

BILL ANALYSIS

Senate Research Center
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H.B. 1184
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Economic Development
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Engrossed

DIGEST

A professional employer organization (PEO) may be generally defined as an organization that contracts with a business to handle employee- related matters such as personnel management, health benefits, workers' compensation claims, payroll, payroll tax compliance, and unemployment insurance claims. The PEO's contractual obligation is to assume employer rights, responsibilities, and risk, in effect establishing and maintaining an employer relationship with the workers assigned to its clients. For example, typical duties undertaken and obligations incurred by a PEO include: assigning workers to client locations and assuming responsibility as an employer for specified purposes of the workers assigned to the client locations; reserving a right of direction and control of the employees; paying wages and employment taxes of the employee out of its accounts; reporting, collecting, and depositing employment taxes with state and federal authorities; and retaining a right to hire, reassign, and fire the employees. The contractual allocation and sharing of employer responsibilities between the PEO and the client means that they are co-employers. As co-employers the parties may share responsibility for some obligations, but, in general, the terms of the contract determine the responsibilities and obligation of each party. Typically, the PEO ensures that worksite employees are provided with a workplace that is safe, conducive to productivity, and operated in compliance with employment laws and regulations. In addition, the PEO may provide worksite employees with workers' compensation insurance, unemployment insurance, and a broad range of employee benefits programs. H.B. 1184 creates regulation for staff leasing services.

PURPOSE

As proposed, H.B. 1184 creates regulation for staff leasing services.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Sections 91.001(14) and (15), Labor Code, to redefine "staff leasing services" to include professional employer organization services. Redefines "staff leasing services company" to include a professional employer organization.

SECTION 2. Amends Section 91.002(b), Labor Code, to subject each person who offers staff leasing services, rather than each license holder, to this chapter and certain rules.

SECTION 3. Amends Chapter 91A, Labor Code, by adding Sections 91.005-91.007, as follows:

Sec. 91.005. APPLICATION OF CERTAIN PROCUREMENT LAWS. Sets forth businesses which are not affected by certain agreements entered into with a state entity, by reason of the client company having entered into an agreement with a license holder or using the services of a license holder.

Sec. 91.006. WORKERS' COMPENSATION COVERAGE. Sets forth conditions of official insurance coverage. Requires the state and a political subdivision of the state to accept a certificate of insurance coverage as proof of workers' compensation coverage under Chapter 406, Labor Code. Sets forth provisions for a client company regarding a separate proof of coverage.

Sec. 91.007. APPLICATION OF LABOR RELATIONS LAWS. Provides that this chapter does not relieve a client company of a certain rights, obligations, and duties.

SECTION 4. Amends Sections 91.015(c) and (d), Labor Code, to require the Texas Department of Licensing and Regulation (department) to provide the applicant with a specific time limit to address the reasons for the denial. Authorizes the commissioner of licensing and regulation to grant an additional 30 days to remedy the reasons for denial, under certain conditions. Makes a nonsubstantive change.

SECTION 5. Amends Section 91.019(a), Labor Code, to delete text regarding out-of-state staff leasing services.

SECTION 6. Amends Section 91.021, Labor Code, by adding Subsection (d), to set forth consideration requirements in the process of assessing an administrative penalty. Requires the department, by rule, to establish a written enforcement plan which provides certain notification regarding penalties.

SECTION 7. Amends Section 91.032, Labor Code, to require a contract to require that the license holder shares with the client company, rather than reserves or retains, certain rights and controls. Sets forth issues for which a client company retains responsibility.

SECTION 8. (a) Effective date: September 1, 1999.

(b) Makes application of this Act prospective.

(c) Makes application of Section 91.021(d), Labor Code, as added by this Act, prospective.

(d) Makes application of Section 91.032, Labor Code, as amended by this act, prospective.

SECTION 9. Emergency clause.