

[Third Reprint]

SENATE, No. 2164

STATE OF NEW JERSEY
214th LEGISLATURE

INTRODUCED JUNE 28, 2010

Sponsored by:

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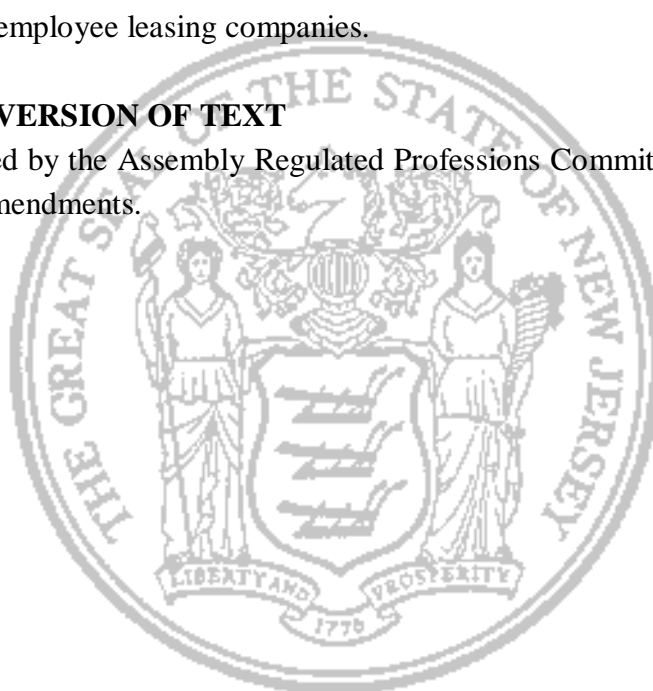
Assemblyman Fuentes and Senator Stack

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: 6/30/2011)

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 ²1. 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

40 not limited to, those responsibilities provided in section 2 of this
 41 act.²

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

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:

¹Senate SLA committee amendments adopted July 19, 2010.

²Senate floor amendments adopted November 22, 2010.

³Assembly ARP committee amendments adopted June 13, 2011.

1 ²[1.] 2.² Section 2 of P.L.2001, c.260 (C.34:8-68) is amended
2 to read as follows:

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

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

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

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

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

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

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

41 (7) Continue to honor and abide by existing collective
42 bargaining agreements applicable to covered employees. ¹['Upon
43 expiration of the employee leasing agreement, the] The¹ client
44 company shall ¹'also' continue to honor and abide by all collective
45 bargaining agreements applicable to covered employees. Every
46 employee leasing company which enters into a contract with a client
47 company, which has a collective bargaining representative for the
48 covered employees, shall require that client company to enter into

1 an agreement with the employee leasing company containing the
2 following language:

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

9 ³(8) Shall provide workers' compensation insurance for their
10 covered employees.³

11 b. Every employee leasing agreement shall provide that [the
12 employee leasing company and] ³the employee leasing company
13 and³ the client company shall [each] ³each³ retain a right of
14 direction and control over management of safety, risk and hazard
15 control at the work site or sites affecting each covered employee
16 including:

17 (1) Responsibility for performing safety inspections of client
18 company equipment and premises; ³[and]³

19 (2) Responsibility for the promulgation and administration of
20 employment and safety policies[; and] ³[.] ; and³

21 [(3) Responsibility] ³[The employee leasing company shall be
22 responsible] (3) Responsibility³ for the management of workers'
23 compensation claims, the filings thereof, and procedures related
24 thereto.

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

29 d. (1) Nothing in P.L.2001, c.260 (C.34:8-67 et seq.) or in any
30 employee leasing agreement shall diminish, abolish or remove any
31 obligations of covered employees to a client company or any
32 obligations of any client company to a covered employee existing
33 prior to the effective date of an employee leasing agreement, or
34 create any new or additional enforceable right of a covered
35 employee against an employee leasing company that is not
36 specifically provided by the appropriate employee leasing
37 agreement ³or³ P.L.2001, c.260 (C.34:8-67 et seq.).

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

1 unless the employee leasing company has specifically agreed
2 otherwise in writing.

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

7 (2) A covered employee who is required to be licensed,
8 registered, or certified ³[or undergo a criminal background check]³
9 pursuant to any State law or regulation shall be considered solely an
10 employee of the client company for purposes of that license,
11 registration, or certification requirement.

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

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

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

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

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

38
39 ²[2.] ³3.² Section 4 of P.L.2001, c.260 (C.34:8-70) is amended
40 to read as follows:

41 4. a. An employee leasing company shall register with the
42 commissioner and provide a list of its client companies with
43 covered employees in this State, both upon the initial registration of
44 the employee leasing company, and thereafter, annually by January
45 31st, listing all client companies as of the immediately
46 ³[proceeding] preceding³ December 31st. The list shall include the
47 following information with regard to each client company:

48 (1) Client company's name;

- 1 (2) Client company's physical location address;
- 2 (3) Description of client company's economic activity;
- 3 (4) Client company's state tax identification number;
- 4 (5) Percent of client company's workforce being leased;
- 5 (6) Effective date and duration of employee leasing agreement;
- 6 (7) A copy of the standard form of agreement entered into
- 7 between the employee leasing company and the client company;
- 8 (a) The standard form of agreement shall be accompanied by a
- 9 certified list of all client companies with covered employees in this
- 10 State contracting with the employee leasing company for its
- 11 services.
- 12 (b) The employee leasing company shall be required to notify
- 13 the Department of Labor and Workforce Development on an annual
- 14 basis of any ²[material] ³[substantive²] material³ changes in the
- 15 standard form of agreement which relate to the requirements set
- 16 forth in section 2 of this act, and when any particular client
- 17 company has agreed to terms which deviate from the standard form
- 18 of agreement;
- 19 (8) Proof of written disclosure to client companies upon the
- 20 signing of an employee leasing agreement, as required in section 8
- 21 of this act;
- 22 (9) Proof of current workers' compensation coverage, which
- 23 may be in the form of a letter from the insurance carrier, and which
- 24 shall include the name of the carrier, date of commencement of
- 25 coverage under the policy, term of the coverage, and verification of
- 26 premiums paid; and
- 27 (10) Confirmation that all leased employees are covered by
- 28 workers' compensation insurance.
- 29 b. Employee leasing companies shall also report to the
- 30 department, on a quarterly basis, wage information regarding each
- 31 covered employee as required by law, rule or regulation.
- 32 c. All records, reports and other information obtained from
- 33 employee leasing companies under this act, except to the extent
- 34 necessary for the proper administration by the department of this act
- 35 and all applicable labor laws, shall be confidential and shall not be
- 36 published or open to public inspection other than to public
- 37 employees in the performance of their public duties.
- 38 d. The department shall establish a limited registration ²and
- 39 renewal² process and appropriate forms for an employee leasing
- 40 company that (1) is not domiciled in this State; (2) is licensed or
- 41 registered as an employee leasing company or professional
- 42 employer organization in another state; (3) does not maintain an
- 43 office in this State or directly solicit client companies located or
- 44 domiciled in this State; and (4) is not ²[on any single day]²
- 45 responsible for more than 50 covered employees employed in this
- 46 State ²on the date of registration or renewal. If during the term of a
- 47 limited registration an employee leasing company becomes

1 responsible for more than 50 covered employees, the employee
 2 leasing company shall re-register with the department pursuant to
 3 subsection a. of this section ³within 30 days of the end of the
 4 quarter in which the employee leasing company became responsible
 5 for more than 50 covered employees³, but shall not be charged any
 6 additional registration fee^{2 3}, if a registration fee is required³. An
 7 employee leasing company requesting a limited registration
 8 pursuant to this subsection shall provide the department with a list
 9 of client companies and the number of covered employees at each
 10 of those companies and such other ³[minimal]³ information as the
 11 department shall prescribe. Any employee leasing company
 12 receiving a limited registration from the department shall not be
 13 required to comply with the provisions of subsection a. and b. of
 14 ¹[this]¹ section ¹5 of P.L.2001, c.260 (C.34:8-71)¹.

15 e. ²Two or more employee leasing companies that are majority
 16 owned by the same ultimate parent company, entity or person may
 17 register as an employee leasing company group, and may satisfy the
 18 registration requirements imposed pursuant to this section and the
 19 financial reporting required pursuant to section 5 of P.L. 2001, c.
 20 260 (C.34:8-71), and any other ³[reporting] filing³ requirements
 21 authorized by the department, on a combined or consolidated basis
 22 ³, provided that the employee leasing company group demonstrates
 23 positive working capital pursuant to section 5 of P.L.2001, c.260
 24 (C.34:8-71)³. Each employee leasing company covered under an
 25 employee leasing ³company³ group registration shall guarantee the
 26 financial capacity obligations of each other employee leasing
 27 company covered under the employee leasing company group
 28 registration.

29 f.^{2 3} ³[Every] The department may require that every³ initial
 30 application and subsequent annual reporting submitted pursuant to
 31 this section shall be accompanied by a fee of ³up to³ \$500.
 32 ³[²Every] If such a fee is required, every³ initial application and
 33 subsequent annual reporting submitted by an employee leasing
 34 company group pursuant to subsection e. of this section shall be
 35 accompanied by a fee of ³[\$500] the required amount³ for each
 36 employee leasing company included in the employee leasing
 37 company group.²

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

39

40 ²[3.] ^{4.2} Section 5 of P.L.2001, c.260 (C.34:8-71) is amended
 41 to read as follows:

42 5. a. (1) Every initial registration and subsequent annual
 43 reporting shall be accompanied by [a reviewed] ²[an audited] ²a²
 44 financial statement prepared ²in accordance with generally accepted
 45 accounting ³[principals] principles³ and audited ²by an
 46 independent certified public accountant ²[in accordance with

1 generally accepted accounting principles]² [within six months prior
2 to the date of application or renewal], which statement shall show a
3 [minimum net worth of \$100,000] positive working capital,
4 computed as current assets minus current liabilities. The
5 ²[audited]² financial statement shall be without qualification as to
6 the going concern status of the employee leasing company.

7 (2) At the time of an application for an initial registration an
8 employee leasing company shall submit ³to the department³ an
9 audited financial statement prepared within 13 months of the
10 application. Thereafter, an employee leasing company shall file
11 ³with the department³ on an annual basis, within 180 days of the
12 end of the employee leasing company's fiscal year, a current
13 audited financial statement. An employee leasing company may
14 request the department for an extension for this filing, which shall
15 be accompanied by a letter from the employee leasing company's
16 independent certified public accountant stating the reasons for the
17 requested extension and the anticipated date of the completion of
18 the audited financial statement.

19 b. (1) [As a substitute for the requirement set forth in
20 subsection a. of this section, the commissioner, or his designee, may
21 require that the employee leasing company deposit in a depository
22 designated by the commissioner a bond or securities with a market
23 value of \$75,000.] An employee leasing company that does not
24 have a positive working capital may provide to the department, in
25 lieu thereof, a bond, irrevocable letter of credit, or securities with a
26 minimum market value equaling the amount necessary to achieve a
27 positive working capital plus ²up to² \$100,000 ², such additional
28 amount to be determined by the commissioner or his designee².
29 The securities so deposited shall include authorizations to the
30 commissioner, or his designee, to sell those securities in an amount
31 sufficient to pay any taxes, wages, benefits or other entitlement due
32 a covered employee, if the employee leasing company does not
33 make those payments when due. ³The provisions of this paragraph
34 shall not apply to an employee leasing company group registered
35 pursuant to subsection e. of section 4 of P.L.2001, c.260 (C.34:8-
36 70).³

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

45 (3) Any bond or securities deposited under this subsection shall
46 not be included for the purpose of the calculation of ¹[net worth]
47 positive working capital¹ required by subsection a. of this section.

1 c. An employee leasing company shall submit to the
 2 commissioner, or his designee, within 60 days after the end of each
 3 calendar quarter, a certification by an independent certified public
 4 accountant that all applicable federal and state payroll taxes for
 5 covered employees in this State have been paid on a timely basis for
 6 that quarter. If the commissioner or his designee does not receive
 7 that certification within the 60-day period, the department shall
 8 notify the employee leasing company within five ²**[calendar]**
 9 **business**² days of the expiration of the 60-day period. If that
 10 certification is not received within 10 ²**[calendar]** **business**² days
 11 following the notification by the department, the department shall
 12 notify the client companies listed on the employee leasing
 13 company's annual report required pursuant to section 4 of this act
 14 that the certification was not received.

15 d. ²Two or more employee leasing companies that are majority
 16 owned by the same ultimate parent company, entity or person may
 17 comply with the provisions of this section pursuant to subsection e.
 18 of section 4 of P.L. 2001, c. 260 (C.34:8-70).

19 e.² The department may adopt, pursuant to the "Administrative
 20 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) rules and
 21 regulations to permit, to the extent ²**[practicable]** authorized
 22 pursuant to the "Uniform Electronic Transactions Act," P.L.2001,
 23 c.116 (C.12A:12-1 et seq.)², employee leasing companies to
 24 electronically file applications, documents, reports and other filings
 25 required by P.L.2001, c.260 (C.34:8-67 et seq.). ³**[²Those]** The
 26 department may also adopt, pursuant to the "Administrative
 27 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).³ rules
 28 ³**[may]** to³ provide for the acceptance of electronic filings and
 29 other assurance by an ³**[independent and qualified]**³ assurance
 30 organization ³**[approved by the commissioner]**³ that provides
 31 satisfactory assurance of compliance acceptable to the department
 32 consistent with or in lieu of the requirements of section 4 of
 33 P.L.2001, c.260 (C.34:8-70 ³**[and C.34:8-71]**³) and of this section
 34 and other requirements of P.L.2001, c.260 (C.34:8-67 et seq.) or the
 35 rules promulgated pursuant to it. The rules may permit an
 36 employee leasing company or an employee leasing company group
 37 to authorize an assurance organization ³**[approved by the**
 38 **commissioner]**³ to act on behalf of an employee leasing company
 39 or an employee leasing company group in complying with
 40 P.L.2001, c.260 (C.34:8-67 et seq.) and any rules and regulations
 41 adopted pursuant thereto, including electronic filings of information
 42 and payment of fees ³**that may be required**³. The rules and
 43 regulations adopted pursuant to this subsection may include, but
 44 need not be limited to, ³**[a requirement that any independent**
 45 **assurance organization be approved by the commissioner and]**³ an
 46 identification of those other provisions of P.L.2001, c.260 (C.34:8-

67 et seq.) that may be complied with through an independent assurance organization. Use of an approved assurance organization shall be optional and not mandatory for an employee leasing company or an employee leasing company group. Nothing in this subsection shall limit or change the department's authority to register or rescind the registration of an employee leasing company or to investigate or enforce any provision of P.L.2001, c.260 (C.34:8-67 et seq.).²

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

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

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

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

c. The employee leasing company shall file reports prescribed under the "unemployment compensation law," R.S.43:21-1 et seq. on behalf of its covered employees using the State tax identification number of the employee leasing company.³

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

²[4.] ³[5.²] 6.³ (New section) a. Except to the extent otherwise expressly provided by an applicable employee leasing agreement, a client company shall be solely responsible for the quality, adequacy or safety of the goods or services produced or

1 sold in the client company's business, for directing, supervising,
2 training and controlling the work of the covered employees with
3 respect to the business activities of the client company, and for the
4 acts, errors or omissions of covered employees with regard to those
5 activities.

6 b. Except to the extent otherwise expressly provided by an
7 applicable employee leasing agreement, a client company shall not
8 be liable for the acts, errors or omissions of an employee leasing
9 company, or of any covered employee when the covered employee
10 is acting under the express direction and control of the employee
11 leasing company, and an employee leasing company shall not be
12 liable for the acts, errors, or omissions of a client company or of
13 any covered employee when the covered employee is acting under
14 the express direction and control of the client company.

15 c. Except to the extent otherwise expressly provided by an
16 applicable employee leasing agreement or other employment
17 contract, insurance contract or bond, a covered employee shall not
18 be considered, solely as the result of being a covered employee, an
19 employee of the employee leasing company for purposes of general
20 liability insurance, fidelity bonds, surety bonds, employer's liability
21 which is not covered by workers' compensation, or other liability
22 insurance carried by the employee leasing company.

23

24 ²[5.] ³[6.²] 7.³ (New section) For purposes of determining
25 economic incentives or benefit based on employment provided by
26 law, rule or regulation by the State or other government entity,
27 covered employees of a client company shall be considered
28 employees solely of the client company, and the client company
29 shall be entitled to the benefit of any economic incentive or other
30 benefit based on the number of the client company's covered
31 employees, notwithstanding that an employee leasing company is
32 the W-2 reporting employer for the covered employees. Each client
33 company shall be treated as employing only those covered
34 employees co-employed by the client company, and not covered
35 employees employed by other client companies of the employee
36 leasing company. Each employee leasing company shall provide,
37 upon request by the State or any political subdivision thereof,
38 employment information reasonably required for the administration
39 of any economic incentive or benefit program. Each employee
40 leasing company shall provide, upon request by a client company,
41 employment information necessary to support any request, claim,
42 application, or other action by a client company seeking any such
43 economic incentive or benefit. As used in this section, "covered
44 employee," "client company," and "employee leasing company"
45 shall have the same meaning as set forth in section 1 of P.L.2001,
46 c.260 (C.34:8-67).

47

48 ²[6.] ³[7.²] 8.³ (New section). For the purposes of

1 implementing the “Sales and Use Tax Act,” (P.L.1966, c.30;
 2 C.54:32B-1 et seq.) any taxes due for services performed by
 3 covered employees shall be paid by the client company and not by
 4 the employee leasing company. As used in this section “covered
 5 employee,” “client company” and “employee leasing company”
 6 shall have the same meaning as set forth in section 1 of P.L.2001,
 7 c.260 (C. 34:8-67).

8
 9 ²[7.] ³[8.2] 9.3 (New section) For the purposes of
 10 implementing the “Sales and Use Tax Act,” P.L.1966, c.30;
 11 C.54:32B-1 et seq.) any sales tax imposed on employee leasing
 12 services provided by an employee leasing company to a client
 13 company ³pursuant to a law enacted after the effective date of
 14 P.L.2011, c. (C.) pending before the Legislature as this bill)³
 15 shall be imposed only on receipts that reflect the amounts charged
 16 to client companies for employee leasing services and not on
 17 receipts that represent the amounts charged for the payment of
 18 wages, salaries, benefits, worker’s compensation costs, withholding
 19 taxes, or other assessments paid to or on behalf of a covered
 20 employee by the employee leasing company under an employee
 21 leasing agreement. As used in this section, “employee leasing
 22 company,” “client company,” “covered employee” and “employee
 23 leasing agreement” shall have the same meaning as set forth in
 24 section 1 of P.L.2001, c.260 (C.34:8-67).

25
 26 ²[8.] ³[9.2] 10.3 (New section) For the purposes of
 27 implementing any tax imposed on an employer on a per employee
 28 basis, the tax ²[shall be]² imposed on a client company ²[for] shall
 29 be calculated on the basis of² its covered employees ^{2, 2} and ²the tax
 30 imposed² on an employee leasing company ²[for] shall be
 31 calculated on the basis of² its employees that are not covered
 32 employees. As used in this section, “employee leasing company,”
 33 “client company,” and “covered employee” shall have the same
 34 meaning as set forth in section 1 of P.L.2001, c.260 (C.34:8-67).

35
 36 ²[9.] ³[10.2] 11.3 New section) For the purposes of
 37 implementing any tax imposed on an employer on the basis of total
 38 payroll, an employee leasing company, in computing the tax on
 39 behalf of the client company, shall be authorized to apply any small
 40 business allowance or exemption made available pursuant to law to
 41 the client company for covered employees. As used in this section,
 42 “employee leasing company,” “client company,” and “covered
 43 employee” shall have the same meaning as set forth in section 1 of
 44 P.L.2001, c.260 (C.34:8-67).

45
 46 ²[10.] ³[11.2] 12.3 (New section) For the purposes of
 47 determining any tax credit based on employment provided by law,

1 rule or regulation by the State, covered employees of a client
2 company shall be considered employees solely of the client
3 company, and the client company shall be entitled to the tax credit
4 based on the number of the client company's covered employees,
5 notwithstanding that an employee leasing company is the W-2
6 reporting employer for the covered employees. Each client company
7 shall be treated as employing only those covered employees co-
8 employed by the client company, and not covered employees
9 employed by other client companies of the employee leasing
10 company. Each employee leasing company shall provide, upon
11 request of the Division of Taxation in the Department of the
12 Treasury, employment information reasonably required for the
13 administration of any tax credit program. Each employee leasing
14 company shall provide, upon request by a client company,
15 employment information necessary to support any request, claim,
16 application, or other action by a client company seeking any such
17 tax credit. As used in this section, "employee leasing company,"
18 "client company," and "covered employee" shall have the same
19 meaning as set forth in section 1 of P.L.2001, c.260 (C.34:8-67).

20

21 ²[11.] ³[12.²] 13.³ This act shall take effect ²[nine] 12²
22 months following enactment.