

SENATE COMMERCE COMMITTEE

STATEMENT TO

SENATE, No. 1466

with committee amendments

STATE OF NEW JERSEY

DATED: OCTOBER 19, 2000

The Senate Commerce Committee reports favorably and with committee amendments Senate Bill No. 1466.

This bill, as amended by the committee, regulates employee leasing companies, also known as professional employer organizations or PEOs. It provides by law that an employee leasing company is the employer for unemployment and temporary disability insurance purposes and for purposes of workers' compensation coverage.

Under the bill, the employee leasing company and the client company enter into a written employee leasing agreement under which a covered employee becomes "co-employed" by the employee leasing company and the client company. The bill defines the parameters of the employee leasing agreement, which in turn dictates the respective responsibilities of the client company and the employee leasing company for covered employees. In many respects, the employee leasing company assumes the role of the employer. For example: it assumes responsibility for the payment of wages to covered employees; assumes responsibility for the payment of payroll taxes and collection of taxes from payroll on covered employees; retains authority to hire, terminate, discipline, and reassign the covered employee; and retains a right of direction and control over management of safety, risk and hazard control at the work site. However, the client company may have the right to accept or cancel the assignment of any covered employee and may maintain sufficient direction and control over the covered employee as necessary to conduct its business. Additionally, any covered employee who must be licensed, registered or certified according to law shall be treated as a covered employee of the client company for the purposes of the license, registration or certification. The employee leasing company must give a written notice of the relationship between the employee leasing company and the client company to each covered employee.

An employee leasing company must register with the Commissioner of Labor and provide a list of its client companies and submit certain specified information about those client companies, including a financial statement prepared by an independent certified

public accountant. At registration, and renewal thereof, an employee leasing company must have a net worth of at least \$100,000 or, in the alternative, deposit with the commissioner a bond or securities with a market value of \$75,000. In certain circumstances, the commissioner may require the bond or securities.

The bill sets forth the employee leasing company's responsibilities under the "unemployment compensation law," R.S.43:21-1 et seq. and the workers' compensation law, R.S.34:15-1. Specifically with respect to unemployment contributions, section 7 of the bill details whose benefit experience, as between the client company and the employee leasing company, shall be used to determine contribution rates, under various arrangements upon the inception and dissolution of the employer leasing agreement. For example, if the employee leasing company acquires the client company's total workforce, the employee leasing company shall report wages and pay contributions based on the benefit experience assigned to the employee leasing company under R.S.43:21-7.

If an employee leasing company fails to comply with any of the requirements of the bill, the department may, after a hearing, rescind the registration of the employee leasing company, thereby rescinding the employee leasing company's co-employer status and thus placing full responsibility for the employees with the client company.

The committee amended the bill to make technical amendments and to provide that nothing in the bill shall exempt an employee leasing company or its employees from complying with the "New Jersey Insurance Producer Licensing Act" if its activities fall within the scope of that act.