

BILL ANALYSIS

Senate Research Center
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S.B. 1168
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

A personnel employment service is a service that pairs individuals and permanent employers. The term does not include temporary placement or staff leasing services. The Texas Department of Licensing and Regulation (TDLR) issues "certificates of authority" for personnel employment services. A certificate of authority is similar to licenses or registrations issued under other TDLR programs and allows a personnel employment service to operate in Texas. There is not a significant number of certificate holders, nor are there significant numbers of complaints regarding personnel employment services; thus there is no real need for registration. Removing the registration would lessen the regulatory burden.

Chapter 2501 (Personnel Services), Occupations Code, governs personnel employment services. Section 2501.253 (Administrative Penalty), Occupations Code, provides for administrative penalties through TDLR. Section 2501.201 (Liability for Damages), Occupations Code, currently allows for civil remedies when a personnel employment service provider is in violation of the provision against "upfront" fees, which states: that the provider cannot accept payment until an applicant accepts an offer for employment.

S.B. 1168 removes the requirement that a person hold a registration to offer or perform personnel employment services in Texas. It also removes administrative penalties and strengthens the civil penalties by allowing a plaintiff to obtain a civil injunction against a personnel service provider in violation of the statute—not just when the personnel service providers violates the "upfront" provision.

As proposed, S.B. 1168 amends current law relating to the repeal of the certification process for personnel service owners and the regulation of personnel services.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 2501.202, Occupations Code, as follows:

Sec. 2501.202. INJUNCTION AND OTHER REMEDIES. Authorizes a plaintiff in an action filed under Section 2501.201 (Liability For Damages) to obtain certain forms of relief, including other relief the court considers proper including the appointment of a receiver, if the judgment against the defendant is not satisfied within three months after the date of the final judgment; or an order enjoining the defendant from acting as a personnel service. Deletes existing text authorizing a plaintiff in an action filed under Section 2501.201 to obtain other relief the court considers proper including the revocation of a certificate authorizing the defendant to engage in business in this state. Makes a nonsubstantive change.

SECTION 2. Repealers: Sections 2501.001(2) (defining "commission"), (3-a) (defining "counselor"), and (4-a) (defining "executive director"), Occupations Code.

Repealers: Sections 2501.201(c) (relating to liability for damages) and 2501.253 (Administrative Penalty), Occupations Code.

Repealers: Subchapters B (Certificate of Authority) and D (Enforcement), Chapter 2501 (Personnel Services), Occupations Code.

SECTION 3. Makes application of this Act prospective.

SECTION 4. Effective date: upon passage or September 1, 2011.