

REFERENCE TITLE: professional employer organization; repeal

State of Arizona
House of Representatives
Fifty-sixth Legislature
Second Regular Session
2024

HB 2252

Introduced by
Representative Wilmeth

AN ACT

AMENDING SECTION 23-561, ARIZONA REVISED STATUTES; REPEALING SECTIONS 23-563, 23-564, 23-565, 23-566, 23-567 AND 23-568, ARIZONA REVISED STATUTES; AMENDING SECTIONS 23-569 AND 23-572, ARIZONA REVISED STATUTES; REPEALING SECTIONS 23-575 AND 23-576, ARIZONA REVISED STATUTES; RELATING TO PROFESSIONAL EMPLOYER ORGANIZATIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 23-561, Arizona Revised Statutes, is amended to
3 read:

4 23-561. Definitions

5 In this article, unless the context otherwise requires:

6 1. "Administrative fee":

7 (a) Means the fee that is charged to a client by a professional
8 employer organization for professional employer services. ~~Administrative~~
9 ~~fee~~

10 (b) Does not include any amount of the fee that is applied to
11 wages, salaries, benefits, workers' compensation, payroll taxes,
12 withholding or other assessments that the professional employer
13 organization pays to or on behalf of covered employees under a
14 professional employer agreement.

15 2. "Client":

16 (a) Means a person who contracts with a professional employer
17 organization under a professional employer agreement. ~~A client~~

18 (b) Does not include a professional employer organization.

19 3. "Co-employer" means a professional employer organization or a
20 client.

21 4. "Co-employment relationship" means all of the following:

22 (a) A relationship between co-employers if the rights, duties and
23 obligations of an employer that arise out of an employment relationship
24 are allocated between co-employers subject to a professional employer
25 agreement and this article, and the relationship is intended to be an
26 ongoing relationship and not a temporary or ~~project-specific~~
27 **PROJECT-SPECIFIC** relationship.

28 (b) A relationship between a professional employer organization and
29 a covered employee that is subject to a professional employer agreement
30 and this article, that allows the professional employer organization to
31 enforce those rights and that requires the professional employer
32 organization to perform those duties and obligations **THAT ARE** allocated to
33 the professional employer organization by the professional employer
34 agreement or this article.

35 (c) A relationship between a client and a covered employee that is
36 subject to a professional employer agreement and this article, that allows
37 the client to enforce those rights and **THAT** requires the client to perform
38 those employer obligations **THAT ARE** allocated to the client by the
39 professional employer agreement or this article or that are not otherwise
40 allocated by the professional employer agreement or this article.

41 5. "Covered employee":

42 (a) Means an individual who has a co-employment relationship with a
43 professional employer organization and a client, if the individual:

44 (i) Has executed a written notice of the co-employment relationship
45 with a professional employer organization.

1 (ii) Is a party to a co-employment relationship with a professional
2 employer organization and a client.

3 (iii) Is subject to a professional employer agreement under this
4 article.

5 (b) Includes an individual who is an officer, director, shareholder,
6 partner or manager of a client if the professional employer agreement
7 includes the individual as a covered employee and the individual acts as a
8 manager or performs services for the client.

9 6. "Person" means any individual, partnership, corporation, limited
10 liability company or other legally recognized entity.

11 7. "Professional employer agreement" means a written contract
12 between a professional employer organization and a client that provides
13 for:

14 (a) The co-employment of covered employees.

15 (b) The allocation and sharing between the client and the
16 professional employer organization of employer responsibilities with
17 respect to a covered employee, including hiring, firing and disciplinary
18 responsibilities.

19 (c) Any other responsibility required by this article.

20 8. "Professional employer organization":

21 (a) Means any person who is engaged in the business of providing
22 professional employer services whether or not the person uses the term
23 professional employer organization, staff leasing company, registered
24 staff leasing company, employee leasing company or any other name.

25 (b) Does not include:

26 (i) Any person whose principal business activity is not entering
27 into professional employer agreements and who does not hold itself out as
28 a professional employer organization.

29 (ii) A person who shares employees with a commonly owned company as
30 defined by sections 414(b) and 414(c) of the internal revenue code.

31 (iii) Arrangements by a person who assumes responsibility for the
32 product that is produced or service that is performed by the person and
33 who retains and exercises the primary discretion and control over the work
34 performed by the person whose services are supplied under the arrangement.

35 (iv) A person who hires temporary help for the purpose of
36 supporting or supplementing a client's employees.

37 9. "Professional employer services" means the service of entering
38 into a co-employment relationship under this article in which all or a
39 majority of the employees who provide services to a client or to a
40 division or work unit of the client are covered employees.

41 ~~10. "Registrant" means a professional employer organization that is~~
42 ~~registered under this article.~~

43 ~~11. "Temporary help services" means services by a person consisting~~
44 ~~of:~~

45 ~~(a) Recruiting and hiring the person's own employees.~~

1 ~~(b) Finding other organizations that need the services of employees~~
2 ~~who are recruited and hired by the person.~~

3 ~~(c) Assigning employees to perform work for other organizations to~~
4 ~~support that organization's workforces, including covering employee~~
5 ~~absences, skill shortages or seasonal workloads or performing special~~
6 ~~assignments or projects.~~

7 ~~(d) Customarily attempting to reassign the employees to other~~
8 ~~organizations when the employees complete each assignment.~~

9 Sec. 2. Repeal

10 Sections 23-563, 23-564, 23-565, 23-566, 23-567 and 23-568, Arizona
11 Revised Statutes, are repealed.

12 Sec. 3. Section 23-569, Arizona Revised Statutes, is amended to
13 read:

14 23-569. Financial capability; bonding

15 ~~A.~~ Every professional employer organization that is located in this
16 state shall maintain either of the following:

17 1. A minimum net worth of at least ~~one hundred thousand dollars~~
18 \$100,000.

19 2. A bond, an irrevocable letter of credit or securities that have
20 a minimum market value of ~~one hundred thousand dollars~~ \$100,000. The bond
21 shall be held by ~~a~~ AN INSURED depository ~~designated by the secretary of~~
22 state INSTITUTION in order to secure the payment of all taxes, wages,
23 benefits or other entitlements, including amounts expended by the
24 industrial commission's special fund under section 23-907 that are due to
25 be paid by the professional employer organization with respect to covered
26 employees if the professional employer organization fails to make the
27 required payments. Any bond, irrevocable letter of credit or securities
28 that are deposited under this ~~subsection~~ SECTION shall not be included for
29 the purposes of calculating the minimum net worth of the professional
30 employer organization under this ~~subsection~~ SECTION.

31 ~~B. This section does not apply to professional employer~~
32 ~~organizations that file a limited registration under section 23-567.~~

33 Sec. 4. Section 23-572, Arizona Revised Statutes, is amended to
34 read:

35 23-572. Services not insurance

36 A registrant PROFESSIONAL EMPLOYER ORGANIZATION under this article
37 is not engaged in the sale of insurance by offering, marketing, selling,
38 administering or providing professional employer organization services or
39 employee benefit plans for covered employees.

40 Sec. 5. Repeal

41 Sections 23-575 and 23-576, Arizona Revised Statutes, are repealed.