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## MEMORANDUM

**TO:** Hon. Jase Bolger, Speaker of the House, Michigan House of Representatives  
Hon. Jim Stamas, Majority Floor Leader, Michigan House of Representatives  
Hon. Wayne Schmidt, Chairman, House Commerce Committee  
Honorable Members, Michigan House of Representatives

**FROM:** Tim Tucker, Vice President of Government Affairs, NAPEO

**DATE:** Thursday, May 24, 2012

**RE:** NAPEO Urges Passage of Senate Bill 1107

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The National Association of Professional Employer Organizations (NAPEO) respectfully requests that the Michigan House of Representatives passes Senate Bill 1107, sponsored by Senator Jack Brandenburg. The bill passed the Senate 36-0 on May 23, 2012, and was referred to the House Commerce Committee. Heretofore, the bill has not had any opposition, and is also supported by Michigan's Department of Licensing & Regulatory Affairs (LARA).

### Industry Background

- A PEO is a business that partners with an existing small business to manage their human resources programs and activities. PEO services include employee benefits such as health plans, Section 125 pre-tax plans, and retirement services. Also, it includes processing payroll checks and deposits, remitting federal and state payroll taxes, providing HR policies and employee handbooks, and other aspects of the "business of being an employer".
- By partnering with small businesses to provide these services, PEO's enable their small business clients to focus on the core competencies that enable them to maintain and grow their business.
- PEOs operate in all 50 states, generate approximately \$81 billion in revenues and roughly 2.5 million American workers are in PEO arrangements.

### Framing the Issue

- In 2010, Public Act 383 was enacted that created a licensing program for Professional Employer Organization (PEO) and clarified how PEOs calculate and report unemployment insurance (UI) for its clients.

- Those UI provisions included a three-year phase in (2010-13) period.
- PEOs made business decisions and projections based the 2010 approach agreed to by the Michigan Unemployment Insurance Agency and the PEO industry.
- In late 2011, the Michigan Legislature passed comprehensive UI reforms (PA 268) that included a provision that changed how the UI rates would be calculated (i.e. look back provision) for ALL businesses that ceased to report UI wages and then reactivated UI accounts (i.e. went out of business due to the recession and then restarted the business).
- Unfortunately the “look back” provision, coupled with the previously enacted PEO UI provisions, has caused market disruption for PEOs and the Michigan small businesses they serve.
- SB 1107 moves the implementation date for the application of that look back provision for small business clients of PEOs, until December 31, 2014.
- Impact on Small Businesses and PEOs
- A change in the look-back period, poses unique consequences for PEOs that had already renewed 2012 contracts with small businesses that included UI calculations with the eight quarter look back period.
- If this issue is not addressed, Michigan small businesses will incur additional UI liabilities that they did not budget for due to the timing of the Act’s passage in December 2011.

### Solution

- Pass SB 1107, which amends Section 13M of the Michigan Employment Security Act to revert the look-back period for clients of a PEO that are being converted to client-level UI reporting for the 2012 and 2013 tax years.

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Submitted by:

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## BILL ANALYSIS



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Senate Bill 1107 (as reported without amendment)  
Sponsor: Senator Jack Brandenburg  
Committee: Finance

**CONTENT**

The bill would amend the Michigan Employment Security Act to revise what is called the look-back period in the unemployment tax rate calculation for a client employer of a professional employer organization (PEO), by changing the period from 12 calendar quarters to eight quarters until January 1, 2014. The bill also would require a business entity to retain its existing rate or establish a new rate if it becomes a client employer on or after January 1, 2014, rather than January 1, 2011.

The Act requires a PEO that is a liable employer to use a specified method for reporting wages and paying unemployment contributions (except as provided for a PEO that was operating in Michigan before January 1, 2011). This method requires the PEO to file a quarterly wage report and unemployment contribution report and pay contributions of its client employers based on the account information of each client employer.

For a PEO's client employer that is a contributing employer and that was a client employer of the PEO on the date that it changed to the required reporting method, the following apply:

- The client employer's unemployment tax rate will be the new employer rate if the client employer reported no employees or no payroll to the Unemployment Insurance Agency (UIA) for 12 or more calendar quarters.
- The client employer's tax rate will be based on the employer's prior account and experience if the employer was a client employer of the PEO for less than 12 full calendar quarters.

The bill would change these look-back periods to eight or more calendar quarters, or less than eight calendar quarters, as applicable, until December 31, 2013. Beginning on January 1, 2014, the periods again would be 12 or more quarters, or less than 12 quarters, as applicable.

MCL 421.13m

Legislative Analyst: Suzanne Lowe

**FISCAL IMPACT**

Changing the look-back period would likely have a different effect on the State Unemployment Tax Act (SUTA) tax rate for each individual PEO, depending on the unemployment insurance experience accounts of the client employers serviced by each PEO. For this reason, it is difficult to determine the effect of these changes in aggregate, so the fiscal impact of the bill is indeterminate.

Date Completed: 5-14-12

Fiscal Analyst: Josh Sefton

floor/sb1107

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.

Bill Analysis @ [www.senate.michigan.gov/sfa](http://www.senate.michigan.gov/sfa)