



OREGON STATE REPRESENTATIVE

PAUL HOLVEY

HOUSE DISTRICT 8

Chair – House Committee on Business and Labor

Rep.PaulHolvey@oregonlegislature.gov

February 13, 2024

The Honorable Tina Kotek
Office of the Governor
900 Court Street, NE Suite 254
Salem, Oregon 97301

Dear Governor Kotek:

We are writing to request that you direct the Department of Consumer and Business Services, Department of Revenue, and the Employment Department to review and correct the administrative rules pertaining to Working Leasing Companies and professional employer organizations (PEO's) to conform to the Oregon Revised Statutes.

The House Committee on Business and Labor introduced House Bill 4005, and specifically the -5 amendment, to clarify the application of the statutes for the agencies in their treatment of PEO's. After conversation and questions of the PEO advocates, the agencies, and legislative counsel, it became apparent that the Worker's Compensation Division is incorrectly classifying PEO's as Worker Leasing Companies and that the Department of Revenue and Employment Department are incorrectly allowing PEO's to file payroll taxes for their client employers using the PEO tax ID numbers. This makes the small employer clients ineligible to be treated as small employers for the purpose of Paid Leave Oregon provisions and incorrectly allows the PEO to be considered as employer, complicating the experience rating and tax rates for employers.

The PEO's have indicated they have no direction and control of the employees or the manner of work for the client's employees. This business model and practice puts at risk the fair treatment of all employers and the risk of compliance to the State Unemployment Tax Act in federal law. Though this business model and practice are described by the PEO advocates as co-employment, in our agencies and in their private contractors, it is not consistent with ORS 316.162, 316.168, or 657.477. Please review the meeting materials and legal opinions on OLIS under House Bill 4005.

We hope that your office will take the necessary actions to correct this situation and further make recommendations for the legislative action that is deemed appropriate. A communication I would also like to request is a report back to this committee on your actions to resolve this matter.

Respectfully,

Paul Holvey
Oregon State Representative
House District 8