

SENATE BILL REPORT

SB 5831

AS OF MARCH 4, 1991

Brief Description: Updating the definition of employment agency.

SPONSORS: Senator West.

SENATE COMMITTEE ON COMMERCE & LABOR

Staff: Forrest Bathurst (786-7429)

Hearing Dates: March 5, 1991

BACKGROUND:

Substitute House Bill 2457 was passed by the Legislature during the 1990 session to address consumer complaints regarding advanced fee businesses that marketed employment information and related nonplacement services.

SHB 2457 incorporated employment listing and referral services into the definition of employment agency by requiring them to apply for and maintain valid employment agency licenses. This enabled the Department of Licensing and the Attorney General to hold employment listing and referral services to the same regulatory requirements as employment agencies.

Chapter 19.31 RCW requires that employment agencies may not charge an applicant a fee until the applicant accepts a job that is directly tied to the facilitation efforts of the employment agency. Each employment agency must keep detailed records on all services rendered to both the applicant and employer.

Shortly after SHB 2457 was passed, there was an attempt to have the bill declared unconstitutional in the Superior Court for Spokane County. The court found that SHB 2457 violated the constitutional rights of Bruce and Jarveen Wayne, the owners of an employment listing and referral service, to free speech, equal protection of the laws, and that enactment of the statute impaired existing contractual obligations.

The Department of Licensing is appealing the case to the Court of Appeals for Division III in Spokane, Washington.

SB 5831 modifies 19.31 RCW to make further court actions unnecessary.

SUMMARY:

Employment listing and referral services may sell a list of jobs, or a list of persons accepting applications for specific jobs, in any form, for a fee at the time a person is provided with the list.

Employment listing and referral services need not keep records pertaining to the kind of position accepted by the applicant and probable duration of the employment.

Each employment listing and referral service shall print a notice on each contract that reads:

"This is a contract. The [name of employment listing or referral service] does not guarantee you will obtain employment through its services. You are liable for the payment of the fee when you receive the list or referral. Do not sign this contract before you read it or if any spaces intended for the agreed terms are left blank. You must be given a copy of this contract at the time you sign it."

Employment listing and referral services may advertise as a listing or referral service.

All employment listings and referrals shall be current.

Appropriation: none

Revenue: none

Fiscal Note: requested March 4, 1991