

February 12, 2024

Representative Paul Holvey  
Chairperson, House Business and Labor Committee  
900 Court St NE  
Salem, OR H-277, OR 97301

**RE: Written Testimony in OPPOSITION of HB 4005 [and the proposed amendments](#), “Relating to an individual’s performance of services for an employer.”**

Dear Chairman Holvey:

Thank you for the opportunity to provide comments on legislation under consideration by the House Business and Labor Committee, House Bill 4005.

My name is Paul Hughes and I am a Principal for Libertate Insurance Services. Our company is an insurance agency that specializes in the placement of property and casualty insurance for the professional employer organization (PEO) industry on a Countrywide basis. I have been a property and casualty licensee since September 2000 in Oregon, always specializing on PEO and with active licenses in all states in support of. Over the years I have transacted workers’ compensation insurance for PEO with many licensed insurance carriers in Oregon and worked especially close with SAIF Corporation in helping to educate and advance the underwriting of the PEO model for workers’ compensation purposes. [I also worked directly with the National Council on Compensation Insurance on behalf of the National Association of Professional Employer Organizations \(“NAPEO”\) in efforts to modernize data reporting into the NCCI by carriers that support PEO business, and defining the difference between a PEO and a staffing/single employer model as Chairman of the Definitions Committee.](#)

I join my colleagues in the PEO industry today, **asking you to oppose House Bill 4005 [and the proposed amendments](#)** due to the harm it will cause small businesses across Oregon.

While my overall objection [to the bill and the amendments](#) is the elimination of the ability to coemploy, I have focused below on the reasons from an insurance perspective that I am in opposition to HB-4005-4:

On the bill, Page 8, 22-25... implies workers’ compensation insurance is “an administrative service” and that a PEO can supply it. For any entity to “provide workers’ compensation insurance in the State of Oregon, they require a “certificate of authority”. This is a very long process that includes heavy capital requirements (surplus) and is run out of the Division of Financial Regulation v Labor (as referenced on page 9, lines 2-7)

<https://dfr.oregon.gov/business/reg/insurer/pages/forms-apps.aspx>

While a licensed Oregon insurance agent can intermediate workers’ compensation insurance in their capacity of being an agent, only a licensed insurance carrier with a valid certificate of

authority can provide it. A licensed agent can also intermediate workers' compensation insurance for a PEO, but the PEO itself also cannot currently provide it. The coemployer status of the PEO provides the insurable interest that allows aggregation of employees, but it is still only a carrier that provides the actual workers' compensation insurance coverage.

Page 10, lines 11-13 suggest new rules on cancelling (terminating) workers' compensation insurance coverage outside of the laws already in place for Oregon which are regulated by the Workers' Compensation Chapter 656. The rules that govern termination of a workers' compensation insurance policy can be found here for reference [https://oregon.public.law/statutes/ors\\_656.427](https://oregon.public.law/statutes/ors_656.427) .

The whole new licensing system for PEO is redundant and unnecessary as one already exists for Worker Leasing. If anything, who is and is not a PEO within those licensees is more appropriate.

Page 15, lines 3-8... You cannot provide insurance without having insurable interest, a certificate of authority as an insurance carrier or a licensed insurance agent who works with a licensed insurance carrier (who is regulated by financial services and not labor).

Page 16, rows 12-30... Oregon is an NCCI state, which means it formulates rates, rules and processes for the overall state marketplace (as it does in 36 other states as well). These rules are kept in what is called the "Basic Manual", "Statistical Plan" or in this case, "Experience Rating Plan". In fact, the PEO industry has its own section on the NCCI website due to all the existing rules that are in place in the 37 states it oversees - [https://www.ncci.com/Articles/Pages/II\\_PEO.aspx](https://www.ncci.com/Articles/Pages/II_PEO.aspx)

The fact that NCCI is not referenced at all on matters to do with NCCI experience modification factors is unusual as that is the entity who the State of Oregon has contracted with to set the rules and processes around the experience rating for workers' compensation purposes. This was a specific issue I have worked with –

I'm hopeful through this process that I may learn of the issues that were hoping to be resolved with this bill because as currently crafted, it contradicts statute, insurance code and the overall principals of the workers' compensation system as set by the State and governed by the NCCI. ~~It would appear further discussions amongst all stakeholders would be more suitable at this point in time.~~

Thank you for the opportunity to provide comments and once **again ask you to oppose HB 4005 and the proposed amendments.**

Sincerely,

Paul R. Hughes

Principal, Libertate Insurance Services, LLC

phughes@libertateins.com