

## **BILL ANALYSIS**

Senate Research Center  
82R24241 EES-F

H.B. 3167  
By: Callegari (Carona)  
Business & Commerce  
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Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

The bill proposes to repeal the state's regulation of talent agency operators and personnel service providers. Current regulation of talent agencies and personnel employment services fails to serve a meaningful public interest. Talent agencies were originally regulated to protect theatrical actors from fraudulent agents that would take clients' money and pledge to provide representation, only to disappear. As applied, however, the regulations for talent agencies are readily circumvented, rendering them as ineffective. Although there are approximately 60 registered talent agencies in Texas, widespread activity by unregulated parties that offer similar services render the consumer protections intended by the regulation meaningless. In light of this regulatory shortcoming, the bill eliminates state regulation of talent agencies.

Similarly, regulation of personnel employment services, where companies attempt to find permanent jobs for persons looking for work, no longer provides a meaningful public benefit. These services were first regulated in the 1970s when people used such services to find work. With the advent of the Internet, and other employment search methods, the use of personnel employment services has declined. With the decline in this mode of business, the need for state regulation of personnel employment services has dissipated. The bill eliminates the requirement for a personnel employment service to be licensed, while preserving a job seeker's right should they use such as service and be harmed.

H.B. 3167 amends current law relating to the abolishment of the state regulation of talent agencies and 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**

#### ARTICLE 1. TALENT AGENCIES

SECTION 1.01. Repealer: Chapter 2105 (Regulation of Talent Agencies), Occupations Code.

SECTION 1.02. (a) Provides that an action, including a disciplinary or administrative proceeding, pending under Chapter 51 (Texas Department of Licensing and Regulation) or 2105, Occupations Code, on the effective date of this Act related to a violation of Chapter 2105, Occupations Code, as that chapter existed immediately before the effective date of this Act, is dismissed.

(b) Authorizes an administrative penalty assessed by the Texas Commission of Licensing and Regulation (TCLR) related to a violation of Chapter 2105, Occupations Code, as that chapter existed immediately before the effective date of this Act, to be collected as provided by Chapter 51, Occupations Code.

(c) Provides that the changes in law made by this Act do not affect the pending prosecution of an offense under Chapter 2105, Occupations Code, as that chapter existed immediately before the effective date of this Act. Provides that an offense committed

before the effective date of this Act is governed by the law in effect at the time the offense was committed, and the former law is continued in effect for that purpose. Provides that for purposes of this section, an offense was committed before the effective date of this Act if any element of the offense was committed before that date.

(d) Requires the Texas Department of Licensing and Regulation (TDLR) to return to a person who holds a valid registration under Chapter 2105, Occupations Code, as that chapter existed immediately before the effective date of this Act, a prorated portion of the fee paid to TDLR for the issuance or renewal of the registration.

## ARTICLE 2. PERSONNEL SERVICES

SECTION 2.01. 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:

- (1) an order enjoining the defendant from violating this chapter;
- (2) any order necessary to restore to the plaintiff any property acquired by the defendant in violation of this chapter; or
- (3) 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, rather than including the appointment of a receiver if the judgement against the defendant is not satisfied within three months after the date of the final judgment; the revocation of a certificate authorizing the defendant to engage in business in this state; or an order enjoining the defendant from acting as a personnel service.

SECTION 2.02. Repealers: (1) Sections 2501.001(2) (defining "commission"), (3-a) (defining "department"), and (4-a) (defining "executive director"), Occupations Code;

- (2) Section 2501.201(c) (relating to damages recoverable in an action under this section), Occupations Code;
- (3) Section 2501.253 (Administrative Penalty), Occupations Code; and
- (4) Subchapters B (Certificate of Authority) and D (Enforcement), Chapter 2501, Occupations Code.

SECTION 2.03. (a) Provides that an action pending on the effective date of this Act related to a violation of Section 2501.102 (Imposition of Fee Prohibited Before Employment Offer Accepted), Occupations Code, is dismissed.

(b) Authorizes an administrative penalty assessed by TDLR related to a violation of Chapter 2501, Occupations Code, as that chapter existed immediately before the effective date of this Act, to be collected as provided by Chapter 51, Occupations Code.

(c) Requires TDLR to return to a person who holds a valid certificate of authority under Chapter 2501, Occupations Code, as that chapter existed immediately before the effective date of this Act, a prorated portion of the fee paid to TDLR for the issuance or renewal of the certificate of authority.

## ARTICLE 3. EFFECTIVE DATE

SECTION 3.01. Effective date: September 1, 2011.