



**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:

Chairman Holvey and members of the committee, thank you for the opportunity to submit my written testimony to you.

My name is Anthony Kell and I am the owner of Kaya HR. We are a small business located in Portland, Oregon. I am writing to you today in opposition to House Bill 4005 and the proposed amendments.

My company is a PEO, also known as a worker leasing company. We are locally owned and operated, and we have been operating in Oregon for 26 years. During that time, we have partnered with hundreds of small businesses, from restaurants to trucking companies to architectural firms to non-profit organizations. The average size of our client is about 10 employees. 90% of our clients have less than 25 employees.

My testimony will focus on the concept of **co-employment**. This is what the **PEO business model** is based on. It is how we are able to secure benefits, 401k plans, and workers’ compensation policies for our clients.

On the following page I have added a graph to illustrate how the PEO and the client split the responsibilities of employment. Through a contractual agreement, the PEO and the client delineate the responsibilities. The administrative employer is responsible for processing payroll; collection and remitting taxes; securing and administering benefits; securing and administering the 401K plan; and securing and administering workers’ compensation policies.

The client is responsible for finding and hiring the employees; supervising, directing, and controlling the employees; setting wages, expectations, and establishing schedules; and providing work related equipment and tools. Basically, the client oversees the day-to-day activities of the employees. The client also handles the terminations.

Service Agreement Between PEO and Client
Delineates Responsibilities

Administrative Employer PEO	Supervisory Employer Client
<p><i>It is Responsible for:</i></p> <ul style="list-style-type: none"> • Processing Payroll • Collection and remit taxes • Securing and administering Benefits • Securing and administering 401K Retirement Plan • Securing and administering Workers' compensation policies 	<p><i>They are Responsible for:</i></p> <ul style="list-style-type: none"> • Finding and Hiring EEs • Supervising, directing, and controlling the employees • Setting wages, expectations, schedules, and provide work related equipment and tools • Basically, client oversee day to day activities of the EEs • Also handles terminations

Through the co-employment model, by which PEOs operate, the PEO can provide these services in a more efficient, cost-effective manner. It allows the PEO to aggregate their clients, giving them economies of scale in the areas of benefits, 401k plans, and workers' compensation. Those economies of scale are passed along to the small business clients, allowing them to:

- afford premium benefits and services that, otherwise, would not be available to them.
- be more competitive in their business market,
- and level the playing field as they compete for quality employees, in many cases, against larger businesses.

For the PEO, it allows them to streamline the collection, payment, and filing of federal and state payroll taxes, increasing proper and timely payment to State agencies.

Bottom line, removing co-employment and stating there can only be one employer, which this bill and the proposed amendments would do, would leave the Administrative Employer (the PEO) **unable** to secure and provide: any benefits, or 401k plans, or workers' compensation policies to their clients because the PEO will have been removed from the co-employment equation and no longer recognized as an employer, leaving their clients to fend for themselves.

That would have an immediate effect on over 3000 small businesses in Oregon and some 31,000 workers.

Lastly, unemployment insurance is a limited factor in driving the need for a PEO to operate as an employer within a co-employment relationship. The more important issue at hand is the **requirement** of the PEO to be an employer within a co-employment relationship so that it can secure and offer health insurance, 401K plans, and workers' compensation policies to their clients.

I ask you to oppose HB 4005 and the proposed amendments. Thank you.

Regards,

A handwritten signature in cursive script that reads "Anthony S. Kell". The signature is written in dark ink and is positioned above the typed name.

Anthony S. Kell
President