

SUBJECT: Abolishing state regulation of talent agencies and personnel services

COMMITTEE: Government Efficiency and Reform — committee substitute recommended

VOTE: 6 ayes — Callegari, Lucio, Cain, Frullo, Muñoz, Zedler

0 nays

1 absent — Harper-Brown

WITNESSES: For — Matt Miller, Institute for Justice; (*Registered, but did not testify*: Brent Connett, Texas Conservative Coalition; Stephanie Gibson, Texas Retailers Association; Andrew Kerr, Texans for Fiscal Responsibility; Peggy Venable, Americans for Prosperity; Mary Lou Serafine)

Against — Chase Bearden, Coalitions of Texans with Disabilities, Louise Carter, Morris Architects; Kimberly Marks, National Council For Interior Design Qualification; Donna Vining, Texas Association of Interior Design; John DuBard; Kurt Harris; John Torkelson; (*Registered, but did not testify*: Marta Basez; Rebecca (Becky) Blackhall; Meredith Domino; Harmony Edwards-Canfield; Rebecca Elliott; Brittany Hamilton; Dawn James; Michael Love; Janna Paulson; Mary Helen Pratte; Julie Reynolds; Marilyn Roberts

On — Scott Gibson, Texas Board of Architectural Examiners; Cathy Hendricks, Texas Board of Architectural Examiners; Bill Kuntz, Texas Department of Licensing and Regulation; Vikrant Reddy, Texas Public Policy Foundation; (*Registered, but did not testify*: Lew Vassberg Rid Aahid, TBAE Board Member RID)

BACKGROUND: Ch. 2105 of the Occupations Code requires a talent agency in the state to be certified and regulated by the Texas Department of Licensing and Regulation (TDLR). The chapter prohibits certain practices and requires certain records to be kept. A violation of this chapter is considered a false, misleading, or deceptive practice under the Deceptive Trade Practices Act.

Ch. 2501 of the Occupations Code requires a personnel employment service provider to be certified and regulated by TDLR. Occupations

Code, subch. B and C describe the certificate of authority needed by a personnel employment service provider to operate and the practices in which an owner, operator, counselor, agent, or employee of a personnel service may not engage.

TDLR is authorized to investigate and enforce complaints about personnel employment service providers, and may conduct a hearing and decide whether to issue a warning or revoke certification.

DIGEST: **Talent agencies.** CSHB 3167 would repeal Occupations Code, ch. 2105, which regulates talent agencies.

An action, including a disciplinary or administrative proceeding, that was pending in relation to a violation of this chapter would be dismissed on the effective date of the bill. An administrative penalty assessed by TDLR related to a violation of the chapter as it existed before the bill still could be collected.

The bill would not affect the pending prosecution of an offense under ch. 2105 as it existed before the effective date of the bill. An offense committed before the effective date of the bill would be governed by the law in effect at the time the offense was committed. An offense would be committed before the effective date of the bill if any element of it was committed before that date.

TDLR would have to return a prorated portion of the fee paid for the issuance or renewal of a registration to the person who held the valid registration.

Personnel services. CSHB 3167 would amend Occupations Code, sec. 2501 to repeal the requirement for a personnel service to hold a certificate of authority issued by TDLR. An action that was pending related to the imposition of a fee by a personnel service before an employment offer was accepted would be dismissed on the effective date of the bill.

An administrative penalty that was assessed by TDLR related to a violation of ch. 2501 as it existed before the effective date of the bill could be collected.

TDLR would have to return a prorated portion of the fee paid for the issuance or renewal of a certificate of authority to the person who held the valid certificate of authority.

The bill would take effect September 1, 2011.

**SUPPORTERS
SAY:**

It is inefficient and unnecessary to continue the state licensing of talent agencies and personnel service organizations. The number of licensees for each group is so small that there is no benefit to the consumer to continue regulation by TDLR. The Deceptive Trade Practices Act would provide sufficient protections to consumers who could be harmed by either of these groups.

Talent agencies originally were regulated to protect actors from fraudulent agents. However, there is widespread activity by unregulated parties that offer similar services, and the regulations are easily circumvented, rendering them ineffective.

Personnel services were first regulated in the 1970s, when people used them widely to find employment. With the rise of the Internet and other employment search methods, the use of personnel services has decreased. This decline has eliminated the need for state regulation of such services.

TDLR already is very limited in what it can investigate and enforce, and there have only been minor complaints within the last year. CSHB 3167 would not have a significant impact on consumer protections.

Provisions that were opposed in the original bill have been addressed by the committee substitute.

**OPPONENTS
SAY:**

Regulation of talent agencies originally was enacted to ensure that actors were not swindled by talent agents who would take money in exchange for future services and then disappear and also to protect legitimate talent agencies. If there is widespread activity by unregulated parties, the bill should address better regulation, instead of removing it completely.

Personnel services were first regulated to protect job seekers from being taken advantage of by being charged an upfront fee for services. Given the currently high unemployment rate, we should not remove consumer protections for the unemployed.

NOTES:

The original version would have modified the Agriculture Code by repealing the regulation of persons engaged in weather modification under the TDLR. It also would have amended the Occupations Code by repealing the regulation of interior designers by the Texas Board of Architectural Examiners.