

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1361

Page 1, line 1, after "to" insert "create and enact subsection 11 to section 43-55-01 and two new sections to chapter 43-55 of the North Dakota Century Code, relating to professional employer organizations; to"

Page 1, after line 4, insert:

**"SECTION 1.** Subsection 11 to section 43-55-01 of the North Dakota Century Code is created and enacted as follows:

11. "Working capital" means current assets less current liabilities as defined by generally accepted accounting principles."

Page 2, line 6, overstrike "by jurisdiction of each name under" and insert immediately thereafter "of jurisdictions in"

Page 2, replace lines 17 through 29 with:

- i. ~~A An audited financial statement, verified by a certified public accountant licensed to practice in the jurisdiction in which the accountant is located, as of a date not earlier than one hundred eighty days for the fiscal year ended immediately before the date submitted to the secretary of state, which is prepared in accordance with generally accepted accounting principles. The financial statement must set forth the financial condition of the professional employer organization over the most recent twelve month operating period and must clearly define the working capital of the professional employer organization. A professional employer organization that has not had sufficient operating history to have a financial statement based upon at least twelve months of operating history shall meet the financial capacity requirements under this chapter and present a financial statement bond as provided under this subdivision for the entire period of its operation section 43-55-05.~~
- j. A copy of the employer's quarterly federal tax return for the quarter ending immediately before the date submitted to the secretary of state. A professional employer organization that has not operated long enough to have filed an employer's quarterly federal tax return shall submit a bond in the amount as provided under section 43-55-05."

Page 3, line 1, remove the overstrike over "a:"

Page 3, remove the overstrike over lines 4 through 15

Page 3, line 16, remove the overstrike over "~~under this chapter;~~" and after "~~or~~" insert "and"

Page 3, line 17, remove the overstrike over "~~(2) A bond with a minimum value of~~", after "~~one~~" insert "five percent of the wages, tips, and other compensation reported on the

employer's quarterly federal tax return for the quarter ending immediately before the date submitted to the secretary of state but not to exceed five", and remove the overstrike over "~~hundred thousand dollars to be~~"

Page 3, remove the overstrike over lines 18 through 25

Page 4, line 3, remove the overstrike over "~~Financial capability~~", replace "~~Bond~~" with "and bond", and after the second boldfaced period insert:

"1."

Page 4, line 4, remove "continuously" and remove the overstrike over the overstruck colon

Page 4, line 5, after "4:" insert "a." and remove the overstrike over "~~A minimum working capital of one hundred thousand dollars as reflected in the~~"

Page 4, remove the overstrike over line 6

Page 4, line 7, remove the overstrike over "~~and each annual renewal;~~" and after "or" insert "and"

Page 4, line 8, after "2:" insert "b.", remove the overstrike over "A", remove "a", and overstrike "one" and insert immediately thereafter "five percent of the wages, tips, and other compensation reported on the employer's quarterly federal tax return for the quarter ending immediately before the date submitted to the secretary of state but not to exceed five"

Page 4, line 9, after the period insert:

"2. A professional employer organization that does not have a minimum working capital of one hundred thousand dollars shall submit a bond in the amount of one hundred thousand dollars or five percent of the wages, tips, and other compensation reported on the employer's quarterly federal tax return for the quarter ending immediately before the date submitted to the secretary of state, whichever is greater but not to exceed five hundred thousand dollars.

"3. A professional employer organization that has not operated long enough to have completed a full fiscal year or filed an employer's quarterly federal tax return shall submit a bond in the amount of one hundred thousand dollars.

"4."

Page 4, line 10, remove "submitted with a license application or a renewal application and be"

Page 4, line 14, remove the overstrike over "~~A bond provided under this section may not be included for the~~"

Page 4, remove the overstrike over line 15

Page 4, after line 15, insert:

"5. Notice of cancellation or nonrenewal of the surety bond required by this section shall be provided to the secretary of state at least forty-five days before cancellation or nonrenewal.

**SECTION 4.** Two new sections to chapter 43-55 of the North Dakota Century Code are created and enacted as follows:

**Confidential records.**

1. The social security number or federal tax identification number disclosed or contained in an application filed with the secretary of state under this chapter is confidential. The secretary of state shall delete or obscure any social security number or federal tax identification number before a copy of an application is released to the public.
2. All audited financial reports and employers' quarterly federal tax returns are confidential except to the extent necessary for the proper administration of this chapter by the secretary of state or the attorney general.

**Interagency cooperation.** A state agency, in performing duties under other laws that affect the regulation of professional employer organizations, shall cooperate with the secretary of state as necessary to administer and enforce this chapter."

Renumber accordingly