

HB 2800 A STAFF MEASURE SUMMARY

Senate Committee On Labor and Business

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Meeting Dates: 4/24, 4/29

WHAT THE MEASURE DOES:

The measure 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. Operative July 1, 2027. Takes effect on 91st day following adjournment sine die.

Detailed Summary:

Replaces “worker leasing company” with “professional employer organization” (PEO). Defines "PEO" as a person that enters into a PEO relationship with a client employer. Defines "PEO relationship" to mean an agreement between a PEO and a client employer under which certain employer responsibilities for some or all of the client employer's workers are allocated. Defines "covered employee" to mean a client worker for whom a PEO has assumed employer responsibilities under a PEO relationship.

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 enters into a PEO relationship 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). Permits notice to be given to any manager when the client is a limited liability company. Permits notice to be given to any member when the client is a member managed limited liability company. 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 amendment.

Operative July 1, 2027. Takes effect on 91st day following adjournment sine die.

REVENUE: No revenue impact

FISCAL: Has minimal fiscal impact

ISSUES DISCUSSED:

- Exclusive remedy protections are still extended to PEOs and their clients
- Exclusive remedy provisions

EFFECT OF AMENDMENT:

No amendment.

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