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SENATE BILL NO. 113

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Finance
on February 3, 1998)

(Patron Prior to Substitute—Senator Trumbo)

A BILL to amend the Code of Virginia by adding a section numbered 58.1-3732.3, relating to local license taxes on gross receipts of professional employer organization firms.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 58.1-3732.3 as follows:

§ 58.1-3732.3. Limitation on gross receipts; professional employer organization firms.

A. Gross receipts for license tax purposes under this chapter shall not include employee benefits paid by a professional employer organization firm to, or for the benefit of, any contract employee for the period of time that the contract employee is actually employed for the use of the client company pursuant to the terms of an employee leasing agreement or temporary services agreement. The taxable gross receipts of a professional employer organization firm shall include any administrative fees received by such firm from a client company, whether on a fee-for-service basis or as a percentage of total receipts from the client company.

B. For the purpose of this section:

"Client company" means a person who enters into a contract with a professional employer organization firm by which such firm, for a fee, (i) leases employees to the client company or (ii) assigns temporary employees to the client company.

"Contract employee" means (i) an employee on the payroll of the professional employer organization firm who is leased by such firm to a client company or (ii) an employee of the professional employer organization firm who is temporarily assigned to a client company to support or supplement the client company's workforce.

"Employee benefits" means wages, salaries, payroll taxes, payroll deductions, employee benefits, workers' compensation costs and similar expenses.

"Employee leasing agreement" means a contract by which a professional employer organization firm places employees of the client company on its payroll and leases them to the client company on an ongoing basis with no restriction or limitation on the duration of employment.

"Professional employer organization firm" means any person principally engaged in the business of employee leasing or providing temporary employee services.