

By: Williams

S.B. No. 1365

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of staff leasing services.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 91.001, Labor Code, is amended by adding Subdivision (18) to read as follows:

(18) "Working capital" of an applicant means the applicant's current assets minus the applicant's current liabilities as determined by generally accepted accounting principles.

SECTION 2. Section 91.014, Labor Code, is amended to read as follows:

Sec. 91.014. WORKING CAPITAL [~~NET WORTH~~] REQUIREMENTS.

(a) An applicant for an original or renewal license must demonstrate a positive working capital [~~net worth~~] as follows:

(1) \$50,000 if the applicant employs fewer than 250 assigned employees;

(2) \$75,000 if the applicant employs at least 250 but not more than 750 assigned employees; and

(3) \$100,000 if the applicant employs more than 750 assigned employees.

(b) The applicant may demonstrate the applicant's working capital [~~net worth~~] to the department by providing the department with the applicant's financial statement [~~or a copy of the applicant's most recent federal tax return~~]. The applicant may

1 also satisfy any deficiencies in the working capital [~~the net~~
2 ~~worth~~] requirement through guarantees, letters of credit, a bond in
3 an amount that demonstrates compliance with the requirements of
4 Subsection (a), or other security acceptable to the department. A
5 guaranty is not acceptable to satisfy this subsection unless the
6 applicant submits sufficient evidence to satisfy the department
7 that the guarantor has adequate resources to satisfy the
8 obligations of the guaranty.

9 (c) In computing working capital [~~net worth~~], an applicant
10 shall include adequate reserves for all taxes and insurance,
11 including reserves for claims incurred but not paid and for claims
12 incurred but not reported under plans of self-insurance for health
13 benefits. [~~The computation of net worth by an applicant is to be~~
14 ~~made according to Section 448, Internal Revenue Code (26 U.S.C.~~
15 ~~Section 448)].~~

16 (d) A document submitted to establish working capital [~~net~~
17 ~~worth~~] must show the working capital [~~net worth~~] on a date not
18 earlier than nine months before the date on which the application is
19 submitted. A document submitted to establish working capital [~~net~~
20 ~~worth~~] must be prepared or certified by an independent certified
21 public accountant. After April 1, 2010, a document submitted to
22 establish working capital must be reviewed or audited by an
23 independent certified public accountant. Information submitted to
24 or maintained by the department is subject to Chapter 552,
25 Government Code, other than information related to:

- 26 (1) identification of client companies;
27 (2) working capital [~~net worth~~]; or

1 (3) financial statements[~~7-01~~
2 [~~(4) federal tax returns~~].

3 SECTION 3. Section 91.015, Labor Code, is amended by adding
4 Subsection (g) to read as follows:

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

10 SECTION 4. Section 91.016, Labor Code, is amended by adding
11 Subsection (b-1) to read as follows:

12 (b-1) If a license holder submits a timely and sufficient
13 application for renewal of a license issued or renewed by the
14 department under this chapter, the license holder's existing staff
15 leasing services license does not expire until the application has
16 been finally determined by the department.

17 SECTION 5. Section 91.020, Labor Code, is amended to read as
18 follows:

19 Sec. 91.020. GROUND S FOR DISCIPLINARY ACTION. The
20 department may take disciplinary action against a license holder on
21 any of the following grounds:

22 (1) engaging in staff leasing services or offering to
23 engage in the provision of staff leasing services without a
24 license;

25 (2) transferring or attempting to transfer a license
26 issued under this chapter;

27 (3) violating this chapter or any order or rule issued

1 by the executive director or commission under this chapter;

2 (4) failing after the 31st day after the date on which
3 a felony conviction of a controlling person is final to notify the
4 department in writing of the conviction;

5 (5) failing to cooperate with an investigation,
6 examination, or audit of the license holder's records conducted by
7 the license holder's insurance company or the insurance company's
8 designee, as allowed by the insurance contract or as authorized by
9 law by the Texas Department of Insurance;

10 (6) failing after the 31st day after the effective
11 date of a change in ownership, principal business address, or the
12 address of accounts and records to notify the department and the
13 Texas Department of Insurance of the change;

14 (7) failing to correct any tax filings or payment
15 deficiencies within a reasonable time as determined by the
16 executive director;

17 (8) refusing, after reasonable notice, to meet
18 reasonable health and safety requirements within the license
19 holder's control and made known to the license holder by a federal
20 or state agency;

21 (9) being delinquent in the payment of the license
22 holder's insurance premiums other than those subject to a
23 legitimate dispute;

24 (10) being delinquent in the payment of any employee
25 benefit plan premiums or contributions other than those subject to
26 a legitimate dispute;

27 (11) knowingly making a material misrepresentation to

1 an insurance company or to the department or other governmental
2 agency;

3 (12) failing to maintain the working capital [~~net~~
4 ~~worth~~] requirements required under Section 91.014; or

5 (13) using staff leasing services to avert or avoid an
6 existing collective bargaining agreement.

7 SECTION 6. Subdivision (12), Section 91.001, Labor Code, is
8 repealed.

9 SECTION 7. The changes in law made by this Act apply to a
10 staff leasing services license issued or renewed under Chapter 91,
11 Labor Code, on or after the effective date of this Act. A license
12 issued or renewed before the effective date of this Act is governed
13 by the law in effect immediately before the effective date of this
14 Act, and the former law is continued in effect for that purpose.

15 SECTION 8. This Act takes effect September 1, 2007.