

1 STATE OF OKLAHOMA

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

3 COMMITTEE SUBSTITUTE

4 FOR

5 SENATE BILL 1870

6 By: Sparks

7 COMMITTEE SUBSTITUTE

8 An Act relating to labor; defining terms; making
9 certain entities coemployers; making Professional
10 Employer Organization a third-party administrator for
11 failure to register; providing for reporting and
12 experience history; providing options for filing
13 reports; requiring Professional Employer
14 Organizations to file certain information; amending
15 40 O.S. 2011, Section 600.8, which relates to the
16 Oklahoma Professional Employer Organization
17 Recognition and Registration Act; modifying
18 unemployment compensation contributions; providing
19 for codification; and providing an effective date.

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

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

24 A. 1. "Professional Employer Organization" or "PEO" is an
organization that is subject to the Oklahoma Professional Employer
Organization Recognition and Registration Act and which meets the
definition set out in paragraph 9 of Section 600.2 of this title.

1 2. "Client" shall have the same meaning as provided by
2 paragraph 1 of Section 600.2 of this title.

3 3. "Coemployer" shall have the same meaning as provided by
4 paragraph 2 of Section 600.2 of this title.

5 4. "Coemployment relationship" shall have the same meaning as
6 provided by paragraph 3 of Section 600.2 of this title.

7 5. "Covered employee" shall have the same meaning as provided
8 by paragraph 5 of Section 600.2 of this title.

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

12 C. If a PEO fails to become or remain registered under the
13 Oklahoma Professional Employer Organization Recognition and
14 Registration Act, the entity shall be considered a third-party
15 administrator of the client account. As a third-party
16 administrator, a power of attorney will be required to obtain
17 information from the client's account.

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

21 A. Each Professional Employer Organization, or PEO, shall file
22 all reports and pay all contributions required by the Employment
23 Security Act of 1980 and the Rules of the Oklahoma Employment
24 Security Commission under one of the following two options. The PEO

1 may choose the option it will report and pay under. All PEOs that
2 do not exercise their option within the compliance date in
3 subsections C and D of this section shall be assigned to option 1
4 below. All current client accounts and client accounts set up or
5 acquired after the election shall be reported and paid according to
6 the option elected by the PEO or the option assigned to the PEO if
7 no election is made. The two options are as follows:

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

11 2. The PEO shall file quarterly tax returns to report the wages
12 of all covered employees under the direction and control of each
13 client and pay all contributions due on those wages under the
14 account assigned to that client by the Oklahoma Employment Security
15 Commission, provided:

- 16 a. a PEO choosing this option shall notify the Oklahoma
17 Employment Security Commission in writing,
18 b. a PEO choosing this option shall assist the Commission
19 in the process of the separation and identification of
20 the contribution history, the benefit experience
21 history, and the payroll of each of its clients, and
22 the Commission shall transfer that experience to the
23 client account,

24

1 c. the Commission shall determine the contribution rate
2 of each client account separately based upon the
3 client's contribution history, benefit experience
4 history and actual payroll, and

5 d. if there is not sufficient experience in the client
6 account after the transfer of experience to establish
7 a contribution rate, the account will be assigned the
8 minimum contribution rate pursuant to Section 3-110 of
9 this title.

10 B. Within thirty (30) days after the end of each calendar
11 quarter, each PEO shall file a list of all its clients setting out
12 the federal employer identification number, the name, the client's
13 contact information and the current registration certificate of the
14 PEO issued pursuant to Section 600.4 of this title. The client list
15 shall be filed in a format prescribed by the Oklahoma Employment
16 Security Commission. Materials submitted pursuant to this section
17 shall be deemed records submitted pursuant to the Oklahoma
18 Professional Employer Organization Recognition and Registration Act
19 and shall be treated as confidential and subject to the provisions
20 of subsection C of Section 600.6 of Title 40 of the Oklahoma
21 Statutes and Section 4-508 of Title 40 of the Oklahoma Statutes.

22 C. Any PEO with a current employer tax account with the
23 Oklahoma Employment Security Commission as of the effective date of
24

1 this act shall comply with the provisions of this section no later
2 than January 1, 2015.

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

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

19 SECTION 3. AMENDATORY 40 O.S. 2011, Section 600.8, is
20 amended to read as follows:

21 Section 600.8. A. For purposes of the Employment Security Act
22 of 1980, covered employees of a PEO are considered ~~solely the~~
23 ~~employees of the PEO, which shall be liable in accordance with the~~
24 ~~provisions of such act for the payment of contributions, penalties,~~

1 ~~and interest on wages paid by the PEO to its covered employees~~
2 during the term of the applicable professional employer agreement.

3 B. The PEO shall report and pay all required contributions to
4 the unemployment compensation fund ~~using the state employer account~~
5 ~~number and the contribution rate of the PEO~~ in accordance with the
6 methods set out in Section 3-120 of this title.

7 SECTION 4. This act shall become effective November 1, 2014.

8

9 54-2-3261 NP 2/20/2014 9:30:50 AM

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24