

SENATE BILL NO. 2298

Introduced by

Senators J. Lee, Fischer, Grindberg

Representatives Koppelman, Wieland

1 A BILL for an Act to provide for registration of professional employer organizations; and to
2 amend and reenact section 65-01-08 of the North Dakota Century Code, relating to workers'
3 compensation coverage of professional employer organizations.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1. Professional employer organizations - Registration - Fees.**

6 1. The secretary of state:

- 7 a. Shall register professional employer organizations, as defined under section
8 65-01-08.
9 b. Shall provide the necessary forms for registration under this section.
10 c. May charge a registration fee not to exceed ten dollars.

11 2. A valid registration must include:

- 12 a. The name of the professional employer organization;
13 b. A list by jurisdiction of every name the professional employer organization has
14 operated under in the preceding five years, including any alternative names,
15 names of predecessors, and any known successor business entities;
16 c. The address of the principal place of business of the professional employer
17 organization;
18 d. The address of each office the professional employer organization maintains
19 in this state;
20 e. A list of each person that owns an interest of more than four percent in the
21 professional employer organization;
22 f. A list of each person that owned an interest of more than four percent in the
23 professional employer organization and any predecessors over the preceding
24 five years; and

g. Documentation of every cancellation or nonrenewal of workers' compensation insurance coverage of the professional employer organization or predecessor in the preceding five years.

3. A professional employer organization may not register under this section if the professional employer organization's workers' compensation coverage was terminated in any jurisdiction in the preceding five years due to a determination that the professional employer organization was misused to avoid paying for workers' compensation coverage.

4. Registration by a professional employer organization is optional.

5. A registration under this section is valid for twelve months.

SECTION 2. AMENDMENT. Section 65-01-08 of the North Dakota Century Code is amended and reenacted as follows:

65-01-08. Contributing employer ~~or~~ and staffing service relieved from liability for injury to employee.

1. If a local or out-of-state employer secured the payment of compensation to that employer's employees by contributing premiums to the fund, the employee, and the parents in the case of a minor employee, or the representatives or beneficiaries of either, do not have a claim for relief against the contributing employer or against any agent, servant, or other employee of the employer for damages for personal injuries, but shall look solely to the fund for compensation.

2. If a client company contracts with a staffing service for an employee's services, the client company and the staffing service are immune from any claim for relief by that employee or by another employee of the client company or staffing service, to the same extent granted under this title to contributing employers if the ~~client company~~ ~~or~~ staffing service secured the payment of compensation in accordance with this title. Although an account must be in the sole name of the staffing service, the employee is considered an employee of the client company and staffing service for purposes of application of immunity for injuries incurred by or caused by that employee.

3. For purposes of this section:

- 1 a. "Client company" means a person that contracts to receive services within the
2 course of that person's usual business from an employee of a staffing service.
- 3 b. "Professional employer organization" means a staffing service that is in the
4 business of providing employees to persons on a long-term basis.
- 5 c. "Staffing service" means an employer in the business of providing the
6 employer's employees to persons to perform services within the course of that
7 person's usual businesses. The term includes a professional employer
8 organization that is registered with the secretary of state under section 1 of
9 this Act.
- 10 4. The bureau may adopt rules consistent with this section which further define client
11 company and staffing service and which provide a procedure by which the bureau
12 may determine whether an entity meets these definitions. Rules adopted by the
13 bureau under this section may not place an undue reporting burden on a staffing
14 service.