



**Ohio Senate
District 17**

**Bob Peterson
President Pro Tempore**

1 Capitol Square
Columbus, Ohio 43215
(614) 466-8156

Committees:

Rules and Reference, Vice Chair
Agriculture
Finance General Government and Agency
Review Subcommittee
Government Oversight and Reform
Local Government, Public Safety, and
Veteran's Affairs
Ways and Means

**Senate Bill 186
Ways and Means
September 20, 2017**

Thank you, Mr. Chairman, for giving me the opportunity to speak on Senate Bill 186, which I introduced to clean up a tax issue affecting small and mid-sized business owners who utilize a professional employer organization, or PEO. The bill clarifies existing law to ensure that owners of businesses using a PEO are eligible for the business income tax deduction. This bill was born out of interested party meetings between impacted parties and the Department of Taxation. I'm appreciative of the Department's recognition of the issue and their willingness to work with me and other stakeholders towards a resolution.

PEOs provide comprehensive human resources services. A PEO handles the administration of workers' compensation insurance, medical benefits, and payroll and wage related tax withholding and remittance. PEOs also help their clients comply with the myriad of employment-related state and federal regulations. By outsourcing these tasks to a PEO with related expertise, small and mid-sized businesses can focus on their business and on growing it. It is important to understand the relationship between a PEO and a client company is *not* one of an investor-investee. Neither the PEO nor the client company have a financial investment or serve in the capacity as a shareholder in the other organization. Just as a business would call a law firm or a landscaping company if they needed help with legal work or grounds keeping, they call PEOs for help with HR services.

Starting in 2013, business owners in Ohio became eligible for the small business tax deduction. Naturally, and as they should have, business owners using a PEO claimed the deduction. Years went by and the owners of these small and mid-sized businesses continued to claim the small business deduction. Last fall, some of these

individuals were audited by the Department of Taxation. They were told that because they used a PEO, they were not eligible for the deduction unless they met certain criteria – one criterion being that they own at least 20 percent of the PEO with whom they contract. As I've explained, these business owners contract with a PEO, which serves as an administrative construct for HR services. They do not “buy in” to – or invest in – the PEO. Yet, because the associated monies are “paid” to the business owner by the PEO, they are subject to these additional requirements.

SB 186 will remedy this technicality and ensure that business owners who made the choice to hire a PEO – a choice they made to ensure efficient human resources administration and regulatory compliance – are not penalized. There was no desire by this legislature to treat owners of PEO client companies differently with regard to the deduction. In fact, the concept was never discussed as the enabling legislation was deliberated. Further, in discussions with the Department of Taxation on this issue, they have acknowledged the original fiscal analyses did not contemplate their ineligibility either. SB 186 is consistent with the Ohio statute governing PEOs and the PEO-client employment relationship. ORC 4125 stipulates for the purposes of tax credits and incentives that the client company is the sole employer. That language was enacted to ensure a PEO client company does not lose access to any tax benefit due to being in a PEO arrangement.

In closing, SB 186 offers a clarification that I believe is critical. Enacting SB 186 is the right thing to do for the impacted business owners and the PEOs they hire. The current interpretation impacts these company owners' ability to re-invest in their business; the impact could also extend to their employees. Representative Scherer has introduced companion legislation in the House, House Bill 334. Additionally, a similar amendment was included in the Senate passed version of the budget this past spring.

Thank you for listening; I would be happy to answer any questions you have at this time.