

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Commerce and Consumer Services Committee

BILL: CS/SB 1288

SPONSOR: Commerce and Consumer Services Committee and Senator Aronberg

SUBJECT: Labor Pools

DATE: April 15, 2005

REVISED: 04/20/05

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Gordon	Cooper	CM	Fav/CS
2.	Johnson	Deffenbaugh	BI	Fav/1 amendment
3.			JU	
4.				
5.				
6.				

Please see last section for Summary of Amendments

Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

I. Summary:

This committee substitute authorizes a labor pool to provide payment to day laborers in cash from a cash-dispensing machine, and charge a transaction fee of up to \$1.99, under certain conditions.

The bill amends the following section of the Florida Statutes: 448.24.

II. Present Situation:

Labor Pools

Part II of ch. 448, F.S., also known as the Labor Pool Act, was enacted in 1995 to protect the health, safety, and well-being of day laborers throughout Florida.¹ Section 448.24, F.S., addresses the duties and rights of the day laborers. The act addresses compensation of day laborers employed by labor pools by only allowing two methods of payment. The labor pool must:

¹ Sections 448.20-448.25, F.S.

Compensate day laborers for work performed in the form of cash, or commonly accepted negotiable instruments² that are payable in cash, on demand at a financial institution, and without discount.³

Since passage of the Labor Pool Act, cash dispensing machines (CDMs) have become available as a method of dispensing cash compensation to day laborers. A CDM is similar to an automated teller machine (ATM) and dispenses money in paper currency, but not in coins. Labor pools may either own or lease CDMs. A financial institution under a contract with the labor pool typically provides the cash stored in the CDM.

Section 448.24, F.S., also limits the fee a labor pool may charge a day laborer for transportation to and from the worksite to no more than the prevailing rate for public transportation. In some areas of the state, public transportation options may include bus, taxi, or mass transit. If a labor pool does not accurately calculate this fee, the labor pool is subject to civil action by a day laborer. A worker aggrieved by a violation of s. 448.24, F.S., is entitled to recover actual and consequential damages, or \$1,000, which is greater, for each violation of part II of ch. 448, F.S.

Check Cashing

Part III of ch. 560, F.S., governs check cashing and foreign currency exchange. Section 560.309(4), F.S., sets fees that may be charged by check cashing establishments registered under that part:

(4) Exclusive of the direct costs of verification which shall be established by commission rule, no check casher shall:

(a) Charge fees, except as otherwise provided by this part, in excess of 5 percent of the face amount of the payment instrument, or 6 percent without the provision of identification, or \$5, whichever is greater;

(b) Charge fees in excess of 3 percent of the face amount of the payment instrument, or 4 percent without the provision of identification, or \$5, whichever is greater, if such payment instrument is the payment of any kind of state public assistance or federal social security benefit payable to the bearer of such payment instrument; or

(c) Charge fees for personal checks or money orders in excess of 10 percent of the face amount of those payment instruments, or \$5, whichever is greater.

No similar provision exists for financial institutions. Financial institutions have the discretion of cashing checks for individuals who are not account holders or who do not have proper identification.

² Section 673.1041, F.S., defines negotiable instrument, in pertinent part, as “an unconditional promise or order to pay a fixed amount of money.”

³ Id. (Footnote added).

Chapter 560, F.S., regulates money transmitters and defines them as: “Any person located in or doing business in this state who acts as a payment instrument seller, foreign currency exchanger, check casher, funds transmitter or deferred presentment provider.”⁴ Check cashers and financial institutions such as banks are required to be registered under ch. 560, F.S., unless specifically exempted.

III. Effect of Proposed Changes:

Section 1 amends s. 448.24, F.S., to authorize a labor pool to provide a cash-dispensing machine (CDM) on its premises for use by its day laborers, for a transaction fee not to exceed \$1.99, under the following conditions:

- The labor pool offers payment by check, in compliance with s. 448.24(2)(a), F.S.;
- The laborer chooses to accept payment in cash through the CDM after disclosure of the transaction fee; and
- The CDM requires affirmative action by the day laborer to either accept the fee or negate the transaction in lieu of payment as required under s. 448.24(2)(a), F.S.

Any coinage under \$1 due to the day laborer is retained in the transaction fee, which cannot exceed \$1.99 per transaction. As a condition for providing the CDMs, the labor pool or its affiliate must be registered under ch. 560, F.S., if so required.

Section 2 provides an effective date of July 1, 2005.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

⁴ Section 560.103(11), F.S.

B. Private Sector Impact:

Day laborers who choose to use a CDM for payment of their wages will be subject to a transaction fee not to exceed \$1.99. Research indicates this fee is less than the “check cashing fees” charged by check-cashing services.

The bill authorizes a labor pool to charge a transaction fee for the payment of cash wages if certain conditions are met.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

This Senate staff analysis does not reflect the intent or official position of the bill’s sponsor or the Florida Senate.

VIII. Summary of Amendments:

Barcode 145080 by Banking and Insurance:

This amendment revises the amount a labor pool may charge a day laborer to transport the worker to or from the worksite by allowing a labor pool to charge a fee not to exceed \$1.50 each way or the prevailing rate for public transportation in the geographic area. Current law provides that the labor pool may charge the prevailing rate for public transportation in the geographic area. As amended, the labor pool could charge \$1.50 each way, whether that was greater or lesser than the prevailing rate.

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