

# COMMITTEE REPORT

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## MADAM PRESIDENT:

The Senate Committee on Pensions and Labor, to which was referred Senate Bill No. 506, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

- 1 Page 1, delete lines 5 through 6.
- 2 Page 1, line 7, delete "2." and insert "1."
- 3 Page 1, between lines 8 and 9, begin a new paragraph and insert:
- 4 **"Sec. 2. As used in this chapter, "client level reporting method"**
- 5 **has the meaning set forth in section 11(a) of this chapter."**
- 6 Page 1, between lines 15 and 16, begin a new paragraph and insert:
- 7 **"Sec. 6. As used in this chapter, "PEO level reporting method"**
- 8 **has the meaning set forth in section 9(a) of this chapter."**
- 9 Page 1, line 16, delete "6." and insert "7."
- 10 Page 1, line 17, delete "client." and insert "PEO."
- 11 Page 2, line 1, after "contributions," insert "surcharges,".
- 12 Page 2, delete lines 5 through 11, begin a new paragraph and insert:
- 13 **"Sec. 8. (a) A PEO shall use the client level reporting method to**
- 14 **report and pay all required contributions to the unemployment**
- 15 **compensation fund as required by IC 22-4-10, unless the PEO**
- 16 **elects the PEO level reporting method under section 9 of this**
- 17 **chapter.**
- 18 **(b) A PEO that initially elects the PEO level reporting method**
- 19 **under section 9 of this chapter may subsequently elect the client**
- 20 **level reporting method under section 11 of this chapter.**

1           (c) A PEO using the client level reporting method may not  
2 change its reporting method.

3           (d) A PEO and its related entities shall use the same reporting  
4 method for all clients.

5           Sec. 9. (a) A PEO may elect the PEO level reporting method,  
6 which uses the state employer account number and contribution  
7 rate of the PEO to report and pay all required contributions to the  
8 unemployment compensation fund as required by IC 22-4-10.

9           (b) A PEO shall make the election required by subsection (a) not  
10 later than the following:

11           (1) December 1, 2013, if the PEO is doing business in Indiana  
12 on July 1, 2013.

13           (2) The first date the PEO is liable to make contributions  
14 under this article for at least one (1) covered employee, if the  
15 PEO begins doing business in Indiana after July 1, 2013.

16           (c) The election required by subsection (a) must be made in  
17 writing on forms prescribed by the department.

18           (d) A PEO that does not make an election under this section  
19 shall use the client level reporting method.

20           Sec. 10. (a) The following apply to a PEO that elects to use the  
21 PEO level reporting method:

22           (1) The PEO shall file all quarterly contribution and wage  
23 reports in accordance with IC 22-4-10-1.

24           (2) Whenever the PEO enters into a professional employer  
25 agreement with a client, the PEO:

26           (A) shall notify the department not later than fifteen (15)  
27 days after the end of the quarter in which the professional  
28 employer agreement became effective; and

29           (B) is subject to IC 22-4-10-6 and IC 22-4-11.5, beginning  
30 on the effective date of the professional employer  
31 agreement.

32           (3) The PEO shall notify the department in writing on forms  
33 prescribed by the department not later than fifteen (15) days  
34 after the date of the following:

35           (A) The PEO and a client terminate a professional  
36 employer agreement.

37           (B) The PEO elects the client level reporting method under  
38 section 11 of this chapter.

39           After receiving a notice under this subdivision, the  
40 department shall make any changes required by IC 22-4-10-6  
41 and IC 22-4-11.5.

42           (b) A PEO that elects to use the PEO level reporting method is

1       liable for all contributions, interest, penalties, and surcharges until  
2       the effective date of an election under section 11 of this chapter by  
3       the PEO to change to the client level reporting method.

4       Sec. 11. (a) A PEO using the PEO level reporting method may  
5       elect the client level reporting method, which uses the state  
6       employer account number and contribution rate of the client to  
7       report and pay all required contributions to the unemployment  
8       compensation fund as required by IC 22-4-10.

9       (b) A PEO shall make an election under subsection (a) not later  
10      than December 1 of the calendar year before the calendar year in  
11      which the election is effective.

12      (c) An election under subsection (a) must be made in writing on  
13      forms prescribed by the department.

14      (d) An election under subsection (a) is effective on January 1 of  
15      the calendar year immediately following the year in which the  
16      department receives the notice described in subsection (b).

17      Sec. 12. The following apply to a PEO that elects to use the client  
18      level reporting method:

19           (1) Whenever the PEO enters into a professional employer  
20           agreement with a client, the PEO shall notify the department  
21           not later than fifteen (15) days after the end of the quarter in  
22           which the professional employer agreement became effective.

23           (2) If a client is an employing unit on the date the professional  
24           employer agreement becomes effective, the client retains its  
25           experience balance, liabilities, and wage credits, and  
26           IC 22-4-10-6 does not apply to the client.

27           (3) If a client is not an employing unit on the date the  
28           professional employer agreement becomes effective, the client  
29           immediately qualifies for an employer experience account  
30           under IC 22-4-7-2(f) and is subject to IC 22-4-11-2(b)(2) for  
31           purposes of establishing an initial contribution rate.

32           (4) A client is associated with the PEO's employer experience  
33           account by means of the PEO's primary federal employer  
34           identification number (FEIN) for purposes of liability under  
35           this article and federal certification.

36           (5) Upon the termination of a professional employer  
37           agreement between the PEO and a client:

38                   (A) the client retains the experience balance, liabilities, and  
39                   wage credits for the client's employing unit account;

40                   (B) the client's federal employer identification number  
41                   (FEIN) becomes the primary FEIN on the employing unit's  
42                   account; and

1                   **(C) the PEO's FEIN is not associated with the client's**  
 2                   **employing unit account after the date:**

3                   **(i) all outstanding reports are submitted; and**

4                   **(ii) all outstanding liabilities are paid in full.**

5                   **Sec. 13. (a) A client that transfers between PEOs is not subject**  
 6                   **to IC 22-4-10-6 and IC 22-4-11.5 whenever:**

7                   **(1) the PEOs are not commonly owned, managed, or**  
 8                   **controlled; and**

9                   **(2) both PEOs have elected to use the PEO level reporting**  
 10                   **method.**

11                   **(b) The client of a PEO that has elected to use the client level**  
 12                   **reporting method may elect to become liable for payments in lieu**  
 13                   **of contributions (as defined in IC 22-4-2-32) whenever:**

14                   **(1) the client is otherwise eligible to make the election; and**

15                   **(2) the requirements of IC 22-4-10-1 are met."**

16                   Page 4, between lines 27 and 28, begin a new paragraph and insert:

17                   "SECTION 5. IC 22-4-32-21 IS AMENDED TO READ AS  
 18                   FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 21. (a) Any individual,  
 19                   group of individuals, or other legal entity, whether or not an employing  
 20                   unit which acquires all or part of the organization, trade, or business  
 21                   within this state of an employer or which acquires all or part of the  
 22                   assets of such organization, trade or business, shall notify the  
 23                   commissioner in writing by registered mail not later than five (5) days  
 24                   prior to the acquisition.

25                   (b) Unless such notice is given, the commissioner shall have the  
 26                   right to proceed against either the predecessor or successor, in  
 27                   personam or in rem, for the collection of contributions and interest due  
 28                   or accrued and unpaid by the predecessor, as of the date of such  
 29                   acquisition, and the amount of such liability shall, in addition, be a lien  
 30                   against the property or assets so acquired which shall be prior to all  
 31                   other liens. However, the lien shall not be valid as against one who  
 32                   acquires from the successor any interest in the property or assets in  
 33                   good faith, for value and without notice of the lien.

34                   (c) On written request after the acquisition is completed, the  
 35                   commissioner shall furnish the successor with a written statement of  
 36                   the amount of contributions and interest due or accrued and unpaid by  
 37                   the predecessor as of the date of such acquisition, and the liability of  
 38                   the successor and the amount of the lien shall in no event exceed the  
 39                   reasonable value of the property or assets acquired by the successor  
 40                   from the predecessor or the amount disclosed by such statement,  
 41                   whichever is the lesser.

42                   **(d) An acquirer described in subsection (a) or a professional**

1       **employer organization under IC 22-4-6.5 may file a request for**  
2       **clearance in the manner prescribed by the department at least five**  
3       **(5) business days before an acquisition or transfer. After filing a**  
4       **request, the acquirer or professional employer organization is**  
5       **entitled to receive a statement indicating whether an account being**  
6       **acquired or transferred is in good standing with the department as**  
7       **of the date of the transfer. If the statement shows that the account**  
8       **that is being acquired or transferred is in good standing with the**  
9       **department at the time of the transfer, the acquirer or the**  
10       **professional employer organization may not be subject to**  
11       **assessment of a delinquent employer rate modification under**  
12       **IC 22-4-11-2 based on the account for which a statement was made**  
13       **under this subsection.**

14       ~~(d)~~ **(e)** The remedies prescribed by this section are in addition to all  
15       other existing remedies against the predecessor or successor."

16       Renumber all SECTIONS consecutively.

(Reference is to SB 506 as introduced.)

**and when so amended that said bill do pass .**

Committee Vote: Yeas 8, Nays 0.

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**Senator Boots, Chairperson**