

REPORT BY THE
AUDITOR GENERAL
OF CALIFORNIA

**REVIEW OF
THE BUREAU OF EMPLOYMENT AGENCIES**

REPORT BY THE
OFFICE OF THE AUDITOR GENERAL
TO THE
JOINT LEGISLATIVE AUDIT COMMITTEE

P-277

REVIEW OF THE
BUREAU OF EMPLOYMENT AGENCIES

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Honorable Art Agnos, Chairman
Members, Joint Legislative
Audit Committee
State Capitol, Room 3151
Sacramento, California 95814

Dear Mr. Chairman and Members:

The Office of the Auditor General presents its report concerning the activities of the Bureau of Employment Agencies. The report reviews the bureau's activities in carrying out its responsibility to provide consumer protection. The report also reviews recent changes in the Employment Agency Act and recommends additional changes to that act.

Respectfully submitted,

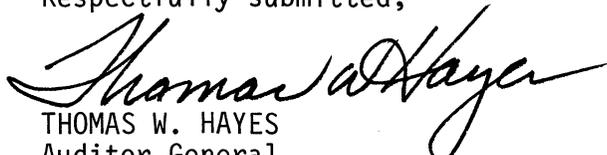

THOMAS W. HAYES
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SUMMARY

The Legislature should revise the Employment Agency Act. We recommend that two categories of currently licensed agencies, farm labor and modeling agencies, be deleted from the Employment Agency Act. The bureau has never issued a farm labor agency license, and the number of modeling agencies licensed by the bureau has been steadily decreasing. In fiscal year 1982-83, the bureau issued only two modeling agency licenses. Also, farm labor contractors and most modeling agencies are currently licensed and regulated by the Department of Industrial Relations. Additionally, because of the number and types of complaints against career counseling agencies, the Bureau of Employment Agencies (bureau) recently recommended that career counseling agencies be licensed under the Employment Agency Act and, thereby, regulated by the bureau.

The Bureau of Employment Agencies within the Department of Consumer Affairs (department) is responsible for regulating employment agencies licensed under the Employment Agency Act and for regulating nurses' registries licensed under the Nurses' Registry Act. The bureau's primary responsibility is to provide consumer protection to those purchasing the services of the employment agencies and nurses' registries that it regulates. This report reviews the bureau's activities in carrying out its responsibility and reviews recent changes in the Employment Agency Act.

In fulfilling its responsibility to provide consumer protection, the bureau has three primary functions: examination, licensing, and enforcement. An employment agency, as defined by the Employment Agency Act, must be licensed by the bureau in order to operate in California. All prospective licensees must first pass a qualifying examination administered by the bureau. The bureau's enforcement activities include reviewing complaints, mediating disputes, and if appropriate, initiating disciplinary action. The bureau also regulates

the nurses' registries, which obtain and fill jobs for nurses. The bureau's procedures for regulating nurses' registries are the same as those for regulating employment agencies except that no examination is required for a nurses' registry license. The bureau's budget for fiscal year 1982-83 was \$653,000 for employment agencies and \$17,000 for nurses' registries. The bureau is funded entirely by examination and licensing fees.

In September 1983, the Legislature expanded the Employment Agency Act to include regulation of computer agencies and to require job listing services to be licensed by the bureau. This legislation, which will become effective April 1, 1984, also requires computer agencies and job listing services to fully refund fees if a client is not supplied with at least three available employment opportunities within five days of paying the fees. Also, the legislation requires that these businesses refund partial fees if at the end of the contract period the client does not obtain a job through the efforts of the agency or service.

INTRODUCTION

The Bureau of Employment Agencies (bureau) within the Department of Consumer Affairs (department) is charged with providing consumer protection to those purchasing the services of employment agencies and nurses' registries. Generally, an employment agency is any business that offers, as one of its major objectives, to obtain employment for any person who will pay for its services.* A nurses' registry is similar to an employment agency except that it finds employment only for nurses. The bureau provides consumer protection by ensuring that only those who are qualified operate employment agencies and nurses' registries. The bureau also resolves complaints received from consumers, and when necessary, it takes disciplinary action against employment agencies and nurses' registries. The sources of the bureau's authority are the Employment Agency Act of 1967, as amended, and the Nurses' Registry Act of 1970.

The bureau was established in 1967 when the responsibility for regulating employment agencies was transferred from the Department of Industrial Relations. In 1973, the bureau also assumed responsibility for licensing and regulating nurses' registries. In addition to its licensing and regulatory functions, the bureau acts as a source of

*The Employment Agency Act provides a very detailed definition of employment agencies. The Employment Agency Act specifically exempts some employment-related businesses such as certain types of nonprofit organizations, vocational schools, management consultants, and temporary employment agencies.

information to the public. The bureau monitored incoming telephone calls during a recent two-week period and found that approximately 600 calls requested information. The bureau provides information on the performance history of a particular agency, explains how to file a complaint with the bureau, tells where to file a complaint if the complaint is against an unregulated agency, and describes the requirements for taking an exam or obtaining a license.

The bureau is staffed by seven employees: a chief who is appointed by the governor; a deputy chief; two stenographers; and three office assistants. For fiscal year 1982-83, the bureau budgeted \$653,000 for employment agencies and \$17,000 for nurses' registries. For fiscal year 1983-84, the budget for employment agencies is \$510,000; the budget for nurses' registries is again \$17,000.

The bureau also works with a board that advises it on the needs of consumers and the industry, on policy, and on rules and regulations. The California Advisory Board to the Bureau of Employment Agencies consists of three representatives of the employment agency industry and four members from the general public. Five members are appointed by the governor, one public member is appointed by the Senate Rules Committee, and one public member is appointed by the Speaker of the Assembly. The board is directed by statute to meet at least once in each calendar quarter.

The bureau is supported entirely by revenue from application and licensing fees. All income and expenditures flow through either the Employment Agency Fund or the Nurses' Registry Fund for the exclusive use of the bureau. The bureau sets the fees for applications and licenses, subject to approval by the Director of the Department of Consumer Affairs. Statutes specify maximum limits for each type of fee. Recent legislation requires the bureau to hold public hearings before changing license fees in the future.

According to the department's budget officer, the bureau establishes fees according to its projected level of expenditures and expected number of licensees. The bureau's license year begins on April 1; license fees are due on the last day of March. To ensure that the bureau has sufficient funds to cover expenditures, the department's Budget Office recommends that the bureau have enough funds on the day before fees are due to cover at least six-months' worth of expenditures. In addition, statutes state that the fund balance at the end of any fiscal year must not exceed what would be needed to cover the next two-years' worth of expenditures. The Supplemental Report of the 1983 Budget Act, however, directs the bureau to adjust its fees to produce a surplus on June 30, 1984, not to exceed the equivalent of five-months' worth of operating expenditures.

The bureau reduced license fees in 1979 and 1980 because its fund balance was too large at the end of both fiscal years. By 1983, however, not only was the fund too low to cover projected expenses, but

the number of licensees, and thus the amount of revenue, was lower than expected. Therefore, for the 1983-84 license year, the bureau, with the department's approval, raised the license fees for all employment agencies for the 1983-84 license year to the maximum statutory limit for each category of license. (Appendix A shows the license fees for employment agencies since 1977.)

SCOPE AND METHODOLOGY

The purpose of this review was to provide information on the activities of the Bureau of Employment Agencies and to examine the bureau's role in light of recent trends in the employment industry. To accomplish this purpose, we reviewed the Employment Agency Act, the Nurses' Registry Act, and related administrative codes. We also reviewed the policies and procedures that the bureau follows in carrying out its responsibilities, and we examined complaint files and other bureau records. We focused our review on the bureau's activities during fiscal years 1980-81, 1981-82, and 1982-83, and we reviewed the bureau's fees for employment agency licenses since 1977.

During our review, we interviewed staff from the bureau and from other units within the Department of Consumer Affairs, including the Division of Investigation, the Internal Audit Office, and the Budget Office. We also spoke with industry representatives, with district attorneys and deputy attorneys general in various cities of California, and with representatives of the Department of Industrial Relations.

We were limited in our review by the lack of available data on employment-related businesses that are not included in the Employment Agency Act. Although the bureau receives complaints against unregulated businesses, the bureau does not usually document or investigate these complaints since the businesses involved are beyond the scope of the bureau's authority. Further, we could find no other source of information to identify the number or types of unregulated businesses or to estimate the number of complaints against these businesses.

ANALYSIS

I

ROLE OF THE BUREAU OF EMPLOYMENT AGENCIES

The Bureau of Employment Agencies is responsible for providing consumer protection to people purchasing the services of employment agencies and nurses' registries. To carry out this responsibility, the bureau has developed three programs: examination, licensing, and enforcement. Applicants for employment agency licenses must pass an examination and meet licensing requirements established by law. Applicants for nurses' registry licenses must also meet established licensing requirements, but there is no examination. Through its enforcement program, the bureau investigates and attempts to resolve the complaints that it receives from consumers. The bureau's objective is to ensure that only those who are licensed operate employment agencies and nurses' registries. During fiscal year 1982-83, the bureau administered 566 examinations to prospective licensees, issued 1,691 licenses to operate employment agencies and nurses' registries, received 702 complaints against employment agencies and nurses' registries, initiated 74 investigations, and took disciplinary action in 200 cases.

Regulation of Employment Agencies

An employment agency, as defined by the Employment Agency Act, must be licensed by the bureau in order to operate in California. The

bureau issues six categories of licenses for employment agencies. The first category, the general license, authorizes an employment agency to find all types of employment for clients. These "general agencies" may charge the applicant, the employer, or both for services. The second category, the employer-retained license, also authorizes an agency to find all types of employment, except domestic employment. This type of agency, however, charges its fees exclusively to the employers. The other categories of licenses are the babysitting license, which authorizes an agency to find employment for babysitters; the domestic license, which authorizes the agency to find employment for domestic workers; the modeling license, which authorizes the agency to find employment for models; and the farm labor license, which authorizes the agency to find employment for farm laborers.

Examination Program

To obtain a license, a prospective licensee must first pass an examination. This examination ensures that only those who meet the requirements are eligible for employment agency licenses. After an applicant submits an application to take an examination, bureau staff review the application to see that the applicant meets the necessary experience, education, and qualifying requirements such as age and proof of financial responsibility. The bureau verifies the information reported and then notifies the applicants whether they may take the examination. The bureau administers monthly examinations given in Los Angeles and Sacramento on alternate months. The examinations require

knowledge of the Employment Agency Act, the Fair Employment and Housing Act, and related laws. The bureau administers a separate examination for each category of license. Since no one has ever applied for a farm labor license, the bureau has never administered an examination for this category.

On March 1, 1983, the bureau raised the examination fee from \$25 to \$50. This fee is refundable only when an applicant does not qualify to take an examination. During fiscal year 1982-83, the bureau received a total of \$21,175 in examination fees, and it administered 566 examinations.* The bureau's budget for its examination program in fiscal year 1982-83 was \$101,580.

From fiscal year 1981-82 to fiscal year 1982-83, the number of people taking employment agency examinations decreased by almost 20 percent. Also, in each of the last three fiscal years, over 90 percent of the applicants took either the general or the employer-retained license examination. Table 1 below shows the number of employment agency examinations given during the last three fiscal years.

*According to bureau staff, the revenue from examination fees does not correspond to the number of examinations given because applicants submit fees before they take the exam. Consequently, the fees may be received in one fiscal year, but the exam may not be given until the next fiscal year.

TABLE 1
 NUMBER OF EMPLOYMENT AGENCY EXAMINATIONS
BY CATEGORY OF LICENSE

<u>Category of License</u>	<u>Fiscal Year 1980-81</u>	<u>Fiscal Year 1981-82</u>	<u>Fiscal Year 1982-83</u>
General	269	324	290
Employer-Retained	371	335	229
Domestic	22	25	17
Modeling	5	2	0
Babysitting	8	17	30
Farm Labor	<u>0</u>	<u>0</u>	<u>0</u>
Total	<u>675</u>	<u>703</u>	<u>566</u>

Licensing Program

After passing the examination or upon purchasing an existing agency, prospective licensees must apply to the bureau for a license. In applying for a license, an applicant must submit, for bureau approval, the schedule of fees that the agency will charge, copies of the contract forms that the agency will use, and a copy of the training programs that will be given to the agency's employment counselors. Applicants must also submit a \$3,000 surety bond, a personal financial statement, and personal history forms. In 1982, the fee to apply for an employment agency license was \$25. The bureau raised this fee to \$100 on March 1, 1983.

Once the bureau approves an application, the applicant must pay a fee to get the license. In 1983, the bureau raised the license fee for most licenses from \$100 to \$300. The fee for a babysitting license is \$75. The fee for an interim license, which is issued when someone inherits or purchases an existing licensed agency, and the fee for a branch office of an already licensed agency are \$150. All employment agency licenses except interim licenses must be renewed annually.

In fiscal year 1982-83, the bureau received \$17,950 in license application fees and \$459,914 in license fees. The bureau issued 1,540 licenses for employment agencies including new licenses, renewal licenses, interim licenses, reinstatements, and transfers of license. The budget for operating the license program for fiscal year 1982-83 was \$116,356.

In fiscal year 1982-83, there was a decline in the number of licenses in all categories except the babysitting license and the domestic license. During the period under review, the number of general licenses was consistently greater than the number of licenses in each of the other categories. Table 2 below presents statistics on the number of licenses issued in each category for the last three fiscal years.

TABLE 2
NUMBER OF EMPLOYMENT AGENCY
LICENSES BY CATEGORY OF LICENSE

<u>Category</u> <u>of License</u>	<u>Fiscal Year</u> <u>1980-81</u>	<u>Fiscal Year</u> <u>1981-82</u>	<u>Fiscal Year</u> <u>1982-83</u>	<u>Percent of</u> <u>Change</u> <u>1980-81</u> <u>to 1982-83</u>
General	1,334	1,282	962	-28
Employer-Retained	651	759	521	-20
Domestic	20	22	23	15
Modeling	6	4	2	-67
Babysitting	27	26	32	19
Farm Labor	<u>0</u>	<u>0</u>	<u>0</u>	---
Total	<u>2,038</u>	<u>2,093</u>	<u>1,540</u>	-24

Enforcement Program

The bureau's enforcement program emphasizes protection of the client, especially in instances when the client pays a fee to an employment agency. The bureau also attempts to ensure that agencies are not operating without a license or conducting false or misleading advertising. The budget for the bureau's enforcement program in fiscal year 1982-83 was \$326,064.

Although most people who want to file a complaint against employment agencies initially contact the bureau by telephone, the bureau requires that complainants submit their allegations in writing to the

bureau. The bureau conducts a preliminary review of every written complaint it receives. When appropriate, the bureau contacts the agency against which the complaint was filed and attempts to mediate a settlement between the complainant and the agency. For example, after reviewing the facts, the bureau may notify an agency that the agency owes the complainant a refund. Sometimes the agency will comply with the bureau's directive to provide a refund. If the agency does not comply, the bureau refers the case to the Department of Consumer Affairs' Division of Investigation for further review. The case may subsequently be passed on to the Attorney General for administrative action, such as license suspension. In some instances, the case may also be referred to a local district attorney for prosecution.

In cases involving a complaint filed against an unlicensed agency, the bureau first determines whether the business is operating as an employment agency. If so, the agency is given an opportunity to comply with the licensing requirements of the law. If the agency fails or refuses to obtain a license, the bureau refers the case to the Division of Investigation for further review and then possibly forwards the case to the local district attorney for criminal action. Under special circumstances and with permission of the department's director, the case can be submitted to the Attorney General for civil action.

From fiscal year 1980-81 through fiscal year 1982-83, the number of written complaints filed against employment agencies increased

by 36 percent from 508 to 689. The number of complaints increased even though the number of licenses decreased by 24 percent in this same period.

The bureau completed investigations of 540 complaints during fiscal year 1982-83. For 288 complaints (53 percent), the bureau determined that a violation did occur. The bureau mediated a settlement between the complainant and the agency in 86 complaints (16 percent). Finally, 166 (31 percent) were complaints that showed insufficient evidence of wrongdoing for the bureau to take action against the agencies. Of the total 540 complaints, 192 (36 percent) involved contractual disputes, and 195 (36 percent) were complaints against either agencies operating illegally without a license or agencies that do not require a license.

The bureau also filed 198 disciplinary actions during fiscal year 1982-83. The bureau mediated a settlement between the complainant and the agency in 115 cases (58 percent); the bureau issued warning letters or citations in 65 cases (33 percent); and 6 cases (3 percent) resulted in criminal or civil actions. Additionally, the bureau put six licensees on probation, suspended four licenses, and revoked two licenses.

When the bureau calls upon the Division of Investigation to assist with a case, the Division of Investigation charges the bureau an hourly rate for the time spent investigating cases. In fiscal year

1982-83, the Division of Investigation charged the bureau \$98,275 for investigating employment agency cases. Table 3 below shows the number of employment agency cases that the Division of Investigation investigated and the average cost to complete an investigation for the past three fiscal years. We determined the average cost to complete an investigation by dividing the amount that the Division of Investigation charged the bureau for the fiscal year by the number of investigations completed during that fiscal year. Therefore, a case that required either a particularly long time or a very short time to investigate could skew the average cost.

TABLE 3
 NUMBER OF EMPLOYMENT AGENCY CASES INVESTIGATED
 BY THE DIVISION OF INVESTIGATION
AND AVERAGE COST TO COMPLETE AN INVESTIGATION

	<u>Fiscal Year</u> <u>1980-81</u>	<u>Fiscal Year</u> <u>1981-82</u>	<u>Fiscal Year</u> <u>1982-83</u>
Total cases investigated	206	235	157
Average cost to complete an investigation	\$1,002	\$816	\$902

Regulation of Nurses' Registries

The bureau is also responsible for providing consumer protection to those purchasing the services of nurses' registries. Nurses' registries obtain and fill jobs for nursing services, and by statute, at least 90 percent of the placements made by a nurses' registry

must be for private duty nursing. A private duty nurse is self-employed and is usually paid by the patient. The bureau's program for regulating nurses' registries is similar to its program for regulating employment agencies, except that the nurses' registry program is much smaller and has fewer licensees. Additionally, there is no requirement for examination.

Licensing Program

The purpose of the licensing program is to ensure consumers that only those who meet the legal requirements are licensed to operate as nurses' registries. The bureau reviews all applications for nurses' registry licenses to ensure compliance with laws, rules, and regulations. In applying for a nurses' registry license, applicants must submit copies of their proposed contract forms, their proposed fee schedules, a \$1,000 surety bond, and personal history forms. Since July 1, 1980, the fee to apply for a license has been \$10; the fee for the license itself has been \$15.

From fiscal year 1980-81 through fiscal year 1982-83, the number of nurses' registry licenses issued dropped from 179 to 151. In fiscal year 1982-83, the bureau received \$2,505 in license fees. The budget for administering the licensing program for nurses' registries in fiscal year 1982-83 was \$7,728. In fiscal year 1982-83, the nurses' registries constituted about 9 percent of the bureau's total licensing workload.

Enforcement Program

The enforcement program for the nurses' registries operates in the same way as the enforcement program for the employment agencies. The number of complaints that the bureau received against nurses' registries during fiscal years 1980-81, 1981-82, and 1982-83 were 13, 19, and 13, respectively. Complaints received against nurses' registries constituted 2 percent of the bureau's total complaint workload for fiscal year 1982-83. The budget for the enforcement program for nurses' registries in fiscal year 1982-83 was \$10,272.

Of the 13 complaints received in fiscal year 1982-83, the bureau dismissed 12. These 12 complaints included 9 against businesses exempt from licensure, 2 against businesses that could not be located, and one in which the bureau determined that no violation had occurred. The thirteenth complaint was against a nurses' registry that was out of business.

In the last three fiscal years, the bureau filed 13 disciplinary actions against nurses' registries. Of these disciplinary actions, the bureau mediated 11 settlements between the complainant and the nurses' registry and sent warning letters to 2 nurses' registries. The bureau did not put any licensees on probation and did not suspend or revoke any licenses during the last three fiscal years.

As it does with complaints against employment agencies, the bureau sometimes refers complaints against nurses' registries to the department's Division of Investigation. In fiscal year 1982-83, the Division of Investigation charged the bureau \$3,592 for investigating nurses' registry cases. Table 4 below shows the number of nurses' registry cases investigated by the Division of Investigation and the average cost to complete an investigation during the last three fiscal years. As noted in our discussion of employment agency cases, we determined the average cost to complete an investigation by dividing the amount the Division of Investigation charged the bureau for the fiscal year by the number of investigations completed during that fiscal year. Therefore, a case that required either a particularly long time or a very short time to investigate could skew the average cost.

TABLE 4

NUMBER OF NURSES' REGISTRY CASES
INVESTIGATED BY THE DIVISION OF INVESTIGATION
AND AVERAGE COST TO COMPLETE AN INVESTIGATION

	Fiscal Year <u>1980-81</u>	Fiscal Year <u>1981-82</u>	Fiscal Year <u>1982-83</u>
Total cases investigated	11	12	4
Average cost to complete an investigation	\$1,089	\$459	\$1,197

RECENT CHANGES IN THE
EMPLOYMENT AGENCY ACT

In September 1983, the Governor signed legislation that broadens the scope of the Employment Agency Act. Chapter 1301, Statutes of 1983 (Assembly Bill 2159), increases regulation of computer agencies and requires that job listing services be licensed and regulated by the Bureau of Employment Agencies. Computer agencies and job listing services have been major concerns of the bureau, and the bureau has received a number of complaints against these types of agencies and services. Deputy attorneys general and district attorneys whom we contacted were also concerned about the activities of job listing services.

A "computer agency" is an employment agency that uses a computer system to match information furnished by prospective employees with requirements of prospective employers. Computer agencies are included under the authority of the Employment Agency Act and are therefore licensed by the bureau. Computer agencies have been allowed to charge a nonrefundable registration fee that the client must pay before the agency provides service. No other licensed employment agencies are allowed to charge nonrefundable registration fees.

According to the bureau's deputy chief, the number of computer agencies has increased rapidly, from one in January 1982 to over 20 as of

July 1983. While they represent one percent of the bureau's total license population, they account for over 30 percent of the bureau's complaint workload. Some of the more common consumer complaints against the computer agencies are allegations that jobs did not exist, that the agencies provided no service, and that the consumer could not obtain a refund.

Because of the complaints it has received, the bureau has taken action against some of the computer agencies. As of September 1983, the bureau had filed formal accusations against two computer agencies and was conducting an in-house investigation against another one. Three additional cases are pending with the Attorney General.

Job listing services, or job publication firms, are businesses that sell lists of job openings to applicants and lists of applicants to potential employers. Until the passage of Assembly Bill 2159, job listing services had been considered exempt from the Employment Agency Act and, therefore, exempt from regulation by the bureau. Although the bureau did not have jurisdiction over job listing services, complainants did notify the bureau of their concerns. During a two-week survey conducted by bureau staff, the bureau received 14 telephone calls complaining about job listing services.

To assess further the extent of the problems pertaining to job listing services, we contacted representatives of consumer fraud offices in Los Angeles, Sacramento, San Diego, San Francisco, and Santa Ana.

These individuals were also concerned about job listing services. They stated that job listing services frequently misrepresented their services, advertised jobs that did not exist, and advertised jobs without authorization from employers.

For example, as a result of investigations prompted by consumer complaints, the district attorney in San Francisco filed a suit against a job listing service. Among other violations, the suit charged that the firm advertised jobs that did not exist and that the firm misled consumers about the services it provided. This firm charged each customer \$29 for a one-year subscription to job opening lists that were supposed to be updated daily. The total number of subscribers is unknown, but the assistant district attorney in charge of the Consumer Fraud Unit stated that his office received approximately 300 complaints against this firm.

As mentioned earlier, legislation was passed in September 1983 increasing the regulation of computer agencies and requiring job listing services to be licensed by the bureau. Chapter 1301, Statutes of 1983, provides that both computer agencies and job listing services post a \$10,000 surety bond with the bureau. (Most other types of agencies are required to post a \$3,000 bond.) The legislation also provides for refunds to clients. If the agency or service has not supplied the client with at least three available employment opportunities within five days after the client has paid an advance fee, the client may request a full refund. Further, if at the end of the contract period, the client has

not obtained a job through the efforts of the agency or service, the client may request a refund of any paid amount over \$25.00. The legislation additionally specifies that if the agency or service denies the client's request for refund and if the denial is found to have been made in bad faith, a court of appropriate jurisdiction may award the client damages up to \$200 in addition to the actual damages that the client sustained. The provisions of the legislation that deal with computer agencies and job listing services will go into effect on April 1, 1984.

III

FURTHER CHANGES NEEDED IN THE EMPLOYMENT AGENCY ACT

In addition to the changes resulting from Chapter 1301, Statutes of 1983 (discussed in the preceding section of this report), the Employment Agency Act needs further revision. We recommend that the Legislature delete from the Employment Agency Act two categories of agencies that are currently licensed: farm labor and modeling agencies. These agencies no longer appear to require regulation by the bureau. Furthermore, because of the number and the types of complaints that it has received, the Bureau of Employment Agencies recently recommended that career counseling agencies be licensed under the Employment Agency Act.

Unnecessary License Categories

Two of the six license categories authorized by the Employment Agency Act do not appear to require bureau regulation. The Employment Agency Act authorizes the bureau to issue licenses for farm labor and modeling agencies. The bureau has never issued a farm labor license, and it issued only two modeling agency licenses in fiscal year 1982-83. Both of these types of agencies are licensed by the Department of Industrial Relations.

The bureau's deputy chief said that the bureau has never issued a license for a farm labor agency and that most employment in this area

is arranged through farm labor contractors. Farm labor contractors are specifically excluded from the Employment Agency Act, but they must be licensed by the Department of Industrial Relations.

The Department of Industrial Relations also licenses most modeling agencies. Modeling agencies are generally considered talent agencies, and they fall under the jurisdiction of the Labor Code, which the Department of Industrial Relations enforces. The number of modeling agencies licensed by the bureau has been steadily decreasing. In fiscal year 1980-81, the bureau licensed six modeling agencies; in fiscal year 1981-82, it licensed four modeling agencies; and in fiscal year 1982-83, it licensed only two modeling agencies, both of which also have talent agency licenses. There are six other agencies licensed by the bureau that find employment for models, but these agencies hold general licenses; four of these six agencies are also licensed as talent agencies by the Department of Industrial Relations.

The bureau does not require that an agency obtain a license from the bureau if it obtains a talent agency license. Prior to the 1982 legislative session, the bureau recommended to the department that the Employment Agency Act and the Labor Code be amended to transfer regulation of all modeling agencies to the Department of Industrial Relations. The Department of Industrial Relations' Chief Deputy Labor Commissioner also believes that removing modeling agencies from the scope of the Employment Agency Act would clarify any ambiguity between the Employment Agency Act and the section of the Labor Code governing talent agencies.

Additional Regulation Proposed

Career counseling agencies provide resume writing services, psychological and aptitude testing, and personal guidance. As long as these agencies do not refer clients to employers or advertise that they will make such referrals, they are exempt from regulation by the bureau. The bureau and other individuals we contacted have noted, however, that the services provided by career counseling agencies are very similar to those provided by employment agencies and that career counselors frequently mislead clients into expecting more than career counseling. The advertising of some career counseling agencies tends to imply that they will contact employers on the client's behalf or give the client information on where and from whom employment may be obtained.

Although career counseling agencies are not within the bureau's jurisdiction, the bureau does receive complaints against these agencies. During a two-week survey conducted by bureau staff, the bureau received four telephone complaints against career counseling agencies. When the bureau receives such complaints, bureau staff usually refer the complainants to small claims courts or to other local jurisdictions. In some cases, bureau staff conduct an initial investigation to determine whether the activities of the agency place it under the bureau's jurisdiction. As part of our review, we examined 25 complaints in the bureau's file on career counseling agencies. The complaints alleged that career counseling agencies misrepresented their services, did not honor their contracts, and refused to give refunds. The complaints involved fees ranging from \$1,325 to \$4,850.

In one instance, a complainant alleged that a counselor at a career counseling agency promised to arrange an interview with an employer who was a personal friend and promised the complainant "a position of his choice" within 30 days. The complainant stated that neither of these promises was fulfilled and that the career counselor would not answer the complainant's phone calls. The complainant had already paid the agency \$1,520.

In another example, a complainant alleged that a career counselor told him that "he would be matched with companies that could use his talents." Instead, however, the career counselor gave the complainant a book that listed employers and told him to select the companies he would like to work for. The complainant also alleged that the agency advertised that it had the latest information on job openings. In fact, 30 of the 245 letters that the complainant sent to companies suggested by the agency were returned because the companies were no longer in business. Furthermore, this complainant alleged that the career counselor had guaranteed that he would find a job and had even crossed out a section of the contract stating that the agency did not guarantee employment. This complainant had paid the career counseling agency \$1,325.

Finally, a third complainant alleged that, in appraising her qualifications, the career counseling agency did not evaluate her experience or academic background but instead gave her two tests to determine what her interests were. She also alleged that, to prepare her

for interviews, the agency conducted a 20-minute videotaping session with her. However, she did not believe that this was adequate preparation for interviews. The complainant had paid \$850 of a \$2,500 fee. In her complaint to the bureau, she stated that the amount of fee in question was too small to pursue the case with a lawyer, but too much to lose.

We also contacted individuals representing district attorneys and deputy attorneys general in Los Angeles, Santa Ana, Sacramento, San Diego, and San Francisco. These individuals were also concerned about the activities of career counseling agencies, and they expressed a need for regulation. For example, the deputy attorney general in San Diego stated that his office is currently filing a suit against a career counseling agency. He explained that the consumer often is led to expect more than the agency delivers, and that the consumer often believes that the agency will help him get a job when the agency provides only resume and letter writing services and perhaps some psychological testing. He said that career counseling agencies' advertisements can be misleading and that the agencies tend to encourage the false expectations of the consumers. The deputy attorney general further stated that it is very difficult for a consumer to back out of a contract after the consumer becomes dissatisfied with the agency's services.

Bureau management and the other people we interviewed pointed out advantages to licensing career counseling agencies. If career counseling agencies were licensed by the bureau, the bureau would be able to conduct background checks on the owners, and the owners would be

required to pass qualifying examinations and would have to post surety bonds. Most important, the bureau could provide information on an agency's history to potential consumers, mediate disputes, investigate complaints, and if necessary, take disciplinary action. Since the bureau is funded entirely by licensing fees, there would be no increased cost to the State for licensing and regulating career counseling agencies. In its proposal for legislative changes to be pursued in 1984, the bureau recommended to the department that career counseling agencies be included in the Employment Agency Act. The bureau's proposal also includes a provision for refunds to clients.

CONCLUSION

Two categories of currently licensed agencies should be eliminated from the Employment Agency Act. The bureau has never issued a farm labor license, and the number of modeling agencies that the bureau has licensed has been steadily declining. In fiscal year 1982-83, the bureau issued only two modeling agency licenses. Both farm labor contractors and most modeling agencies are currently licensed and regulated by the Department of Industrial Relations.

Furthermore, the Bureau of Employment Agencies and other consumer protection agencies receive a number of complaints against career counseling agencies. These complaints allege that the agencies involved misrepresent their services, do not

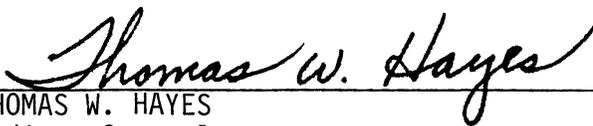
honor their contracts, and refuse to provide refunds to dissatisfied clients. The fees that career counseling agencies charge are usually substantial, ranging from \$1,325 to \$4,850 in the cases we reviewed. Bureau management and other individuals we contacted agreed that it would be beneficial to include career counseling agencies within the Employment Agency Act. The bureau recently recommended that the department pursue legislation to include career counseling agencies within the Employment Agency Act.

RECOMMENDATION

The Legislature should delete the farm labor and modeling agency categories from the Employment Agency Act. Furthermore, the Labor Code should be clarified to include all modeling agencies under the jurisdiction of the Department of Industrial Relations.

We conducted this review under the authority vested in the Auditor General by Section 10500 et seq. of the California Government Code and according to generally accepted governmental auditing standards. We limited our review to those areas specified in the audit scope section of this report.

Respectfully submitted,


THOMAS W. HAYES
Auditor General

Date: December 12, 1983

Staff: Thomas A. Britting, Audit Manager
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State and Consumer Services Agency

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December 5, 1983

Thomas W. Hayes
Auditor General
660 J Street, Suite 300
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RE: P-277

Dear Mr. Hayes:

The State and Consumer Services Agency was pleased to have the opportunity to review the draft report entitled "Review of the Bureau of Employment Agencies."

The Agency and the Department are in accord with the recommendations and findings of your report. We appreciate the attention the Auditor General has given our program and look forward to adopting the recommendations.

Sincerely,


SHIRLEY R. CHILTON
Secretary of the Agency

SRC:jk

APPENDIX

FEEES FOR EMPLOYMENT AGENCY LICENSES
SINCE JANUARY 1, 1977

<u>Category of License</u>	<u>1/1/77 to 4/8/79</u>	<u>4/9/79 to 3/31/80</u>	<u>4/1/80 to 2/28/83</u>	<u>3/1/83 to Present</u>
Main Office				
Babysitting	\$ 75	\$ 75	\$ 75	\$ 75
All others*	\$300	\$200	\$100	\$300
Branch Office				
Babysitting	\$ 38	\$ 38	\$ 38	\$ 38
All others*	\$150	\$ 75	\$450	\$150
Interim	\$150	\$100	\$ 50	\$150

*This group includes general, employer-retained, domestic, modeling, and farm labor licenses.

cc: Members of the Legislature
Office of the Governor
Office of the Lieutenant Governor
State Controller
Legislative Analyst
Director of Finance
Assembly Office of Research
Senate Office of Research
Assembly Majority/Minority Consultants
Senate Majority/Minority Consultants
Capitol Press Corps