

# Florida PEOs Mind Their Own Business – Along With Their Clients – in Tough Times

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Good news in today's economy is welcome in almost any form. Some days, just maintaining the status quo is a reason to cheer. Reports on whether Professional Employer Organizations (PEOs) are "status quo" are mixed. While some industry experts cite increases in PEOs' overall client base, along with a greater acceptance by businesses not traditionally PEO-friendly, they caution that many PEOs are signing up clients with far fewer employees than just a few years ago.

On the positive side — for PEOs and the economy in general — self-employment is on the rise as the recession drives workers to business innovations. Baby Boomer retirement problems are contributing to an increased interest in small business, and experts predict that Generation Y will continue to be more entrepreneurial than youth in recent generations. These factors, along with the low market penetration of PEOs overall, are creating a growth opportunity for PEOs throughout the country.

There are approximately 700 PEOs nationwide, with some \$68 billion in gross revenues, according to the National Association of Professional Employer Organizations (NAPEO). PEOs currently serve approximately 300,000 businesses and 2 to 3 million workers across the country in a diverse mix of businesses. The industry grew \$5 billion in 2008.

## **The Florida Marketplace**

Florida has long been a strong PEO market. According to Robert A. "Bob" Beck, II, CLU, founder of Fort Lauderdale-based AlphaStaff, Inc., Florida has the highest PEO market penetration of any state. "In some Florida areas, PEOs have captured up to 15 percent of the addressable market," he said. "Florida provides for the maximum amount of flexibility for PEOs and their clients in the areas of workers' compensation and health insurance, allowing clients to opt to use the PEO plan or to keep client-based plans of insurance."

A recent survey commissioned by the Florida Association of Professional Employer Organizations (FAPEO) revealed that PEOs in Florida employ more than 700,000 employees, serve more than 50,000 companies, and pay \$24 billion in payroll. As one of the largest employers in the state, PEOs represent nine percent of the non-governmental work force. Of the 33 current members of FAPEO, 23 are based on Florida's West Coast, six on the East Coast or in between.

Given the Sunshine State's abundance of minimum-wage, service-industry and construction-related jobs, PEOs in Florida traditionally have sought those types of employers. That appears to be changing.

Midge Seltzer, chief operating officer of St. Petersburg's Modern Business Associates, Inc., said that new business has been coming from "every possible sector of the Florida business community." Seltzer also is the current chair of NAPEO's board of directors, and can ably contrast the Florida market with what is happening nationwide.

"Interestingly, here in Florida we have seen an increase in larger companies with 50 to 100 employees seeking a strategic partner to assist them in growing their companies. PEOs are the ideal platform to assist them with growth," Seltzer reported.

FAPEO Executive Director Robert Skrob noted that while many PEO clients have decreased their workforce or gone out of business entirely, the economy has brought other employers to the PEO table.

"Employers who may have not been interested in outsourcing their human resources when the economy was stronger, today are looking for ways to handle a lot of functions more efficiently," Skrob reported. "Tapping into the economies of scale that PEOs have is a great way for employers to save time and free themselves up to focus on revenue-producing tasks.

"While it's never good for a PEO to have its clients go through layoffs, the economy has made a lot more employers open to the idea of outsourcing their human resources functions," he said.

Although Florida remains mired in unemployment figures that hover at double digits, a job bump may not be far off. President and CEO Milan P. Yager of FAPEO's national association, NAPEO, said that he is hearing that in Florida there is a "leveling off; the end of the tunnel may be in sight," in the unemployment arena.

MBI's Seltzer also voiced optimism for the Sunshine State. "Most PEOs are seeing many of their existing clients starting to hire again — clearly, a good sign for all. In fact, several PEOs are expanding their offices in Florida due to the increased demand for our services," she said.

### **Credentialing May Be Key To a PEO's Growth**

To increase its appeal to large and small businesses, a PEO can obtain accreditation that attests to its credibility and ethical and financial integrity — attributes that can reassure a sometimes hesitant business community.

Reinaldo Lopez, founder and chief executive of Resource Management, Inc. (RMI), earned such credentialing in January for his firm through Employer Services Assurance Corporation (ESAC). The rigorous certification confirms independent verification of regulatory compliance, financial assurance (backed by \$11 million in surety bonds through ESAC), and establishes operational standards for business owners seeking to outsource human resources functions.

Lopez founded RMI in 1995 in Fitchburg, Virginia, and today has branch offices in Jacksonville, Daytona, and Miami. He said, "At an unprecedented time when small business owners are struggling with the economy and new laws from federal stimulus programs, we are able to lessen the burden by holding ourselves to the highest standards of internal controls, integrity, and

operational excellence. The value of ESAC accreditation is easy for business owners to understand, just like the public feels more assured about bank deposits because of the FDIC.”

Jane McCoggins, ESAC’s executive director, called the certification an unprecedented level of value to small business owners seeking assurance regarding their service provider’s performance of its contractual obligations. She reported that more than 75 percent of the PEO entities currently accredited by ESAC provide services in the Florida market.

The program is compared to banking’s FDIC insurance program in that it provides reimbursement to clients, worksite employees, and taxing authorities in the event an accredited PEO does not perform its service obligations. In addition, states with PEO licensing or registration statutes increasingly are recognizing ESAC accreditation as an option for meeting compliance requirements.

### **Staying Ahead of Governmental Challenges in Florida**

Governmental intrusion in any business is a given, and PEO lobbyists such as Ron Villella work to keep the storms at bay.

One imminent task is to be part of the process as the Florida Department of Business and Professional Regulation (DBPR) drafts rules regarding penalties for a PEO failing to file a quarterly report. The rule is a result of 2009 legislation that will require the state’s Agency for Workforce Innovation to report a filing failure to DBPR.

On Villella’s perennial watch list are increases to unemployment compensation taxes. That issue dramatically came into play this year. After the federal government lengthened coverage timelines in response to the ongoing recession, businesses received their new increased unemployment compensation rates. The phones quickly began ringing in legislators’ offices, at Associated Industries, the Retail Federation, the Florida Chamber of Commerce, and elsewhere as business owners asked, “How did you allow this to happen to us?” Industry leaders made it clear that the increase would only lead to greater unemployment numbers in the future. Bills delaying any increase in unemployment compensation taxes for two years were expected to move swiftly through Florida’s 2010 legislative session.

FAPEO’s Robert Skrob fine-tuned the association’s position on this issue, stating, “FAPEO does support reforming the unemployment benefits and rating system, [but] benefits are regularly provided to beneficiaries who do not meet the criteria. So, while unemployment is driving up costs, another large cost factor is the way benefits are being awarded. The current claims modifier process penalizes employers who manage their layoffs. Unfortunately, these employers’ rates scale up faster than employers with more layoffs.”

“In Florida, as in many other states, this year will see the crisis in unemployment continue,” Beck said. “The state fund is bankrupt and the number of individuals out of work is still climbing, or at least remaining flat. The high unemployment rate will result in high state unemployment taxes for years to come.”

Beck noted another danger as well. “In this high-unemployment environment, employees who are let go are much more likely to seek the assistance of counsel when they cannot readily find another job,” he said. “2009 saw a record high number of EEOC charges and employment litigation — and Florida is a hotbed of employment litigation. By providing employment practice liability insurance to their client companies, PEOs help with the risks/costs associated with charges of discrimination and lawsuits, and provide the assistance needed to head off these claims or dispose of them early.”

NAPEO’s Yager also pointed to PEOs’ ability to help employers mitigate the problem. “We help companies work to manage unemployment,” he said. “In PEOs we have tools to better approach the broader spectrum of employment. Except when the layoffs are clearly due to the economy and cannot be avoided, sometimes other reductions can be postponed or worked around.”

Yager noted that a PEO will work with the client to determine if an employee must be terminated. He said that sometimes underperformance by a worker starts with a poor job description and unreasonable expectations. Counseling both parties can sometimes avoid a termination. Yager pointed out that part-time work, furloughs, leaves of absence, and other temporary adjustments can affect the company’s experience levels, save jobs, and soften a pounding from higher rates and tax consequences. PEOs can help employers through those processes.

“From the inception of this industry, Florida’s PEOs have shown the ability to market and brand the industry as a strong alternative to in-house burdensome and costly administration.” Seltzer concluded. “This is clearly illustrated by the many successful PEOs operating in Florida.”

## The Necessary Transformation of the PEO Industry

Robert A. "Bob" Beck, II, CLU, is founder of Fort Lauderdale-based AlphaStaff, Inc., one of the nation's largest professional employer organizations. He also serves on the board at FAPEO and ESAP, the accreditation entity for PEOs. He offered commentary on his industry from a national perspective:

"A PEO is no longer just a provider of cheap health insurance or workers' compensation insurance. PEOs — because of market forces and business needs — have become increasingly involved in providing human resource and compliance support to client companies. The skills required to deliver these services on an outsourced basis are, by necessity, varied.

"With the new administration, in 2010 we are seeing and will continue to see an increase in employee legislation. At the federal level, we have seen the COBRA subsidy implemented as well as the Lilly Ledbetter Act, both of which create new challenges for employers in managing their leaner workforces. Many of today's employers are not equipped to deal with complying with these laws on their own. Thus, they are much more likely, and increasingly more willing, to turn over these non-core compliance and human resource aspects of their operations to outside experts. PEOs must be ready and willing to provide human resource counsel of a caliber not expected heretofore, and have Fortune 500-caliber experts in all substantive areas to do so.

"If passed, the Employee Free Choice Act will open doors to increased unionization in environments not accustomed to unions. Once again, the expertise of PEOs can help employers address employee concerns, pay equitably and competitively, and provide valuable competitive benefits.

"Employers — particularly larger employers — are more likely to look toward outsourcing all of their employment-related needs, given the economic pressures they face in this environment. The outsourcing of human resource counseling is becoming very accepted at the C-suite. One statistic shows that by the end of this year, more than 50 percent of all human resource professionals will be working with PEOs or human resource outsourcing firms.

"2010 already is seeing more and more companies diversify geographically, operating in multiple states and supporting remote workers. In this fast-paced environment, where many companies are growing by acquisition, employers do not have time to investigate all the various laws in multiple jurisdictions, or to secure workers' compensation coverage in various states, or to ensure that their master benefits plan has the same caliber of provider in rural North Carolina as it does in New York City. With much greater reliance by employers, PEOs must have legal and human resource experts able to address these issues."



▲ Robert A. Beck, II