SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE
STATEMENT OF ESTIMATED FISCAL IMPACT
(803)734-0640 ▪ RFA.SC.GOV/IMPACTS

Bill Number:	S. 0909 Introduced on January 14, 2020
Author:	Gambrell
Subject:	Professional Employers Job Tax Credit
Requestor:	House Labor, Commerce, and Industry
RFA Analyst(s):	R. Martin, Miller, and Payne
Impact Date:	January 21, 2020

Fiscal Impact Summary

This bill will have no expenditure impact to the General Fund, Other Funds, or Federal Funds of the Department of Revenue (DOR) or the S.C. Department of Commerce's Coordinating Council for Economic Development (CCED), as both agencies can administer the increase in job development credits within existing appropriations. Additionally, this bill will have no expenditure impact to the General Fund, Other Funds, or Federal Funds of the Department of Insurance (DOI) as the reiteration will not change DOI's current practices.

This bill is expected to reduce General Fund individual income tax withholding revenue by up to $1,647,000 beginning in FY 2020-21 by allowing client companies of professional employment organizations to claim job development credits.

The bill will increase Other Funds revenue of DOR and the Department of Commerce by up to $10,500 each beginning in FY 2020-21 due to the new $300 administrative fee for client companies applying for job development credits.

Explanation of Fiscal Impact

Introduced on January 14, 2020
State Expenditure
This bill expands job development tax credit eligibility to allow a client company of a professional employer organization to be eligible to receive job development tax credits as the result of the employment of assigned employees.

Department of Commerce. CCED currently manages certain aspects of job development tax credits under the Enterprise Zone Act as part of its normal operations. While this bill may lead to more companies claiming these credits, Commerce does not expect there will be an expenditure impact as a result of these additional applicants.

Department of Revenue. DOR currently manages certain aspects of job development tax credits under the Enterprise Zone Act as part of its normal operations. DOR will incur some costs for systems modifications to implement this section, but the agency can absorb these costs within existing appropriations. Therefore, the bill is not expected to impact expenditures for DOR.

Department of Insurance. This bill further clarifies that a professional employer organization may not sell insurance or act as a third-party administrator and that sponsoring and maintaining employee benefit plans for assigned employees is not considered selling insurance. This reiteration will have no impact on the normal practices of the Department of Insurance (DOI). Therefore, this bill will not have a fiscal impact on DOI.

State Revenue

A professional employer organization (PEO) usually provides various services related to human resources management, such as payroll processing, benefit management, and regulation compliance. It is a way for a company to outsource a specific area of a business where some degree of expertise is lacking. The PEO "leases out" the employees of the client firm, and the PEO becomes the employer of record of the employee for tax and insurance purposes. The PEO charges a service fee of about three percent to fifteen percent of gross payroll for assuming these functions of the client company. The PEO, therefore, is an alternative to small and mid-sized businesses.

PEO's are present in all fifty states, but they mainly exist in the Midwest and Southeastern states. They are in every major industry, but mainly, in the construction, manufacturing, and transportation industries. PEO's are sometimes thought of as temporary help services, but there are key differences. Since the PEO mainly offers administrative services, it is not eligible for tax incentives offered by the State through the Enterprise Zone Act, the Rural Development Act, and other similar programs.

The following is a section-by-section analysis of the bill:

Section 1. This bill would add Section 12-10-108 to allow a client company of a professional employer organization to be eligible to receive tax credits and other economic incentives provided by this State or another governmental entity as the result of the employment of assigned employees of the client company. Currently, a client company would be eligible for these tax credits and economic incentives if the company hires the employee. The client company, however, is not eligible for these incentives if the employee is a hired through a PEO.

This bill would allow qualified employees of a professional employer organization to be eligible for a job development fee by an employer. The employer would receive a job development credit against employee withholding pursuant to Sections 12-10-80 and 12-10-81 and a revitalization agreement. The maximum job development credit a qualifying business may claim for new employees is based on a graduated scale of hourly wage rates for the employee and ranges from two percent to five percent of the withholding tax paid to the State pursuant to Section 12-10-80(B)(1).

According to the latest data from the U.S. Department of Labor, Bureau of Labor Statistics, there are eighty-one professional employer organization establishments with 702 employees earning nearly $28,600,000 in wage income. This translates into an annual average salary of over $40,700 per employee each year, or an hourly wage rate of an estimated $20.35 per hour. Based on the latest schedule of job development fees from DOR for tax year 2020, an employer offering an hourly wage rate of $20.35 to a qualified employee would be eligible to retain four percent of a qualified employee's individual income tax withholdings. Multiplying $28,600,000 in wage income of employees of professional employer organizations by a four percent job development fee retention rate against withholdings, yields an estimated job development credit of $1,144,000 annually. After adjusting for annual increases in wage and salary income, the maximum job development credits are expected to reduce General Fund individual income tax withholding revenue by an estimated $1,647,000 beginning in FY 2020-21.

This bill also creates a $300 administrative fee, which is to be paid by client companies claiming job development tax credits. Proceeds from the fee are to be split equally between DOR and the Department of Commerce to cover the administrative costs of administering the provisions of this section. As outlined above, there are eighty-one PEO establishments with 702 employees in South Carolina. Pursuant to Sections 12-10-80(A)(4), and 12-10-81(B)(3), to be eligible to apply to the council to claim a job development credit, a qualifying business must create at least ten new, full-time jobs. Given an estimated 702 PEO employees and that there must be at least 10 new jobs created to be eligible for the credits, we estimate there would be no more than 70 new applicants as a result of this section. Using an estimated 70 new applicants paying the $300 fee, the maximum revenue impact resulting from this fee is estimated to be no more than $21,000, of which DOR and Commerce would each receive half, or $10,500. Based upon this analysis, Other Funds revenue of DOR and the Department of Commerce would increase by up to $10,500 each beginning in FY 2020-21. The actual impact of this provision may vary depending upon the number of client companies applying for job development tax credits pursuant to this section.

Local Expenditure
N/A

Local Revenue
N/A

Frank A. Rainwater, Executive Director