

February 13, 2024



Representative Paul Holvey
Chairman, House Business and Labor Committee
900 Court St NE
Salem, OR 97301

RE: Written Testimony in OPPOSITION of HB 4005 and the proposed amendments, "Relating to an individual's performance of services for an employer."

Dear Chairman Holvey:

My name is *Teresa McCormick* and I am *President & CEO of TNT Management Resources Inc.*, and I am writing today in opposition to House Bill 4005 and the proposed amendments.

My company is a PEO company based right here in Turner, OR. We represent *a broad range of clients including, farmers, vineyard, wineries, law offices, dental offices, manufacturers, medical supply companies, case managers, retail stores, real estate agents, nurseries, to name a few.* We partner with small and mid-sized businesses across Oregon generally ranging in size from 5 to 50 employees.

Our company has been operating in Oregon since *August 18, 1992. That's 31 ½ years my company has been helping small businesses!*

I came to the hearing yesterday with the intention of testifying and we unfortunately ran out of time. This gave me the time yesterday to come back to my office and pull out all of the files over the years of our legislative attempts and collaboration with the agencies and regulators in Oregon. When I started my business, there were no regulations for our industry. In 1993 we came together with HB 2282 which was a collaboration with the workers' compensation division (WCD), Employment Department, the Oregon department of Revenue, the Department of Insurance and Finance Ombudsman, and SAIF Corporation.

We met every few weeks to work on this bill to make sure that all Agencies had input into the bill and to make sure that nothing was missed. If you pull the transcripts of those meetings, you will see that there was no question as to whether a Worker Leasing Company was an employer.

TAPE 126, SIDE A

029 REP. TIERNAN: A leasing company is an employer. Aren't they subject to this already?

*Excerpt from House Committee on Commerce and Subcommittee on Labor, June 2, 1993
Hearing Room D 8:30 a.m. Tapes 125 - 128*

In addition, in the Work Session for the bill it was brought up that the reason for the bill was to make sure that companies couldn't use a Worker Leasing Company as a way to improve their records or rates, and specifically refers to our "crossover relationship with the Employment Division":

390 REP. BEYER: Rep. Naito did bring up some good points. This bill was crafted to get at those companies who may look to leased employees as a way of improving a poor record, a scheme in the industry known as "rent a mod".

TAPE 48, SIDE B

004 JOHN BOOTON, SMALL BUSINESS OMBUDSMAN TO DIF: Clarifies bill for members about crossover relationship with the Employment Division.

Excerpt from the House Committee on Commerce, June 4, 1993. Hearing Room D 8:30 a.m. Tape 48 – 51.

I was present at all of those meetings. I have notes from all meetings and the Employment Department was very involved. We did not skirt around the issue of being an employer. As part of our licensing process, we have to provide written procedures that demonstrate how we "ensure that our clients provide adequate training, supervision, and instruction to meet the requirements of ORS chapter 654." We are an employer, and we do our employer responsibilities.

In my notes from the meetings, the Employment Department agreed that a Worker Leasing Company could be an employer and did not need additional regulations because we "are an employer". The IRS recognizes us as the Employer for W-2's and the payment of wages including Federal Withholding, Social Security and Medicare and FEDERAL UNEMPLOYMENT TAXES (FUTA).

In addition, we submit Tax compliance certificates every time our license renews from the:

- Internal Revenue Service
- Oregon Department of Revenue
- Oregon Employment Department

This certificate is signed off by the Agencies certifying that we are in compliance with paying the taxes and filing the payroll returns (Form OQ, Form 132 etc).

In addition to HB2282 we have worked with the State on several issues and even attempted to pass a model bill that would encompass all aspects of what we do. The model bill never moved forward but we have been successful in Health Insurance Legislation (2003) that specifically defined the manner in which a Worker Leasing Company (PEO) as an employer could offer health insurance.

TNT has had many clients throughout the years that have been unionized or a part of an Apprenticeship and Training program. In fact, we have had several clients referred to us over the years by the unions. These unions have told me personally what a benefit they see us as. The payroll is accurate, the hours reporting for inclusion in Union benefits is reported timely and accurately, making sure that workers get the benefits they deserve. In 2001, we had to work with the Federal and State Apprenticeship and Training Offices in Washington DC and Portland, Oregon to determine if these workers could work with a Worker Leasing Company who was not, themselves, licensed as an electrical contractor. The determination was made that they could continue to work with my company. Again, the determination was that the co-employment model allowed for both the PEO and the Client Employer to work together to meet the needs of the Apprenticeship and Training programs rules.

I believe this legislation will harm small businesses operating in Oregon and their employees who depend on PEOs to provide them with an array of HR services – including health care insurance, workers' compensation, and the timely remittance of taxes.

Over the years I have seen so many businesses struggling to survive. When you are small you don't have the staff in house to help with all the things a PEO does for a small business. You are struggling to grow your crop, sell your product, and do WHATEVER it is you got into business to do.

By operating as a co-employer, we bring an economy of scale that allows us to provide our services to our clients at a rate they can afford! This allows them to save money, be competitive and have access to offerings they otherwise would not have access to.

Moreover, our compliance helps them stay in business by avoiding fees for late tax deposits, increased work comp costs, increased State Unemployment Rates, increased benefits costs.

Our clients WANT to be compliant but they need help. There are over 3,000 clients and 31,000 employees that rely on a PEO. If you pass this legislation and put us out of business, you will be hurting those businesses and its employees. They will lose benefits, workers compensation from the PEO and so much more.

The original bill that we put forth in 2023 (SB 881) was to deal with an inequality issue with the Oregon Paid Leave program. We did not ask for the PEO to be listed as a small employer, we asked for our clients to be counted as small or large based on the size of the individual client. This has been a process that other agencies/programs have done. This doesn't benefit the PEO in any way. This just once again keeps the clients competitive and only paying taxes they would have to pay on their own.

I join my colleagues today, **asking you to oppose House Bill 4005 and the proposed amendments.** Let's work together as we have in the past to bring together a bill in 2025 that creates comprehensive PEO legislation that will give recognition to our industry, clarity to the state agencies, and protection to our business model, and will meet all the needs of all

stakeholders involved. Our industry is aware that some of the language currently used in the WCD rules is antiquated (including the term worker leasing company).

Thank you for your consideration regarding our concerns. I appreciate the opportunity, and once **again ask you to oppose HB 4005 and the proposed amendments.**