

[First Reprint]

## **ASSEMBLY, No. 3408**

# **STATE OF NEW JERSEY**

## **214th LEGISLATURE**

INTRODUCED OCTOBER 18, 2010

**Sponsored by:**

**Assemblyman JOHN J. BURZICHELLI**

**District 3 (Salem, Cumberland and Gloucester)**

**Assemblyman VINCENT PRIETO**

**District 32 (Bergen and Hudson)**

**Assemblyman PATRICK J. DIEGNAN, JR.**

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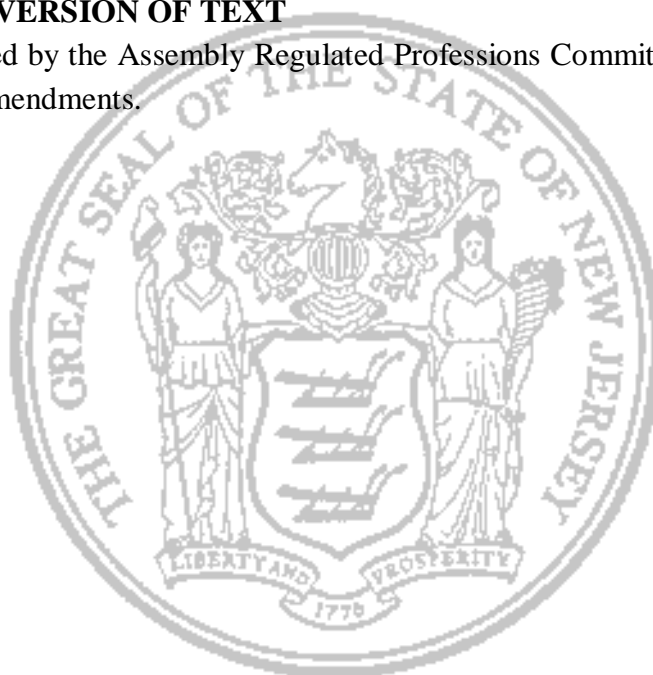
**Assemblyman Fuentes**

### **SYNOPSIS**

Concerns employee leasing companies.

### **CURRENT VERSION OF TEXT**

As reported by the Assembly Regulated Professions Committee on June 13, 2011, with amendments.



**(Sponsorship Updated As Of: 6/24/2011)**

1 AN ACT concerning employee leasing companies, amending and  
2 supplementing P.L.2001, c.260, and supplementing various parts  
3 of the statutory law.

4  
5 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
6 *of New Jersey:*

7  
8 <sup>1</sup>1. Section 1 of P.L.2001, c.260 (C.34:8-67) is amended to read  
9 as follows:

10 1. For the purposes of this act:

11 "Assurance organization" means an independent and qualified  
12 entity approved by the commissioner to certify the qualifications of  
13 an employee leasing company or employee leasing company group  
14 for registration under P.L.2001, c.260 (C.34:8-67 et seq.).

15 "Client company" means a sole proprietorship, partnership,  
16 corporation or other business entity, which enters into an employee  
17 leasing agreement and is assigned employees by the employee  
18 leasing company.

19 "Commissioner" means the Commissioner of Labor and  
20 Workforce Development.

21 "Covered employee" means an individual co-employed by an  
22 employee leasing company and a client company pursuant to an  
23 employee leasing agreement.

24 "Department" means the Department of Labor and Workforce  
25 Development.

26 "Employee leasing agreement" or "professional employer  
27 agreement" means an arrangement, under written contract, whereby:

28 (1) An employee leasing company and a client company co-  
29 employ covered employees; and

30 (2) The arrangement is intended to be, or is, ongoing rather than  
31 temporary in nature, and not aimed at temporarily supplementing  
32 the client company's work force.

33 "Employee leasing company" or "professional employer  
34 organization" means a sole proprietorship, partnership, corporation  
35 or other business entity, which devotes a substantial portion of its  
36 business to providing the services of employees pursuant to one or  
37 more employee leasing agreements and provides services of a  
38 nature customarily understood to be employer responsibilities  
39 including, but not limited to, those responsibilities provided in  
40 section 2 of this act.<sup>1</sup>

41 (cf: P.L.2001, c.260, s.1)

42  
43 <sup>1</sup>[1.] 2.<sup>1</sup> Section 2 of P.L.2001, c.260 (C.34:8-68) is amended  
44 to read as follows:

**EXPLANATION** – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Assembly ARP committee amendments adopted June 13, 2011.

1       2. a. Every employee leasing agreement shall provide that the  
2 employee leasing company:

3       (1) Reserves a right of direction and control over each covered  
4 employee assigned to the client company's location. However, a  
5 client company may retain sufficient direction and control over the  
6 covered employee as is necessary to conduct the client company's  
7 business and without which the client company would be unable to  
8 conduct its business, discharge any fiduciary responsibility that it  
9 may have, or comply with any applicable licensure, regulatory or  
10 statutory requirement of the client company;

11       (2) Assumes responsibility for the payment of wages to each  
12 covered employee without regard to payments by the client  
13 company to the employee leasing company, except that the  
14 provisions of this paragraph shall not affect the client company's  
15 obligations with respect to the payment of wages to covered  
16 employees;

17       (3) Assumes responsibility for the payment of payroll taxes and  
18 collection of taxes from payroll on each covered employee;

19       (4) Retains authority to hire, terminate, discipline, and reassign  
20 each covered employee. However, no covered employee shall be  
21 reassigned to another client company without that covered  
22 employee's consent and the client company may have the right to  
23 accept or cancel the assignment of any covered employee;

24       (5) Has given written notice of the relationship between the  
25 employee leasing company and the client company to each covered  
26 employee it assigns to perform services at the client company's  
27 work site;

28       (6) Shall, except for newly established business entities, hire its  
29 initial employee complement from among employees of the client  
30 company at the time of execution of the employee leasing  
31 agreement at comparable terms and conditions of employment as  
32 are in existence at the client company at the time of execution of the  
33 employee leasing agreement and as designated by the client  
34 company. Throughout the term of the employee leasing agreement  
35 the covered employees shall be considered employees of the  
36 employee leasing company and the client company and upon the  
37 termination of the employee leasing agreement, the covered  
38 employees shall be considered employees of the client company;

39       (7) Continue to honor and abide by existing collective  
40 bargaining agreements applicable to covered employees. [Upon  
41 expiration of the employee leasing agreement, the] The client  
42 company shall also continue to honor and abide by all collective  
43 bargaining agreements applicable to covered employees. Every  
44 employee leasing company which enters into a contract with a client  
45 company, which has a collective bargaining representative for the  
46 covered employees, shall require that client company to enter into  
47 an agreement with the employee leasing company containing the  
48 following language:

1 "The client company shall continue to honor and abide by the  
2 terms of any applicable collective bargaining agreements, and upon  
3 expiration thereof, any obligations of the client company to bargain  
4 in good faith in connection with such collective bargaining  
5 agreements shall not be affected in any manner by the employee  
6 leasing agreement."

7 '(8) Shall provide workers' compensation insurance for their  
8 covered employees.'

9 b. Every employee leasing agreement shall provide that [the  
10 employee leasing company and] 'the employee leasing company  
11 and'the client company shall [each] 'each' retain a right of  
12 direction and control over management of safety, risk and hazard  
13 control at the work site or sites affecting each covered employee  
14 including:

15 (1) Responsibility for performing safety inspections of client  
16 company equipment and premises; '[and]'

17 (2) Responsibility for the promulgation and administration of  
18 employment and safety policies[; and] '[.] ; and'

19 [(3) Responsibility] '[(The employee leasing company shall be  
20 responsible] (3) Responsibility' for the management of workers'  
21 compensation claims, the filings thereof, and procedures related  
22 thereto.

23 c. Nothing in this section or this act shall alter the rights or  
24 obligations of client companies, employee leasing companies or  
25 covered employees under the National Labor Relations Act, 29  
26 U.S.C. s.151 et seq.

27 d. (1) Nothing in P.L.2001, c.260 (C.34:8-67 et seq.) or in any  
28 employee leasing agreement shall diminish, abolish or remove any  
29 obligations of covered employees to a client company or any  
30 obligations of any client company to a covered employee existing  
31 prior to the effective date of an employee leasing agreement, or  
32 create any new or additional enforceable right of a covered  
33 employee against an employee leasing company that is not  
34 specifically provided by the appropriate employee leasing  
35 agreement 'or' P.L.2001, c.260 (C.34:8-67 et seq.).

36 (2) Nothing in P.L.2001, c.260 (C.34:8-67 et seq.) or in any  
37 employee leasing agreement shall affect, modify, or amend any  
38 contractual relationship or restrictive covenant between a covered  
39 employee and any client company in effect at the time an employee  
40 leasing agreement becomes effective; nor shall it prohibit or amend  
41 any contractual relationship or restrictive covenant that is entered  
42 into subsequently between a client company and a covered  
43 employee. An employee leasing company shall have no  
44 responsibility or liability in connection with, or arising out of, any  
45 such existing or new contractual relationship or restrictive covenant  
46 unless the employee leasing company has specifically agreed  
47 otherwise in writing.

1 e. (1) Nothing in P.L.2001, c.260 (C.34:8-67 et seq.) or in any  
2 employee leasing agreement shall affect, modify or amend any state  
3 or local registration or certification requirement applicable to any  
4 client company or covered employee.

5 (2) A covered employee who is required to be licensed,  
6 registered, or certified <sup>1</sup>[or undergo a criminal background check]<sup>1</sup>  
7 pursuant to any State law or regulation shall be considered solely an  
8 employee of the client company for purposes of that license,  
9 registration, or certification requirement.

10 (3) An employee leasing company shall not be deemed to  
11 engage in any occupation, trade, profession, or other activity that is  
12 subject to licensing, registration, or certification requirements, or is  
13 otherwise regulated by a governmental entity, solely by entering  
14 into an employee leasing agreement with a client company who is  
15 subject to those requirements or regulation.

16 (4) A client company shall have the sole right of direction and  
17 control of the professional or licensed activities of covered  
18 employees and the client company's business. Those covered  
19 employees and client companies shall remain subject to regulation  
20 by the regulatory or governmental entity responsible for licensing,  
21 registration, or certification of those covered employees or client  
22 companies.

23 f. A client company's certification as a small, minority-owned,  
24 disadvantaged, woman-owned business enterprise or a historically  
25 underutilized business for the purposes of any bid, contract,  
26 purchase order, or agreement entered into with the State or a  
27 political subdivision of the State, shall not be affected because the  
28 client company has entered into an employee leasing agreement  
29 with an employee leasing company.

30 g. Any benefit that a client company is required to provide to  
31 covered employees that is provided to covered employees by an  
32 employee leasing company through an employee leasing agreement  
33 shall be credited against the client company's obligation to fulfill  
34 the requirement.

35 (cf: P.L.2001, c.260, s.2)

36  
37 <sup>1</sup>[2.] 3. Section 4 of P.L.2001, c.260 (C.34:8-70) is amended  
38 to read as follows:

39 4. a. An employee leasing company shall register with the  
40 commissioner and provide a list of its client companies with  
41 covered employees in this State, both upon the initial registration of  
42 the employee leasing company, and thereafter, annually by January  
43 31st, listing all client companies as of the immediately  
44 <sup>1</sup>[proceeding] preceding December 31st. The list shall include the  
45 following information with regard to each client company:

46 (1) Client company's name;

47 (2) Client company's physical location address;

48 (3) Description of client company's economic activity;

- 1 (4) Client company's state tax identification number;
- 2 (5) Percent of client company's workforce being leased;
- 3 (6) Effective date and duration of employee leasing agreement;
- 4 (7) A copy of the standard form of agreement entered into
- 5 between the employee leasing company and the client company;
- 6 (a) The standard form of agreement shall be accompanied by a
- 7 certified list of all client companies with covered employees in this
- 8 State contracting with the employee leasing company for its
- 9 services.
- 10 (b) The employee leasing company shall be required to notify
- 11 the Department of Labor and Workforce Development on an annual
- 12 basis of any material changes in the standard form of agreement
- 13 which relate to the requirements set forth in section 2 of this act,
- 14 and when any particular client company has agreed to terms which
- 15 deviate from the standard form of agreement;
- 16 (8) Proof of written disclosure to client companies upon the
- 17 signing of an employee leasing agreement, as required in section 8
- 18 of this act;
- 19 (9) Proof of current workers' compensation coverage, which
- 20 may be in the form of a letter from the insurance carrier, and which
- 21 shall include the name of the carrier, date of commencement of
- 22 coverage under the policy, term of the coverage, and verification of
- 23 premiums paid; and
- 24 (10) Confirmation that all leased employees are covered by
- 25 workers' compensation insurance.
- 26 b. Employee leasing companies shall also report to the
- 27 department, on a quarterly basis, wage information regarding each
- 28 covered employee as required by law, rule or regulation.
- 29 c. All records, reports and other information obtained from
- 30 employee leasing companies under this act, except to the extent
- 31 necessary for the proper administration by the department of this act
- 32 and all applicable labor laws, shall be confidential and shall not be
- 33 published or open to public inspection other than to public
- 34 employees in the performance of their public duties.
- 35 d. The department shall establish a limited registration 'and
- 36 renewal' process and appropriate forms for an employee leasing
- 37 company that (1) is not domiciled in this State; (2) is licensed or
- 38 registered as an employee leasing company or professional
- 39 employer organization in another state; (3) does not maintain an
- 40 office in this State or directly solicit client companies located or
- 41 domiciled in this State; and (4) is not 'on any single day]'
- 42 responsible for more than 50 covered employees employed in this
- 43 State 'on the date of registration or renewal. If during the term of a
- 44 limited registration an employee leasing company becomes
- 45 responsible for more than 50 covered employees, the employee
- 46 leasing company shall re-register with the department pursuant to
- 47 subsection a. of this section within 30 days of the end of the quarter
- 48 in which the employee leasing company became responsible for

1 more than 50 covered employees, but shall not be charged any  
2 additional registration fee, if a registration fee is required<sup>1</sup>. An  
3 employee leasing company requesting a limited registration  
4 pursuant to this subsection shall provide the department with a list  
5 of client companies and the number of covered employees at each  
6 of those companies and such other <sup>1</sup>~~['minimal']~~ information as the  
7 department shall prescribe. Any employee leasing company  
8 receiving a limited registration from the department shall not be  
9 required to comply with the provisions of subsection a. and b. of  
10 section 5 of P.L.2001, c.260 (C.34:8-71).

11 e. <sup>1</sup>~~['Every']~~ Two or more employee leasing companies that are  
12 majority owned by the same ultimate parent company, entity or  
13 person may register as an employee leasing company group, and  
14 may satisfy the registration requirements imposed pursuant to this  
15 section and the financial reporting required pursuant to section 5 of  
16 P.L.2001, c.260 (C.34:8-71), and any other filing requirements  
17 authorized by the department on a combined or consolidated basis,  
18 provided that the employee leasing company group demonstrates  
19 positive working capital pursuant to section 5 of P.L.2001, c.260  
20 (C.34:8-71). Each employee leasing company covered under an  
21 employee leasing company group registration shall guarantee the  
22 financial capacity obligations of each other employee leasing  
23 company covered under the employee leasing company group  
24 registration.

25 f. The department may require that every<sup>1</sup> initial application and  
26 subsequent annual reporting submitted pursuant to this section shall  
27 be accompanied by a fee of <sup>1</sup>up to<sup>1</sup> \$500. <sup>1</sup>If such a fee is required,  
28 every initial application and subsequent annual reporting submitted  
29 by an employee leasing company group pursuant to subsection e. of  
30 this section shall be accompanied by a fee of the required amount  
31 for each employee leasing company included in the employee  
32 leasing company group.<sup>1</sup>

33 (cf: P.L.2001, c.260, s.4)

34

35 <sup>1</sup>~~['3.']~~ <sup>1</sup> Section 5 of P.L.2001, c.260 (C.34:8-71) is amended  
36 to read as follows:

37 5. a. (1) Every initial registration and subsequent annual  
38 reporting shall be accompanied by ~~['a reviewed']~~ <sup>1</sup>~~['an audited']~~ a<sup>1</sup>  
39 financial statement prepared <sup>1</sup>in accordance with generally accepted  
40 accounting principles and audited<sup>1</sup> by an independent certified  
41 public accountant <sup>1</sup>~~['in accordance with generally accepted~~  
42 accounting principles']<sup>1</sup> ~~['within six months prior to the date of~~  
43 application or renewal'], which statement shall show a ~~['minimum~~  
44 net worth of \$100,000'] positive working capital, computed as  
45 current assets minus current liabilities. The <sup>1</sup>~~['audited']~~ financial

1 statement shall be without qualification as to the going concern  
2 status of the employee leasing company.

3 (2) At the time of an application for an initial registration an  
4 employee leasing company shall submit 'to the department' an  
5 audited financial statement prepared within 13 months of the  
6 application. Thereafter, an employee leasing company shall file  
7 'with the department' on an annual basis, within 180 days of the  
8 end of the employee leasing company's fiscal year, a current  
9 audited financial statement. An employee leasing company may  
10 request the department for an extension for this filing, which shall  
11 be accompanied by a letter from the employee leasing company's  
12 independent certified public accountant stating the reasons for the  
13 requested extension and the anticipated date of the completion of  
14 the audited financial statement.

15 b. (1) **【As a substitute for the requirement set forth in**  
16 **subsection a. of this section, the commissioner, or his designee, may**  
17 **require that the employee leasing company deposit in a depository**  
18 **designated by the commissioner a bond or securities with a market**  
19 **value of \$75,000.】** An employee leasing company that does not  
20 have a positive working capital may provide to the department, in  
21 lieu thereof, a bond, irrevocable letter of credit, or securities with a  
22 minimum market value equaling the amount necessary to achieve a  
23 positive working capital plus 'up to' \$100,000 ', such additional  
24 amount to be determined by the commissioner or his designee'.  
25 The securities so deposited shall include authorizations to the  
26 commissioner, or his designee, to sell those securities in an amount  
27 sufficient to pay any taxes, wages, benefits or other entitlement due  
28 a covered employee, if the employee leasing company does not  
29 make those payments when due. 'The provisions of this paragraph  
30 shall not apply to an employee leasing company group registered  
31 pursuant to subsection e. of section 4 of P.L.2001, c.260 (C.34:8-  
32 70).'<sup>1</sup>

33 (2) The commissioner, or his designee, may also require that  
34 bond or deposit if the commissioner finds that the leasing company  
35 has had its license or registration suspended, denied, or limited in  
36 any other jurisdiction; or that there have been instances in which the  
37 employee leasing company has not paid covered employees' wages  
38 or benefits when due, or failed to make timely payment of any  
39 federal or state payroll taxes or unemployment compensation  
40 contributions when due, or for other good cause.

41 (3) Any bond or securities deposited under this subsection shall  
42 not be included for the purpose of the calculation of **【net worth】**  
43 positive working capital required by subsection a. of this section.

44 c. An employee leasing company shall submit to the  
45 commissioner, or his designee, within 60 days after the end of each  
46 calendar quarter, a certification by an independent certified public  
47 accountant that all applicable federal and state payroll taxes for



1 covered employees in this State have been paid on a timely basis for  
2 that quarter. If the commissioner or his designee does not receive  
3 that certification within the 60-day period, the department shall  
4 notify the employee leasing company within five '**calendar**  
5 **business**' days of the expiration of the 60-day period. If that  
6 certification is not received within 10 '**calendar** **business**' days  
7 following the notification by the department, the department shall  
8 notify the client companies listed on the employee leasing  
9 company's annual report required pursuant to section 4 of this act  
10 that the certification was not received.

11 d. 'Two or more employee leasing companies that are majority  
12 owned by the same ultimate parent company, entity or person may  
13 comply with the provisions of this section pursuant to subsection e.  
14 of section 4 of P.L.2001, c.260 (C.34:8-70).

15 e.<sup>1</sup> The department '**shall** may' adopt, pursuant to the  
16 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
17 seq.) rules and regulations to permit, to the extent '**practicable**  
18 authorized pursuant to the "Uniform Electronic Transactions Act,"  
19 P.L.2001, c.116 (C.12A:12-1) et seq.)'<sup>1</sup> , employee leasing  
20 companies to electronically file applications, documents, reports  
21 and other filings required by P.L.2001, c.260 (C.34:8-67 et seq.).  
22 'The department may also adopt, pursuant to the "Administrative  
23 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules to  
24 provide for the acceptance of electronic filings and other assurance  
25 by an assurance organization that provides satisfactory assurance of  
26 compliance acceptable to the department consistent with or in lieu  
27 of the requirements of section 4 of P.L.2001, c.260 (C.34:8-70) and  
28 of this section and other requirements of P.L.2001, c.260 (C.34:8-  
29 67 et seq.) or the rules promulgated pursuant to it. The rules may  
30 permit an employee leasing company or an employee leasing  
31 company group to authorize an assurance organization to act on  
32 behalf of an employee leasing company or an employee leasing  
33 company group in complying with P.L.2001, c.260 (C.34:8-67 et  
34 seq.) and any rules and regulations adopted pursuant thereto,  
35 including electronic filings of information and payment of fees that  
36 may be required. The rules and regulations adopted pursuant to this  
37 subsection may include, but need not be limited to, an identification  
38 of those other provisions of P.L.2001, c.260 (C.34:8-67 et seq.) that  
39 may be complied with through an independent assurance  
40 organization. Use of an approved assurance organization shall be  
41 optional and not mandatory for an employee leasing company or an  
42 employee leasing company group. Nothing in this subsection shall  
43 limit or change the department's authority to register or rescind the  
44 registration of an employee leasing company or to investigate or  
45 enforce any provision of P.L.2001, c.260 (C.34:8-67 et seq.).'<sup>1</sup>

46 (cf: P.L.2001, c.260, s.5)

1       '5. Section 6 of P.L.2002, c.260 (C.34:8-72) is amended to read  
2 as follows:

3       6. a. An employee leasing company registered under this act  
4 and the respective client companies with which it has entered into  
5 employee leasing agreements shall be the co-employers of their  
6 covered employees for the payment of wages and other employment  
7 benefits due, including the obligation under the workers'  
8 compensation law, R.S.34:15-1 et seq., to maintain insurance  
9 coverage for covered employees for personal injuries to, or for the  
10 death of, those employees by accident arising out of and in the  
11 course of employment through policies issued by an insurance  
12 carrier licensed in the State of New Jersey. Such policies shall state  
13 the name of the employee leasing company as the labor contractor  
14 for each client company, by name.

15       b. For purposes of this act, the agreement between the  
16 employee leasing company and the client company shall be one of  
17 co-employment, whereby the employee leasing company, having  
18 accepted the responsibilities set forth in section 2 of this act, may  
19 submit reports to the department and make contributions to the  
20 Unemployment Compensation and State Disability Benefits Funds  
21 in the manner prescribed in section 7 of the this act, on behalf of  
22 those covered employees covered by the employee leasing  
23 agreement. In addition, the provisions of R.S.34:15-8, regarding  
24 the exclusivity of the remedy under the workers' compensation law  
25 for personal injuries to, or for the death of, employees by accident  
26 arising out of and in the course of their employment, shall apply to  
27 the employee leasing company and the client company, and their  
28 employees.

29       c. The employee leasing company shall file reports prescribed  
30 under the "unemployment compensation law," R.S.43:21-1 et seq.  
31 on behalf of its covered employees using the State tax identification  
32 number of the employee leasing company.<sup>1</sup>

33 (cf:P.L.2001, c.260, s.6)

34

35       '[4.] 6.'<sup>1</sup> (New section) a. Except to the extent otherwise  
36 expressly provided by an applicable employee leasing agreement, a  
37 client company shall be solely responsible for the quality, adequacy  
38 or safety of the goods or services produced or sold in the client  
39 company's business, for directing, supervising, training and  
40 controlling the work of the covered employees with respect to the  
41 business activities of the client company, and for the acts, errors or  
42 omissions of covered employees with regard to those activities.

43       b. Except to the extent otherwise expressly provided by an  
44 applicable employee leasing agreement, a client company shall not  
45 be liable for the acts, errors or omissions of an employee leasing  
46 company, or of any covered employee when the covered employee  
47 is acting under the express direction and control of the employee  
48 leasing company, and an employee leasing company shall not be

1 liable for the acts, errors, or omissions of a client company or of  
2 any covered employee when the covered employee is acting under  
3 the express direction and control of the client company.

4 c. Except to the extent otherwise expressly provided by an  
5 applicable employee leasing agreement or other employment  
6 contract, insurance contract or bond, a covered employee shall not  
7 be considered, solely as the result of being a covered employee, an  
8 employee of the employee leasing company for purposes of general  
9 liability insurance, fidelity bonds, surety bonds, employer's liability  
10 which is not covered by workers' compensation, or other liability  
11 insurance carried by the employee leasing company.

12  
13 '[5.] 7.' (New section) For purposes of determining economic  
14 incentives or benefit based on employment provided by law, rule or  
15 regulation by the State or other government entity, covered  
16 employees of a client company shall be considered employees  
17 solely of the client company, and the client company shall be  
18 entitled to the benefit of any economic incentive or other benefit  
19 based on the number of the client company's covered employees,  
20 notwithstanding that an employee leasing company is the W-2  
21 reporting employer for the covered employees. Each client  
22 company shall be treated as employing only those covered  
23 employees co-employed by the client company, and not covered  
24 employees employed by other client companies of the employee  
25 leasing company. Each employee leasing company shall provide,  
26 upon request by the State or any political subdivision thereof,  
27 employment information reasonably required for the administration  
28 of any economic incentive or benefit program. Each employee  
29 leasing company shall provide, upon request by a client company,  
30 employment information necessary to support any request, claim,  
31 application, or other action by a client company seeking any such  
32 economic incentive or benefit. As used in this section, "covered  
33 employee," "client company," and "employee leasing company"  
34 shall have the same meaning as set forth in section 1 of P.L.2001,  
35 c.260 (c.34:8-67).

36  
37 '[6.] 8.' (New section) For the purposes of implementing the  
38 "Sales and Use Tax Act," (P.L.1966, c.30; C.54:32B-1 et seq.) any  
39 taxes due for services performed by covered employees shall be  
40 paid by the client company and not by the employee leasing  
41 company. As used in this section "covered employee," "client  
42 company" and "employee leasing company" shall have the same  
43 meaning as set forth in section 1 of P.L.2001, c.260 (C. 34:8-67).

44  
45 '[7.] 9.' (New section) For the purposes of implementing the  
46 "Sales and Use Tax Act," P.L.1966, c.30; C.54:32B-1 et seq.) any  
47 sales tax imposed on employee leasing services provided by an  
48 employee leasing company to a client company 'pursuant to a law

1 enacted after the effective date of P.L.2011, c. (C. ) (pending  
2 before the Legislature as this bill)<sup>1</sup> shall be imposed only on  
3 receipts that reflect the amounts charged to client companies for  
4 employee leasing services and not on receipts that represent the  
5 amounts charged for the payment of wages, salaries, benefits,  
6 worker's compensation costs, withholding taxes, or other  
7 assessments paid to or on behalf of a covered employee by the  
8 employee leasing company under an employee leasing agreement.  
9 As used in this section, "employee leasing company," "client  
10 company," "covered employee" and "employee leasing agreement"  
11 shall have the same meaning as set forth in section 1 of P.L.2001,  
12 c.260 (C.34:8-67).

13  
14 **'[8.] 10.'** (New section) For the purposes of implementing any  
15 tax imposed on an employer on a per employee basis, the tax  
16 **'[shall be]'** imposed on a client company **'[for] shall be calculated**  
17 **on the basis of**<sup>1</sup> its covered employees <sup>1</sup> and **the tax imposed**<sup>1</sup> on  
18 an employee leasing company **'[for] shall be calculated on the**  
19 **basis of**<sup>1</sup> its employees that are not covered employees. As used in  
20 this section, "employee leasing company," "client company," and  
21 "covered employee" shall have the same meaning as set forth in  
22 section 1 of P.L.2001, c.260 (C.34:8-67).

23  
24 **'[9.] 11.'** (New section) For the purposes of implementing any  
25 tax imposed on an employer on the basis of total payroll, an  
26 employee leasing company, in computing the tax on behalf of the  
27 client company, shall be authorized to apply any small business  
28 allowance or exemption made available pursuant to law to the client  
29 company for covered employees. As used in this section, "employee  
30 leasing company," "client company," and "covered employee" shall  
31 have the same meaning as set forth in section 1 of P.L.2001, c.260  
32 (C.34:8-67).

33  
34 **'[10.] 12.'** (New section) For the purposes of determining any  
35 tax credit based on employment provided by law, rule or regulation  
36 by the State, covered employees of a client company shall be  
37 considered employees solely of the client company, and the client  
38 company shall be entitled to the tax credit based on the number of  
39 the client company's covered employees, notwithstanding that an  
40 employee leasing company is the W-2 reporting employer for the  
41 covered employees. Each client company shall be treated as  
42 employing only those covered employees co-employed by the client  
43 company, and not covered employees employed by other client  
44 companies of the employee leasing company. Each employee  
45 leasing company shall provide, upon request of the Division of  
46 Taxation in the Department of the Treasury, employment  
47 information reasonably required for the administration of any tax

1 credit program. Each employee leasing company shall provide,  
2 upon request by a client company, employment information  
3 necessary to support any request, claim, application, or other action  
4 by a client company seeking any such tax credit. As used in this  
5 section, “employee leasing company,” “client company,” and  
6 “covered employee” shall have the same meaning as set forth in  
7 section 1 of P.L.2001, c.260 (C.34:8-67).  
8  
9 ‘[11.] 13.’ This act shall take effect ‘[nine] 12’ months  
10 following enactment.