

HB 2800 -1 STAFF MEASURE SUMMARY

House Committee On Labor and Workplace Standards

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Meeting Dates: 2/3

WHAT THE MEASURE DOES:

Replaces term “worker leasing company” with “professional employer organization” (PEO) to reflect use of PEOs as person that assumes specified employment responsibilities for some or all client’s workers under contract. Takes effect on 91st day following adjournment sine die.

Detailed Summary:

The measure replaces “worker leasing company” with “professional employer organization” (PEO). Defines PEO as person that assumes certain specifically allocated employment responsibilities for client’s workers under contract, regardless of terminology parties use to describe relationship. Defines “coemployment. Coemployment means for PEO to assume employment responsibilities for worker under agreement with PEO’s client for whom worker performs services. Clarifies that definition of coemployment in ORS 656 does not create employment relationship between PEO and client worker for the purposes of any other law.

Amends definition of “temporary service provider” to specify that temporary service provider provides its own workers to clients, customarily attempts to reassign its workers to other clients when workers finish each assignment and retains all employment responsibilities for its workers except to extent necessary to allow client right to worksite direction and control.

A PEO that coemploys client workers is subject to same workers’ compensation coverage requirements as worker leasing company that provides workers to client. Carrier-insured PEOs would be required to provide notice to its insurer. Self-insured PEOs would continue to provide notice to Workers’ Compensation Division (WCD). A PEO’s obligation to provide workers’ compensation coverage to client is terminated 30 days after its insurer receives notice of termination, or automatically on date client obtains other workers’ compensation coverage, whichever comes first. When WCD receives proof-of-coverage filing indicating that PEO’s client has obtained other workers’ compensation coverage, WCD can share the information with PEO’s insurer.

Requires PEOs to provide client lists to the Department of Consumer Business and Services director at regular intervals.

Makes conforming amendments so PEOs are treated same worker leasing companies after operative date of measure.

Becomes operative January 1, 2027. Takes effect on 91st day following adjournment sine die.

Fiscal impact: (info)

Revenue impact: (info)

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

-1 Clarifies definition of PEO to mean person that assumes *certain* employment responsibilities as allocated under agreement for some or all of client employer’s workers, regardless of terminology parties use to describe relationship. Requires that notice to client that is a limited liability company, may be given to any manager, or in

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member managed limited liability company, to any of members. Changes operative date to July 1, 2027.

BACKGROUND:

Oregon employers that have one or more employees, full or part time, must carry workers' compensation insurance or be self-insured.

The Workers' Compensation Division (WCD) licenses worker leasing companies. Current statute defines a worker leasing company as a person that provides workers to a client by contract and for a fee. This definition excludes temporary service providers, defined as persons who provide workers to clients on a temporary basis.

WCD requires professional employer organizations (PEO) to be licensed as worker leasing companies even though the definition of worker leasing companies does not explicitly include PEO. A PEO is an entity that provides services such as payroll, benefits, and workers' compensation insurance to client employers under contract. WCD and PEOs generally agree that a PEO is a type of worker leasing company, even though the current definition of worker leasing company does not reflect modern PEO business services.

When a worker leasing company provides workers to a client, ORS 656.850 requires it to provide workers' compensation coverage to both the leased workers and the client's regular workforce, unless the client chooses to take on that responsibility by obtaining its own coverage. Licensing PEOs under the current definition of worker leasing company increases the risk of disputes over the scope of a PEO's worker compensation coverage and licensing requirements because currently an employer is not able to transfer its workers' compensation coverage obligations to a third party outside of a worker leasing arrangement.

When a worker leasing company provides workers' compensation coverage to client workers, it must notify WCD. It must also notify WCD to terminate its obligation to provide workers' compensation coverage. Under current rule, worker leasing companies provide required workers' compensation coverage notices to WCD using forms called worker leasing notices and termination notices, which are manually entered into an employer data system WCD staff. Worker leasing clients are the only carrier-insured employers whose workers' compensation coverage data is reported using a form-based process. Workers' compensation coverage for most other Oregon employers is reported electronically by their insurers using electronic data interchange (EDI).

House Bill 2800 changes the term "worker leasing company" to "professional employer organization" (PEO) to reflect the use of PEOs as a person that assumes employment responsibilities for some or all client's workers under a contract. The measure expands the definition of "temporary service provider" and permits the electronic filing of clients workers' compensation coverage data.