

CHAPTER.....

AN ACT relating to employee leasing companies; altering the definition of “employee leasing company” to describe the nature of the relevant agreement; authorizing an employee leasing company that applies for a certificate of registration to provide consolidated or combined financial statements with its application; deeming the client company of an employee leasing company to be the employer of the employees it leases for purposes of unemployment compensation; repealing the requirement that an employee leasing company maintain an office in this State; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law defines the term “employee leasing company.” (NRS 616B.670) **Section 2** of this bill revises the definition of an employee leasing company to emphasize that the agreement between an employee leasing company and client company contemplates an ongoing relationship with an allocation of rights, duties and obligations.

Existing law requires an employee leasing company to have a certificate of registration to operate in this State. (NRS 616B.673) To receive a certificate of registration, an employee leasing company must submit an application to the Administrator of the Division of Industrial Relations of the Department of Business and Industry which must include, among other things, financial statements of the applicant. (NRS 616B.679) **Section 3** of this bill allows an employee leasing company to meet this requirement by submitting consolidated or combined financial statements that include, but are not exclusive to, the employee leasing company.

Section 4 of this bill deems the client company of an employee leasing company to be the employer of the employees it leases for the purposes of the chapter of the laws of this State that pertain to unemployment compensation.

Existing law requires an employee leasing company to maintain an office or similar site in this State for retaining, reviewing and auditing its payroll records and agreements with client companies. In addition, the office must be open during normal business hours for the inspection and copying of certain records by employees and the public. (NRS 616B.682) **Section 5** of this bill repeals these provisions.

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. (Deleted by amendment.)



Sec. 2. NRS 616B.670 is hereby amended to read as follows:

616B.670 As used in NRS 616B.670 to 616B.697, inclusive, unless the context otherwise requires:

1. "Applicant" means a person seeking a certificate of registration pursuant to NRS 616B.670 to 616B.697, inclusive, to operate an employee leasing company.

2. "Client company" means a company which leases employees, for a fee, from an employee leasing company pursuant to a written or oral agreement.

3. "Employee leasing company" means a company which, pursuant to a written or oral agreement ~~+~~:

~~—(a) Places~~ *intended by the parties to create an ongoing relationship, places* any of the regular, full-time employees of a client company on its payroll and, for a fee, leases them to the client company . ~~[on a regular basis without any limitation on the duration of their employment; or~~

~~—(b) Leases to a client company:~~

~~—(1) Five or more part-time or full-time employees; or~~

~~—(2) Ten percent or more of the total number of employees within a classification of risk established by the Commissioner.]~~

4. *"Ongoing relationship" means a relationship wherein the rights, duties and obligations of an employer which arise out of an employment relationship are allocated between the employee leasing company and the client company on an ongoing, long-term basis. The term does not include a temporary or project-specific agreement between an employee leasing company and a client company.*

Sec. 3. NRS 616B.679 is hereby amended to read as follows:

616B.679 1. Each application must include:

(a) The applicant's name and title of his or her position with the employee leasing company.

(b) The applicant's age, place of birth and social security number.

(c) The applicant's address.

(d) The business address of the employee leasing company.

(e) The business address of the registered agent of the employee leasing company, if the applicant is not the registered agent.

(f) If the applicant is a:

(1) Partnership, the name of the partnership and the name, address, age, social security number and title of each partner.

(2) Corporation, the name of the corporation and the name, address, age, social security number and title of each officer of the corporation.



(g) Proof of:

- (1) Compliance with the provisions of chapter 76 of NRS.
- (2) The payment of any premiums for industrial insurance required by chapters 616A to 617, inclusive, of NRS.
- (3) The payment of contributions or payments in lieu of contributions required by chapter 612 of NRS.
- (4) Insurance coverage for any benefit plan from an insurer authorized pursuant to title 57 of NRS that is offered by the employee leasing company to its employees.

(h) A financial statement of the applicant setting forth the financial condition of the employee leasing company. Except as otherwise provided in subsection 5, the financial statement must include, without limitation:

(1) For an application for issuance of a certificate of registration, the most recent audited financial statement ~~to~~ *that includes* the applicant, which must have been completed not more than 13 months before the date of application; or

(2) For an application for renewal of a certificate of registration, an audited financial statement *that includes the applicant and* which must have been completed not more than 180 days after the end of the applicant's fiscal year.

- (i) A registration or renewal fee of \$500.
- (j) Any other information the Administrator requires.

2. Each application must be notarized and signed under penalty of perjury:

(a) If the applicant is a sole proprietorship, by the sole proprietor.

(b) If the applicant is a partnership, by each partner.

(c) If the applicant is a corporation, by each officer of the corporation.

3. An applicant shall submit to the Administrator any change in the information required by this section within 30 days after the change occurs. The Administrator may revoke the certificate of registration of an employee leasing company which fails to comply with the provisions of NRS 616B.670 to 616B.697, inclusive.

4. If an insurer cancels an employee leasing company's policy, the insurer shall immediately notify the Administrator in writing. The notice must comply with the provisions of NRS 687B.310 to 687B.355, inclusive, and must be served personally on or sent by first-class mail or electronic transmission to the Administrator.

5. A financial statement submitted with an application pursuant to this section must be prepared in accordance with generally accepted accounting principles, must be audited by an independent



certified public accountant licensed to practice in the jurisdiction in which the accountant is located and must be without qualification as to the status of the employee leasing company as a going concern. ~~{An}~~ *Except as otherwise provided in subsection 6, an* employee leasing company that has not had sufficient operating history to have an audited financial statement based upon at least 12 months of operating history must present financial statements reviewed by a certified public accountant covering its entire operating history. The financial statements must be prepared not more than 13 months before the submission of an application and must:

(a) ~~{Indicate that the applicant has}~~ *Demonstrate, in the statement,* positive working capital, as defined by generally accepted accounting principles, for the period covered by the financial statements; or

(b) Be accompanied by a bond, irrevocable letter of credit or securities with a minimum market value equaling the maximum deficiency in working capital for the period covered by the financial statements plus \$100,000. The bond, irrevocable letter of credit or securities must be held by a depository institution designated by the Administrator to secure payment by the applicant of all taxes, wages, benefits or other entitlements payable by the applicant.

6. An applicant required to submit a financial statement pursuant to this section may submit a consolidated or combined audited financial statement that includes, but is not exclusive to, the applicant.

Sec. 4. NRS 616B.691 is hereby amended to read as follows:

616B.691 1. ~~{An}~~ *A client company of an* employee leasing company ~~{which complies with the provisions of}~~ *as defined in* NRS 616B.670 ~~{to 616B.697, inclusive,}~~ shall be deemed to be the employer of the employees it leases ~~{to a client company. The provisions of this subsection apply only}~~ for the purposes of ~~{chapters}~~ *chapter* 612 ~~{and 616A to 617, inclusive,}~~ of NRS.

2. An employee leasing company shall be deemed to be an employer of its leased employees for the purposes of offering, sponsoring and maintaining any benefit plans. The provisions of this subsection do not affect the employer-employee relationship that exists between a leased employee and a client company.

3. An employee leasing company shall not offer, sponsor or maintain for its leased employees any self-funded insurance program. An employee leasing company shall not act as a self-insured employer or be a member of an association of self-insured public or private employers pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS or title 57 of NRS.



4. If an employee leasing company fails to:
 - (a) Pay any contributions, premiums, forfeits or interest due; or
 - (b) Submit any reports or other information required,↳ pursuant to this chapter or chapter ~~612,~~ 616A, 616C, 616D or 617 of NRS, the client company is jointly and severally liable for the contributions, premiums, forfeits or interest attributable to the wages of the employees leased to it by the employee leasing company.

Sec. 5. NRS 616B.682 is hereby repealed.



