

To Legislate or Not to Legislate? That is the Question



Joe Beers
Vice President
Diversified Human Resources, Inc.
Phoenix, Arizona

Is there a correct answer to this question? I believe so.

From time to time, every business (and industry) should take a look at itself and assess the current climate under which it operates. By identifying strengths, weaknesses, opportunities, and threats (SWOT), one can quickly ascertain areas that need attention and where resources should be focused. A SWOT analysis in the PEO industry resulted in identifying one major gaping hole. That hole is legal uncertainty. As an industry, we have a great story to tell. Anyone working in a PEO or using a PEO can attest to that. *We are good for business.* PEOs increase available management time and decrease paperwork for tens of thousands of small businesses. We bring efficiencies and access to expertise. *We are good for workers.* Hundreds of thousands of American workers would not have access to 401(k) plans or a myriad of other benefits if not for the PEO. *We are good for government.* PEOs are an efficient tax collection vehicle for state and federal government.

But what is our biggest threat? For PEOs, that threat lies in the hands of regulators, legislators, and other stakeholders who may not have our best interest at heart. In fact, in many cases, our interests may be the furthest things from their minds. Adverse legislation is the biggest threat we face as an industry.

I was recently involved in passing a PEO registration bill and I am not a likely candidate for increasing government involvement in business. I believe in less government and, whenever possible, letting the marketplace determine outcomes. So why in the world did I lobby for a PEO registration bill? First, it is the right thing to do. We have an enormous fiduciary responsibility to our clients, our worksite employees, and our government. We should be willing to live with some accountability. Second, the timing was right. Technology advances allow state legislators and regulators to communicate with each other on all sorts of issues. This communication flow can be used to our benefit or our detriment. Proactive legislation

allows us to steer our own respective officials in the right direction, and we can point them to models that are working in other states. Adverse legislation does just the opposite. Third, we simply have more control over the outcome by running proactive legislation when times are relatively stable. Running a bill allows us to pull it off the table if things start to get out of hand. It also allows us to proactively tell our story, which is compelling.

As PEOs, we sell "sleep at night" to our clients. Proper legislation provides us "sleep at night." Some will say it increases the value of a PEO, but that is a bit misleading. What it really does is protect and preserve existing value. It also substantially decreases the risk of adverse legislation creating huge losses in value.

So, are we better off with PEO legislation? If done properly, the answer is yes. We are better positioned knowing that a rogue regulator or legislator has much less chance of damaging our businesses or our industry. The key is not to try and do too much or to give away a single thing that we do not have to give away. With a market penetration of only 3 percent, there is room for many diverse business models in our industry. We should embrace that diversity. I believe our government affairs mission statement should simply be this: Create as much legislative certainty for our industry as possible while imposing the least burden on our members. Some may disagree with me, but it's Just My Opinion. ■