

COMMITTEE AMENDMENT
HOUSE OF REPRESENTATIVES
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB2914 _____
Of the printed Bill
Page _____ Section _____ Lines _____
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Adopted: _____

Amendment submitted by: David Brumbaugh _____

Reading Clerk

1 STATE OF OKLAHOMA

2 2nd Session of the 54th Legislature (2014)

3 PROPOSED COMMITTEE
4 SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 2914

By: Brumbaugh

7
8 PROPOSED COMMITTEE SUBSTITUTE

9 An Act relating to labor; defining terms; making
10 certain entities coemployers; making Professional
11 Employer Organization a third-party administrator for
12 failure to register; providing for reporting and
13 experience history; amending 40 O.S. 2011, Section 2-
14 404.1, as amended by Section 1, Chapter 105, O.S.L.
15 2013 (40 O.S. Supp. 2013, Section 2-404.1), which
16 relates to the Employment Security Act of 1980;
17 requiring certain time period for temporary employees
18 to be considered unemployed; providing options for
19 filing reports; requiring Professional Employer
20 Organizations to file certain information; amending
21 40 O.S. 2011, Section 600.8, which relates to the
22 Oklahoma Professional Employer Organization
23 Recognition and Registration Act; modifying
24 unemployment compensation contributions; providing
for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 1-209.2 of Title 40, unless
there is created a duplication in numbering, reads as follows:

1 A. 1. A "Professional Employer Organization" or "PEO" is an
2 organization that is subject to the Oklahoma Professional Employer
3 Organization Recognition and Registration Act and which meets the
4 definition set out in paragraph 9 of Section 600.2 of Title 40 of
5 the Oklahoma Statutes.

6 2. "Client" shall have the same meaning as provided by
7 paragraph 1 of Section 600.2 of Title 40 of the Oklahoma Statutes.

8 3. "Coemployer" shall have the same meaning as provided by
9 paragraph 2 of Section 600.2 of Title 40 of the Oklahoma Statutes.

10 4. "Coemployment relationship" shall have the same meaning as
11 provided by paragraph 3 of Section 600.2 of Title 40 of the Oklahoma
12 Statutes.

13 5. "Covered employee" shall have the same meaning as provided
14 by paragraph 5 of Section 600.2 of Title 40 of the Oklahoma
15 Statutes.

16 B. For purposes of the Employment Security Act of 1980, the PEO
17 and its client shall be considered coemployers of the covered
18 employees that are under the direction and control of the client.

19 C. If a PEO fails to become or remain registered under the
20 Oklahoma Professional Employer Organization Recognition and
21 Registration Act, the entity shall be considered a third-party
22 administrator of the client account. As a third-party
23 administrator, a power of attorney will be required to obtain
24 information from the client's account.

1 SECTION 2. AMENDATORY 40 O.S. 2011, Section 2-404.1, as
2 amended by Section 1, Chapter 105, O.S.L. 2013 (40 O.S. Supp. 2013,
3 Section 2-404.1), is amended to read as follows:

4 Section 2-404.1 LEAVING WORK VOLUNTARILY OF TEMPORARY EMPLOYEE.

5 A. For the purposes of this section:

6 1. "Temporary help firm" means a firm that hires its own
7 employees and assigns them to clients to support or supplement the
8 client's work force in work situations such as employee absences,
9 temporary skill shortages, seasonal workloads and special
10 assignments and projects;

11 2. "Temporary employee" means an employee assigned to work for
12 the clients of a temporary help firm; ~~and~~

13 3. "Good cause" means a reason that is significant and would
14 compel an average reasonable worker, who would otherwise want a
15 suitable job assignment with a client of the temporary help firm, to
16 fail to contact the temporary help firm, to refuse an offered
17 assignment, or to be unavailable for assignment; and

18 4. "Suitable job assignment" means work, either full-time or
19 part-time for one or more days or portions thereof, that is in
20 keeping with the education, training, experience, and ability of the
21 individual to perform.

22 B. A temporary employee of a temporary help firm will be deemed
23 to have left his or her last work voluntarily without good cause
24 connected with the work if the temporary employee:

1 1. Does not contact the temporary help firm for reassignment on
2 completion of an assignment. The temporary help firm shall
3 establish the manner for a temporary employee to communicate that
4 his or her assignment has ended and that he or she is available for
5 reassignment at any time;

6 2. Refuses a suitable job assignment, without good cause;

7 3. Communicates his or her decision to cease seeking assignment
8 for any period of time;

9 4. Becomes unavailable to accept a suitable job assignment,
10 without good cause; ~~or~~

11 5. Accepts employment with a client of the temporary help firm;
12 or

13 6. Does not become reassigned for employment within three (3)
14 business days since the date the individual's last assignment with
15 the temporary help firm has ended.

16 On and after the effective date of this act, the provisions of
17 this subsection shall apply only if the temporary employee has been
18 advised of the obligations and been provided a copy of a separate
19 document written in clear and concise language that states the
20 provisions in this section and that unemployment benefits may be
21 denied for failure to comply.

22 C. For the purposes of the Employment Security Act of 1980, the
23 temporary help firm is deemed to be the employer of the temporary
24 employee.

1 SECTION 3. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 3-120 of Title 40, unless there
3 is created a duplication in numbering, reads as follows:

4 A. Each Professional Employer Organization or PEO shall file
5 all reports and pay all contributions required by the Employment
6 Security Act of 1980 and the Rules of the Oklahoma Employment
7 Security Commission under one of the following two options. The PEO
8 may choose the option it will report and pay under. All PEOs that
9 do not exercise their option within the compliance date in
10 subsections C and D of this section shall be assigned to option 1
11 below. All current client accounts and client accounts set up or
12 acquired after the election shall be reported and paid according to
13 the option elected by the PEO or the option assigned to the PEO if
14 no election is made. The two options are as follows:

15 1. The PEO shall file quarterly tax returns to report the wages
16 of all covered employees of all its clients, and pay all
17 contributions due on those wages, under one account of the PEO; or

18 2. The PEO shall file quarterly tax returns to report the wages
19 of all covered employees under the direction and control of each
20 client, and pay all contributions due on those wages, under the
21 account assigned to that client by the Oklahoma Employment Security
22 Commission; provided:

23 a. a PEO choosing this option shall notify the Oklahoma
24 Employment Security Commission in writing,

1 b. a PEO choosing this option shall assist the Commission
2 in the process of the separation and identification of
3 the contribution history, the benefit experience
4 history, and the payroll of each of its clients and
5 the Commission shall transfer that experience to the
6 client account,

7 c. the Commission shall determine the contribution rate
8 of each client account separately, based upon the
9 client's contribution history, benefit experience
10 history and actual payroll, and

11 d. if there is not sufficient experience in the client
12 account after the transfer of experience to establish
13 a contribution rate, the account will be assigned the
14 minimum contribution rate pursuant to Section 3-110 of
15 Title 40 of the Oklahoma Statutes.

16 B. Within thirty (30) days after the end of each calendar
17 quarter, each PEO shall file a list of all its clients setting out
18 the federal employer identification number, the name, the client's
19 contact information and the current registration certificate of the
20 PEO issued pursuant to subsection C of Section 600.4 of Title 40 of
21 the Oklahoma Statutes and Section 4-508 of Title 40 of the Oklahoma
22 Statutes. The client list shall be filed in a format prescribed by
23 the Oklahoma Employment Security Commission.

1 C. Any PEO with a current employer tax account with the
2 Oklahoma Employment Security Commission as of the effective date of
3 this act shall comply with the provisions of this section no later
4 than January 1, 2015.

5 D. Any PEO that does not have a current employer tax account
6 with the Oklahoma Employment Security Commission as of the effective
7 date of this act shall comply with the provisions of this section
8 upon becoming liable for contributions under the Employment Security
9 Act of 1980.

10 E. After the initial election or assignment of the option
11 provided for in subsection A of this section, a PEO shall be
12 permitted to change its election one time only. The change of
13 election shall be made by the PEO in writing. The election shall
14 become effective in the calendar year following the date the
15 Commission approves the election of the PEO. If the Commission
16 approves a change of election, all contribution history, benefit
17 experience history and payroll of each client shall be transferred
18 to the pooled account, if the option in paragraph 1 of subsection A
19 of this section is chosen, or the individual client accounts, if the
20 option in paragraph 2 of subsection A of this section is chosen.

21 SECTION 4. AMENDATORY 40 O.S. 2011, Section 600.8, is
22 amended to read as follows:

23 Section 600.8 A. For purposes of the Employment Security Act
24 of 1980, covered employees of a PEO are considered ~~solely~~ the

1 employees of the PEO, ~~which shall be liable in accordance with the~~
2 ~~provisions of such act for the payment of contributions, penalties,~~
3 ~~and interest on wages paid by the PEO to its covered employees~~
4 during the term of the applicable professional employer agreement.

5 B. The PEO shall report and pay all required contributions to
6 the unemployment compensation fund ~~using the state employer account~~
7 ~~number and the contribution rate of the PEO~~ in accordance with the
8 methods set out in Section 3 of this act.

9 SECTION 5. This act shall become effective November 1, 2014.

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