

## **BILL ANALYSIS**

S.B. 745  
By: Kolkhorst  
Ways & Means  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

According to interested parties, recent litigation has prompted the need for clarification as to when a host employer may claim a sales and use tax exemption for certain services provided by certain temporary employees. S.B. 745 seeks to provide that clarification.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

S.B. 745 amends the Tax Code to revise the sales and use tax exemption for a service performed by an employee of a temporary employment service for a certain employer to supplement the employer's existing work force on a temporary basis under certain conditions as follows:

- the bill clarifies that the employer is a host employer, which the bill defines, among other terms, as the employer who owns, manages, or controls the property or worksite where an employee of a temporary employment service performs a service;
- the bill specifies that, with regard to the condition that the employer provide all supplies and equipment necessary, the supplies and equipment are those necessary to perform the service, other than personal protective equipment provided by the temporary employment service under a federal law or regulation;
- the bill includes as conditions for the exemption the conditions that the host employer not rent, lease, purchase, or otherwise acquire for use such supplies and equipment necessary to perform the service from the temporary employment service or an entity that is a member of an affiliated group of which the temporary employment service is also a member, and the condition that the host employer have the sole right to supervise, direct, and control the work performed by the employee of the temporary employment service as necessary to conduct the host employer's business or to comply with any licensing, statutory, or regulatory requirement applicable to the host employer; and
- the bill removes the condition that the help be under the direct or general supervision of the employer to whom the help is furnished.

The bill limits the applicability of the requirement that the comptroller of public accounts prescribe by rule certain criteria the comptroller deems necessary to properly implement provisions relating to the taxability of certain employee services to a service performed by

covered employees of a professional employer organization for a client under a written contract that provides for shared employment responsibilities between the professional employer organization and the client for the covered employees, most of whom must have been previously employed by the client.

**EFFECTIVE DATE**

September 1, 2017.