# BILL ANALYSIS

Senate Research Center
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C.S.S.B. 1498
By: Zaffirini
Business & Commerce
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Committee Report (Substituted)

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

It is burdensome to licensees and wasteful of public resources to administer licensing programs that do little to protect the public good. For that reason, the Texas Department of Licensing and Regulation (TDLR) has undertaken a strategic initiative to identify licensing programs that could be deregulated without threatening public health, safety, or welfare. Current law requires licensing of "temporary common worker employers," which provide day laborers for manual labor projects. Found in Chapter 92, Labor Code, the program requires $30 initial and renewal fees and subjects licensees to disciplinary action in the form of administrative penalties and sanctions. In fiscal year 2016, according to TDLR, the program had only 84 licensees, no complaints filed, and no enforcement actions taken. In sum, the program burdens business owners and consumes state resources to administer but yields little tangible benefit to the public. To address this, S.B. 1498 would repeal the statewide temporary common worker employer licensing program. (Original Author's / Sponsor's Statement of Intent)

C.S.S.B. 1498 amends current law relating to the regulation of temporary common worker employers.

## RULEMAKING AUTHORITY

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

## SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 92.001(a), Labor Code, to provide that the legislature finds that this chapter (Temporary Common Worker Employers) is necessary to provide for the health, safety, and welfare of common workers throughout this state and establish uniform standards of conduct and practice for temporary common worker employers, rather than certain employers, in this state.

SECTION 2. Amends Section 92.002, Labor Code, by amending Subdivision (6) and adding Subdivision (6-a), to redefine "labor hall" and define "municipality."

SECTION 3. Amends the heading to Subchapter B, Chapter 92, Labor Code, to read as follows:

SUBCHAPTER B. AUTHORITY TO OPERATE

SECTION 4. Amends Subchapter B, Chapter 92, Labor Code, by adding Section 92.0115, as follows:

Sec. 92.0115. AUTHORITY TO OPERATE. Authorizes a person, subject to Section 92.013 (Effect of Other Regulation) and unless prohibited by a governmental subdivision, to operate as a temporary common worker employer in this state if the person meets the requirements of this chapter.

SECTION 5. Amends the heading to Section 92.012, Labor Code, to read as follows:

Sec. 92.012. EXEMPTIONS.

SECTION 6. Amends Section 92.013(b), Labor Code, to authorize a municipality with a population greater than one million to establish municipal requirements, rather than municipal licensing requirements, that impose stricter standards of conduct and practice than those imposed under Subchapter C.

SECTION 7. Amends the heading to Subchapter C, Chapter 92, Labor Code, to read as follows:

SUBCHAPTER C. STANDARDS OF CONDUCT AND PRACTICE

SECTION 8. Amends Section 92.021, Labor Code, as follows:

Sec. 92.021. New heading: POWERS AND DUTIES OF EMPLOYER. (a) Changes references to license holder to temporary common worker employer.

(b) Authorizes a temporary common worker employer to hire, reassign, control, direct, and discharge the employees of the temporary common worker employer. Makes conforming changes.

SECTION 9. Amends Section 92.022, Labor Code, as follows:

Sec. 92.022. REQUIRED RECORDS; CONFIDENTIALITY. (a) Requires each temporary common worker employer to maintain and make available to a governmental subdivision, rather than to a representative of the Texas Department of Licensing and Regulation (TDLR), records that show for each common worker provided by the temporary common worker employer to a user of common workers certain information. Makes conforming changes.

(b) Makes conforming changes.

(c) Provides that information received by the governmental subdivision, rather than the Texas Commission of Licensing and Regulation (TCLR) or TDLR, under this section is privileged and confidential and is for the exclusive use of the governmental subdivision, rather than TCLR or TDLR.

SECTION 10. Amends Section 92.023(b), Labor Code, as follows:

(b) Changes references to license holder to temporary common worker employer. Requires each temporary common worker employer to post in a conspicuous place in the premises, rather than licensed premises, on which the temporary common worker employer operates a notice of any charge permitted under this chapter that the temporary common worker employer may assess against a common worker for equipment, tools, transportation, or other work-related services. Makes a nonsubstantive change.

SECTION 11. Amends Section 92.024, Labor Code, as follows:

Sec. 92.024. LABOR HALL REQUIREMENTS. Changes references to license holder to temporary common worker employer. Requires a temporary common worker employer that operates a labor hall as part of a premises on which the temporary common worker employer operates to provide adequate facilities for a worker waiting for a job assignment. Makes a conforming change.

SECTION 12. Amends Section 92.025, Labor Code, as follows:

Sec. 92.025. CERTAIN CHARGES AND DEDUCTIONS PROHIBITED. (a) Prohibits a temporary common worker employer, rather than license holder, from charging a common worker for certain items.

(b) Prohibits a temporary common worker employer, rather than license holder, from deducting or withholding any amount from the earned wages of a common worker except certain amounts.

SECTION 13. Amends Chapter 92, Labor Code, by adding Subchapter D, as follows:

SUBCHAPTER D. ENFORCEMENT

Sec. 92.031. ENFORCEMENT. Authorizes a governmental subdivision to enforce this chapter within the boundaries of the governmental subdivision.

SECTION 14. Repealers: Sections 92.002(1) (relating to the definition of "commission"), (4) (relating to the definition of "department"), and (4-a) (relating to the definition of "executive director"), Labor Code.

Repealer: Section 92.003 (Agency Powers and Duties), Labor Code.

Repealer: Section 92.004 (Applicability of Other Law), Labor Code.

Repealer: Section 92.011 (License Required), Labor Code.

Repealer: Section 92.013(a) (relating to a license issued under this chapter superseding a license required or issued by a municipality or other governmental subdivision of this state), Labor Code.

Repealer: Section 92.014 (License Application and Issuance), Labor Code.

Repealer: Section 92.015 (License Renewal), Labor Code.

Repealer: Section 92.023(a) (relating to requiring a license holder to post the license for a business in which the license holder operates as a temporary common worker employer), Labor Code.

SECTION 15. (a) Provides that an administrative proceeding pending under Chapter 51 (Texas Department of Licensing and Regulation), Occupations Code, or Chapter 92, Labor Code, on the effective date of this Act related to a violation of Chapter 92, Labor Code, as that chapter existed immediately before the effective date of this Act, is dismissed.

(b) Authorizes an administrative penalty assessed by TCLR or the executive director of TDLR related to a violation of Chapter 92, Labor 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 92, Labor 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 on the date the offense was committed, and the former law is continued in effect for that purpose. Provides that, for the purposes of this subsection, an offense was committed before the effective date of this Act if any element of the offense was committed before that date.

SECTION 16. Effective date: September 1, 2017.