

1 STATE OF OKLAHOMA

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

3 HOUSE BILL 2917

By: Brumbaugh

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6 AS INTRODUCED

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

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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:

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

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

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

- 17 a. a PEO choosing this option shall notify the Oklahoma  
18 Employment Security Commission in writing,
- 19 b. once the PEO has elected this option, the election is  
20 final and it cannot be changed,
- 21 c. a PEO choosing this option shall assist the Commission  
22 in the process of the separation and identification of  
23 the contribution history, the benefit experience  
24 history, and the payroll of each of its clients and

1 the Commission shall transfer that experience to the  
2 client account,

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

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

12 B. Within thirty (30) days after the end of each calendar  
13 quarter, each PEO shall file a list of all its clients setting out  
14 the federal employer identification number, the name, the client's  
15 contact information and the current registration certificate of the  
16 PEO issued pursuant to Section 600.4 of this title. The client list  
17 shall be filed in a format prescribed by the Oklahoma Employment  
18 Security Commission.

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

23 D. Any PEO that does not have a current employer tax account  
24 with the Oklahoma Employment Security Commission as of the effective

1 date of this act shall comply with the provisions of this section  
2 upon becoming liable for contributions under the Employment Security  
3 Act of 1980.

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

6 Section 600.8 ~~A. For purposes Professional Employer~~  
7 ~~Organizations shall be subject to the provisions of the Employment~~  
8 ~~Security Act of 1980, covered employees of a PEO are considered~~  
9 ~~solely the employees of the PEO, which shall be liable in accordance~~  
10 ~~with the provisions of such act for the payment of contributions,~~  
11 ~~penalties, and interest on wages paid by the PEO to its covered~~  
12 ~~employees during the term of the applicable professional employer~~  
13 ~~agreement.~~

14 ~~B. The PEO shall report and pay all required contributions to~~  
15 ~~the unemployment compensation fund using the state employer account~~  
16 ~~number and the contribution rate of the PEO.~~

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

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