

SUBJECT: Allowing the city of Pasadena to license labor halls

COMMITTEE: Licensing and Administrative Procedures — favorable, without amendment

VOTE: 8 ayes — Wilson, Yarbrough, Flores, Goolsby, Haggerty, J. Moreno, A. Reyna, Wise

0 nays

1 absent — D. Jones

WITNESSES: For — Danny Tilley, Texas State Building and Trades Council; Bill Yearout, City of Pasadena

Against — Larry Kosta, FW Services Inc. dba Pacesetter Personnel Service

On — William H. Kuntz Jr., Texas Department of Licensing and Regulation

BACKGROUND: Labor Code, sec. 92.011 requires employers of temporary common workers to be licensed by the state through the Texas Department of Licensing and Regulation (TDLR). Sec. 92.013 reserves licensing authority exclusively to the state except for municipalities with populations greater than 750,000, which may impose stricter licensing standards than the state.

A labor hall is a central location maintained by a license holder where temporary common workers assemble for assignment and dispatch to jobs. Sec. 92.022 requires license holders to maintain employee hour and wage records and provide adequate waiting facilities, including restrooms, drinking water, seating, and access to vending refreshments. A violation of the statute, or rules or administrative orders adopted under ch. 92, is a class A misdemeanor, punishable by up to one year in jail and/or a maximum fine of \$4,000.

DIGEST: HB 1733 would change the definition of cities allowed to pass ordinances creating licensing requirements imposing stricter standards for the regulation of labor halls located within its corporate limits. The bill would strike the reference in sec. 92.013(b) to a municipality with a population greater than 750,000 and replace it with a reference to a municipality with 100,000 or more population, the majority of which is located in a county of 2.8 million

or more population (i.e. the cities of Houston and Pasadena in Harris County).

This bill would take effect September 1, 2001.

**SUPPORTERS
SAY:**

HB 1733 would give the city of Pasadena additional means of dealing with ongoing problems caused by unlicensed labor halls that provide temporary workers mainly to area oil refineries and petrochemical plants.

Two licensed labor halls have been operating satisfactorily in Pasadena for 15 years. At least six others operate there now or recently, some in residential areas that are not regularly inspected by city fire prevention officers. Some halls allow workers to sleep overnight. Vagrancy and associated problems make these operations sources of public nuisance as well as health and safety risks to the workers themselves. Pasadena cannot use zoning ordinances to control the halls because the city is unzoned.

Some halls have been closed or relocated through enforcement of municipal fire and building codes. City officials also suspect that state and federal regulations are being violated, such as failure to sanitize work clothing used in plants with potentially toxic chemicals. Confirming ownership and state licensing often is problematic. State regulators have no local presence and lack sufficient manpower for meaningful oversight. They only respond to complaints (usually by telephone) and typically do not do so expeditiously. TDLR's enforcement power is limited to administrative sanctions. They have produced no records of recent labor hall inspections.

Pasadena officials are precluded by state law from dealing directly with labor hall problems. They would like the same authority to which their neighbor, the city of Houston, is entitled. HB 1733 is not exclusionary. It maintains the intent of the existing exception, which originally targeted only Houston.

HB 1733 would allow the city to enact fire and life safety ordinances addressing problems in the unlicensed halls. The city does not intend to take action affecting current licensees, and any new requirements would not be burdensome to well-run businesses.

OPPONENTS
SAY:

This bill is not necessary. It would give the city of Pasadena no new tools it does not have already to solve problems caused by unlicensed labor halls.

TDLR's administrative rules require labor halls to comply with all applicable local, state and federal statutes and regulations, including city codes and worker safety rules enforced by the U.S. Occupational Safety and Health Administration (OSHA). TDLR has the power to seek license revocation, fines, and court orders; the latter two could apply to unlicensed halls.

TDLR has received no complaints about labor halls from the City of Pasadena during at least the past two years. TDLR officials are unaware of any reports of possible OSHA violations regarding worker exposure to hazardous materials through exchange of unsanitized clothing or equipment.

Municipal officials currently have authority to inspect labor halls for a variety of potential hazards including possible violations of city fire, health, building and other life safety codes. In fact, they have used city ordinances to control labor halls they deemed nuisances. The crux of Pasadena's enforcement problem is a lack of coordination among city departments compounded by no zoning ordinances. HB 1733 would remedy neither of those situations.

Granting additional licensing authority to the city of Pasadena could place heavier regulatory burdens on existing labor halls licensed by the state, thereby penalizing reputable operators who are contributing to the local economy and tax base. If so, this might put them at a competitive disadvantage with labor halls in adjacent Houston, which has not exercised its statutory authority to regulate labor halls unilaterally through licensing.

OTHER
OPPONENTS
SAY:

By adding a Harris County population bracket in order to extend labor hall municipal licensing to Pasadena, the bill effectively would strip the cities of Dallas and San Antonio of their authority to regulate labor halls once Census 2000 figures are finalized. The bill should allow them to retain that authority, either by setting a lower minimum county population threshold or eliminating the county population requirement altogether and extending licensing authority to all Texas cities the same size as Pasadena.