

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1811 Talent Agencies
SPONSOR(S): Committee on Business Regulation
TIED BILLS: **IDEN./SIM. BILLS:** SB 2560

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Business Regulation	19 Y, 14 N	Livingston	Liepshutz
2)			
3)			
4)			
5)			

SUMMARY ANALYSIS

Under s. 468.401, F.S., a "talent agency" is defined as "any person who, for compensation, engages in the occupation or business of procuring or attempting to procure engagement for an artist." An "artist" is defined as a "person performing on the professional stage or in the production of television, radio, or motion pictures; a musician or group of musicians; or a model."

Talent agencies are regulated by the Department of Business and Professional Regulation (DBPR). This regulation is of an industry, not a profession. There is no required testing for licensure, no continuing education requirement, and no professional regulatory board.

The bill repeals part VII of chapter 468, F.S., related to the regulation of talent agencies, effective upon becoming a law. The DBPR would no longer have licensure enforcement authority; however, criminal violations will still be handled by the State Attorney's Office. Additionally, individuals will maintain the ability to seek civil action through the court system.

The bill is anticipated to reduce the direct costs of regulation by approximately \$4,000.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h1811.br.doc
DATE: April 3, 2003

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|---|-----------------------------|---|
| 1. Reduce government? | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. Lower taxes? | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 5. Empower families? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. EFFECT OF PROPOSED CHANGES:

Present Situation

"Theatrical employment agencies" were regulated by the state from 1947-1980; however, under the Regulatory Reform Act of 1976, chapter 449, F.S., was set for repeal on July 1, 1980. During the 1980 legislative session, legislation was introduced in the House and Senate to continue regulation of the industry, but the Legislature failed to adopt the legislation, thereby allowing regulation of these agencies to stand repeal effective July 1, 1980.

Each year, from 1981-1984, legislation providing for regulation of Talent, Modeling, or Theatrical Agencies within the Department of State failed passage. In 1985 and 1986, legislation was introduced placing regulation of Talent and Theatrical Agencies within the Department of Professional Regulation. Finally, in 1986, legislation was adopted and approved by the Governor reestablishing regulation of Talent and Theatrical Agencies within the Department of Professional Regulation (ch. 86-292, Laws of Florida).

Under s. 468.401, F.S., a "talent agency" is defined as "any person who, for compensation, engages in the occupation or business of procuring or attempting to procure engagement for an artist." An "artist" is defined as a "person performing on the professional stage or in the production of television, radio, or motion pictures; a musician or group of musicians; or a model."

Talent agencies are currently regulated by the DBPR. The DBPR is responsible for issuing and revoking licenses, taking disciplinary action against an agency for specific violations, establishing application, license, and registration fees, and promulgating rules for implementation of the law. This regulation is of an industry, not a profession. There is no required testing for licensure, no continuing education requirement, and no professional regulatory board.

Requirements for licensure include paying a: \$5,000 surety bond; \$300 application fee; and biennial fees for initial licensing, renewal of license, and reinstatement of license, none of which fees may exceed \$400. In addition, the owner of a talent agency must submit: a set of fingerprints; a photograph taken within the last two years; proof of one year of direct experience in the industry; disclose parties with financial interests in the agency; and supply affidavits from at least five reputable persons attesting to the moral character of the applicant. The applicant cannot be a convicted felon.

Despite the application and renewal fees, the DBPR has been operating on a cash deficit from the inception of talent agency regulation. The licensure fees are at their statutory cap, and the DBPR has identified that a \$1,000 one-time assessment is necessary to bring the regulation of talent agents into compliance with section 455.219(1) and (2), F.S., relating to the establishment of the appropriate level of fees and trust fund deficits.

Effect of Proposed Changes

The bill eliminates the licensure and regulatory requirements for talent agencies. The DBPR would no longer have licensure enforcement authority; however, criminal violations will still be handled by the State Attorney's Office. Additionally, individuals will maintain the ability to seek civil action through the court system.

The repeal of these sections of chapter 468, F.S., requires the renumbering of subsequent provisions of chapter 468, F.S. The bill further makes conforming changes to other statutes to reflect the repeal of part VII.

C. SECTION DIRECTORY:

Section 1. Repeals various provisions of part VII of chapter 468, F.S.

Section 2. Transfers unused funds to the General Revenue Fund.

Section 3. Authorizes the DBPR to continue certain legal responsibilities

Sections 4 through 31 correct references resulting from the repeal of part VII of chapter 468, F.S.

Section 32. Effective date - Upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

REVENUE			
	<u>FY 2003-4</u>	<u>FY 2004-5</u>	<u>FY 2005-6</u>
License Fees:	(\$24,837)	(\$127,346)	(\$24,837)
Taxes:			
Misc.	(\$3,597)	(\$3,950)	(\$3,597)
TOTAL:	(\$28,434)	(\$131,296)	(\$28,434)

2. Expenditures:

EXPENDITURES - FUNDING SOURCE (TRUST FUND)			
Recurring Effects	<u>FY 2003-4</u>	<u>FY 2004-5</u>	<u>FY 2005-6</u>
Salaries/Benefits # of FTE's			
Expenses & Unlicensed Activities	(\$1,500)	(\$1,500)	(\$1,500)
Application Management	(\$1,404)	(\$1,404)	(\$1,404)
Subtotal	(\$2,904)	(\$2,904)	(\$2,904)

Non-Operating Expenditures	<u>FY 2003-4</u>	<u>FY 2004-5</u>	<u>FY 2005-6</u>
Service Charges (to General Revenue	(\$1,911)	(\$2,160)	(\$1,911)
FBI/Fingerprint	(\$2,067)	(\$9,343)	(\$2,067)
Subtotal	(\$3,978)	(\$11,503)	(\$3,978)

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

NA

2. Expenditures:

NA

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill no longer requires talent agencies to be licensed. There are approximately 289 licensed talent agencies.

D. FISCAL COMMENTS:

The DBPR states that: the fiscal impact of this bill will eliminate direct costs of approximately \$1,036 each year. However, indirect charges (shared departmental overhead) which are prorated among the various professions will be divided among the remaining professions. During two recent years the indirect expenditures costs paid by the talent agents ranged from \$95,671 in FY 1999-2000 to \$93,681 in FY 2000-2001. In short, the direct fiscal impact will not be large; however, future distribution of indirect DBPR costs will have more of an impact on other boards and professions. At this time, it is not possible to project a firm figure as to what sum (if any) of remaining cash would be transferred to General Revenue once all talent agents financial obligations are completed.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable

2. Other:

None noted.

B. RULE-MAKING AUTHORITY:

NA

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES