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SB 201 Sponsor Testimony
House Commerce and Labor Committee
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Chairwoman Manning, Vice Chair Dean, Ranking Member Lepore-Hagan and members of the House Commerce and Labor Committee, thank you for allowing me to provide testimony on Senate Bill 201, which passed unanimously out of the Senate in September.

Senate Bill 201 creates alternative employer organizations (AEO). The AEO mirrors the functions of PEOs (Professional Employer Organizations) with the exception that an AEO must file federal payroll taxes under the tax identification number of its client instead of its own, which is the traditional model.

Currently, companies can contract with a PEO to manage different human resource functions. The company that contracts with the PEO is their client-employer and they form a co-employer relationship. The PEO has the ability to process payroll, pay all wages and applicable state and payroll taxes and maintain workers' compensation coverage. This is all done under the PEOs federal employer identification number and not their client-employers. Under this bill, an AEO will have the ability to provide the same functions as a PEO, but under the client-employers FEIN instead of their own.

As a result of changing which FEIN number is used, there are safeguards provided in the bill to ensure liability and transparency for the AEO and their client-employer. The following safeguards have been added:

- State law
  - An AEO will be statutorily liable for payment of wages and taxes
  - Noncompliance will lead to loss of license to operate in the state
- Contract
  - The bill requires an agreement between the AEO and the client-employer to include a provision that the AEO remains jointly and severally liable for all applicable taxes
- Record-keeping and administrative enforcement
  - An AEO will be required to keep a record any time a client-employer fails to pay the AEO in an amount sufficient to cover wages and taxes and a record that the AEO paid both regardless of payment to the AEO

    - Nonpayment and noncompliance by the AEO found during a BWC audit can result in loss of license to operate in the state
    - AEOs also must maintain positive working capital at initial or annual registration
    - Specifies requirements for an AEO to register with the BWC that are similar to the requirements for PEOs
- BWC bond
    - AEOs will be required to post a bond with the BWC in an amount sufficient to cover any unpaid taxes or wages or at least one million dollars
- Additional guidelines
    - SB 201 prohibits an AEO from owning or co-owning another PEO or AEO
    - Also prohibits an AEO from sponsoring or acting as the employer of a health benefit plan

With the addition of these safeguards, the state is ensuring that AEOs assume the same responsibilities and liabilities as PEOs. SB 201 makes a simple change that will provide more flexibility and transparency for Ohio's companies wishing to use an AEO for human resources management all while using their own FEIN to do so.

Thank you, Chairwoman Manning, for allowing me to provide sponsor testimony today on SB 201. I welcome any questions from the committee.