

1 **SENATE FLOOR VERSION**

2 February 20, 2014

3 COMMITTEE SUBSTITUTE  
4 FOR

5 SENATE BILL NO. 1870

By: Sparks of the Senate

and

Echols of the House

6  
7  
8  
9 [ labor - coemployers - reporting and experience  
10 history - filing reports - Oklahoma Professional  
11 Employer Organization Recognition and Registration  
12 Act - unemployment compensation contributions -  
13 codification - effective date ]

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

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

18 A. 1. "Professional Employer Organization" or "PEO" is an  
19 organization that is subject to the Oklahoma Professional Employer  
20 Organization Recognition and Registration Act and which meets the  
21 definition set out in paragraph 9 of Section 600.2 of Title 40 of  
22 the Oklahoma Statutes.

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

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

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

6       5. "Covered employee" shall have the same meaning as provided  
7 by paragraph 5 of Section 600.2 of Title 40 of the Oklahoma  
8 Statutes.

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,

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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 Title 40 of the Oklahoma Statutes.

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 Title 40 of the Oklahoma  
15 Statutes. The client list shall be filed in a format prescribed by  
16 the Oklahoma Employment Security Commission. Materials submitted  
17 pursuant to this section shall be deemed records submitted pursuant  
18 to the Oklahoma Professional Employer Organization Recognition and  
19 Registration Act and shall be treated as confidential and subject to  
20 the provisions of subsection C of Section 600.6 of Title 40 of the  
21 Oklahoma Statutes and Section 4-508 of Title 40 of the Oklahoma  
22 Statutes.

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

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 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS AND COMMERCE  
9 February 20, 2014 - DO PASS AS AMENDED

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