

BILL ANALYSIS

S.B. 1365
By: Williams
Economic Development
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Problems have arisen in relation to statutory law regarding staff leasing services due to financial requirements that are perceived to be lax and due to the amount of paperwork required to be filed with the Texas Department of Licensing and Regulation (department). These problems may be addressed by amending statute relating to the department's rules for accepting staff leasing services license (license) applications or renewals and the expiration dates of said licenses during renewal.

S.B. 1365 authorizes the department to accept a license applicant or renewal applicant if the applicant company is accredited by an independent, bonded, and qualified assurance organization with requirements exceeding the current statute, and provides that a license does not expire during the period in which a timely-filed and complete renewal application is pending.

RULEMAKING AUTHORITY

It is the opinion of the committee that rulemaking authority is expressly granted to the Texas Department of Licensing and Regulation in SECTION 3 of this bill.

ANALYSIS

SECTION 1. Amends Section 91.001, Labor Code, by adding Subdivision (18) to define "working capital."

SECTION 2. Amends Section 91.014, Labor Code, as follows:

Section 91.014. New heading: **WORKING CAPITAL REQUIREMENTS**. (a) Requires an applicant for an original or renewal license to demonstrate a certain amount of positive working capital, rather than net worth, relative to the amount of assigned employees employed by the applicant.

(b) Deletes existing text authorizing an applicant to demonstrate working capital by providing a copy of the applicant's most recent federal tax return to the department. States that the applicant can also satisfy any deficiencies in the working capital requirement through guarantees, letters of credit, a bond in an amount that demonstrates compliance with the requirements of Subsection (a), or other security acceptable to the department. Makes conforming changes.

(c) Deletes existing text providing that the computation of net worth by an applicant is to be made according to Section 448 of the federal Internal Revenue Code (26 U.S.C. Section 448). Makes a conforming change.

(d) Requires a document submitted to establish working capital after April 1, 2010, to be reviewed or audited by an independent certified public accountant. Makes conforming changes.

SECTION 3. Amends Section 91.015, Labor Code, by adding Subsection (g), as follows:

(g) Authorizes the department by rule to provide for the acceptance of an affidavit and related supporting information provided by a bonded, independent, and qualified assurance organization that has been approved by the department in lieu of the requirements of this section and Sections 91.012, 91.013, and 91.014.

SECTION 4. Amends Section 91.016, Labor Code, by adding Subsection (b-1), as follows:

(b-1) Provides that the license holder's existing staff leasing services license does not expire until the application for a renewal of a license issued or renewed by the department under this chapter has been finally determined by the department, provided that the application submitted is timely and sufficient.

SECTION 5. Amends Section 91.020, Labor Code, to make a conforming change by changing the “net worth” reference to “working capital” in order to reflect the new requirement.

SECTION 6. Repeals Subdivision (12), Section 91.001, Labor Code.

SECTION 7. Makes application of this Act prospective.

SECTION 8. States the effective date for this Act.

EFFECTIVE DATE

September 1, 2007.