

## **BILL ANALYSIS**

C.S.S.B. 1286  
By: Williams  
Business & Industry  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Interested parties contend that statutory provisions relating to staff leasing services need to be updated and clarified. C.S.S.B. 1286 seeks to address these concerns by replacing provisions governing staff leasing services with provisions governing professional employer services and clarifying the rights, duties, and responsibilities of parties to a professional employer services agreement.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the commissioner of insurance in SECTIONS 16 and 29 and to the Texas Commission of Licensing and Regulation in SECTION 29 of this bill.

### **ANALYSIS**

C.S.S.B. 1286 amends the Labor Code and Tax Code to replace statutory provisions governing staff leasing services with provisions governing professional employer organizations that provide professional employer services.

C.S.S.B. 1286 amends the Labor Code to define "professional employer services" to include the services provided through coemployment relationships in which all or a majority of the employees providing services to a client or to a division or work unit of a client are covered employees and exclude temporary help or a temporary common worker employer, an independent contractor, or the provision of services that otherwise meet the definition of "professional employer services" by certain persons. The bill defines "coemployment relationship" as a contractual relationship between a client and a professional employer organization that involves the sharing of employment responsibilities with or allocation of employment responsibilities to covered employees in accordance with the professional employer services agreement and statutory provisions governing such an agreement.

C.S.S.B. 1286 establishes that a coemployment relationship is intended to be an ongoing relationship, rather than a temporary or specific one, in which the rights, duties, and obligations of an employer that arise out of an employment relationship are allocated between coemployers under a professional employer services agreement. The bill specifies that coemployment is not a joint employment arrangement and establishes the following in a coemployment relationship:

- the professional employer organization may enforce only those employer rights and is subject to only those obligations specifically allocated to the professional employer organization by the professional employer services agreement or this bill;
- the client may enforce any right and is obligated to perform those employer obligations allocated to the client by the professional employer services agreement or this bill; and
- the client may enforce any right and is obligated to perform any obligation of an employer not specifically allocated to the professional employer organization by the

professional employer services agreement or this bill.

C.S.S.B. 1286 specifies that to be considered a covered employee an individual must receive written notice of the coemployment relationship with the professional employer organization and the individual's coemployment relationship must be under a professional employer services agreement. The bill establishes that an individual who is an executive employee of the client is a covered employee, except to the extent the professional employer organization and the client expressly agree in the professional employer services agreement that the individual is not a covered employee.

C.S.S.B. 1286 establishes that a client and holder of a professional employer organization license are each considered an employer under state law for purposes of sponsoring retirement and welfare benefit plans for covered employees. The bill authorizes a licensed organization to sponsor a single welfare benefit plan under which eligible covered employees of one or more clients may elect to participate. The bill requires a fully insured welfare benefit plan offered to the covered employees of a licensed organization and provided by an authorized insurance company or a self-funded health benefit plan sponsored by the licensed organization to be treated for purposes of state law as a single employer welfare benefit plan.

C.S.S.B. 1286 authorizes a licensed organization to sponsor a benefit plan that is not fully insured, if the organization meets certain requirements and is approved to sponsor the plan by the commissioner of insurance, and sets out provisions relating to such a plan. The bill authorizes the commissioner, on notice and opportunity for all interested persons to be heard, to adopt rules and issue orders to augment and implement the regulation of such benefit plans but prohibits the commissioner from adopting a rule that requires clients or covered employees to be members of an association or group in the same trade or industry in order to be covered by such a plan. The bill requires the rules to include all requirements to be met by the licensed organization and the plan and sets out those requirements.

C.S.S.B. 1286 authorizes a client, in addition to the licensed organization, to elect to obtain workers' compensation insurance coverage for covered employees through an insurance company under the Texas Workers' Compensation Act or through self-insurance. The bill requires the client and professional employer organization to specify in the professional employer services agreement whether the parties have elected to obtain workers' compensation insurance coverage for the covered employees, and if so, to specify which party is required to maintain coverage. The bill specifies an individual who is an executive employee of the client, if the licensed organization maintains workers' compensation insurance coverage for the client, is eligible to be treated as an executive employee for premium calculation and classification purposes. The bill requires a copy of the professional employer services agreement to be provided to the Texas Department of Insurance (TDI) on request and specifies such information is confidential and not subject to disclosure under the state's public information law.

C.S.S.B. 1286 requires a client who elects to maintain workers' compensation insurance coverage for the covered employees under the client's policy or other coverage to pay workers' compensation insurance premiums for the covered employees based on the experience rating of the client. The bill clarifies that a licensed organization who maintains the workers' compensation insurance coverage is required to pay the premiums for the covered employees based on the experience rating of the client for the first two years the covered employees are covered under the professional employer organization's policy and as further provided by TDI rule. The bill requires an insurer, rather than TDI, to provide the necessary computations to the prospective workers' compensation insurer of the client to comply with the requirements for premium calculation if the client elects to obtain workers' compensation insurance after the expiration of the two-year period. The bill makes statutory provisions relating to the requirement of an employer to notify employees whether or not the employer has workers' compensation insurance coverage and relating to employer injury and occupational disease reports applicable to a client or licensed organization whether or not they elect to obtain workers' compensation insurance

coverage for covered employees. The bill specifies that the client is considered to be the insured employer for the purposes of recovery of a claim by the Texas Property and Casualty Insurance Guaranty Association.

C.S.S.B. 1286 requires the Texas Commission of Licensing and Regulation, not later than January 1, 2014, to adopt any rules necessary to implement the bill's provisions amending the Labor Code. The bill requires the commissioner of insurance, in adopting rules to implement self-funded health benefit plans for licensed organizations, to consider rules adopted with respect to similar benefit plans.

C.S.S.B. 1286 repeals the following provisions:

- Section 91.001(2), Labor Code
- Section 91.043, Labor Code
- Section 171.0001(2), Tax Code

### **EFFECTIVE DATE**

September 1, 2013.

### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.S.B. 1286 may differ from the engrossed version in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the engrossed and committee substitute versions of the bill.

#### SENATE ENGROSSED

SECTION 1. The heading to Chapter 91, Labor Code, is amended.

SECTION 2. Section 91.001, Labor Code, is amended.

SECTION 3. Subchapter A, Chapter 91, Labor Code, is amended by adding Sections 91.0011 and 91.0012 to read as follows:

Sec. 91.0011. COEMPLOYMENT RELATIONSHIP.

Sec. 91.0012. COVERED EMPLOYEE. (a) A covered employee must meet all the following criteria:

(1) the individual must receive written notice of the coemployment relationship with the professional employer organization;

and

(2) the individual's coemployment relationship must be under a professional employer services agreement subject to this chapter.

(b) An individual who is an executive employee, as described by Section 406.097, of the client is a covered employee, except

#### HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Same as engrossed version.

SECTION 2. Same as engrossed version.

SECTION 3. Chapter 91, Labor Code, is amended by adding Sections 91.0011 and 91.0012 to read as follows:

Sec. 91.0011. COEMPLOYMENT RELATIONSHIP.

Sec. 91.0012. COVERED EMPLOYEE. (a) A covered employee must meet all the following criteria:

(1) the individual must receive written notice of the coemployment relationship with the professional employer organization;

and

(2) the individual's coemployment relationship must be under a professional employer services agreement subject to this chapter.

(b) An individual who is an executive employee, as described by Section 406.097, of the client is a covered employee, except

to the extent the professional employer organization and the client expressly agree in the professional employer services agreement that the individual is not a covered employee, if the individual meets the criteria of this section and acts as an operational manager or performs day-to-day operational services for the client.

SECTION 4. Subsections (b) and (c), Section 91.002, Labor Code, are amended

SECTION 5. Subsection (a), Section 91.003, Labor Code, is amended.

SECTION 6. Sections 91.004, 91.005, 91.006, 91.007, 91.011, and 91.012, Labor Code, are amended.

SECTION 7. Subsections (a) and (c), Section 91.014, Labor Code, are amended.

SECTION 8. Subsection (a), Section 91.015, Labor Code, is amended.

SECTION 9. Subsection (a), Section 91.017, Labor Code, is amended to read as follows:

(a) Each applicant for an original or renewal professional employer organization [~~staff leasing services company~~] license shall pay to the department before the issuance of the license or license renewal a fee set by the commission by rule.

SECTION 10. Subsections (e) and (f), Section 91.018, Labor Code, are amended.

SECTION 11. Subsections (a), (b), and (c), Section 91.019, Labor Code, are amended.

SECTION 12. Section 91.020, Labor Code, is amended.

SECTION 13. Subsection (b), Section 91.021, Labor Code, is amended.

SECTION 14. Subchapter C, Chapter 91, Labor Code, is amended.

to the extent the professional employer organization and the client expressly agree in the professional employer services agreement that the individual is not a covered employee.

SECTION 4. Same as engrossed version except for recitation.

SECTION 5. Same as engrossed version except for recitation.

SECTION 6. Same as engrossed version.

SECTION 7. Same as engrossed version except for recitation.

SECTION 8. Same as engrossed version except for recitation.

SECTION 9. Sections 91.017(a) and (c), Labor Code, are amended to read as follows:

(a) Each applicant for an original or renewal professional employer organization [~~staff leasing services company~~] license shall pay to the department before the issuance of the license or license renewal a fee set by the commission by rule.

(c) Fees collected by the department under this chapter may [~~shall~~] be used only to implement this chapter.

SECTION 10. Same as engrossed version except for recitation.

SECTION 11. Same as engrossed version except for recitation.

SECTION 12. Same as engrossed version.

SECTION 13. Same as engrossed version except for recitation.

SECTION 14. Same as engrossed version.

SECTION 15. Section 91.041, Labor Code, is amended.

SECTION 16. Subchapter D, Chapter 91, Labor Code, is amended by adding Section 91.0411 to read as follows:

Sec. 91.0411. SELF-FUNDED HEALTH BENEFIT. (a) Notwithstanding Section 91.001, in this section, "department" means the Texas Department of Insurance.

(b) A license holder may sponsor benefits that are not fully insured if the license holder meets the requirements of Subsection (c) and is approved by the department.

(c) The department may, on notice and opportunity for all interested persons to be heard, adopt rules and issue orders reasonably necessary to augment and implement the regulation of benefit plans sponsored by a license holder that are not fully insured. The department may not adopt a rule that requires clients or covered employees to be members of an association or group in the same trade or industry.

The rules must include all requirements that must be met by the license holder and the plan, including:

- (1) initial and final approval requirements;
- (2) authority to prescribe forms and items to be submitted to the department by the license holder;
- (3) a fidelity bond;
- (4) use of an independent actuary;
- (5) use of a third-party administrator;
- (6) authority for the department to examine an application or a plan;
- (7) the minimum number of clients and covered employees covered by the plan;
- (8) standards for those natural persons managing the plan;
- (9) the minimum amount of gross contributions;
- (10) the minimum amount of written commitment, binder, or policy for stop-loss insurance;
- (11) the minimum amount of reserves; and
- (12) a fee in an amount reasonable and necessary to defray the costs of administering this section to be deposited to the credit of the department's operating fund.

SECTION 15. Same as engrossed version.

SECTION 16. Subchapter D, Chapter 91, Labor Code, is amended by adding Section 91.0411 to read as follows:

Sec. 91.0411. SELF-FUNDED HEALTH BENEFIT PLAN. (a) In this section, "commissioner" means the commissioner of insurance.

(b) A license holder may sponsor a benefit plan that is not fully insured if the license holder meets the requirements of this section and is approved to sponsor the plan by the commissioner.

(c) The commissioner may, on notice and opportunity for all interested persons to be heard, adopt rules and issue orders reasonably necessary to augment and implement the regulation of benefit plans sponsored by a license holder that are not fully insured. The commissioner may not adopt a rule that requires clients or covered employees to be members of an association or group in the same trade or industry in order to be covered by a license holder-sponsored benefit plan that is not fully insured.

The rules must include all requirements that must be met by the license holder and the plan, including:

- (1) initial and final approval requirements;
- (2) authority to prescribe forms and items to be submitted to the commissioner by the license holder;
- (3) a fidelity bond;
- (4) use of an independent actuary;
- (5) use of a third-party administrator;
- (6) authority for the commissioner to examine an application or a plan;
- (7) the minimum number of clients and covered employees covered by the plan;
- (8) standards for those natural persons managing the plan;
- (9) the minimum amount of gross contributions;
- (10) the minimum amount of written commitment, binder, or policy for stop-loss insurance;
- (11) the minimum amount of reserves; and
- (12) a fee in an amount reasonable and necessary to defray the costs of administering this section to be deposited to the credit of the operating fund of the Texas Department of Insurance.

(d) Information submitted under this section is confidential and not subject to public inspection.

(e) Each license holder under this section shall appoint the commissioner of the department as its resident agent for purposes of service of process. The fee for that service is \$50, payable at the time of appointment.

(f) The department may examine the affairs of any plan and shall have access to the records of the plan. The department may examine under oath a manager or employee of the license holder in connection with the plan.

(g) In addition to any requirement or remedy under a law, the department may suspend, revoke, or limit the certificate of authority of a plan if the department determines, after notice and hearing, that the plan does not comply with this section. The department may notify the attorney general of a violation of this section, and the attorney general may apply to a district court in Travis County for leave to file suit in the nature of quo warranto or for injunctive relief or both.

(h) A plan under this section is subject to Chapters 404, 441, and 443, Insurance Code.

SECTION 17. Section 91.042, Labor Code, is amended by amending Subsections (a) through (h) and adding Subsections (a-1) and (a-2) to read as follows:

(a) A license holder or client may elect to obtain workers' compensation insurance coverage for covered [the license holder's assigned] employees through an insurance company as defined under Section 401.011(28) or through self-insurance as provided under Chapter 407.

(a-1) The client and the professional employer organization shall specify in the professional employer services agreement whether the parties have elected to obtain workers' compensation insurance coverage for the covered employees and shall specify which party must maintain coverage.

(d) Information submitted under this section is confidential and not subject to disclosure under Chapter 552, Government Code.

(e) Each license holder under this section shall appoint the commissioner as its resident agent for purposes of service of process. The fee for that service is \$50, payable at the time of appointment.

(f) The commissioner may examine the affairs of any plan and shall have access to the records of the plan. The commissioner may examine under oath a manager or employee of the license holder in connection with the plan.

(g) In addition to any requirement or remedy under a law, the commissioner may suspend, revoke, or limit the authorization of a plan if the commissioner determines, after notice and hearing, that the plan does not comply with this section. The commissioner may notify the attorney general of a violation of this section, and the attorney general may apply to a district court in Travis County for leave to file suit in the nature of quo warranto or for injunctive relief or both.

(h) A plan under this section is subject to Chapters 401, 404, 441, and 443, Insurance Code.

SECTION 17. Section 91.042, Labor Code, is amended by amending Subsections (a) through (h) and adding Subsections (a-1), (a-2), and (c-1) to read as follows:

(a) A license holder or client may elect to obtain workers' compensation insurance coverage for covered [the license holder's assigned] employees through an insurance company as defined under Section 401.011(28) or through self-insurance as provided under Chapter 407.

(a-1) The client and the professional employer organization shall specify in the professional employer services agreement whether the parties have elected to obtain workers' compensation insurance coverage for the covered employees and shall specify which party must maintain coverage. If the license holder maintains workers' compensation insurance coverage for the client, an individual who is an executive employee, as described by Section 406.097, of the client is eligible to be treated as an executive employee for premium calculation

A copy of the professional employer services agreement must be provided to the Texas Department of Insurance on request. Information obtained by the Texas Department of Insurance under this section is confidential and not subject to disclosure under Chapter 552, Government Code.

(a-2) If the client elects to maintain workers' compensation insurance coverage for the covered employees under the client's policy or other coverage, the client shall pay workers' compensation insurance premiums for the covered employees based on the experience rating of the client.

(b) If a license holder maintains workers' compensation insurance coverage for covered employees, the license holder shall pay workers' compensation insurance premiums for the covered employees based on the experience rating of the client [~~company~~] for the first two years the covered employees are covered under the professional employer organization's policy [~~client company has a contract with the license holder~~] and as further provided by rule by the Texas Department of Insurance.

(c) For workers' compensation insurance purposes, a license holder and the license holder's client [~~company~~] shall be coemployers. If either a license holder or a client elects to obtain workers' compensation insurance coverage for covered employees, the client [~~company~~] and the license holder are subject to Sections 406.005, 406.034, [~~and~~] 408.001, and 411.032.

(d) If a license holder or a client does not elect to obtain workers' compensation insurance coverage for covered employees, both the license holder and the client [~~company~~] are subject to Sections 406.004, 406.005, [~~and~~] 406.033, and 411.032.

(e) After the expiration of the two-year period under Subsection (b), if the client elects to obtain [~~company obtains a new~~] workers' compensation insurance coverage for covered employees through coverage maintained by the client, or if the

and classification purposes.

A copy of the professional employer services agreement must be provided to the Texas Department of Insurance on request. Information obtained by the Texas Department of Insurance under this section is confidential and not subject to disclosure under Chapter 552, Government Code.

(a-2) If the client elects to maintain workers' compensation insurance coverage for the covered employees under the client's policy or other coverage, the client shall pay workers' compensation insurance premiums for the covered employees based on the experience rating of the client.

(b) If a license holder maintains workers' compensation insurance coverage for covered employees, the license holder shall pay workers' compensation insurance premiums for the covered employees based on the experience rating of the client [~~company~~] for the first two years the covered employees are covered under the professional employer organization's policy [~~client company has a contract with the license holder~~] and as further provided by rule by the Texas Department of Insurance.

(c) For workers' compensation insurance purposes, a license holder and the license holder's client [~~company~~] shall be coemployers. If either a license holder or a client elects to obtain workers' compensation insurance coverage for covered employees, the client [~~company~~] and the license holder are subject to Sections 406.005, 406.034, [~~and~~] 408.001, and 411.032.

(c-1) Notwithstanding Subsection (c), for purposes of Section 462.308(a)(2), Insurance Code, the client is considered to be the insured employer.

(d) If a license holder or a client does not elect to obtain workers' compensation insurance coverage for covered employees, both the license holder and the client [~~company~~] are subject to Sections 406.004, 406.005, [~~and~~] 406.033, and 411.032.

(e) After the expiration of the two-year period under Subsection (b), if the client elects to obtain [~~company obtains a new~~] workers' compensation insurance coverage for covered employees through coverage maintained by the client, or if the

professional employer services agreement is terminated and the client elects to maintain, through coverage maintained by the client or through coverage maintained by a successor professional employer organization, workers' compensation insurance coverage for employees previously covered by the former professional employer organization's policy [~~policy in the company's own name or adds the company's former assigned workers to an existing policy~~], the premium for the workers' compensation insurance coverage for the client [~~policy of the company~~] shall be based on the lower of:

(1) the experience modifier of the client [~~company~~] before being covered under the professional employer organization's coverage [~~entering into the staff leasing arrangement~~]; or

(2) the experience modifier of the license holder at the time the client's coverage under the professional employer organization's coverage is [~~staff leasing arrangement~~] terminated.

(f) On request, an insurer [~~the Texas Department of Insurance~~] shall provide the necessary computations to the prospective workers' compensation insurer of the client [~~company~~] to comply with Subsection (e).

(g) On the written request of a client [~~company~~], a license holder that elects to provide workers' compensation insurance for covered [~~assigned~~] employees shall provide to the client [~~company~~] a list of:

(1) claims associated with that client [~~company~~] made against the license holder's workers' compensation policy; and

(2) payments made and reserves established on each claim.

(h) The license holder shall provide the information described by Subsection (g) in writing from the license holder's own records, if the license holder is a qualified self-insurer, or from information the license holder received from the license holder's workers' compensation insurance provider following the license holder's request under Section 2051.151, Insurance Code, not later than the 60th day after the date the license holder receives the client's [~~client company's~~] written request. For purposes of this subsection, information is considered to be provided to the client [~~company~~] on the date the information is:

(1) received by the United States Postal

professional employer services agreement is terminated and the client elects to maintain, through coverage maintained by the client or through coverage maintained by a successor professional employer organization, workers' compensation insurance coverage for employees previously covered by the former professional employer organization's policy [~~policy in the company's own name or adds the company's former assigned workers to an existing policy~~], the premium for the workers' compensation insurance coverage for the client [~~policy of the company~~] shall be based on the lower of:

(1) the experience modifier of the client [~~company~~] before being covered under the professional employer organization's coverage [~~entering into the staff leasing arrangement~~]; or

(2) the experience modifier of the license holder at the time the client's coverage under the professional employer organization's coverage is [~~staff leasing arrangement~~] terminated.

(f) On request, an insurer [~~the Texas Department of Insurance~~] shall provide the necessary computations to the prospective workers' compensation insurer of the client [~~company~~] to comply with Subsection (e).

(g) On the written request of a client [~~company~~], a license holder that elects to provide workers' compensation insurance for covered [~~assigned~~] employees shall provide to the client [~~company~~] a list of:

(1) claims associated with that client [~~company~~] made against the license holder's workers' compensation policy; and

(2) payments made and reserves established on each claim.

(h) The license holder shall provide the information described by Subsection (g) in writing from the license holder's own records, if the license holder is a qualified self-insurer, or from information the license holder received from the license holder's workers' compensation insurance provider following the license holder's request under Section 2051.151, Insurance Code, not later than the 60th day after the date the license holder receives the client's [~~client company's~~] written request. For purposes of this subsection, information is considered to be provided to the client [~~company~~] on the date the information is:

(1) received by the United States Postal

Service; or  
(2) personally delivered to the client  
[company].

SECTION 18. Sections 91.044, 91.046,  
91.048, 91.050, 91.061, 92.012, and  
201.030, Labor Code, are amended.

SECTION 19. Subsection (i), Section  
207.045, Labor Code, is amended.

SECTION 20. The heading to Section  
415.011, Labor Code, is amended.

SECTION 21. Section 415.011, Labor  
Code, is amended.

SECTION 22. Section 151.057, Tax Code,  
is amended.

SECTION 23. Subdivision (15), Section  
171.0001, Tax Code, is amended to read as  
follows:

(15) "Professional employer organization  
[~~"Staff leasing services company"~~]" means:  
(A) a business entity that offers professional  
employer [~~staff leasing~~] services, as that  
term is defined by Section 91.001, Labor  
Code; or  
(B) a temporary employment service, as that  
term is defined by Section 93.001, Labor  
Code.

SECTION 24. Subsection (b), Section  
171.101, Tax Code, is amended.

SECTION 25. Subsection (k), Section  
171.1011, Tax Code, is amended.

Service; or  
(2) personally delivered to the client  
[company].

SECTION 18. Same as engrossed version.

SECTION 19. Same as engrossed version  
except for recitation.

SECTION 20. Same as engrossed version.

SECTION 21. Same as engrossed version.

SECTION 22. Same as engrossed version.

SECTION 23. Section 171.0001, Tax Code,  
is amended by amending Subdivisions (6)  
and (15) and adding Subdivision (8-a) to  
read as follows:

(6) "Client [company]" means:  
(A) a client as that term is defined by  
Section 91.001 [~~person that contracts with a  
license holder under Chapter 91~~], Labor  
Code[~~, and is assigned employees by the  
license holder under that contract~~]; or  
(B) a client of a temporary employment  
service, as that term is defined by Section  
93.001(2), Labor Code, to whom individuals  
are assigned for a purpose described by that  
subdivision.

(8-a) "Covered employee" has the meaning  
assigned by Section 91.001, Labor Code.

(15) "Professional employer organization  
[~~"Staff leasing services company"~~]" means:  
(A) a business entity that offers professional  
employer [~~staff leasing~~] services, as that  
term is defined by Section 91.001, Labor  
Code; or  
(B) a temporary employment service, as that  
term is defined by Section 93.001, Labor  
Code.

SECTION 24. Same as engrossed version  
except for recitation.

SECTION 25. Same as engrossed version  
except for recitation.

SECTION 26. Subsections (d) and (e), Section 171.1013, Tax Code, are amended.

SECTION 27. Section 171.2125, Tax Code, is amended.

SECTION 28. The following laws are repealed:

- (1) Subdivision (2), Section 91.001, Labor Code; and
- (2) Section 91.043, Labor Code.

SECTION 29. (a) Not later than January 1, 2014, the Texas Commission of Licensing and Regulation shall adopt any rules necessary to administer Chapter 91, Labor Code, as amended by this Act.

(b) The changes in law made by this Act apply only to a professional employer services agreement entered into on or after the effective date of this Act. An agreement entered into before the effective date of this Act is governed by the law in effect on the date the agreement is entered into, and the former law is continued in effect for that purpose.

SECTION 30. This Act takes effect September 1, 2013.

SECTION 26. Same as engrossed version except for recitation.

SECTION 27. Same as engrossed version.

SECTION 28. The following laws are repealed:

- (1) Section 91.001(2), Labor Code;
- (2) Section 91.043, Labor Code; and
- (3) Section 171.0001(2), Tax Code.

SECTION 29. (a) Not later than January 1, 2014, the Texas Commission of Licensing and Regulation shall adopt any rules necessary to administer Chapter 91, Labor Code, as amended by this Act.

(b) The changes in law made by this Act apply only to a professional employer services agreement entered into on or after the effective date of this Act. An agreement entered into before the effective date of this Act is governed by the law in effect on the date the agreement is entered into, and the former law is continued in effect for that purpose.

(c) Section 91.042(c-1), Labor Code, as added by this Act, is not intended to change the interpretation of Section 462.308, Insurance Code, but is intended to clarify the application of that section.

(d) In adopting rules to implement Section 91.0411, Labor Code, as added by this Act, the commissioner of insurance shall consider rules adopted with respect to similar benefit plans.

SECTION 30. Same as engrossed version.