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FISCAL IMPACT REPORT

SPONSOR HCEDC ORIGINAL DATE 03/16/21
LAST UPDATED _____ HB 328/HCEDCS
SHORT TITLE Employee Benefit Leasing Contractor Benefits HB _____
ANALYST Jorgensen

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY21	FY22	FY23	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	NFI	NFI	NFI			

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

Responses Received From

Office of the Superintendent of Insurance (OSI)
Regulation and Licensing Department (RLD)

SUMMARY

Synopsis of Bill

The House Commerce and Economic Development Committee substitute for House Bill 328 (HB328) allows employee leasing contractors to be labeled as a single employer for purposes of creating a single employer welfare benefit plan. Provisions of HB328 only apply to fully insured plans regulated by OSI.

FISCAL IMPLICATIONS

HB328 would not change the regulatory authority or impose additional duties on OSI, already responsible for regulating the insurers and products that the proposed legislation would allow a professional employer organization to offer its employees. Because this legislation will not increase costs to any public entity, the estimated additional operating budget impact table shows no financial impact.

SIGNIFICANT ISSUES

OSI reports:

The core business of a “professional employer organizations,” or PEO, is leasing workers to other businesses. As the direct employer of the leased workers, a PEO assumes

responsibility for providing employee benefits, thus relieving the leasing businesses of the associated administrative burdens. When a PEO leases workers to multiple businesses, a question arises whether the PEO becomes subject to the laws that regulate multiple employer welfare arrangements. Subjectivity to those laws imposes significant regulatory burdens, and could cause a PEO not to offer valuable, low cost, employee welfare benefits to its employees.

The proposed legislation creates a safe harbor for certain PEO activities. Under the proposed law, a PEO would be considered a single employer, and not a multiple employer welfare arrangement, **if** the PEO provides employee benefits through fully insured plans regulated by the Superintendent of Insurance. Because the fully insured plans would be compliant with all laws enforced by the superintendent, and offered through regulated and financially sound companies, allowing a PEO to offer its employees benefits under such products presents no greater risk to those employees than if the benefits were offered by a single employer, which is a common practice in New Mexico. In short, this bill would allow employees of a PEO to be offered the same type of fully insured welfare benefits that any single New Mexico employer can offer its employees.

CJ/rl/al