



**Opponent Testimony on Senate Bill 201 Before the
Ohio Senate Transportation, Commerce and Workforce Committee
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Chairman McColley, Vice Chairman Johnson, Ranking Member Antonio and members of the Senate Transportation, Commerce and Workforce Committee, thank you for the opportunity to appear before you today. My name is Thomas E. Pappas, Jr. and I represent Sheakley HR LLC. On behalf of Sheakley HR LLC, I am testifying in opposition to Senate Bill 201 relating to so-called Alternate Employer Organizations (“AEOs”). Sheakley HR has serious concerns with the AEO Model, which we believe will promote confusion for Ohio employers and create unintended consequences for the Ohio Bureau of Workers Compensation.

Confusion for Ohio Employers

Over the past several years NAPEO along with its members have been successful in demonstrating to the state regulatory agencies of 40 states (Ohio included) that the adoption of the PEO Model Act is a benefit to employers and government. The benefit is that the definition of a PEO and more particularly what constitutes a “co-employment relationship” under the PEO Model Act is consistent from state to state. The PEO Model Act defines a “co-employment relationship” which is consistent with Federal law, meaning among other things the PEO is designated as the employer for purposes of filing federal taxes and the issuance of W-2’s. . Another state, Kentucky, is exploring adoption of the PEO Model Act which would bring the total number of states to 41. If SB 201 is enacted, then confusion is created for Ohio employers who have employees working in adjoining states which have adopted the PEO Model Act but do not recognize the AEO Model proposed under SB 201. How can an Ohio employer treat Ohio employees under the AEO Model and then be required to treat out of state employees under the PEO Model Act? I would suggest that to do so Ohio employers would incur additional costs to insure compliance outside of Ohio, which is an unnecessary burden.

Unintended Consequences

No other states have adopted the AEO model. Where statutorily required employers in forty six (46) states procure Workers Compensation coverage for employees through the commercial property & casualty marketplace, which is why the AEO model is not used. The commercial insurance market would not allow an AEO to attempt to provide workers compensation coverage under the proposed AEO Model. Employers in the remaining four (4) states (Ohio, North Dakota, Wyoming and Washington operate a Monopolistic State Fund. The AEO Model as outlined in SB 201 provides an expedited process for an employer to participate in a Self-insured Workers Compensation program administered by an AEO. The AEO Model allows the employer to continue to file federal payroll taxes under their Federal Employer Identification Number (FEIN) and to produce the employee W-2 using the employer FEIN

rather than using the PEO FEIN. In effect the AEO is then able to solicit Ohio employers to offer the benefits of a Self-insured Workers Compensation plan to an employer by essentially acting as a payroll company by allowing the client to file their federal taxes under their own FEIN. The unintended consequence of adopting the AEO Model as outlined in SB 201 is that unsophisticated organizations would hold themselves out as a Human Resource experts under the proposed AEO Model for the sole purpose of selling Self-insured Workers Compensation, which is clearly in violation of the Ohio Revised Code. The AEO becomes in essence an unlicensed insurance company operating in the state of Ohio. As the ultimate party responsible for Workers Compensation claims in Ohio the BWC would be taking on greater risk created by inexperienced AEO operators. Essentially the AEO Model would also allow non-Ohio Insurance Carriers the opportunity to partner with payroll providers to offer Self-insured Workers Compensation coverage. The AEO and its' partners would pick and choose the most profitable risk and leave the BWC with adverse risk in the State Fund.

Thank you for the opportunity to testify. I would be happy to take any questions.

Sincerely,



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