

**SENATE BILL NO. 1466**  
(SECOND REPRINT)

To the Senate:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I am returning Senate Committee Substitute for Senate Bill No. 1466 (Second Reprint) with my recommendations for reconsideration.

A. Summary of Bill

This bill regulates employee leasing companies, also known as professional employee organizations. It codifies and clarifies the status of an employee leasing company as the employer for purposes of unemployment, temporary disability insurance and for workers' compensation coverage.

The bill requires that 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.

The bill also requires that an employee leasing company register with the Commissioner of Labor. To enforce the bill's provisions, the department may rescind the registration of an employee leasing company which fails to comply with any of the bill's provisions, thereby rescinding the employee leasing company's co-employer status and thus placing full responsibility for the employees with the client company.

B. Recommended Action

I support this bill and the intent of the sponsors to clarify the rights and obligations of employees and their co-employers – employee leasing companies and their client companies – who are engaged in employee leasing arrangements. This bill assures that the role of each party, with respect to wages, benefits, payroll taxes, workers' compensation and workplace safety, is clearly defined. Furthermore, the registration requirement set forth in the bill is a reasonable means of providing oversight of the industry without imposing an undue burden. I am, however, constrained to return this bill with my

recommendation for reconsideration for the following reason.

While rescission of an employee leasing company's registration may, in certain cases, be an appropriate penalty for violations of our labor, taxation and workplace safety laws, it is not a penalty that should be imposed without extremely compelling justification. Because a company could not conduct business with a rescinded registration, the punishment is severe and the threshold for its imposition must be high.

The bill, as passed, provides that the Commissioner of Labor may rescind a registration for "repeated or egregious" violations. This standard is too easily met in light of the harshness of the penalty. Furthermore, the legislative history of the bill, as confirmed by the Office of Legislative Services, indicates that the Legislature intended that the bill provide a higher threshold for rescission. Specifically, language approved by the Assembly Labor Committee provided that rescission of a registration should occur only upon repeated and egregious violations of relevant statutory provisions. This change was not incorporated into subsequent drafts of the bill and the error was not detected until after passage by both houses of the Legislature. As a result, the bill before me does not reflect the intent of the Legislature.

Therefore, I herewith return Senate Committee Substitute for Senate Bill No. 1466 (Second Reprint) and recommend that it be amended as follows:

Page 9, Section 10, Line 26:

After "repeated" delete "or" insert "and"

Respectfully,

/s/ Donald T. DiFrancesco

Acting Governor

[seal]

Attest:

/s/ James A. Harkness

Chief Counsel to the Governor