

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 219 CS Labor Pools
SPONSOR(S): Troutman and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 1166

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Economic Development, Trade & Banking Committee</u>	<u>13 Y, 0 N, w/CS</u>	<u>Carlson</u>	<u>Carlson</u>
2) <u>Agriculture Committee</u>	<u>9 Y, 0 N</u>	<u>Kaiser</u>	<u>Reese</u>
3) <u>Commerce Council</u>	<u></u>	<u></u>	<u></u>
4) <u></u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

SUMMARY ANALYSIS

House Bill 219 limits the charges that a labor pool may impose for the transportation of a laborer to or from a designated worksite to no more than \$1.50 each way.

The bill allows a labor pool to operate a cash dispensing machine located on the premises of the labor pool or by an affiliate, and limits the transaction fee to \$1.99.

The bill provides that the Labor Pool Act does not exempt a client of a labor pool or a temporary help arrangement entity or any assigned employee from federal, state or local licensing laws.

The bill also provides that an employee assigned to a client company who is licensed, registered or certified pursuant to law is deemed an employee of the client company for purposes of such licensure, registration or certification but remains an employee of the labor pool or temporary help arrangement entity for purposes of workers' compensation and unemployment compensation laws.

The bill has no apparent fiscal impact on state or local governments.

The bill has an effective date of July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

The bill does not implicate any House Principles.

B. EFFECT OF PROPOSED CHANGES:

Present Situation:

Labor Pool Act

The Labor Pool Act, passed as ch. 95-332, L.O.F. and codified as Part II of ch. 448, F.S., is intended to provide for the health, safety and well-being of day laborers throughout the state and to establish uniform standards of conduct and practice for labor pools. The law enumerates duties of labor pools with respect to the compensation of laborers and the provision of necessary amenities and facilities.

A. Transportation Charges

The Act prohibits a labor pool from charging a day laborer for transportation to or from a designated worksite an amount exceeding the prevailing rate for public transportation in a geographic area.¹

B. Cash Dispensing Machines

The Act requires a labor pool to compensate a day laborer for work performed "in the form of cash, or commonly accepted negotiable instruments that are payable in cash, on demand at a financial institution, and without discount."²

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.

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 that are the property of the labor pool, the CDM is not accessible by the general public, and the CDMs only dispense cash.

Effect of Proposed Changes:

A. Transportation Charges

The bill limits the charges that a labor pool may impose on a laborer for transportation to or from a designated worksite to no more than \$1.50 each way.

¹ s. 448.24(1)(b), F.S.

² s. 448.24(2)(a), F.S.

B. Cash Dispensing Machines

The bill allows a labor pool to operate a CDM located on the premises of the labor pool or by an affiliate, pursuant to chapter 560, F.S., if required, for a per-transaction fee of up to \$1.99. In order to use a CDM as permitted by the bill, the labor pool must comply with the compensation provisions of s. 448.24(2)(a), F.S.; the day laborer must voluntarily elect to accept payment in cash after disclosure of the fee; and the CDM must require an affirmative action by the laborer regarding the fee that allows the laborer to negate the transaction in lieu of payment according to s. 448.24(2)(a), F.S.

C. Application of the Labor Pool Act and Status of Assigned Employees

The bill provides that the Labor Pool Act does not exempt a client of a labor pool or a temporary help arrangement entity or any assigned employee from federal, state or local licensing laws.

The bill also provides that an employee assigned to a client company who is licensed, registered or certified pursuant to law is deemed an employee of the client company for purposes of such licensure, registration or certification but remains an employee of the labor pool or temporary help arrangement entity for purposes of workers' compensation and unemployment compensation laws.

C. SECTION DIRECTORY:

Section 1: Amends s. 448.24, F.S., relating the transportation fees and the use of cash-dispensing machines.

Section 2: Amends s. 448.23, F.S., conforming a cross reference.

Section 3: Creates s. 448.26, F.S., providing that the Labor Pool Act does not exempt a labor pool or temporary help entity from federal, state or local licensing laws and providing that assigned employees are employees of the client company for licensing purposes but retain status as employees of the labor pool or temporary help arrangement entity for workers' compensation and unemployment compensation purposes.

Section 4: Provides an effective date.

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:

The bill allows a labor pool to recover the costs of CDMs used to pay laborers. Each laborer choosing to use a CDM on which a fee is imposed will have a net deduction of up to \$1.99 from his/her daily pay.

It is unclear whether the imposition of the maximum fee will result in a net profit to the labor pool. This depends on the actual operating costs for and number of CDMs operated by the labor pool and the number of laborers paid on a given day.

The bill may also limit the transportation costs for a laborer by capping round-trip fees to \$3.00.

D. FISCAL COMMENTS: None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require a municipality or county to expend funds or to take any action requiring the expenditure of funds. The bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate. The bill does not reduce the percentage of state tax shared with municipalities or counties.

2. Other: None.

B. RULE-MAKING AUTHORITY: None.

C. DRAFTING ISSUES OR OTHER COMMENTS: None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On January 10, 2005, the Economic Development, Trade and Banking Committee adopted a strike-everything amendment to the bill. The technical amendment restored current law in s. 448.24(1)(a), F.S., and corrected drafting errors in section 3 of the bill, relating to new s. 448.26, F.S.