

January 22, 2020

Members of the Ohio Senate Transportation, Commerce and Workforce Committee:

I am writing on behalf of ADP TotalSource (TotalSource) in opposition to Senate Bill 201. TotalSource is the largest professional employer organization (PEO) certified by the Internal Revenue Service as meeting the requirements to operate as a Certified Professional Employer Organization under the Internal Revenue Code. We serve more than 12,500 clients and approximately 562,000 worksite employees in all 50 U.S. states. In Ohio, we are registered to operate as a PEO with the Bureau of Workers Compensation and we serve 175 small and mid-sized businesses here as clients with over 4900 worksite employees.

TotalSource promotes the thorough regulation of the PEO industry around the country by supporting the adoption of the National Association of Professional Employer Organizations (NAPEO) Model Act. This Model Act has been adopted in 40 states, including Ohio, and it establishes the important rights and responsibilities of both the PEO and the client company. In a PEO relationship, both the PEO and the client company have a co-employment relationship with the client's employees. The PEO assumes certain employer responsibilities, such as tax filings, and the client maintains other employer responsibilities, such as control of daily operations. It is by virtue of this co-employment relationship that PEOs are able to offer their co-employees benefits such as health insurance and workers compensation.

TotalSource has serious concerns about Senate Bill 209, which creates a new business model called "Alternate Employer Organizations" (AEOs). This business model is essentially the same as the PEO model with one major difference: the federal payroll taxes of an AEO would be filed under the client's FEIN. This is an extremely important distinction because it is the filing of federal taxes under the PEO FEIN that is part of establishing a co-employment relationship, and it is this co-employment relationship that is needed for an entity to provide its employees benefits such as workers compensation. This co-employment relationship is especially important with regard to workers compensation in a monopolistic workers compensation state like Ohio.

In addition to the concerns we have about the AEO lacking a co-employment relationship, we are concerned about the possible loss of federal protections from liability for the small business that would use the AEO model. In the event that the AEO fails to pay the federal taxes on behalf of the client, an AEO would not be liable for those taxes under federal law. This concern was also raised by the Ohio Legislative Service Commission in their Bill Analysis of SB 201.

On behalf of ADP TotalSource, I urge you to consider the major issues that an AEO model would present and more importantly, the major problems that could come about for a small business in Ohio that uses an AEO. We believe that these are some of the reasons why no other states have adopted an AEO model. As such, I respectfully request that you do not release SB 201 from the Senate Transportation, Commerce and Workforce Committee.

Thank you for your time and consideration and please do not hesitate to contact me if you should have any questions regarding our position.

Sincerely,



Tricia Russo
Vice President of Government Affairs