



WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

2009 Wisconsin Act 174
[2009 Senate Bill 504]

**Wisconsin Professional Employer
Organizations Act**

2009 Wisconsin Act 174 makes several changes to the laws relating to the registration and regulation of professional employer organizations (PEOs). Those laws were enacted in 2007 Wisconsin Act 189 and modified in 2009 Wisconsin Act 29. [Descriptions of the previous Acts may be found at: <http://www.legis.state.wi.us/lc>.] Act 174 provides that ch. 461, Stats., is to be known as the “Wisconsin Professional Employer Organizations Act.”

Change to Definition of PEO

Current law defines a PEO as a person that is engaged in the business of entering into written contracts for the provision of the nontemporary, ongoing employee workforce of a client and providing services under those contracts and that, under the contracts, has the obligation to pay the employees providing services for those clients from its own accounts, regardless of whether the person uses the term “professional employer organization,” “PEO,” “staff leasing company,” “registered staff leasing company,” “employee leasing company,” or “administrative employer,” or uses any other name as part of the person’s business name or to describe the person’s business. [Note: A “professional employer group” (PEG) is defined as two or more PEOs that are controlled by the same person. For simplicity, this Memo refers only to PEOs.]

Act 174 adds language that explicitly *excludes* temporary help agencies and temporary help companies, as defined in current law, from the definition of PEO.

PEO Small Operations Registration

Under current law, PEOs generally must apply for and obtain registration with the Department of Regulation and Licensing (DRL) prior to providing professional employer services in Wisconsin. Prior to enactment of Act 174, PEOs based outside Wisconsin with no more than 50 employees performing services for clients in Wisconsin could apply to DRL for what was referred to as “limited registration.” Act 174 changes the name of that registration to “small operations registration.” Generally, PEOs must file a financial statement setting forth the financial condition of the applicant, along with an application

This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents at the Legislature’s Web site at: <http://www.legis.state.wi.us/>.

for initial registration or renewal. Act 174 exempts PEOs seeking small operations registration or renewal from the requirement to file a financial statement.

Treatment of Tax Credits and Economic Incentives and Payment of Taxes, Assessments, Expenditures, and Benefits

Current law provides that, if a client of a PEO is entitled to obtain tax credits or other economic development incentives from the state as a result of the client providing employment, the employees of a PEO who are providing services for that client are to be considered the employees of the client for purposes of determining the value of such tax credits or incentives. Act 174 further specifies that the employees are to be considered employees of the client for purposes of determining the value of any tax credits or economic development incentives that may be provided *by a local governmental unit* to a client who provides employment. A “local governmental unit” is defined as a political subdivision of or special purpose district in the state; an instrumentality or corporation of a political subdivision or special purpose district; a combination or subunit of any of the foregoing; or an instrumentality of the state and any of the foregoing.

Act 174 also requires that any taxes, assessments, expenditures, or benefits required by the state or a local governmental unit to be paid by an employer on a per employee basis are to be paid by the client of the PEO if the employee is performing services for that client, or by the PEO if the employee is not assigned to or providing services for a client. If a PEO pays any benefits or monetary consideration to its employees and the benefits or monetary consideration satisfy requirements imposed by the state or local governmental unit, the amount of the benefits or monetary consideration is to be applied to any obligations required to be paid by, assessed against, or charged to a client.

Database of Registrants

Under current law, DRL is required to maintain a list of registered PEOs. Act 174 requires that the list include the address of each registrant and that it be periodically updated and available on DRL’s website.

Effective date: March 30, 2010

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April 27, 2010

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