

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 525 CS

Labor Pools

SPONSOR(S): Troutman

TIED BILLS:

IDEN./SIM. BILLS: SB 1288

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Finance & Tax Committee	9 Y, 0 N, w/CS	Levin	Diez-Arguelles
2) Business Regulation Committee	18 Y, 0 N	Livingston	Liepshutz
3) Fiscal Council	21 Y, 0 N	Levin	Kelly
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

Section 448.24 (1)(c), F.S., currently provides that labor pools may not charge day laborers "for directly or indirectly cashing a worker's check." Currently, labor pools issue checks on accounts at banks which permit the fee-free cashing of labor pool checks.

The bill seeks to clarify that labor pools may give workers the option, in addition to no-fee check cashing at a local bank, to use cash dispensing machines (CDM's) for payment of day laborers for a fee of not more than \$1.99, so long as the worker has both the option to receive a negotiable check and voluntarily elects to use the cash dispensing machine. It also requires the labor pool and its CDM's to comply with chapter 560, F.S., if the Office of Financial Regulation determines that the labor pools and their CDM's should be regulated pursuant to the Money Transmitters' Code.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

The bill does not appear to affect any of the House principles.

B. EFFECT OF PROPOSED CHANGES¹:

History of the Legislation:

The Labor Pool Act was passed by the Florida Legislature in 1995 in an effort to provide uniform standards of conduct for labor pools. A portion of that legislation related to compensation for the day laborer and designated payment in the form of cash or negotiable instrument payable on demand at a financial institution, without discount. One of the purposes of the legislation was to protect day laborers from the concept of "the company store" in which the workers, after being paid wages and charged for supplies, owed the company store money at the conclusion of the day or the week.

Present situation:

Florida employs a substantial number of day laborers each year. Many of these workers are attracted to "work today, paid today" programs. For a variety of reasons, many day laborers do not maintain checking accounts and want a convenient and inexpensive way to cash their checks. Currently labor pools have contractual relations with banks which ensure that all employees can cash their payroll checks without any fee or charge, whether or not they maintain a bank account.

At least one of the nation's large providers of manual labor has installed Cash Dispensing Machines (CDM's) at some of the labor pool locations where workers receive wages at the end of the day. Similar to an automated teller machine, the CDM is activated by a voucher from the labor pool with an access code on the pay-stub. The service fee for using the CDM is one dollar (\$1.00) plus any coinage earned by the laborer. The maximum fee allowable is therefore one dollar ninety-nine cents (\$1.99). Use of the CDM is entirely voluntary.

CDM's have previously been used in parts of Florida, but their use has been legally challenged. In Florida the issue is whether the use of a CDM constitutes the direct or indirect cashing of a day labor's check in contravention of s. 488.24(1), Florida Statutes. The labor pool industry seeks to have the voluntary use of CDM's specifically placed within the statute, along with a charge for use of not to exceed \$1.99. The labor pools believe the fee is justified because of the initial expense of leasing, operating, securing and insuring the CDM machines, as well as the costs of cash replenishment service and bank fees. Additional costs include loss due to theft and fraud, as well as the imputed interest on the cash which sits idle in the machine.

There has been some question as to whether or not a CDM should comply with chapter 560, F.S., the Money Transmitters' Code. The statute is designed to insure the security of a business that issues payment products, holds public funds, accepts deposits, and conducts other types of financial transactions. The labor pool CDM holds funds which are the property of the labor pool, the CDM is not accessible by the general public, and the CDM's only dispense cash.

¹ Information used in this section of the bill analysis is taken from several sources. A written memorandum was filed in support of the CDM's. Internet sources include: "A Day's Pay for a Day's Work?" appearing in *Business Week* online for August 7, 2000; "Temps without an Office" originally published by the *Washington Post* on February 14, 1999; "Day workers sue Labor Ready over firm's check cashing fees" originally published by *The Atlanta Journal* and *The Atlanta Constitution* on July 20, 2000; "Day labor industry vies for Workers," published in the Fort Myers, Florida *News Press* on August 10, 2000. The Agency for Workforce Innovation has also been contacted concerning the subject matter of HB 525.

Effect of proposed changes:

Section 448.24 (1)(c), F.S., currently provides that labor pools may not charge day laborers “for directly or indirectly cashing a worker’s check.” Currently, labor pools issue checks on accounts at banks which permit the fee-free cashing of labor pool checks. CS/HB 525 seeks to clarify that labor pools may give workers the option, in addition to no-fee check cashing at a local bank, to use cash dispensing machines for payment of day laborers for a fee of not more than \$1.99, so long as the worker has both the option to receive a negotiable check and voluntarily elects to use the cash dispensing machine. The CS also requires the labor pool and its CDM’s to be regulated pursuant to chapter 560, F.S., the Money Transmitters’ Code, if the Office of Financial Regulation determines that the labor pool CDM’s are within the regulatory scope of Chapter 560.

C. SECTION DIRECTORY:

Section 1. Permits labor pools to provide day laborers with a method of obtaining cash from a CDM for a fee of not more than \$1.99. The section finds the payments to be in compliance with 448.24 (2)(a), F.S., so long as the laborer voluntarily elects to accept payment from the CDM after disclosure of the fee. It also requires the labor pool and its CDM’s to comply with chapter 560, F.S., if the Office of Financial Regulation determines that the labor pools and their CDM’s should be regulated pursuant to the Money Transmitters’ Code.

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

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None

2. Expenditures:

None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

CDM’s may provide labor pools with an incentive for day workers to join a particular labor pool which has CDM’s. The machines may provide workers with easier access to cash, but there is a direct cost to the laborer.

D. FISCAL COMMENTS:

None

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The mandates provision is not applicable because this bill does not affect municipal or county government.

2. Other:

None

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 18, 2005 the Finance and Tax committee adopted one amendment to the bill. It changes the amount of fee which could be charged from no more than \$2 to no more than \$1.99. The amendment also affords the day laborer two separate opportunities to opt out of the use of the CDM and to receive a check. It also requires the labor pool and its CDM's to comply with chapter 560, F.S., if the Office of Financial Regulation determines that the labor pools and their CDM's should be regulated pursuant to the Money Transmitters' Code.