

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 4123-17-15

Rule Type: Amendment

Rule Title/Tagline: Alternate employer organizations and professional employer organizations.

Agency Name: Bureau of Workers' Compensation

Division:

Address: 30 W. Spring St. Columbus OH 43215

Contact: Aniko Nagy **Phone:** 614-466-3293

Email: aniko.n.1@bwc.state.oh.us

I. Rule Summary

1. Is this a five year rule review? Yes
 - A. What is the rule's five year review date? 4/14/2023
2. Is this rule the result of recent legislation? Yes
 - A. If so, what is the bill number, General Assembly and Sponsor? SB 9 - 134 - McColley
3. What statute is this rule being promulgated under? 119.03
4. What statute(s) grant rule writing authority? 4121.12, 4121.121, 4121.30, 4123.05, 4125.02, 4133.02
5. What statute(s) does the rule implement or amplify? 4123.34, 4125.01, 4125.02, 4125.03, 4133.01, 4133.02, 4133.03
6. Does the rule implement a federal law or rule in a manner that is more stringent or burdensome than the federal law or regulation requires? No
 - A. If so, what is the citation to the federal law or rule? Not Applicable
7. What are the reasons for proposing the rule?

Pursuant to R.C. 119.032, state agencies are required to review all agency rules every five years to determine whether to amend the rules, rescind the rules, or continue the rules without change. Due to such review, the Bureau is proposing to amend this rule for the purposes explained below.

8. Summarize the rule's content, and if this is an amended rule, also summarize the rule's changes.

This rule sets forth definitions relating to AEO's and PEOs, the obligations of an AEO and a PEO, and requirements relating partial lease agreements.

The proposed change is due to R.C. 121.951 as recently enacted by Am. Sub. S.B. 9, effective June 8, 2022, requires state agencies to remove 10% of regulatory restrictions from the agencies' rules by June 30, 2023.

9. Does the rule incorporate material by reference? No

10. If the rule incorporates material by reference and the agency claims the material is exempt pursuant to R.C. 121.75, please explain the basis for the exemption and how an individual can find the referenced material.

Not Applicable

11. If revising or re-filing the rule, please indicate the changes made in the revised or re-filed version of the rule.

Not Applicable

II. Fiscal Analysis

12. Please estimate the increase / decrease in the agency's revenues or expenditures in the current biennium due to this rule.

This will have no impact on revenues or expenditures.

0.00

Not Applicable.

13. What are the estimated costs of compliance for all persons and/or organizations directly affected by the rule?

There are no additional estimated costs for compliance as all under the client reporting is an option, not mandatory, for PEOs.

14. Does the rule increase local government costs? (If yes, you must complete an RSFA Part B). No
15. Does the rule regulate environmental protection? (If yes, you must complete an RSFA Part C). No
16. If the rule imposes a regulation fee, explain how the fee directly relates to your agency's cost in regulating the individual or business.

Not Applicable.

III. Common Sense Initiative (CSI) Questions

17. Was this rule filed with the Common Sense Initiative Office? Yes
18. Does this rule have an adverse impact on business? Yes

- A. Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business? Yes

Though not directly required by this rule, AEOs and PEOs must register to operate in Ohio pursuant to rule 4123-17-15.2 of the Ohio Administrative Code.

- B. Does this rule impose a criminal penalty, a civil penalty, or another sanction, or create a cause of action, for failure to comply with its terms? Yes

Failure to comply with this rule may result in denial or revocation of an AEO's, or a PEO's registration pursuant to rule 4123-17-15.7 of the Ohio Administrative Code.

- C. Does this rule require specific expenditures or the report of information as a condition of compliance? Yes

An AEO or a PEO must report entering into an agreement with a client employer, terminating an agreement with a client employer, changing an agreement with a client employer, and/or transferring employees established under Chapters 4121. and 4123. of the Revised Code

- D. Is it likely that the rule will directly reduce the revenue or increase the expenses of the lines of business of which it will apply or applies? No

IV. Regulatory Restriction Requirements under S.B. 9. Note: This section only applies to agencies described in R.C. 121.95(A).

19. Are you adding a new or removing an existing regulatory restriction as defined in R.C. 121.95? Yes

A. How many new regulatory restrictions do you propose adding to this rule? 0

B. How many existing regulatory restrictions do you propose removing from this rule? 14

4123-17-15(A)(2) "...Requirements for PEOs that coemploy a part of a client employer's workforce..."

4123-17-15(B) "...Forms must be completed in full, as determined by the bureau,..."

4123-17-15(C)(3) "...payroll within a classification code must be reported in its entirety..."

4123-17-15(C)(3) "...such payroll may not be split between the PEO and client employer."

4123-17-15(D)(8) "...payroll reports shall include the entire amount of payroll..."

4123-17-15(D)(8) "...associated with those persons and shall include the entire amount of payroll associated..."

4123-17-15(D)(8) "...and shall not be subject to the weekly minimum and maximum..."

4123-17-15(D)(9) "...Payroll shall be kept in a manner that clearly identifies the appropriate classification codes..."

4123-17-15(D)(10) "...for each client employer, and claims shall be separately identified..."

4123-17-15(E)(2) "...Shared employee wages must be paid by and reported under the tax identification number..."

4123-17-15(E)(5) "...Payroll shall be kept in a manner that clearly identifies the appropriate classification codes.."

4123-17-15(E)(5) "...Claims shall be separately identified.."

4123-17-15(E)(7) "...payroll reports shall include the entire amount of payroll..."

4123-17-15(E)(7) "...and shall not be subject to the weekly minimum and maximum..."

- C. If you are not removing existing regulatory restrictions from this rule, please list the rule number(s) from which you are removing restrictions.**
- D. Please justify the adoption of the new regulatory restriction(s).**

Not Applicable