

ASSEMBLY, No. 2508

STATE OF NEW JERSEY

INTRODUCED NOVEMBER 14, 1996

By Assemblywoman BUONO

1 AN ACT concerning employment agencies, amending and
2 supplementing P.L.1989, c.331 and repealing section 14 of
3 P.L.1981, c.1 and section 2 of P.L.1989, c.331.

4
5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*

7
8 1. Section 1 of P.L.1989, c.331 (C.34:8-43) is amended to read as
9 follows:

10 1. As used in this act:

11 "Accepting employment" means that a job seeker has entered into
12 an agreement with an employer which includes:

13 (1) The terms and conditions of employment;

14 (2) The salary or wages and any benefits to be paid to the job
15 seeker as compensation for employment; and

16 (3) The date, time and place employment will commence.

17 "A career consulting or outplacement organization" means any
18 person, required to be registered under section 24 of this act,
19 providing or rendering services, with or without related products, in
20 connection with advice, instruction, analysis, recommendation or
21 assistance concerning past, present, or future employment or
22 compensation for an individual's time, labor or effort.

23 "Agent" means any individual who performs any function or activity
24 for or on behalf of any person, the purpose of which is to provide
25 services or products to individuals seeking employment, career
26 guidance or counseling, or employment related services or products.

27 "Applicant" means any person applying for licensing or registration
28 under this act.

29 ["Attorney General" means the Attorney General of this State or a
30 designee.]

31 "Baby sitter" means and includes any individual under 16 years of
32 age, other than a registered nurse or a licensed nurse, entrusted
33 temporarily with the care of children during the absence of their
34 parents, guardians, or individuals standing in loco parentis to them.

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

1 This definition shall not include persons regularly employed by
2 agencies, or institutions operated by or under the control or
3 supervision of this State, or any of its political subdivisions, nor any
4 child care facilities operated for the care of children when the facilities
5 are similarly controlled or supervised.

6 "Booking agency" means any person who procures, offers,
7 promises, or attempts to procure employment for performing artists,
8 or athletes, not under the jurisdiction of the Athletic Control Board,
9 and who collects a fee for providing those services.

10 "Bureau" means the Bureau of Employment and Personnel Services
11 in the [Division of Consumer Affairs within the Department of Law
12 and Public Safety] Department of Labor created pursuant to section
13 2 of [this act] P.L. , c. (C.) (now pending before the
14 Legislature as this bill).

15 "Career counseling service" means any business that, through its
16 agents or otherwise, procures or represents itself as procuring
17 employment or employment assistance or advertises in any manner the
18 following services for a fee: career counseling; vocational guidance;
19 aptitude, achievement or vocational testing; executive consulting;
20 personnel consulting; career management, evaluation, or planning; the
21 development of resumes and other promotional materials relating to
22 the preparation for employment; or referral services relating to
23 employment or employment qualifications. A career counseling
24 service shall be licensed as an employment agency pursuant to the
25 provisions of this act. A career counseling service shall not include
26 career consulting or outplacement organizations required to be
27 registered under section 24 of this act.

28 "Chief" means the Chief of the Bureau of Employment and
29 Personnel Services.

30 "Commissioner" means the Commissioner of Labor, or his designee.

31 "Consulting firm" means any person required to be registered under
32 section 23 of this act that:

33 (1) Identifies, appraises, refers or recommends individuals to be
34 considered for employment by the employer; and

35 (2) Is compensated for services solely by payments from the
36 employer and is not, in any instance, compensated, directly or
37 indirectly, by an individual who is identified, appraised, referred or
38 recommended.

39 ["Director" means the Director of the Division of Consumer Affairs
40 in the Department of Law and Public Safety, or his designee.]

41 "Employer" means a person seeking to obtain individuals to perform
42 services, tasks, or labor for which a salary, wage, or other
43 compensation or benefits are to be paid.

44 "Employment agency" means any person who, for a fee, charge or
45 commission:

46 (1) Procures or obtains, or offers, promises or attempts to procure,

1 obtain, or assist in procuring or obtaining employment for a job seeker
2 or employees for an employer; or

3 (2) Supplies job seekers to employers seeking employees on a
4 part-time or temporary assignment basis [who has not filed notification
5 with the Attorney General pursuant to the provisions of section 1 of
6 P.L.1981, c.1 (C.56:8-1.1)]; or

7 (3) Procures, obtains, offers, promises or attempts to procure or
8 obtain employment or engagements for actors, actresses, performing
9 artists, vocalists, musicians or models; or

10 (4) Acts as a placement firm, career counseling service, or resume
11 service; or

12 (5) Acts as a nurses' registry.

13 The [director] commissioner shall have the authority to determine,
14 from time to time, that a particular employment agency or
15 career-related service or product, not otherwise expressly subject to
16 the provisions of this act, is subject to whichever requirements of this
17 act he deems appropriate.

18 "Fee, charge or commission" means any payment of money, or
19 promise to pay money to a person in consideration for performance of
20 any service for which licensure or registration is required by this act,
21 or the excess of money received by a person furnishing employment or
22 job seekers over what he has paid for transportation, transfer of
23 baggage or lodging for a job seeker. "Fee, charge or commission" shall
24 also include the difference between the amount of money received by
25 any person who either furnishes job seekers or performers for any
26 entertainment, exhibition or performance, or who furnishes baby sitters
27 for any occasion, and the amount paid by the person to the job
28 seekers, performers or baby sitters.

29 "Job listing service" means any person required to be registered
30 under section 25 of this act who, by advertisement or other means,
31 offers to provide job seekers with a list of employers, a list of job
32 openings or a similar publication, or prepares resumes or lists of
33 applicants for distribution to potential employers, where a fee or other
34 valuable consideration is exacted or attempted to be collected, either
35 directly or indirectly.

36 "Job seeker" means any individual seeking employment, career
37 guidance or counseling or employment related services or products.

38 "Job seeker contingent liability" means a provision in an agreement
39 between an employment agency and a job seeker whereby the job
40 seeker may become liable, in whole or in part, to pay a fee, charge or
41 commission of any amount, directly or indirectly, on account of any
42 service rendered by the employment agency.

43 "Just cause for voluntary termination of employment by a job
44 seeker" means and includes, but is not limited to, cases in which
45 material misrepresentations of the terms or conditions of employment
46 have been relied upon by a job seeker who would not have accepted

1 the employment if the grounds for termination were known before
2 acceptance of the employment.

3 "License" means a license issued by the [director] commissioner to
4 any person to:

5 (1) Carry on the business of an employment agency; and

6 (2) Perform, as an agent of the agency, any of the functions related
7 to the operation of the agency.

8 "Performing artist" means a model, musical, theatrical or other
9 entertainment performer employed or engaged individually or in a
10 group.

11 "Person" means any natural person or legal representative,
12 partnership, corporation, company, trust, business entity or
13 association, and any agent, employee, salesperson, partner, officer,
14 director, member, stockholder, associate, trustee or cestuis que
15 trustent thereof.

16 "Prepaid computer job matching service" means any person
17 required to be registered under section 25 of this act who is engaged
18 in the business of matching job seekers with employment
19 opportunities, pursuant to an arrangement under which the job seeker
20 is required to pay a fee in advance of, or contemporaneously with, the
21 supplying of the matching, but which does not otherwise involve
22 services for the procurement of employment by the person conducting
23 the service.

24 "Primary location" means an address used for 90 or more calendar
25 days by a person for the conduct of an activity regulated under this
26 act.

27 "Principal owner" means any person who, directly or indirectly,
28 holds a beneficial interest or ownership in an applicant or who has the
29 ability to control an applicant.

30 "Temporary employment" means employment in which the duration
31 is fixed as some definite agreed period of time or by the occurrence of
32 some specified event, either of which shall be clearly stated to all
33 parties at the time of referral to the employment.

34 ["Temporary help service firm" means any person who operates a
35 business which consists of employing individuals directly or indirectly
36 for the purpose of assigning the employed individuals to assist the
37 firm's customers in the handling of the customers' temporary, excess
38 or special work loads, and who, in addition to the payment of wages
39 or salaries to the employed individuals, pays federal social security
40 taxes and State and federal unemployment insurance; carries worker's
41 compensation insurance as required by State law; and sustains
42 responsibility for the actions of the employed individuals while they
43 render services to the firm's customers. A temporary help service firm
44 is required to comply with the provisions of P.L.1960, c.39 (C.56:8-1
45 et seq.).]

46 (cf: P.L.1989, c.331, s.1)

1 2. (New section) There is established a Bureau of Employment
2 and Personnel Services in the Department of Labor. The
3 commissioner shall appoint the chief of the bureau, who shall receive
4 a salary as provided by law.

5
6 3. Section 3 of P.L.1989, c.331 (C.34:8-44) is amended to read as
7 follows:

8 3. In addition to any other procedure, condition or information
9 required by this act:

10 a. Every applicant shall file a disclosure statement with the chief
11 stating whether or not the applicant has been convicted of any crime,
12 which for the purposes of this act shall mean a violation of any of the
13 following provisions of the "New Jersey Code of Criminal Justice,"
14 Title 2C of the New Jersey Statutes as amended and supplemented, or
15 the equivalent under the laws of any other jurisdiction:

16 (1) Any crime of the first degree;

17 (2) Any crime which is a second or third degree crime and is a
18 violation of chapter 20 or 21 of Title 2C of the New Jersey Statutes;
19 or

20 (3) Any other crime which is a violation of N.J.S.2C:5-1, 2C:5-2,
21 2C:11-2 through 2C:11-4, 2C:12-1, 2C:12-3, 2C:13-1, 2C:14-2,
22 2C:15-1, subsection a. or b. of 2C:17-1, subsection a. or b. of
23 2C:17-2, 2C:18-2, 2C:20-1, 2C:20-2, 2C:20-4, 2C:20-5, 2C:20-7,
24 2C:20-9, 2C:21-2 through 2C:21-4, 2C:21-6, 2C:21-7, 2C:21-12,
25 2C:21-14, 2C:21-15, or 2C:21-19, chapter 27 or 28 of Title 2C of the
26 New Jersey Statutes, N.J.S.2C:30-2, 2C:30-3, 2C:35-5, 2C:35-10, or
27 2C:37-1 through 2C:37-4.

28 b. Each disclosure statement may be reviewed and used by the
29 ~~[director]~~ commissioner as grounds for denying licensure or
30 registration, except that in cases in which the provisions of P.L.1968,
31 c.282 (C.2A:168A-1 et seq.) apply, the ~~[director]~~ commissioner shall
32 comply with the requirements of that act.

33 c. An applicant who is denied licensure or registration pursuant to
34 this section shall, upon a written request transmitted to the ~~[director]~~
35 commissioner within 30 calendar days of the denial, be afforded an
36 opportunity for a hearing in the manner provided for contested cases
37 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
38 (C.52:14B-1 et seq.).

39 d. An applicant shall have the continuing duty to provide any
40 assistance or information requested by the ~~[director]~~ commissioner,
41 and to cooperate in any inquiry, investigation, or hearing conducted by
42 the ~~[director]~~ commissioner.

43 e. If any of the information required to be included in the
44 disclosure statement changes, or if any additional information should
45 be added after the filing of the statement, the applicant shall provide
46 that information to the chief, in writing, within 30 calendar days of the

- 1 change or addition.
2 (cf: P.L.1989, c.331, s.3)
3
- 4 4. Section 5 of P.L.1989, c.331 (C.34:8-46) is amended to read as
5 follows:
- 6 5. The provisions of this act shall not apply to:
- 7 a. A teachers' registry conducted by an association of certified
8 teachers, whose membership is not less than 10 certified teachers,
9 incorporated as a nonprofit organization under the laws of New Jersey,
10 and operated under the supervision of a teacher recognized and
11 approved as a certified teacher by the Department of Education of this
12 State, or by the duly established authority of the state in which the
13 employment is procured, which registry procures positions only for
14 certified teachers who are recognized and approved as certified
15 teachers by the Department of Education of this State;
- 16 b. Any State, federal, municipal or charitable agency which does
17 not charge fees;
- 18 c. Any department or bureau which is maintained by persons for
19 the purpose of securing help for themselves and does not charge fees
20 to job seekers. The exemption from the provisions of this act provided
21 by this subsection shall not be construed to exempt associations or
22 organizations of employers from the requirement to procure the
23 licenses or registration otherwise required under this act;
- 24 d. The procuring of employment by any labor union for any of its
25 members in any job coming under the jurisdiction of the union;
26 provided, that no fee is charged any member for being furnished
27 employment or information where employment may be procured;
- 28 e. Any nurses' registry operated by any association of registered
29 nurses, whose membership is not less than 10 registered nurses, duly
30 incorporated as a nonprofit organization under the laws of New Jersey,
31 and operated under the supervision of a registered nurse authorized to
32 practice in the State of New Jersey; except that no nurses' registry
33 shall furnish help or employment to anyone other than a registered
34 nurse, a practical nurse licensed by the State, or a person, other than
35 a baby sitter, who is approved by the registered nurse in charge of the
36 nurses' registry and is sent by the agency to an employer to assist
37 nonprofessionally in the care of the sick or ailing;
- 38 f. Any association of farmers which:
- 39 (1) Is duly incorporated on a nonprofit basis, under the laws of
40 New Jersey;
- 41 (2) Is certified to the ~~director~~ commissioner by the Secretary of
42 Agriculture of New Jersey as being an association of bona fide farmers
43 of New Jersey;
- 44 (3) Does not furnish job seekers to employers other than members
45 of their association; and
- 46 (4) Does not charge fees to any job seeker for being furnished

1 employment or information where employment may be procured.

2 g. Any person who furnishes farmers with field or harvest workers
3 to be employed on a seasonal basis, and charges no fee either directly
4 or indirectly to any worker, if the wages of the workers are paid
5 directly to the workers by the farmers who employ them.

6 The exemptions established in this subsection and subsection f. of
7 this section shall not apply to any person who induces or attempts to
8 induce a person working under contract with an employer to leave the
9 employment in which he is working under that contract before the
10 contract is completed or the worker is no longer responsible for its
11 completion;

12 h. [Any temporary help service firm which does not:

13 (1) Charge a fee or liquidated charge to any individual employed
14 by the firm or in connection with employment by the firm;

15 (2) Prevent or inhibit, by contract, any of the individuals it employs
16 from becoming employed by any other person;

17 (3) Knowingly send individuals it employs to, or knowingly
18 continue to render services to, any plant or office where a strike or
19 lockout is in progress for the purpose of replacing individuals who are
20 striking or who are locked out. Any person conducting a temporary
21 help service firm which knowingly sends its employed individuals to,
22 or knowingly continues to render services to, a plant or office where
23 a strike or lockout is in progress for the purpose of replacing those
24 individuals who are striking or who are locked out or, directly or
25 indirectly counsels, aids or abets that action shall be liable to a penalty
26 of \$1,000 upon each occurrence. The penalty shall be sued for, and
27 received by and in the name of the Attorney General and shall be
28 collected and enforced by summary proceedings pursuant to "the
29 penalty enforcement law" (N.J.S.2A:58-1 et seq.).

30 This exclusion shall apply to temporary help service firms operated
31 by any person who also operates an employment agency as long as the
32 businesses are independently operated as prescribed by rules and
33 regulations promulgated by the Attorney General;] (Deleted by
34 amendment, P.L. , c. .)

35 i. Any news periodical which contains listings of or classified
36 advertisements for jobs, positions, employers, or job seekers where the
37 periodical also contains news stories of general interest, articles or
38 essays of opinion, features and other advertising and which is offered
39 to the general public for sale at a nominal fee;

40 j. Any nonprofit educational, religious or charitable institution
41 which provides career counseling, job placement or other
42 employment-related services, skills evaluation, skills analysis, or
43 testing for vocational ability in order to develop a vocational profile
44 to counsel individuals and recommend placement opportunities as part
45 of the fulfillment of its educational, religious or charitable purpose;

46 k. Any copying, printing, duplicating or resume preparation service

1 which in no instance charges a fee, directly or indirectly, for providing
2 any employment-related service other than copying, printing,
3 duplicating or assisting in arranging the layout of a resume.

4 (cf: P.L.1989, c.331, s.5)

5

6 5. Section 6 of P.L.1989, c.331 (C.34:8-47) is amended to read as
7 follows:

8 6. a. An application for an employment agency license required by
9 this act shall be made in writing to the chief in the form prescribed by
10 the [director] commissioner. The application shall state the complete
11 address, including street and number, of the building and place where
12 the agency is to be conducted and shall enumerate the types of services
13 which the applicant intends to provide. The applicant shall furnish any
14 additional information as may be required by the [director]
15 commissioner for the purpose of investigating the character and
16 responsibility of the applicant and its principal owners or its officers
17 and directors.

18 b. The chief shall act upon any application for a license within 30
19 days after receiving it, except that the [director] commissioner may
20 extend the maximum time for acting upon an application to 60 days for
21 the purpose of allowing an applicant to submit additional information
22 or if a hearing on an application is required.

23 c. The [director] commissioner shall provide for the issuance of,
24 and shall prescribe the form for, the licenses to be issued pursuant to
25 this act.

26 d. An employment agency license shall not be transferred by the
27 licensee to another person or amended without the written consent of
28 the [director] commissioner and the payment of the fee prescribed by
29 this act.

30 e. All licenses shall expire on January 1 of the year following their
31 issuance.

32 (cf: P.L.1989, c.331, s.6)

33

34 6. Section 7 of P.L.1989, c.331 (C.34:8-48) is amended to read as
35 follows:

36 7. a. An application for an agent's license shall state the name and
37 address of the applicant and any other name used by the applicant in
38 the last six years, the name of the holder of the employment agency
39 license by whom the applicant expects to be employed, and any other
40 information concerning the applicant required by the chief to assist in
41 the determination of the applicant's qualifications to provide the
42 services for which the applicant would be licensed.

43 b. An agent's license shall not be issued until the holder of the
44 employment agency license named in the application confirms to the
45 chief in writing that the applicant is or will be employed by the
46 employment agency. A license issued to an agent of an employment

1 agency shall not authorize employment by any other employment
2 agency.

3 c. An applicant for an agent's license under this act shall, by means
4 of whatever written examination is required by the [director]
5 commissioner, reasonably satisfy the chief that the applicant:

6 (1) Has knowledge of the provisions of this act and applicable rules
7 and regulations which is sufficient to ensure that the applicant is able
8 to comply with the applicable laws and regulations; and

9 (2) Has knowledge of and experience in the fields of employment
10 specified in the application which is sufficient to ensure that the
11 applicant is able to render adequate and efficient service to job
12 seekers.

13 d. An applicant for an agent's license shall furnish information
14 which will reasonably satisfy the chief that the applicant has sufficient
15 knowledge of employment opportunities, career guidance or
16 counseling, or employment-related services or products which the
17 applicant intends to provide to job seekers.

18 e. Upon the termination of the employment of the holder of an
19 agent's license, the holder of the employment agency license by whom
20 the holder of the agent's license has been employed shall promptly
21 notify the chief of the termination of employment. The agent's license
22 shall thereupon be canceled and the agent entitled to the issuance of
23 a new license for the unexpired term of the old license without
24 payment of an additional fee upon the written request of the agent, and
25 the holder of the employment agency license who is to be named in the
26 new license as the new employer, except that the [director]
27 commissioner may refuse to issue the new license for any good cause
28 shown within the provisions of this act.

29 f. For the purpose of enabling individuals to secure experience and
30 knowledge necessary to qualify them as an agent, the [director]
31 commissioner may waive any of the requirements of this section which
32 the [director] commissioner deems proper and issue a conditional
33 license authorizing the holder to perform functions requiring a license,
34 when acting under the direct supervision of a duly qualified licensed
35 agent. The conditional license shall remain in effect for not more than
36 one year.

37 g. The [director] commissioner shall provide for the issuance of,
38 and shall prescribe the form for, the licenses authorized to be issued
39 pursuant to this act.

40 h. The [director] commissioner may require licenses to be posted
41 and identification cards to be carried.

42 i All licenses shall expire on January 1 of the year following their
43 issuance.

44 (cf: P.L.1989, c.331, s.7)

45

46 7. Section 8 of P.L.1989, c.331 (C.34:8-49) is amended to read as

1 follows:

2 8. a. Before an employment agency license is issued, the applicant
3 shall post with the [director] commissioner a bond in the amount of
4 \$10,000, with a duly authorized surety company as surety, to be
5 approved by the [director] commissioner.

6 b. The bond shall be retained by the chief until 90 days after either
7 the expiration or revocation of the employment agency license, as
8 appropriate.

9 c. The bond shall be payable to the State of New Jersey and upon
10 the condition that the person applying for the license will comply with
11 this act and will pay all damages occasioned to any person by reason
12 of any misrepresentative, deceptive, or misleading act or practice, or
13 any unlawful act or omission of any licensed person, agents, or
14 employees, while acting within the scope of employment, made,
15 committed or omitted in the business conducted under the license, or
16 caused by any violation of this act in carrying on the business for
17 which the license is granted.

18 d. In case of a breach of the condition of any bond, application may
19 be made to the [director] commissioner by the person injured by the
20 breach for leave to sue upon the bond, which shall be granted by the
21 [director] commissioner if it is proven that the condition of the bond
22 has been breached and that the person has been injured. The person
23 obtaining leave to sue shall be furnished with a certified copy of the
24 bond and shall be authorized to institute suit on the bond in the
25 person's name for the recovery of damages sustained by the breach.

26 e. If at any time, in the opinion of the [director] commissioner, the
27 surety on any bond shall become irresponsible, the person holding the
28 license shall, upon notice from the [director] commissioner, give a new
29 bond, subject to the provisions of this section. The failure to give a
30 new bond within 10 days after notice, at the direction of the [director]
31 commissioner, shall operate as revocation of the license, and the
32 license shall be returned to the [director] commissioner.

33 (cf: P.L.1989, c.331, s.8)

34

35 8. Section 10 of P.L.1989, c.331 (C.34:8-51) is amended to read
36 as follows:

37 10. a. Every employment agency shall:

38 (1) Keep and make available to the chief, or a designee, during
39 regular business hours, records containing information regarding
40 services provided, products sold to job seekers or employers, and fees
41 charged or collected, and other information required by rules and
42 regulations to enable the chief to determine the status of compliance
43 with the provisions of this act;

44 (2) Require all job seekers applying for positions of trust or work
45 with private families to furnish the agency with names and addresses
46 of individuals available as character references, and shall communicate,

1 orally or in writing, with at least one of the individuals given by the job
2 seeker as a character reference. If the job seeker has not furnished the
3 name of any individuals available as character references, or if no
4 favorable statement has been received from a character reference, the
5 agency shall so advise the prospective employer to whom the job
6 seeker is referred. This information shall be written upon the referral
7 slip given by the agency to the job seeker to present to the prospective
8 employer. The written result of the verification to determine the
9 character and responsibility of any job seeker shall be kept on file in
10 the agency subject to examination by the chief. If the employer
11 voluntarily waives, in writing, a verification of references, the licensed
12 agency shall not be required to make the verification;

13 (3) Give to each job seeker a copy of every writing the job seeker
14 has signed, the form of which complies with P.L.1980, c.125
15 (C.56:12-1 et seq.).

16 (4) Furnish to each job seeker, who is sent to a prospective
17 employer for an interview concerning the job seeker's qualifications or
18 future employment in a job for which no order has been given to the
19 agency, a card or paper containing the names of the job seeker and
20 prospective employer, the address of the prospective employer and any
21 other particulars the agency may determine are necessary. In each
22 case, there shall be printed in bold-faced type on the card or paper the
23 following:

24 "This card of introduction is given to (name of job
25 seeker) with the understanding that there is no obligation to this
26 employment agency for any fee until, as a result of the services
27 rendered by this agency, (name of job seeker) is employed
28 in a job with respect to which the agency received a bona fide order
29 from an employer. (name of job seeker) has agreed to
30 pay the fee under the foregoing conditions if the fee is not paid by an
31 employer."

32 (5) Post in the agency in the places that the chief, or a designee,
33 directs, an abstract of this act and the rules and regulations
34 promulgated by the [director] commissioner. The chief shall provide
35 the abstracts and charge for the printing of these abstracts.

36 (6) Provide, prior to assignment or at the time of assignment, a
37 written contract to a job seeker who is being or has been assigned to
38 the agency's customer on a part-time or temporary basis, which
39 contract shall include: the name of the supervisor, if known; a
40 description of the tasks to be performed by the job seeker and the
41 skills and experience of the job seeker expected by the customer; the
42 period of the assignment; the hours of work; the dress code of the
43 customer in the workplace; worker rights; and known hazards at the
44 work site to which the job seeker is being assigned.

45 (7) File with the commissioner, at the time of the agency's annual
46 registration, a report on the total number of job seekers the agency

1 assigned to the agency's customers on a part-time or temporary basis
2 and the total number of days of work those job seekers performed for
3 those customers during the immediately preceding calendar year; the
4 total number of days of work each job seeker performed for each
5 customer during the immediately preceding calendar year; and the total
6 number of job seekers assigned to each customer during the
7 immediately preceding calendar year and the total number of days of
8 work those job seekers performed for each customer during the
9 immediately preceding calendar year.

10 b. In addition to the requirements set forth in subsection a., each
11 employment agency which charges or may charge the job seeker a fee
12 shall:

13 (1) File with the chief, for the chief's approval, a schedule of fees
14 proposed to be charged for any service rendered or product sold to job
15 seekers and adhere to the schedule in charging for these services or
16 products. The chief shall not approve the fee schedule unless the chief
17 is satisfied that the fee schedule is on a form which makes the schedule
18 reasonably understandable by job seekers and that the fee schedule is
19 in compliance with all other provisions of this section. The schedule
20 of fees may thereafter be changed or supplemented, by filing an
21 amended or supplemental schedule with the bureau. The changes shall
22 not become effective until approval has been granted by the chief and
23 the amended or supplemental fee schedule has been posted for not less
24 than seven days in a conspicuous manner in the office of the agency.
25 It shall be unlawful for any employment agency to charge, demand,
26 collect or receive a greater fee for any service rendered or product
27 sold to a job seeker than is specified in the most recent schedule filed
28 with the bureau;

29 (2) Post the schedule of fees in a conspicuous manner in the office
30 of the agency using forms provided by the chief;

31 (3) Compute fees paid by a job seeker seeking employment on the
32 basis of permanent employment, unless the employment is temporary
33 employment. Where temporary employment merges into permanent
34 employment, or where a job seeker accepts permanent employment
35 within 30 days after the termination of temporary employment, the
36 permanent employment may be considered the result of the references
37 to the temporary position and the fee may be based on the permanent
38 employment with due credit given for the payment made for the
39 temporary employment;

40 (4) Not charge to a job seeker who obtains employment and who
41 is discharged without cause or who voluntarily terminates employment
42 for just cause more than 1% of the scheduled fee for each day worked.
43 For purposes of this paragraph, the employment agency shall repay to
44 any job seeker so discharged or terminated any excess of the maximum
45 fee in accordance with the fee schedule, allowing three days' time to
46 determine that the termination was not due to any fault on the part of

1 the job seeker. The employment agency may, however, by separate
2 written agreement between the employment agency and the job seeker,
3 retain the fee or any part of the fee which has been paid for the job
4 from which the job seeker has been discharged without cause or
5 terminated, if the agency furnishes the job seeker with another job and
6 allows due credit for the retained payment;

7 (5) Not charge a job seeker who either fails to report for duty after
8 accepting employment or voluntarily terminates employment without
9 just cause within 30 days more than 30% of the scheduled fee;

10 (6) Obtain a bona fide order for employment prior to collecting any
11 fee from a job seeker or sending out a job seeker to any place of
12 employment. Except as may be otherwise provided in rules and
13 regulations, no charge or advance fee of any kind shall be charged,
14 demanded, collected, or received by the agency from a job seeker
15 seeking employment until employment has been obtained by or through
16 the efforts of the agency;

17 (7) Give to every job seeker from whom a fee is received, at the
18 time payment is received, a receipt which shall state the name of the
19 job seeker, the name and address of the employment agency and its
20 agent, the date and amount of the fee and the purpose for which it was
21 paid; and

22 (8) Furnish each job seeker, who is sent to a prospective employer,
23 with a card or similar paper containing the nature of the prospective
24 employment, the names of the job seeker and prospective employer,
25 and the address of the employer.

26 (cf: P.L.1989, c.331, s.10)

27

28 9. Section 11 of P.L.1989, c.331 (C.34:8-52) is amended to read
29 as follows:

30 11. It shall be a violation of the provisions of this act for any
31 person to:

32 a. Open, conduct, or maintain, either directly or indirectly, an
33 employment agency or perform any of the functions of an employment
34 agency without first obtaining a valid employment agency license from
35 the [director] commissioner and complying with all requirements of
36 this act regarding agents' licenses for the agents of the agency. A
37 license shall not authorize the furnishing of help or employment or the
38 furnishing of information where help or employment may be procured
39 in the capacity of baby sitters. A license shall not authorize activities
40 of any person other than the individual person or persons holding the
41 license, except that a corporation may be the holder of an employment
42 agency license. A license shall not authorize activities at any place
43 other than the place designated in the license except upon issuance of
44 a special permit by the [director] commissioner. A licensee may
45 engage in activities requiring registration under sections 23, 24 and 25
46 of this act if it complies with the requirements of those sections.

- 1 b. Conduct business, or any phase thereof, in any room or place
2 where:
- 3 (1) An individual sleeps or conducts his or her household affairs,
4 unless the business premises have separate ingress and egress from the
5 residential premises;
- 6 (2) Premises are rented or leased on an hourly, daily, weekly, or
7 other transient basis except as otherwise provided by regulation;
- 8 c. Charge or accept payment of any fees which are greater than
9 those shown by any schedule of fees which is required to be filed with
10 the chief and posted in the agency;
- 11 d. Accept and receive any gift as, or in lieu of, a fee;
- 12 e. Divide or offer to divide fees, directly or indirectly, with
13 prospective or actual employers or any agent, employee, or
14 representative;
- 15 f. Accept payment of a fee or attempt to collect any fee for a
16 service rendered or product sold where employment has not been
17 accepted, except that the requirements of this subsection shall not
18 apply to any career counseling service if that service receives no
19 prepayment for services or products and provides services or products
20 strictly on an hourly basis, with no financial obligation required of the
21 job seeker beyond the hourly fee for the services or products rendered;
- 22 g. Falsely state or imply to a job seeker that the person is seeking
23 to obtain individuals to perform services, tasks or labor for which
24 salary, wages, or other compensation is to be paid;
- 25 h. Send or cause to be sent any individual to any place used for
26 unlawful purposes;
- 27 i. Place or assist in placing an individual under 18 years of age into
28 employment which is in violation of the laws of this State;
- 29 j. Induce or compel any individual to enter the agency, for any
30 purpose, by the use of force or by taking forcible possession of the
31 individual's property;
- 32 k. Publish or cause to be published any deceptive or misleading
33 notice or advertisement. All advertisements of any agency by any
34 means, including, but not limited to, cards, circulars or signs, or in
35 newspapers and other publications, and all letterheads, receipts and
36 blanks, shall contain the name and address of the agency;
- 37 l. Make a deceptive or misleading representation to a job seeker or
38 employer, or enter into any contract with any job seeker or employer
39 or induce or attempt to induce any job seeker or employer to make any
40 agreement, the provisions of which contract or agreement, if fulfilled,
41 violate this act;
- 42 m. Require that a job seeker enter into a contract with the agency
43 or any specific lender for the purpose of fulfilling a financial obligation
44 to the employment agency;
- 45 n. Demand, charge, collect, or receive a fee unless in accordance
46 with the terms of a written contract or agreement with a job seeker;

1 o. Engage in any act or practice in violation of P.L.1960, c.39
2 (C.56:8-1 et seq.) and regulations promulgated thereunder.

3 p. Knowingly assign a job seeker on a part-time or temporary
4 assignment basis to, or knowingly render services to, a plant, office or
5 other facility where a strike or lockout is in progress for the purpose
6 of replacing the individuals who are striking or who are locked out, or
7 directly or indirectly counsel, aid or abet that action.

8 (cf: P.L.1989, c.331, s.11)

9

10 10. Section 12 of P.L.1989, c.331 (C.34:8-53) is amended to read
11 as follows:

12 12. The [director] commissioner may refuse to issue, and may
13 revoke, any license for failure to comply with, or violation of, the
14 provisions of this act or for any other good cause shown, within the
15 meaning and purpose of this act. A refusal or revocation shall not be
16 made except upon reasonable notice to, and opportunity to be heard
17 by, the applicant or licensee. The [director] commissioner may, if he
18 finds it to be in the public interest, suspend a license for any period of
19 time that he determines to be proper or assess a penalty in lieu of
20 suspension, or both, and may issue a new license, notwithstanding the
21 revocation of a prior license, provided that he finds the applicant to
22 have become entitled to the new license.

23 (cf: P.L.1989, c.331, s.12)

24

25 11. Section 13 of P.L.1989, c.331 (C.34:8-54) is amended to read
26 as follows:

27 13. To accomplish the objectives and carry out the duties
28 prescribed by this act, the [director] commissioner may issue
29 subpoenas to any person, administer an oath or affirmation to any
30 person, conduct hearings in aid of any investigation or inquiry,
31 promulgate rules and regulations, and prescribe forms as may be
32 necessary.

33 (cf: P.L.1989, c.331, s.13)

34

35 12. Section 14 of P.L.1989, c.331 (C.34:8-55) is amended to read
36 as follows:

37 14. Whenever it appears to the [director] commissioner that a
38 person has engaged in, is engaging in, or is about to engage in, any
39 practice declared to be unlawful by this act, or whenever the [director]
40 commissioner believes it to be in the public interest that an
41 investigation should be made to ascertain whether a person has
42 engaged in, is engaging in, or is about to engage in, any unlawful
43 practice, the [director] commissioner may:

44 a. Require the person to file, on forms prescribed by him, a written
45 statement or report, under oath or otherwise, concerning the facts and
46 circumstances regarding the practice which is under investigation;

1 b. Examine under oath any person in connection with the practice
2 under investigation;

3 c. Examine any record, book, document, account, contract, or
4 paper as he deems necessary; and

5 d. Pursuant to an order of the Superior Court, impound any record,
6 book, document, account, contract, or paper that is produced in
7 accordance with this act, and retain it until the completion of all
8 proceedings in connection with the materials produced.

9 (cf: P.L.1989, c.331, s.14)

10

11 13. Section 15 of P.L.1989, c.331 (C.34:8-56) is amended to read
12 as follows:

13 15. Service by the [director] commissioner of any notice requiring
14 a person to file a statement or report, or of a subpoena upon the
15 person, shall be made personally within this State, but if this cannot be
16 done, substituted service may be made in the following manner:

17 a. Personal service outside this State;

18 b. The mailing by registered or certified mail to the last known
19 place of business or residence inside or outside the State of the person;

20 c. As to any person other than an individual, in accordance with the
21 Rules Governing the Courts of the State of New Jersey pertaining to
22 service of process, provided, however, that service shall be made by
23 the [director] commissioner; or

24 d. Any service as the Superior Court may direct in lieu of personal
25 service within the State.

26 (cf: P.L.1989, c.331, s.15)

27

28 14. Section 16 of P.L.1989, c.331 (C.34:8-57) is amended to read
29 as follows:

30 16. If a person fails or refuses to file any statement or report
31 requested by the [director] commissioner, or obey any subpoena issued
32 by the [director] commissioner, the [director] commissioner may seek
33 and obtain an order from the Superior Court:

34 a. Adjudging the person in contempt of court;

35 b. Granting injunctive relief, without notice, restraining any and all
36 acts and practices for which a license is required in the provisions of
37 this act;

38 c. Directing the payment of reasonable attorneys' fees and costs of
39 the investigation and suit; and

40 d. Granting any other relief as may be required, until the person
41 files the statement or report, or obeys the subpoena.

42 (cf: P.L.1989, c.331, s.16)

43

44 15. Section 17 of P.L.1989, c.331 (C.34:8-58) is amended to read
45 as follows:

46 17. a. Whenever it appears to the [director] commissioner that a

1 person has engaged in, is engaging in, or is about to engage in, any
2 practice which is a violation of the provisions of this act, the [director]
3 commissioner may seek and obtain in a summary action in the Superior
4 Court an injunction prohibiting the person from continuing the
5 practices or engaging therein or doing any acts in furtherance thereof.

6 b. In addition to any other remedy, the court may: enjoin an
7 individual from managing or owning any business organization within
8 this State, and from serving as an officer, director, trustee, member of
9 any executive board or similar governing body, principal, manager,
10 stockholder owning 10% or more of the aggregate outstanding capital
11 stock of all classes of any corporation doing business in this State;
12 vacate or annul the charter of a corporation created by or under the
13 laws of this State; revoke the certificate of authority to do business in
14 this State of a foreign corporation; and revoke any licenses issued
15 pursuant to law to the person whenever the charter, authority, or
16 license have been or may be used to engage in or to further unlawful
17 practices. The court may grant any relief as may be necessary to
18 prevent the use or employment by a person of any unlawful practices,
19 or which may be necessary to restore to any person in interest any
20 moneys or property, real or personal, which may have been acquired
21 by means of any practices declared to be unlawful.

22 (cf: P.L.1989, c.331, s.17)

23

24 16. Section 18 of P.L.1989, c.331 (C.34:8-59) is amended to read
25 as follows:

26 18. Whenever it appears to the [director] commissioner that a
27 person has engaged in, is engaging in, or is about to engage in, any
28 practice which is a violation of the provisions of this act, the [director]
29 commissioner may hold hearings on the violation and upon finding the
30 violation to have been committed, may enter an order:

31 a. Directing the person to cease and desist or refrain from
32 committing the practice in the future;

33 b. Directing the person to restore to any person in interest any
34 moneys or property, real or personal, which may have been acquired
35 by means of any unlawful practice;

36 c. Assessing reasonable attorneys' fees and costs of investigation
37 and suit;

38 d. Assessing a penalty in the amount authorized by the provisions
39 of section 19 of this act, which the [director] commissioner deems
40 proper under the circumstances; and

41 e. Directing the person to reimburse the job seeker for
42 transportation expenses if no employment of the kind applied for
43 exists at the place to which the job seeker is sent and the person did
44 not have a bona fide order, either oral or written, from the prospective

1 employer.

2 (cf: P.L.1989, c.331, s.18)

3

4 17. Section 19 of P.L.1989, c.331 (C.34:8-60) is amended to read
5 as follows:

6 19. Whenever it appears to the [director] commissioner that a
7 person against whom a cease and desist order has been entered has
8 violated the order, the [director] commissioner may bring a summary
9 proceeding in the Superior Court based upon the violation. A person
10 found to have violated a cease and desist order shall be liable for civil
11 penalties in the amount of not less than \$1,000 or more than \$25,000
12 for each violation of the order, together with reasonable attorneys' fees
13 and cost of investigation and suit. If any person fails to pay a civil
14 penalty imposed by the court for violation of a cease and desist order,
15 the court imposing the penalty is authorized, upon application of the
16 [director] commissioner, to grant any relief which may be obtained
17 under any statute or court rule governing the collection and
18 enforcement of penalties.

19 (cf: P.L.1989, c.331, s.19)

20

21 18. Section 21 of P.L.1989, c.331 (C.34:8-62) is amended to read
22 as follows:

23 21. In any action or proceeding brought under this act the
24 [director] commissioner may recover reasonable attorneys' fees and
25 costs of investigation and suit.

26 (cf: P.L.1989, c.331, s.21)

27

28 19. Section 22 of P.L.1989, c.331 (C.34:8-63) is amended to read
29 as follows:

30 22. Upon the failure of a person to comply within 10 days after
31 service of any order of the [director] commissioner directing payment
32 of penalties, costs, attorneys' fees, reimbursement, or restoration of
33 moneys or property, the [director] commissioner may issue a
34 certificate to the clerk of the Superior Court that the person is
35 indebted to the State for these payments. A copy of the certificate
36 shall be served upon the person against whom the order was entered.
37 The clerk shall immediately enter upon his record of docketed
38 judgments the name of the person so indebted, a designation of the
39 statutes under which the payments are imposed, the amount of each
40 payment imposed, and a listing of property ordered restored, and the
41 date of the certification. The entry shall have the same force and
42 effect as the entry of the docketed judgment in the Superior Court.
43 The entry, however, shall be without prejudice to the right of appeal
44 to the Appellate Division of the Superior Court from the final order of
45 the [director] commissioner.

46 (cf: P.L.1989, c.331, s.22)

1 20. Section 23 of P.L.1989, c.331 (C.34:8-64) is amended to read
2 as follows:

3 23. a. Every consulting firm operating within this State shall,
4 within 60 days following the effective date of this act and annually
5 thereafter, register in writing with the chief on a form prescribed by
6 regulation.

7 b. Each registration form shall state the firm's name, and any
8 fictitious or trade name used in its operation, each primary location,
9 including street and street number of the building and place where its
10 business is to be conducted, and the names and residence addresses of
11 its principal owners or officers.

12 c. The ~~[director]~~ commissioner shall establish by rule and collect
13 an annual fee from firm registrants, which shall not be more than the
14 fee paid by employment agencies, to be used to the extent necessary
15 to defray expenses incurred by the bureau in the performance of its
16 duties under this section.

17 d. In addition to any act or practice in violation of P.L.1960, c.39
18 (C.56:8-1 et seq.), it shall be a violation of this act for any registrant
19 or its agent to:

20 (1) Make, or cause to be made, publish or cause to be published,
21 any false, misleading, or deceptive advertisement or representation
22 concerning the services or products that the registrant provides to job
23 seekers.

24 (2) Disseminate information to a job seeker knowing or recklessly
25 disregarding information that:

26 (a) The job does not exist or the job seeker is not qualified for the
27 job;

28 (b) The job has been described or advertised by or on behalf of the
29 registered firm in a false, misleading, or deceptive manner;

30 (c) The registrant has not confirmed the availability of the job at
31 the time of dissemination of the information; or

32 (d) The registrant has not obtained written or oral permission to
33 list the job from the employer or an authorized agent of the employer.

34 e. The ~~[director]~~ commissioner may refuse to issue, and may
35 revoke, any registration for failure to comply with, or violation of, the
36 provisions of this section or for any other good cause shown, within
37 the meaning and purpose of this section. A refusal or revocation shall
38 not be made except upon reasonable notice to, and opportunity to be
39 heard by, the applicant or registrant.

40 f. The ~~[director]~~ commissioner, instead of revoking a registration,
41 may suspend the registration for a period of time determined to be
42 proper, or assess a penalty in lieu of suspension, or both, and may
43 issue a new registration notwithstanding the revocation of a prior
44 registration, provided that the applicant is found to have become
45 entitled to the new registration.

46 g. A registered consulting firm shall be permitted to provide

1 temporary help services in the course of its business.

2 h. A registered firm may engage in activities requiring registration
3 under sections 24 and 25 of this act if it complies with the
4 requirements of those sections.

5 i. Any person who fails to comply with the provisions of this
6 section or rules and regulations promulgated by the [director]
7 commissioner shall be subject to the provisions of sections 14 through
8 22 of this act.

9 (cf: P.L.1989, c.331, s.23)

10

11 21. Section 24 of P.L.1989, c.331 (C.34:8-65) is amended to read
12 as follows:

13 24. a. Every career consulting or outplacement organization
14 operating within this State shall, within 60 days following the effective
15 date of this act and annually thereafter, register in writing with the
16 chief on a form prescribed by regulation.

17 b. Each registration form shall state the organization's name, and
18 any fictitious or trade name used in its operation, each primary
19 location, including street and street number of the building and place
20 where its business is to be conducted, and the names and residence
21 addresses of its principal owners or officers.

22 c. In addition to registering pursuant to this section, each career
23 consulting or outplacement organization shall notify the chief, in
24 writing, whenever it utilizes any location, including mobile units, other
25 than its primary location for services rendered to job seekers.

26 d. Every agent, duly authorized and empowered by the owner of
27 the registered organization to solicit business or otherwise act as an
28 agent of the registered organization, shall, within 60 days following
29 the effective date of this act and annually thereafter, register, in
30 writing, with the chief on a form prescribed by regulation.

31 e. The [director] commissioner shall establish by rule and collect
32 an annual fee from organization and agent registrants, which shall not
33 be more than that paid by employment agencies or agents, to be used
34 to the extent necessary to defray all expenses incurred by the bureau
35 in the performance of its duties under this section.

36 f. Each registered organization shall, at the time of its initial
37 registration with the [director] commissioner and annually thereafter,
38 post a bond in the amount of \$10,000 with a duly authorized surety
39 company as surety, to be approved by the [director] commissioner.
40 The bond shall be retained by the chief until 90 days after either the
41 expiration or revocation of the registration. The [director]
42 commissioner shall promulgate rules and regulations setting forth the
43 terms and conditions of this bond and supply the prospective registrant
44 firm with an approved form.

45 g. Every career consulting or outplacement organization registered
46 under this section shall provide each prospective job seeker desiring

1 its services or products with a written explanation of each service or
2 product which it provides or makes available to job seekers and the
3 price for each service or product which shall be made available to the
4 job seeker at the time of the signing of any contract for services or
5 products.

6 h. Any job seeker who signs a contract with any registered
7 organization shall have the right to cancel the contract within three
8 calendar days of the time of its signing and, upon the return of any
9 materials provided to the job seeker by the registered organization,
10 shall be entitled to receive a full refund of any fee, charge, or
11 commission paid by the job seeker.

12 i. Not more than one-third of any fee, charge or commission shall
13 be collected by the registered organization for its services or products
14 more than 60 days in advance of the date on which the registrant
15 provides its services or products as stated in its contract.

16 j. Every registered organization shall respond, in writing, within
17 nine calendar days of receipt of any written complaint by a job seeker,
18 stating the registered organization's position with respect to the
19 complaint. Copies of a job seeker's complaint and the response shall
20 be kept in a separate file by the registered organization for a period of
21 one year after the date of the resolution of the complaint, or two years
22 after the date of the complaint, whichever is later.

23 k. If a demand for refund is denied by a registered organization and
24 if the denial is found to have been in bad faith or if the registered
25 organization fails to respond to a demand for a refund, a court in an
26 action instituted by the job seeker shall award damages to the job
27 seeker in an amount not to exceed \$200 in addition to actual damages
28 sustained by the job seeker, together with reasonable attorneys' fees,
29 filing fees, and reasonable costs of suit. If the registered organization
30 refuses or is unable to pay the amount awarded by the court, the award
31 may be satisfied out of the registered organization's bond.

32 l. A registered organization shall not:

33 (1) Negotiate a job seeker's compensation and demand or receive
34 a percentage therefrom as a fee, charge, or commission unless the
35 percentage fee, charge, or commission has been disclosed to and
36 accepted by the job seeker in the contract;

37 (2) Contract with employers on behalf of a job seeker; or

38 (3) Solicit job openings from employers or otherwise act as an
39 intermediary for job seekers.

40 m. Every contract for career consulting or outplacement
41 organizations shall be in writing. A copy of the contract shall be given
42 to the job seeker at the time the job seeker signs the contract. The
43 contract shall contain all of the following:

44 (1) The name, address, and telephone number of the organization
45 and the name of the organization's agent.

46 (2) The name and address of the individual signing the contract and

1 the job seeker to whom the services are to be provided.

2 (3) A description of the services or products to be provided; a
3 statement of when those services or products are to be provided and
4 by which organizations, if other than the contracting organization; the
5 term of the contract; and refund provisions, as applicable, if the
6 described services or products are not provided according to the
7 contract.

8 (4) The amount of the fee to be charged to or collected from the
9 job seeker receiving the services or products or from any other
10 individual, and the date or dates when that fee is required to be paid.

11 (5) The following statements, in at least 10-point bold-faced type:

12 "No verbal or written promise or guarantee of any job or
13 employment is made or implied under the terms of this contract.

14 This organization is registered with the Bureau of Employment and
15 Personnel Services of the State of New Jersey, (current address of the
16 bureau). Inquiries concerning your contract may be sent to this
17 address."

18 (6) The following statement, in at least 10-point bold-faced type:

19

20 "YOUR RIGHT TO CANCEL

21

22 You may cancel this contract for services or products, without any
23 penalty or obligation, if notice of cancellation is given, in writing,
24 within three calendar days after you have signed this contract.

25 To cancel this contract, just mail or deliver a signed and dated copy
26 of the following cancellation notice or any other written notice of
27 cancellation, or send a telegram containing a notice of cancellation, to
28 (name of registrant) at (address of its place of business), not later than
29 midnight of the third calendar day after you signed this contract.

30

31 CANCELLATION NOTICE

32

33 I hereby cancel this contract.

34

35 Dated:

36

37

38 Job seeker's Signature

39

40

41 Job seeker's Name (print)

42

43

44 Address"

45

46 The requirement that the contract include this statement regarding

1 the right to cancel shall not apply when time is of the essence and the
2 services or products must be performed or provided within three
3 calendar days of the date that the contract is entered into pursuant to
4 the request of the job seeker, if the job seeker furnishes the registered
5 organization with a separate dated and signed personal statement in
6 the job seeker's own handwriting, describing the situation requiring the
7 immediate provision of services or products and expressly
8 acknowledging and waiving the right to cancel the contract within
9 three calendar days.

10 (7) Any further information specified in regulations adopted by the
11 **[director]** commissioner.

12 n. The requirements of this section shall not apply to any person
13 who receives no prepayment for services or products from a job seeker
14 and who:

15 (1) Provides services or products strictly on an hourly basis, with
16 no financial obligation required of the job seeker beyond the hourly fee
17 for services or products rendered; or

18 (2) Provides outplacement services exclusively as part of a job
19 seeker's benefit or severance package with a current or former
20 employer.

21 o. Newspaper advertising pertaining to services offered or
22 provided in this State by career consulting or outplacement
23 organizations appearing within or adjacent to help-wanted advertising
24 shall contain the phrase "not an employment agency" in a clear,
25 conspicuous, and prominent manner.

26 p. In addition to any act or practice in violation of P.L.1960, c.39
27 (C.56:8-1 et seq.), it shall be a violation of this act for any registrant
28 or its agent to:

29 (1) Make, or cause to be made, publish or cause to be published,
30 any false, misleading, or deceptive advertisement or representations
31 concerning the services or products that the registrant provides to job
32 seekers.

33 (2) Disseminate information to a job seeker knowing or recklessly
34 disregarding information that:

35 (a) The job does not exist or the job seeker is not qualified for the
36 job;

37 (b) The job has been described or advertised by or on behalf of the
38 registered organization in a false, misleading, or deceptive manner;

39 (c) The registrant has not confirmed the availability of the job at
40 the time of dissemination of the information; or

41 (d) The registrant has not obtained written or oral permission to
42 list the job from the employer or any authorized agent of the employer.

43 q. The **[director]** commissioner may refuse to issue, and may
44 revoke, any registration for any failure to comply with, or violation of,
45 the provisions of this section or for any other good cause shown,
46 within the meaning and purpose of this section. A refusal or

1 revocation shall not be made except upon reasonable notice to, and
2 opportunity to be heard by, the applicant or registrant. The [director]
3 commissioner, instead of revoking any registration, may suspend the
4 registration for a period of time as shall be determined to be
5 appropriate, or assess a penalty in lieu of suspension, or both, and may
6 issue a new registration notwithstanding the revocation of a prior
7 registration provided that the applicant is found to have become
8 entitled to the new registration.

9 r. A registered organization may engage in activities requiring
10 registration under sections 23 and 25 of this act if it complies with the
11 requirements of those sections.

12 s. Any person who fails to comply with the provisions of this
13 section or rules and regulations promulgated by the [director]
14 commissioner shall be subject to sections 14 through 22 of this act.
15 (cf: P.L.1989, c.331, s.24)

16
17 22. Section 25 of P.L.1989, c.331 (C.34:8-66) is amended to read
18 as follows:

19 25. a. Every prepaid computer job matching service or job listing
20 service operating or providing services or products within this State
21 shall, within 60 days following the effective date of this act and
22 annually thereafter, register, in writing, with the chief on a form
23 prescribed by regulation.

24 b. Each registration form shall state the service's name and
25 fictitious or trade name used in its operation, each primary location,
26 including street and street number of the building and place where its
27 business is to be conducted, and the names and residence addresses of
28 its principal owners or officers.

29 c. In addition to registering pursuant to this section, a prepaid
30 computer matching service or job listing service shall notify the bureau
31 in writing whenever it utilizes any location, including mobile units,
32 other than its primary location for the provision of services or
33 products to job seekers.

34 d. Every agent, duly authorized and empowered by the owner of
35 the registered service to solicit business or otherwise act as an agent
36 of the registered service, shall, within 60 days following the effective
37 date of this act and annually thereafter, register, in writing, with the
38 chief on a form prescribed by regulation.

39 e. The [director] commissioner shall establish by rule and collect
40 an annual fee from service and agent registrants, which shall not be
41 more than that paid by employment agencies or agents, to be used to
42 the extent necessary to defray all expenses incurred by the bureau in
43 the performance of its duties under this section.

44 f. Each service applicant shall at the time of its initial registration
45 with the [director] commissioner and annually thereafter, post a bond
46 in the amount of \$10,000 with a duly authorized surety company as

1 surety, to be approved by the [director] commissioner. The bond shall
2 be retained by the chief until 90 days after either the expiration or
3 revocation of the registration. The [director] commissioner shall
4 promulgate rules and regulations setting forth the terms and conditions
5 of this bond and supply the service applicant firm with an approved
6 form.

7 g. Prior to the acceptance of a fee from a job seeker, a registered
8 service shall provide the job seeker with a written contract which shall
9 include the following:

10 (1) The name of the registered service and the address and
11 telephone number of each primary or other location of the registered
12 service providing the listing to the job seeker.

13 (2) Acknowledgement of receipt of the registered service's fee
14 schedule.

15 (3) A description of the service or product to be performed or
16 product to be provided by the registered service, including significant
17 conditions, restrictions, and limitations where applicable.

18 (4) A description of the job seeker's specifications for the
19 employment opportunity, including, but not limited to, the following:

20 (a) Type of job.

21 (b) Interests of job seeker.

22 (c) Qualifications of job seeker.

23 (d) Salary, benefits, and other conditions of employment.

24 (e) Location of job.

25 (5) The contract expiration date, which shall not be later than 90
26 days from the date of execution of the contract.

27 (6) A clause setting forth the right to a full refund of the fee paid
28 in advance.

29 (7) The signature of the registered service's agent.

30 (8) The following statement, printed on the face of the contract in
31 type no smaller than 10-point bold-faced type:

32 "This service is registered with the Bureau of Employment and
33 Personnel Services of the State of New Jersey, (current address of
34 bureau). Inquiries concerning your contract may be sent to this
35 address."

36 (9) At the bottom of the contract a notice to the effect that the
37 contract is the property of the job seeker and shall not be taken from
38 the job seeker.

39 h. Every contract or receipt shall be made and numbered
40 consecutively in original and duplicate, both to be signed by the job
41 seeker and the service's agent. The original shall be given to the job
42 seeker and the duplicate shall be kept on file at the service's primary
43 location.

44 i. The form of contract proposed to be used by a registrant to
45 effect compliance with this section shall be filed with the bureau prior
46 to use. Any modification of a form previously filed with the bureau,

1 including a change in the name or a primary location of the registered
2 service, shall also be filed prior to use.

3 j. A registered service shall refund in full the advance fee paid by
4 a job seeker if the service does not, within five calendar days after
5 execution of the contract, supply at least three employment
6 opportunities then available to the job seeker and meeting the
7 specifications of the contract. A registered service will be deemed to
8 have supplied information meeting the specifications of the job seeker
9 if the information supplied meets the contract specifications with
10 reference to:

- 11 (1) Name of employer and type of job;
- 12 (2) Interests of job seeker;
- 13 (3) Qualifications of job seeker;
- 14 (4) Salary, benefits, and other conditions of employment;
- 15 (5) Location of job; and
- 16 (6) Any other specification expressly set forth in the contract.

17 A demand for the return of the fee shall be made by or on behalf of
18 the job seeker within 10 calendar days following the expiration of the
19 five-day period referred to above by delivery or by registered or
20 certified mail to the address of the office or location set forth in the
21 contract.

22 k. A registered service shall refund any amount in excess of a \$25
23 service charge to the job seeker if the job seeker does not obtain a job,
24 provided that the job seeker demands a return of that part of the fee
25 within 10 calendar days after the expiration of the contract.

26 l. If employment, once obtained, lasts less than 90 days, the fee
27 paid shall be refunded as specified in subsection b. of section 10 of this
28 act.

29 m. Each contract shall also contain refund provisions, approved by
30 the bureau, which shall, unless different language is approved in
31 writing by the bureau prior to use, read as follows:

32

33 **"RIGHT TO REFUND**

34

35 If within five calendar days after payment of any advance fee, the
36 registrant has not supplied the job seeker with at least three available
37 employment opportunities meeting the specifications of the contract
38 as to (1) name of the employer and type of job; (2) interest of job
39 seeker; (3) qualifications of job seeker; (4) salary, benefits, and other
40 conditions of employment; (5) location of job; and (6) any other
41 specification expressly set forth in the contract, the full amount of the
42 fee paid shall be refunded to the job seeker within 10 calendar days
43 after the expiration of the five-day period."

44 If the job seeker does not obtain a job through the services of the
45 registered service, any amount paid in fees in excess of a \$25 service
46 charge shall be refunded to the job seeker, upon demand by the job

1 seeker made within 10 calendar days of the expiration of the contract.

2 n. Every registered service shall respond, in writing, within nine
3 calendar days of receipt of any written complaint by a job seeker,
4 stating the registered service's position with respect to that complaint.
5 A copy of a job seeker's complaint and the response shall be kept in a
6 separate file by the registered service for a period of one year after the
7 date of the resolution of the complaint, or two years after the date of
8 the complaint, whichever is later.

9 o. If a demand for refund is denied by a registered service, and if
10 the denial is found to have been in bad faith or if the registered service
11 fails to respond to a demand for a refund, a court in an action
12 instituted by the job seeker shall award damages to the job seeker in
13 an amount not to exceed \$200.00 in addition to actual damages
14 sustained by the job seeker, together with reasonable attorneys' fees,
15 filing fees, and reasonable costs of suit. If the registered service
16 refuses or is unable to pay the amount awarded by the court, the award
17 may be satisfied out of the registered service's bond.

18 p. In addition to any act or practice in violation of P.L.1960, c.39
19 (C.56:8-1 et seq.), it shall be a violation of this act for any registrant
20 or its agent to:

21 (1) Make, or cause to be made, publish or cause to be published,
22 any false, misleading, or deceptive advertisement or representations
23 concerning the services or products that the registrant provides to job
24 seekers; or

25 (2) Disseminate information to a job seeker knowing or recklessly
26 disregarding information that:

27 (a) The job does not exist or the job seeker is not qualified for the
28 job;

29 (b) The job has been described or advertised by or on behalf of the
30 registered service in a false, misleading, or deceptive manner;

31 (c) The registrant has not confirmed the availability of the job at
32 the time of dissemination of the information; or

33 (d) The registrant has not obtained written or oral permission to
34 list the job from the employer or an authorized agent of the employer.

35 q. The [director] commissioner may refuse to issue, and may
36 revoke, any registration for any failure to comply with, or any
37 violation of, the provisions of this section or for any other good cause
38 shown, within the meaning and purpose of this section. A refusal shall
39 not be made except upon reasonable notice to, and opportunity to be
40 heard by, the applicant or registrant as the case may be. The [director]
41 commissioner instead of revoking any registration may suspend the
42 registration for a period of time as determined to be proper, or assess
43 a penalty in lieu of suspension, or both; and may issue a new
44 registration notwithstanding the revocation of a prior registration
45 provided that the applicant is found to have become entitled to the
46 new registration.

1 r. Any person who fails to comply with the provisions of this
2 section or rules and regulations promulgated by the [director]
3 commissioner shall be subject to the provisions of sections 14 through
4 22 of this act.

5 (cf: P.L.1989, c.331, s.25)

6

7 23. (New section) a. All the powers, functions and duties
8 exercised by the Attorney General, the Director of the Division of
9 Consumer Affairs within the Department of Law and Public Safety and
10 the Chief of the Bureau of Employment and Personnel Services in the
11 Division of Consumer Affairs within the Department of Law and
12 Public Safety pursuant to P.L.1989, c.331 (C.34:8-43 et seq.) are
13 hereby transferred to and vested in the Commissioner of Labor and the
14 Chief of the Bureau of Employment and Personnel Services within the
15 Department of Labor.

16 b. All rules and regulations promulgated by the Attorney General
17 or Director of the Division of Consumer Affairs within the Department
18 of Law and Public Safety pursuant to P.L.1989, c.331 (C.34:8-43 et
19 seq.) shall remain in full force and effect until they are superseded by
20 the rules and regulations promulgated by the Commissioner of Labor.

21 c. All orders of the Attorney General, the Director of the Division
22 of Consumer Affairs within the Department of Law and Public Safety
23 and the Chief of the Bureau of Employment and Personnel Services in
24 the Division of Consumer Affairs within the Department of Law and
25 Public Safety shall be continued in full force and effect unless modified
26 or disapproved by the Commissioner of Labor.

27

28 24. Section 14 of P.L.1981, c.1 (C.56:8-1.1) and section 2 of
29 P.L.1989, c.331 (C.52:17B-139.4) are repealed.

30

31 25. This act shall take effect on the 180th day following enactment
32 and the commissioner may take such actions as are necessary to
33 implement its provisions before the effective date.

34

35

36

STATEMENT

37

38 This bill transfers the regulation of employment agencies, consulting
39 firms, career consulting or outplacement organizations, prepaid
40 computer job matching services and job listing services from the
41 Division of Consumer Affairs in the Department of Law and Public
42 Safety to the Department of Labor.

43 The bill provides for more comprehensive regulation of temporary
44 help service firms by regulating them as employment agencies as was
45 the case before 1981. In addition, employment agencies supplying
46 temporary workers are required to provide written contracts to such

1 workers and include in the contract: the name of the supervisor, if
2 known; a description of the tasks to be done by the job seeker and the
3 skills and experience expected of the job seeker by the customer; the
4 period of the assignment; the hours of work; the dress code of the
5 customer in the workplace; any worker rights; and any known hazards
6 at the work site to which the job seeker is being assigned. The bill
7 also requires employment agencies to report to the Commissioner of
8 Labor temporary employment placement statistics to determine the
9 extent and structure of such temporary employment in New Jersey.

10

11

12

13

14 Provides for regulation of employment agencies by Department of
15 Labor and regulates temporary help service firms as employment
16 agencies.