE

STATE OF NORTH DAKOTA
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BISMARCK ND 58505-0500

July 18, 2006

TO: Senator Krebsbach, Chairman, and Members of the Industry, Business, and Labor Committee

FR: Al Jaeger, Secretary of State

RE: Bill Draft – Registration of Professional Employer Organizations

Although the bill draft does not make reference to a state agency that would be the administrator of the laws in this bill draft, it is my understanding that the Secretary of State's office has been mentioned as a possibility. Therefore, it is important that I offer these initial concerns for the committee's consideration.

1. The lack of an identified agency to administer the law. References are made to an "organization" without defining what that organization might be.
2. On page 4, lines 22 thru 27, the draft makes reference to "small, minority-owned, disadvantaged, or woman-owned business enterprise ..." However, state law and the records of the Secretary of State do not provide a basis to recognize these designations.
3. On page 4, lines 29 thru 30 and continuing on pages 5 and 6, the draft makes reference to the "registration" of a professional employer service. However, it is our recommendation that it be changed to a licensing wording and context in order to match existing law requiring registration with the Secretary of State's office before a license can be issued.
4. On page 5, beginning with line 5, a provision should be included that the applicant provides proof of having completed registration with the Secretary of State's office (in the event the administering agency is someone other than the Secretary of State's office).
5. On page 5, we are concerned with the requirements and the role of the agency regarding any investigatory responsibilities in confirming the submitted information.
6. On page 6, lines 5 through 9, we do not agree with the provision that allows an applicant 180 days after the effective date of the law to become licensed. This is a departure from any other law that I am aware of in terms of having a delayed requirement after a law becomes effective. If the law were adopted, applicants should have adequate time to prepare an application.
7. On page 6, lines 10 thru 12, a renewal date is not clearly defined. The renewal date should be one year following the date of the initial license or prior renewal. Tying it to the applicant's fiscal year makes it difficult to administer.
8. On page 6, beginning with lines 18, we recommend the elimination of the limited registration provisions. Either they are licensed or they are not.
9. This program cannot be developed without cost. We would request an amount of \$5,000 be provided to develop the computer program to administer the act and maintain the records.
10. On page 11, we would recommend the entire rewriting of the section on disciplinary actions. It does not match with the existing authority of the Secretary of State's office as it relates to its other licensing functions.