



719 SW Van Buren St., Ste. 222, Topeka KS 66603
Phone: 785-232-7756
Fax: 785-232-7730
www.ksaj.org

To: Representative Anthony Brown, Chairman
Members of the House Commerce Committee

From: Callie Jill Denton
Director of Public Policy

Date: March 15, 2012

RE: SB 413 Creating the PEO Registration Act (NEUTRAL)

The Kansas Association for Justice (KsAJ) is a professional association of attorneys. KsAJ supports appropriate regulation of professional employer organizations (PEOs). It is prudent for the Legislature to enact effective regulation so that Kansas employers and employees are protected from unscrupulous PEOs. KsAJ urges the committee to review SB 413 with great caution and scrutiny to assure that it provides sufficient oversight of PEOs.

PEOs are in positions of trust because employers pay them large sums of money for health insurance coverage, workers compensation insurance coverage, employee payroll, and pension benefit plans. Without adequate regulation, dishonest PEOs can fraudulently divert the substantial funds that are entrusted to them without purchasing the health insurance or workers compensation coverage as promised. Then employers are out millions of dollars, and employees are left without health insurance and work comp coverage. Downstream, doctors and hospitals also lose when there is no insurance coverage to reimburse them for the health care services they provided.

Kansas has not been immune from the fraudulent schemes of fly-by-night PEOs. For years in Topeka, Kansas, a white collar criminal operated several PEOs nationwide until he was arrested in Chanute. In July 2005, a federal grand jury sitting in Greensboro, North Carolina indicted PEO operator Steven E. Edwards on 21 counts of criminal activity, according to an August 30, 2005, press release issued by the United States Department of Justice.

According to the on-line Insurance Journal Southeast Magazine, Mr. Edwards had based his PEO operations in Kansas. Federal prosecutors believe Edwards collected money from his

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contracted clients and stole \$3.8 million dollars when he never took out workers compensation or health insurance which client employers thought they had purchased through Edwards' PEOs. Prosecutors believe Edwards used the money to buy a mountain villa and to maintain a collection of expensive vehicles and motorcycles.

Right now, there is no regulation of PEOs in Kansas. Kansas citizens and Kansas businesses are vulnerable.

SB 413 is a positive step in the right direction. Additional amendments should be considered as follows:

- Protection for the victims of fraud and insolvency. Individuals and businesses that are harmed by PEO fraud and insolvency need the protection of a guaranty fund like those required of Kansas insurers.
- Sufficient registration requirements to guard against insolvency. The financial standards for applicants of a PEO registration—\$100,000 working capital and minimal review of its financial condition—should be increased.
- Enhanced penalties. Individuals that use the cover of a PEO to perpetrate fraud and abuse should be subject to significant administrative and criminal penalties. We urge the committee to discourage PEOs from coming to Kansas by enacting penalties with teeth.

Thank you for the opportunity to provide you with testimony on SB 413.