

BILL ANALYSIS

C.S.H.B. 4182
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Business & Industry
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The COVID-19 pandemic has highlighted the need for flexible, remote work positions. Online marketplaces that allow contractors to provide remote services to others through a digital application can be a good source of income for freelancers looking for flexibility. There are concerns, however, that attempts to classify these contractors as employees of the marketplace companies that offer the applications would ultimately result in the loss of employment and an increased administrative burden. C.S.H.B. 4182 seeks to proactively establish the circumstances under which a remote service contractor is not considered an employee of the marketplace company with which the person contracts.

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

C.S.H.B. 4182 amends the Labor Code to enact the Remote Service Marketplace Platforms Act, which establishes that a remote service contractor is not an employee of a marketplace company if the following statements are true under the agreement between the contractor and the company and in fact:

- all or substantially all of the work the contractor performs under the agreement is on a per-job or per-transaction basis and is compensated on an hourly, per-job, or per-transaction basis;
- the company does not do any of the following:
 - prescribe specific hours during which the contractor must be available to accept a request for remote service;
 - prescribe a specific location at which the contractor must be available to perform a remote service; or
 - restrict the contractor from engaging in another occupation or business; and
- except for the use of the company's digital application, the contractor is responsible for providing the necessary tools, materials, and equipment to perform a remote service requested by a person through the digital application.

A company's act of screening or training a contractor expressly does not affect the contractor's employment status.

C.S.H.B. 4182 defines, among other terms, "marketplace company" as a person that offers a digital application to the public and accepts requests for remote services exclusively through

that application and "remote service" as a service designed to assist others that a person performs remotely through such an application, including tutoring, closed captioning, open captioning, subtitling, transcribing, translating, interpreting, and conducting a remote language assessment.

C.S.H.B. 4182 does not apply to services performed by an individual in the employ of one of the following entities:

- a state, a political subdivision of a state, or an Indian tribe or an instrumentality of a state, political subdivision of a state, or Indian tribe that is wholly owned by one or more states, political subdivisions, or Indian tribes, provided that the services are excluded from employment as defined in the Federal Unemployment Tax Act solely on the basis of the nature of the employer; or
- a religious, charitable, educational, or other 501(c)(3) tax-exempt organization, provided that the services are excluded from employment as defined in the Federal Unemployment Tax Act solely on the basis of the nature of the employer.

EFFECTIVE DATE

September 1, 2021.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 4182 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute expands the remote services to which the bill applies from those designed to assist persons who are deaf or hard of hearing to those designed to assist any other person.

The substitute establishes exceptions to the applicability of its provisions for certain services excluded from employment as defined in the Federal Unemployment Tax Act.