

44-1703. Limitations of act; rights, obligations and requirements under the professional employer organization registration act. (a) Nothing in the provisions of K.S.A. 2016 Supp. 44-1701 through 44-1711, and amendments thereto, or in any professional employer agreement shall:

(1) Affect, modify or amend any collective bargaining agreement, or the rights or obligations of any client, professional employer organization or covered employee under the national labor relations act, 29 U.S.C. § 151 et seq., or the railway labor act, 45 U.S.C. § 151 et seq.;

(2) diminish, abolish or remove the rights of covered employees as to a client, or the obligations of such client to a covered employee, whether existing prior to or after the effective date of the professional employer agreement, including, but not limited to, rights and obligations arising from civil rights laws guaranteeing nondiscrimination in employment practices;

(3) affect, modify or amend any contractual relationship or restrictive covenant between a covered employee and any client in effect at the time a professional employer agreement becomes effective, nor prohibit or amend any contractual relationship or restrictive covenant that is entered into subsequently between a client and a covered employee. A professional employer organization shall have no responsibility or liability in connection with, or arising out of, any such existing or new contractual relationship or restrictive covenant unless the professional employer organization has specifically agreed otherwise in writing; or

(4) create any new or additional enforceable right of a covered employee against a professional employer organization that is not specifically provided by the professional employer agreement or by the provisions of K.S.A. 2016 Supp. 44-1701 through 44-1711, and amendments thereto.

(b) (1) Nothing in the provisions of K.S.A. 2016 Supp. 44-1701 through 44-1711, and amendments thereto, or in any professional employer agreement shall affect, modify or amend any local, state or federal licensing, registration or certification requirement applicable to any client or covered employee.

(2) A covered employee who is required to be licensed, registered or certified pursuant to local, state or federal law or rules and regulations shall be deemed to be an employee solely of the client for purposes of any such license, registration or certification requirement.

(3) A professional employer organization shall not be deemed to engage in any occupation, trade, profession or other activity that is subject to licensing, registration or certification requirements, or is otherwise regulated by a governmental entity solely by entering into and maintaining a co-employment relationship with a client or covered employee who is subject to such requirements or regulations.

(4) A client shall have the sole right to direct and control the professional or licensed activities of covered employees and of the client's business. Such covered employees and clients shall remain subject to regulation by the regulatory or governmental entity responsible for licensing, registration or certification of such covered employees or clients.

(c) With respect to a bid, contract, purchase order or agreement entered into with the state or a political subdivision of the state, a client's status or certification as a small, minority-owned, disadvantaged or woman-owned business enterprise, a veteran or service-disabled veteran small business or as a historically underutilized business, shall not be affected because the client has entered into a professional employer agreement with a professional employer organization, or uses the services of a professional employer organization.

(d) (1) With respect to any state or local economic development or incentive program, the client shall have access to such program and the client shall not be adversely affected or disqualified because the client:

(A) Has entered into a professional employer agreement; or

(B) uses the services of a professional employer organization.

(2) If a state or local economic development or incentive program has any employee-related requirement necessary to qualify for participation in such program, the employees of the client shall be deemed to be employees for the purpose of satisfying such requirement.

History: L. 2012, ch. 142, § 3; Jan. 1, 2014.