

HB 2236 A STAFF MEASURE SUMMARY

Carrier: Rep. Boshart Davis

House Committee On Labor and Workplace Standards

Action Date: 04/09/25

Action: Do pass with amendments. (Printed A-Eng.)

Vote: 7-0-0-0

Yeas: 7 - Boshart Davis, Elmer, Fragala, Grayber, Munoz, Nelson, Scharf

Fiscal: No fiscal impact

Revenue: Has minimal revenue impact

Prepared By: Erin Seiler, LPRO Analyst

Meeting Dates: 3/31, 4/9

WHAT THE MEASURE DOES:

The measure requires a worker leasing company to elect to treat the employees of client employers as employees of the worker leasing company or as employees of the client employers for the purpose of filing quarterly payroll taxes.

Detailed Summary:

Requires a worker leasing company during the term of the agreement with a client employer, to elect to treat the employees as employees of the worker leasing company or the client employer. If a worker leasing company elects to treat a client employers employee as its own employee, it is only for the purpose payroll tax reporting.

Requires the worker leasing company to notify the director of the Oregon Employment Department (OED) in writing regarding its election of a reporting method. Requires a worker leasing company to produce all documentation and information requested by the director of OED within 60 days of submitting notice if the worker leasing company is treating the employees as employees of the client employer.

Permits a worker leasing company to change its election by written notice to the director of OED. Election become effective in the calendar year following the year in which the written notice is received. Prohibits the worker leasing company from changing election for two calendar years following the effective date of the change.

Requires unemployment benefits based on the wages paid to an employee of the worker leasing company to be charged to the worker leasing company and not to the client employer.

Requires unemployment benefits based on the wages paid to an employee of the client employer to be to the client employer not the worker leasing company.

Requires both client employer and worker leasing company to include any remuneration paid to an individual in a calendar year in payroll.

Requires a worker leasing company to elect a treatment of furnished employees during the first 120 days following the effective date of this 2025 Act. Election becomes effective on the first day of the calendar quarter in which the election is made. Initial election does not count against the limit on subsequent changes.

Takes effect on the 91st day after adjournment sine die.

ISSUES DISCUSSED:

- Legislative history regarding professional employer organizations (PEO) and relationship to client employers
- Services that PEOs provide client employers
- Types of businesses that utilize PEO services
- Regulatory certainty for unemployment insurance tax reporting

HB 2236 A STAFF MEASURE SUMMARY

- Collaboration between Oregon Employment Department (OED) and National Association of Professional Employers Organization (NAPEO)
- Codification of current business practices of PEOs
- Impact to industry of requiring PEOs to complete tax reporting at the client level

EFFECT OF AMENDMENT:

Replaces the measure.

BACKGROUND:

A worker leasing company, also known as a professional employer organization (PEO) is a human resources company that is contracted by small companies to manage certain administrative functions, such as payroll, recruitment and pre-employment screening, tax compliance and filings, and employee benefits. The PEO business model, effectively, establishes a co-employment relationship with the client-employers (CE) and the CEs' employees. As a co-employer, the PEO becomes the legal and tax-related employer for the employees of all the CEs whom the PEO contracts. This permits the PEO to negotiate retirement, healthcare benefits, and workers' compensation rates for CEs, as well as establish an aggregate unemployment insurance rate applied to all CEs when the PEO files unemployment insurance (UI) taxes for all CEs under PEO.

As part of their business model, PEOs aggregate employees and may file a single Form OQ Oregon Quarterly Tax Report (OQ Tax Report) on behalf of all CEs using the PEO's BIN. The OQ Tax Report includes tax withholdings, UI Tax, and Paid Leave Oregon contributions. The PEO may not file OQ Tax Reports for each CE individually under the CE BIN. By filing an aggregate report, a CE with fewer than 25 employees is not recognized as a small employer for purposes of Paid Leave Oregon. However, filing an aggregate payroll report allows the PEO to utilize a single, aggregate UI Tax Rate for all CEs.

House Bill 2236 A codifies in statute the current practices of PEOs regarding filing of quarterly payroll taxes for client employers.