

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HB 1933 (PCB BR 04-01) Talent Agencies and Advance-fee Talent Services  
**SPONSOR(S):** Committee on Business Regulation and Rep. Kallinger  
**TIED BILLS:** **IDEN./SIM. BILLS:** SB 2408

---

<b>REFERENCE</b>	<b>ACTION</b>	<b>ANALYST</b>	<b>STAFF DIRECTOR</b>
1) <u>Business Regulation</u>	<u>28 Y, 7 N</u>	<u>Livingston</u>	<u>Liepshutz</u>
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 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 bill also includes remedies against providers of advance fee talent services. The bill defines these services to be fees charged to an artist or an aspiring artist by a person who provides specified career oriented development, assistance, or opportunity placement.

The repeal of the regulatory authority requires the renumbering of subsequent provisions to reflect the changes to part VII of chapter 468, F.S.

The bill is anticipated to reduce the direct costs of regulation by approximately \$3,000.

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

**STORAGE NAME:** h1933.br.doc  
**DATE:** April 14, 2004

## 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 repealed 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 significant special 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.

### C. SECTION DIRECTORY:

Section 1. Amends s. 468.401, F.S., to revise definitions and include advance fee talent services.

Section 2. Amends s. 468.402, F.S., to expand the list of prohibited activities and delete certain regulatory duties of the DBPR.

Section 3. Amends s. 468.406, F.S., to require posting of fees and commissions that may be charged by an agency rather than file the charges with the DBPR.

Section 4. Amends s. 468.408, F.S., to increase the bond requirement from \$5,000 to \$10,000.

Section 5. Amends s. 468.409, F.S., to increase the period of time an agency must retain records from one year to five years.

Section 6. Amends s. 468.410, F.S., to spell out certain additional contract requirements.

Section 7. Amends s. 468.411, F.S., to correct grammar.

Section 8. Amends s. 468.412, F.S., to remove certain regulatory functions of the DBPR and specify that a state attorney maintains jurisdiction.

Section 9. Amends s. 468.413, F.S., to expand the list of activities that constitute a violation of law and remove the DBPR from responsibility for policing the industry.

Section 10. Amends s. 468.415, F.S., relating to the prohibition against sexual misconduct in the operation of an agency.

Section 11. Creates s. 468.416, F.S., to provide for injunctive relief.

Section 12. Creates s. 468.417, F.S., to provide for civil actions.

Section 13. Transfers unused funds to the General Revenue Fund.

Section 14. States that the DBPR may continue certain legal responsibilities that are currently active.

Section 15. Repeals various provisions of part VII of chapter 468, F.S., to remove regulatory oversight by the DBPR.

Section 16. Effective date - July 1, 2004.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

See fiscal comments in D. below.

#### 2. Expenditures:

See fiscal comments in D. below

**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 322 active licensed talent agencies.

**D. FISCAL COMMENTS:**

The DBPR states that the fiscal impact:

would eliminate direct costs of approximately \$3,000 each year. However, indirect charges (shared departmental overhead) are prorated among the various professions and would 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 would not be large; however future distribution of indirect departmental costs would have more of an impact on other boards and professions. At this time, it is not possible to project 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 noted.

**IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**