

BILL ANALYSIS

Senate Research Center

H.B. 1465
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Economic Development
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Engrossed

DIGEST

The staff leasing industry became a regulated industry in Texas in 1993. Licensing of staff leasing services companies is administered by the Department of Licensing and Regulation. This bill sets forth provisions regarding the regulation of staff leasing services companies and provides penalties.

PURPOSE

As proposed, H.B. 1465 sets forth provisions regarding the regulation of staff leasing services companies and provides penalties.

RULEMAKING AUTHORITY

Rulemaking authority is granted to the Department of Licensing and Regulation in SECTIONS 2, 10 and 12 (Sections 91.002(a), 91.017(a) and 91.019(a), Labor Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 91.001, Labor Code, to redefine "assigned employee," "controlling person," and "staff leasing services." Defines "common ownership," "governmental entity," "net worth," and "offer." Deletes the definition of "public company" and "temporary employee."

SECTION 2. Amends Sections 91.002(a) and (c), Labor Code, to delete certain rules for the form and content of a license issued under this chapter and notice required under Section 91.045. Makes nonsubstantive changes.

SECTION 3. Amends Section 91.003(b), Labor Code, to make a conforming change.

SECTION 4. Amends Section 91.004, Labor Code, by adding Subsection (c), to provide that a license holder is not engaged in the unauthorized practice of an occupation, trade, or profession that is licensed, certified, or otherwise regulated by a governmental entity solely by entering into a staff leasing agreement with a client company and assigned employee.

SECTION 5. Amends Section 91.012, Labor Code, to delete a provision requiring a person to be of good moral character to be qualified to serve as a controlling person of a license holder under this section. Deletes the definition of "good moral character."

SECTION 6. Amends Section 91.013(a), Labor Code, to require the Department of Licensing and Regulation (department) to conduct a thorough background investigation of certain persons on receipt of an original application for a license. Authorizes the department to deny an application for the issuance of a license, rather than for the issuance and the renewal, if the department finds that an applicant or a controlling person is not qualified under this chapter.

SECTION 7. Amends Sections 91.014(b) and (d), Labor Code, to authorize the applicant to satisfy the net worth requirement through a bond in an amount that demonstrates compliance with the requirements of Subsection (a). Requires a document submitted to establish net worth to show the net worth on a date not earlier than nine months, rather than six months before the date on which the application is submitted. Provides that information submitted to or maintained by the department is subject to Chapter 552, Government Code, other than information related to identification of client

companies; financial statements, or federal tax returns. Deletes a provision regarding the exemption from disclosure of federal tax return under this section.

SECTION 8. Amends Section 91.015, Labor Code, to require, rather than authorize, a person to file with the department a written application accompanied by the application fee. Requires, rather than authorizes, the department to require an applicant for a license to provide information, rather than provide information and certifications, necessary to determine that the applicant meets the licensing requirements of this chapter. Requires the department to provide a written notice to the applicant specifying the reasons for the denial before denying a license application. Deletes provisions regarding denial or revocation of a license applied for under this chapter. Sets forth provisions regarding an order of the department that denies, revoked, or refuses to renew a license. Provides that a controlling person who has been evaluated by the department under this chapter is not required to be reevaluated if that person changes the person's affiliation or employment from one applicant or license holder to another applicant or license holder.

SECTION 9. Amends Section 91.016, Labor Code, to require the department to issue a license to an applicant who the department determines has met the requirements of this chapter. Requires the department to notify an applicant of any deficiency in the application not later than the 30th day after the date on which the department receives the application forms. Provides that a license issued or renewed by the department under this chapter is valid for two years from the date of the issuance on receipt of a complete renewal application form and payment of the licence renewal fee. Sets forth provisions regarding the new controlling person.

SECTION 10. Amends Section 91.017(a), Labor Code, to require each applicant to pay to the department before, rather than on, the issuance of the license or license renewal a fee set by the commission by rule in an amount not to exceed \$6,000 for the two-year period, rather than \$3,000.

SECTION 11. Amends Section 91.018, Labor Code, by adding Subsections (d)-(f), to set forth provisions for the license holder.

SECTION 12. Amends Section 91.019, Labor Code, to require the commissioner, by rule, to provide for the issuance of a limited license to a person who seeks to offer limited staff leasing services in this state and is domiciled in another state and licensed or registered as a staff leasing services company in the state in which the person is domiciled. Deletes a provisions regarding the principle place or business of a person offering staff leasing services. Provides that a staff leasing services company is considered to be offering limited staff leasing services if it fulfills requirements under this section. Requires a staff leasing services company that offers limited staff leasing services to complete the application forms and pay the fees for a limited license as prescribed by the department. Sets forth provisions regarding a limited license. Deletes a provision requiring a limited staff leasing service to comply with all provisions of this chapter. Authorizes the department to use information obtained from regulatory agencies in other state in evaluating an applicant for a limited licence.

SECTION 13. Amends Section 91.020(a), Labor Code, to authorize the department to take disciplinary actions against a license holder on offering to engage in the provision of staff leasing services without a license.

SECTION 14. Amends Section 91.021, Labor Code, as follows:

New heading: SANCTIONS. Requires the department to impose administrative sanctions as provided by Section 17, Article 9100, V.T.C.S. Deletes provisions describing disciplinary actions under this section. Deletes a provision regarding a reinstatement hearing.

SECTION 15. Amends Section 91.031, Labor Code, by adding Subsection (c), to require the written notice required by Subsection (b) to be given to each assigned employee not later than the first payday after the date on which that individual becomes an assigned employee.

SECTION 16. Amends Section 91.032, Labor Code, to set forth provisions that notwithstanding any other provision of this chapter, a client company is responsible for the exercise

of direction and control over an assigned employee as necessary to conduct the business of the client company and without which the client company would be unable to perform certain functions. Makes nonsubstantive changes.

SECTION 17. Amends Section 91.041(b), Labor Code, to require a license holder to disclose certain information with respect to any insurance or benefit plan provided by a license holder for the benefit of its assigned employees.

SECTION 18. Amends Section 91.044, Labor Code, to delete a provision requiring the license holder to provide certain notification to the Texas Employment Commission. Makes conforming changes.

SECTION 19. Amends Section 91.048, Labor Code, to require each license holder to notify the department of any addition or deletion of a controlling person as listed on the license application or renewal form by providing the name of the person not later than the 45th day, rather than 30th day, after the date on which the person is added or deleted as a controlling person and provide a biographical history, rather than notarized biographical history, to the department in connection with the addition of a new controlling person.

SECTION 20. Amends Section 91.061, Labor Code, to prohibit a person from engaging in or offering staff leasing services without holding a license under this chapter as a staff leasing services company or using the name or title "professional employer organization" or "administrative employer."

SECTION 21. Amends Chapter 201C, Labor Code, by adding Section 201.030, as follows:

Sec. 201.030. STAFF LEASING SERVICES COMPANY. Defines "staff leasing services company."

SECTION 22. Amends Section 207.045 Labor Code, by adding Subsection (i), to set forth provisions regarding the classification of an assigned employee of a staff leasing services who left work voluntarily without good cause.

SECTION 23. Makes application of Chapter 91, Labor Code, prospective.

SECTION 24. Makes application of Section 207.045, Labor Code, prospective.

SECTION 25. Effective date: September 1, 1997.

SECTION 26. Emergency clause.