

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 641 Unemployment Compensation

SPONSOR(S): Crisafulli

TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 1062

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	<u>Economic Development Policy Committee</u>	<u></u>	<u>West</u>	<u>Kruse</u>
2)	<u>Insurance, Business & Financial Affairs Policy Committee</u>	<u></u>	<u></u>	<u></u>
3)	<u>Economic Development & Community Affairs Policy Council</u>	<u></u>	<u></u>	<u></u>
4)	<u>Full Appropriations Council on Education & Economic Development</u>	<u></u>	<u></u>	<u></u>
5)	<u></u>	<u></u>	<u></u>	<u></u>

SUMMARY ANALYSIS

HB 641 creates the "Accurate Employment Statistics Enhancement Act" to provide the Federal Government, the State of Florida, state agencies, businesses, research entities, and other entities more accurate unemployment compensation statistics. Employee leasing companies, also known as Professional Employer Organizations, current reporting practices cause unemployment compensation statistical data to be distorted by industry type and geographic location. This bill requires employee leasing companies to submit quarterly reports to the Labor Market Statistics Center within the Agency for Workforce Innovation that contain detailed information so the Agency can collect and disseminate more accurate unemployment compensation data.

This bill provides a specific format and timeline for submitting the reports to the Labor Markets Statistics Center and grants the Agency for Workforce Innovation rulemaking authority to carry out the provisions of the bill. The bill references a public records exemption relating to maintaining confidentiality of an employing unit's identity.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Professional Employer Organizations (PEOs)

Employee Leasing Companies, also known as Professional Employer Organizations (PEOs), work with their clients to manage human resources, employee benefits, payroll and workers' compensation. This allows PEO clients to focus on their business rather than human resource issues. PEOs also help manage complex employee related matters such as health benefits, payroll tax compliance, and unemployment insurance claims.

A PEO delivers these services by establishing and maintaining an employer relationship with the employees at the client's worksite and by contractually assuming certain employer rights, responsibilities, and risk.¹

Reporting Requirements

Employee Leasing Companies must submit work records pursuant to s. 433.171(5), F.S., that contain information required by the Agency for Workforce Innovation (AWI) or a tax collection service provider. These records must be open to inspection and are subject to being copied by AWI or its tax collection service provider at any reasonable time and as often as necessary. AWI or its tax collection service provider may require from any employing unit any sworn or unsworn reports, for persons employed by the employing unit, necessary for the effective administration of chapter 443, F.S.²

Section 443.036(18), F.S., defines "employee leasing company" as an employing unit that has a valid and active license under chapter 468 and that maintains the records required by s. 443.171(5), F.S. This section also requires employee leasing companies to maintain a list of its clients and employees, including their social security numbers, who have been assigned to work at each client company job site. Further, each client company job site must be identified by industry, products or services, and address. The client list must be provided to the tax collection service provider by June 30 and by December 31 of each year.

The term "client" is defined as a party who has contracted with an employee leasing company to provide a worker, or workers, to perform services for the client. Leased employees include employees

¹ Information contained in this section may be found at the National Association of Professional Employer Organization website: www.napeo.org/peoindustry/definition.cfm. (visited 3/3/09)

² s. 433.171(5), F.S.

subsequently placed on the payroll of the employee leasing company on behalf of the client. An employee leasing company must notify the tax collection service provider within 30 days after the initiation or termination of the company's relationship with any client company under chapter 468.³

Labor Market Statistics

Labor Market Statistics is a division of the Agency for Workforce Innovation (AWI) that produces, analyzes, and delivers labor statistics. This information assists a variety of entities in both the public and private sector in making critical economic and legislative decisions.

Labor Market Statistics include a variety of labor market, economic, and demographic data such as:

- Employment and Wages - current employment, projections, and wages by industry and occupation, occupational profiles, and career information;
- Labor Force - labor force, employment, unemployment, and unemployment rates;
- Economic Indicators - Florida Price Level Index, Consumer Price Index, income, and unemployment claims data; and
- Population - age, race, gender, income, veteran's status, and education information.⁴

Labor Market Statistics collects data under several federal/state cooperative statistical programs:

- Quarterly Census of Employment Wages - summarizes industry employment and wage data for all employers covered by state Unemployment Insurance (UI) laws and federal workers covered by the Unemployment Compensation for Federal Employees (UCFE) program;
- Current Employment Statistics - produces estimates of nonagricultural employment by industry;
- Local Area Unemployment Statistics - produces estimates of civilian labor force, total employment, unemployment, and unemployment rates;
- Mass Layoff Statistics - collects reports on mass layoffs that result in workers being separated from their jobs;
- Occupational Employment Statistics and Wages - produces employment and wage estimates by occupation; and
- Employment Projections - forecasts future employment levels by industry and occupation.⁵

Data from Labor Market Statistics are provided via reports, publications, CDs, brochures, posters, and the Internet.⁶

Reporting Requirement Issues

Each Florida company has its own tax identification number. When a PEO handles the human resource duties of a company which includes reporting employment and wage data, the information is submitted using the PEO's identification number and not the number of the company contracted with the PEO. This distorts employment statistics related to industry type and geography because a single PEO may have thousands of clients in all parts of the state and across all industries. As a result, some areas of the state and some industry types are either underrepresented or overrepresented. PEO employment is more prevalent in Florida than any other state co-employing hundreds of thousands of Florida residents. Inaccuracies on such a large scale cause significant distortion of data. The State of Florida, the Federal Government, economic developers, job seekers, employers, and many other entities rely on these statistics when making policy and other economic decisions.⁷

³ s. 443.036(18), F.S.

⁴ Labor Market Statistics website: <http://www.labormarketinfo.com/> (visited 3/4/09)

⁵ Labor Market Statistics website: <http://www.labormarketinfo.com/Stats.htm> (visited 3/4/09)

⁶ Labor Market Statistics website: <http://www.labormarketinfo.com/> (visited 3/4/09)

⁷ Information contained in this section came from discussions with the Deputy Director of Legislative Affairs for the Agency for Workforce Innovation. (3/3/09-3/5/09)

Effects of Proposed Changes

The bill amends the definition of “employee leasing company” in s. 443.036(18), F.S., to include a statement that requires employee leasing companies to produce quarterly reports concerning their clients and internal staff. The new definition will require employee leasing companies to “produce quarterly reports concerning the clients of the employee leasing company and the internal staff of the employee leasing company.” Quarterly reports will provide AWI with more timely and accurate labor market statistics.

The bill adds specific reporting requirements to s. 443.1216, F.S. The new requirements include submitting a quarterly report to the Labor Market Statistics Center within AWI that includes each client establishment and each establishment of the employee leasing company and any other information requested by AWI. The report must include the following:

- Establishment name;
- Former unemployment compensation account number, if available;
- Former federal employer’s identification number, if available;
- Industry code recognized and published by the U.S. Office of Management and Budget, if available;
- Description of client’s primary business activity;
- Address of physical location;
- Number of full-time and part-time employees that received pay subject to unemployment compensation taxes;
- Total wages subject to unemployment compensation taxes paid during calendar year;
- Internal identification code to uniquely identify each establishment of each client;
- Month and year that client entered into the contract for services; and
- Month and year that client terminated contract for services.

The bill grants the Agency for Workforce Innovation rulemaking authority to carry out the provisions of the bill and references a public records exemption for information that reveals an employing unit’s identity.

B. SECTION DIRECTORY:

Section 1: Provides a title for the legislation: “Accurate Employment Statistics Enhancement Act.”

Section 2: Amends subsection (18) of s. 443.036, F.S., to provide that employee leasing companies are responsible for producing quarterly reports concerning their clients and staff.

Section 3: Amends paragraph (a) of subsection (1) of s. 443.1216, F.S., to require employee leasing companies to submit quarterly reports to the Labor Market Statistics Center within the Agency for Workforce Innovation and to grant rulemaking authority to the Agency for Workforce Innovation.

Section 4: Provides an effective date of October 1, 2009.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill requires employee leasing companies to produce quarterly reports that meet the requirements specified in this bill. The economic impact is indeterminate.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. The bill does not appear to: require counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

The bill references a public records exemption for information that reveals an employing unit's identity pursuant to s. 443.1715(1), F.S.

B. RULE-MAKING AUTHORITY:

The Agency for Workforce Innovation is granted rulemaking authority to carry out the provisions of this bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

It appears the current public records exemption would still apply to the changes made in the bill. The sponsor may wish to delete the reference to the public records exemption to avoid any questions of whether a separate bill is necessary to carry out the public records exemption.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES