

# FINAL BILL REPORT

## ESHB 1496

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Synopsis as Enacted

**Brief Description:** Regulating employment agencies.

By House Committee on Commerce & Labor (originally sponsored by Representative Dellwo).

House Committee on Commerce & Labor  
Senate Committee on Labor & Commerce

**Background:** State law requires employment agencies to be licensed by the Department of Licensing. The law requires that employment agencies comply with regulations regarding: record-keeping; the form of contracts; bonding; fee amounts; and collection only after the applicant has become employed.

"Employment agency" is defined as any business in which any part of the business income is derived from a fee received from the applicants, and in which any of the following activities are engaged in: (1) the offering, promising, procuring, or attempting to procure employment for applicants; or (2) the giving of information regarding where and from whom employment may be obtained. In addition "employment agency," with some exceptions, includes any person, bureau, employment listing or employment referral service, organization, or school which for profit and as one of its main objectives or purposes, offers to procure employment for any person who pays for its services, where the main object of the person paying is to secure employment.

The definition of "employment agency" also includes any business that provides resumes to an individual and also provides that person with a list of names to whom the resumes may be sent, or provides that person with preaddressed envelopes.

A person performing the services of an employment agency without a license may not bring a cause of action seeking relief for services rendered. A person performing the services of an employment agency without holding a valid license must cease operations or immediately obtain a valid license. If the person continues to operate without a valid license, the director or the attorney general has a cause of action for treble damages. A person who pays a fee to an unlicensed employment agency for the performance of

employment services has a cause of action against the employment agency and may recover treble damages and reasonable attorney's fees and costs.

In 1991, the Washington State Supreme Court interpreted a 1990 amendment to the employment agency licensing law, which included employment listing services and employment referral services in the definition of employment agency. The court held that, reading the definition as a whole, a business must do more than merely sell a generic job list to be an employment agency. To fall within the definition of employment agency, an employment listing service must offer to procure or attempt to procure employment or provide information about where and from whom employment may be obtained. Employment directories are not considered to be employment agencies.

**Summary:** The definition of "employment agency" is amended. Employment agency means any business in which any part of the income is derived from a fee received from applicants, and in which any of the following activities are engaged in: (1) the offering, promising, procuring, or attempting to procure employment for applicants; (2) the giving of information regarding where and from whom employment may be obtained; or (3) the sale of a list of jobs or persons or companies accepting applications for specific positions, in any form. "Employment agency" includes employment directories.

"Employment agency" also includes any business that provides resumes to an individual and also provides that person with a list of names to whom the resumes may be sent, or provides that person with preaddressed envelopes, if the list of names or the preaddressed envelopes have been compiled and are represented by the business as having job openings. Nonprofit schools and colleges, and career guidance and counseling services are specifically excluded from the definition of "employment agency."

A definition is provided for "employment listing service." An employment listing service is defined as a business that provides lists of specified positions of employment available with any employer other than itself or that holds itself out to applicants as able to provide information about specific positions of employment available with any employer other than itself, and that charges a fee to the applicant for its services and does not set up interviews or otherwise intercede between employer and applicant. A "career guidance and counseling service" is defined and distinguished from an employment agency.

"Employment directory" means any business that: (1) provides lists of employers; (2) does not provide lists of specified positions of employment; (3) holds itself out to applicants as able to provide information on employment in specific industries or geographical areas; and (4) charges a fee to the applicant for its services. Employment directories are required to be registered with the department but are exempt from the licensing and license fee requirements.

The record-keeping requirements for employment agencies are expanded to include dates job orders or job listings are obtained and subsequent dates job orders or job listings are verified as still being current. Employment listing services and employment directories need not keep records pertaining to the kind of positions accepted by applicants and probable duration of employment as is required from other employment agencies.

The language required from employment listing services and employment directories in the notice that must be included in their contracts is made different than the language required in other employment agency contracts. The notice describes the service offered and the customer's rights.

Employment listing services may impose a fee at the time they provide the applicant with the job listing or referral. An employment directory may impose a fee when it provides the directory. Employment listing services must advertise as employment listing services and not as employment agencies. Employment directory advertisements must disclose that the directory provides information on possible employers and general employment information but does not list actual job openings.

All jobs listed by employment agencies and employment listing services must be bona fide job listings. The job openings listed must be obtained from the employer and must be actual and current. All listings in employment directories must be current. The employment directory must contact the employer at least once per month to verify that the employer is currently hiring.

**Votes on Final Passage:**

House	98	0	
Senate	44	0	(Senate amended)
House	97	0	(House concurred)

**Effective:** July 25, 1993