

Am. S.B. 9
As Re-Referred by the House
Rules and Reference
Committee

Topic: PEO federal tax identification number

_____ moved to amend as follows:

In line 1 of the title, delete "section" and insert 1
"sections"; after "3904.13" insert "and 4125.03" 2

In line 4 of the title, after "policyholders" insert "and to 3
allow a professional employer organization to file federal payroll 4
taxes entirely under a client employer's tax identification 5
number" 6

In line 5, delete "section" and insert "sections"; after 7
"3904.13" insert "and 4125.03" 8

After line 220, insert: 9

"**Sec. 4125.03.** (A) The professional employer organization 10
with whom a shared employee is coemployed shall do all of the 11
following: 12

(1) Pay wages associated with a shared employee pursuant to 13
the terms and conditions of compensation in the professional 14
employer organization agreement between the professional employer 15
organization and the client employer; 16

(2) Pay all related payroll taxes associated with a shared 17

employee independent of the terms and conditions contained in the 18
professional employer organization agreement between the 19
professional employer organization and the client employer; 20

(3) Maintain workers' compensation coverage, pay all workers' 21
compensation premiums and manage all workers' compensation claims, 22
filings, and related procedures associated with a shared employee 23
in compliance with Chapters 4121. and 4123. of the Revised Code, 24
except that when shared employees include family farm officers, 25
ordained ministers, or corporate officers of the client employer, 26
payroll reports shall include the entire amount of payroll 27
associated with those persons; 28

(4) Provide written notice to each shared employee it assigns 29
to perform services to a client employer of the relationship 30
between and the responsibilities of the professional employer 31
organization and the client employer; 32

(5) Maintain complete records separately listing the manual 33
classifications of each client employer and the payroll reported 34
to each manual classification for each client employer for each 35
payroll reporting period during the time period covered in the 36
professional employer organization agreement; 37

(6) Maintain a record of workers' compensation claims for 38
each client employer; 39

(7) Make periodic reports, as determined by the administrator 40
of workers' compensation, of client employers and total workforce 41
to the administrator; 42

(8) Report individual client employer payroll, claims, and 43
classification data under a separate and unique subaccount to the 44
administrator; 45

(9) Within fourteen days after receiving notice from the 46

bureau of workers' compensation that a refund or rebate will be applied to workers' compensation premiums, provide a copy of that notice to any client employer to whom that notice is relevant.

(B) The professional employer organization with whom a shared employee is coemployed shall provide a list of all of the following information to the client employer upon the written request of the client employer:

(1) All workers' compensation claims, premiums, and payroll associated with that client employer;

(2) Compensation and benefits paid and reserves established for each claim listed under division (B)(1) of this section;

(3) Any other information available to the professional employer organization from the bureau of workers' compensation regarding that client employer.

(C)(1) A professional employer organization shall provide the information required under division (B) of this section in writing to the requesting client employer within forty-five days after receiving a written request from the client employer.

(2) For purposes of division (C) of this section, a professional employer organization has provided the required information to the client employer when the information is received by the United States postal service or when the information is personally delivered, in writing, directly to the client employer.

(D) Except as provided in section 4125.08 of the Revised Code and unless otherwise agreed to in the professional employer organization agreement, the professional employer organization with whom a shared employee is coemployed has a right of direction and control over each shared employee assigned to a client

employer's location. However, a client employer shall retain	76
sufficient direction and control over a shared employee as is	77
necessary to do any of the following:	78
(1) Conduct the client employer's business, including	79
training and supervising shared employees;	80
(2) Ensure the quality, adequacy, and safety of the goods or	81
services produced or sold in the client employer's business;	82
(3) Discharge any fiduciary responsibility that the client	83
employer may have;	84
(4) Comply with any applicable licensure, regulatory, or	85
statutory requirement of the client employer.	86
(E) Unless otherwise agreed to in the professional employer	87
organization agreement, liability for acts, errors, and omissions	88
shall be determined as follows:	89
(1) A professional employer organization shall not be liable	90
for the acts, errors, and omissions of a client employer or a	91
shared employee when those acts, errors, and omissions occur under	92
the direction and control of the client employer.	93
(2) A client employer shall not be liable for the acts,	94
errors, and omissions of a professional employer organization or a	95
shared employee when those acts, errors, and omissions occur under	96
the direction and control of the professional employer	97
organization.	98
(F) Nothing in divisions (D) and (E) of this section shall be	99
construed to limit any liability or obligation specifically agreed	100
to in the professional employer organization agreement.	101
(G) <u>A professional employer organization may elect to file</u>	102
<u>federal payroll taxes entirely under the tax identification number</u>	103

of the professional employer organization or entirely under the 104
tax identification number of each client employer. All of the 105
following apply to a professional employer organization that 106
elects to file federal payroll taxes entirely under the tax 107
identification number of each client employer: 108

(1) The professional employer organization shall remain 109
liable for all wages and payroll taxes associated with shared 110
employees, regardless of whether the professional employer 111
organization receives payment from the client employer. 112

(2) The professional employer organization shall include in 113
the professional employer organization agreement between the 114
professional employer organization and each client employer a 115
provision that reflects the professional employer organization's 116
liability under division (G)(1) of this section. 117

(3) The professional employer organization is prohibited from 118
arguing in any forum that the use of a client employer's tax 119
identification number absolves the professional employer 120
organization of liability for wages and payroll taxes associated 121
with shared employees of the client employer." 122

In line 221, delete "section" and insert "sections"; after 123
"3904.13" insert "and 4125.03" 124

In line 222, delete "is" and insert "are" 125

In line 223, delete "Sections 1 and 2 of" and insert "Section 126
3904.13 of the Revised Code, as amended by this act, and section 127
3901.89 of the Revised Code, as enacted by"; after "act" insert a 128
comma 129

The motion was _____ agreed to.

