

Fred: I have two major concerns but generally like the direction you have taken the rules.

1) The proposed change in the definition of a temporary worker is good, but it still looks very much like a solution in search of a problem. The ORS says that if the placement is part of the normal hiring process where an employee has a reasonable expectation of becoming a permanent employee of the client, it is a temporary placement. OAR 436 180 0120, 1 (C.), on page 10 of the proposed changes, the ORS wording is included but the rules say evidence "may" include written documents from the client and or Temporary Service Provider. On page 11, the written documentation is stated as mandatory.

When an employee has a reasonable expectation of being hired by the client, the demonstrated nature of the business relationship will clearly show this. That is what the law requires and I believe it is in the best interest of the state and the businesses involved to keep it that simple. Removing the requirement of a definite ending date determined months before the end of an assignment was simply impossible to know with hundreds of employees. Thank you for deleting that requirement.

The same can be said for seasonal placement arrangements. One of our larger seasonal clients uses our people each year for a season. It usually starts in May or June, sometimes in April, and ends in September or October, maybe August depending on the weather. For us to demonstrate that a season exists is easy. Why make it cumbersome to go further? No one gains.

Other wording requires mandatory documentation of each placement and placement contract. For example, 1(A) i. An employee absence or leave from which the employee is expected to return... It should be easy to show this after the fact. Leaves are not always for a definite period of time. ii, A shortage in skilled professional staff...for a known duration of time. Who has the crystal ball to make this definitive prediction? iii, seasonal or sporadic...documentation must establish the nature of the increase...and why assistance is needed. iv documentation must describe the project and why it is unusual.

Isn't it a bit intrusive of the State to require a private business to convince the State that a business decision is necessary? The nature of the work and assignment should be quite clear. Anyone can write something. What are the parties actually do is what is important, and can be easily demonstrated without cumbersome documentation.

2) OAR 436 180 0160. I do not believe it is wise to allow one individual to make a decision to walk into a private business and tell them they are no longer allowed to do business in Oregon. No due process required and no requirement of clear and convincing evidence that major harm will result if due process is used.

A leasing or staffing business of any sort is not something that can start and stop on a dime without seriously affecting hundreds or thousands of people. I believe reasonable due process should be used in any circumstance.

Finally, I strongly encourage enforcement of the current and proposed requirement that self-insured worker leasing companies segregate payrolls and worker compensation information by client and that this information is reported to NCCI.

This requirement will allow a client company of a self-insured worker leasing company to have the choice to stay with the current worker leasing company, purchase their own worker's compensation policy, or choose to work with another worker leasing company.

Thank you for your efforts to make this program work for all of us.

Gregory J. Lambert, President
Mid Oregon Personnel Services, Inc.