

By: Zwiener

H.B. No. 97

A BILL TO BE ENTITLED

AN ACT

relating to water breaks for employees of certain contractors with a governmental entity; providing an administrative penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter Z, Chapter 2252, Government Code, is amended by adding Section 2252.911 to read as follows:

Sec. 2252.911. WATER BREAKS REQUIRED FOR EMPLOYEES PERFORMING CONSTRUCTION WORK UNDER CONTRACTS WITH GOVERNMENTAL ENTITIES. (a) In this section:

(1) "Construction contract" means a contract or agreement for the performance of general construction.

(2) "Contractor" means a person, firm, or corporation contracting with a governmental entity for general construction.

(3) "Employee" means an individual paid by a contractor or subcontractor to perform general construction work or services.

(4) "General construction" means:

(A) erecting or preparing to erect a structure, including a building, bridge, roadway, public utility facility, or related structure;

(B) remodeling, extending, repairing, or demolishing a structure; or

(C) otherwise improving real property or a structure related to real property.

1 (5) "Governmental entity" means:

2 (A) a board, commission, department, office, or
3 other agency in the executive branch of state government; or

4 (B) a political subdivision of this state,
5 including a municipality, county, public school district, or
6 special-purpose district or authority.

7 (6) "Water break" means a break from work during work
8 hours for an employee to consume water. The term does not include a
9 regular meal break period provided to an employee by a contractor or
10 subcontractor.

11 (b) A governmental entity contracting with a contractor
12 shall require the contractor and any subcontractor to provide at
13 least a 10-minute paid water break within every four-hour period of
14 work to each employee performing work under the contract. A
15 contractor or subcontractor is not required to provide water to an
16 employee during a water break required under this section.

17 (c) Each construction contract with a governmental entity
18 must include terms that:

19 (1) authorize an employee of a contractor or
20 subcontractor required to work without a water break in violation
21 of Subsection (b) to make a verbal or written complaint to the
22 governmental entity contracting with the contractor;

23 (2) explain that, on confirmation of a violation of
24 Subsection (b) that is the subject of a complaint, the governmental
25 entity shall provide to the contractor written notice of the
26 violation by hand delivery or certified mail;

27 (3) inform a contractor that the governmental entity

1 may impose an administrative penalty if the contractor fails to
2 comply with Subsection (b) after the date on which the contractor
3 receives notice under Subdivision (2); and

4 (4) explain that a penalty amount may be withheld from
5 a payment otherwise owed to a contractor under the contract.

6 (d) In accordance with a construction contract governed by
7 this section, the governmental entity may impose an administrative
8 penalty in an amount of not less than \$100 and not more than \$500 per
9 day if any employee is required to work without a water break in
10 violation of Subsection (b). A proceeding under this section to
11 impose an administrative penalty is a contested case under Chapter
12 2001.

13 (e) Each governmental entity shall develop procedures for
14 the administration of this section.

15 (f) This section does not preempt a local ordinance, rule,
16 or other measure adopted by a political subdivision of this state
17 requiring water breaks in accordance with a construction contract
18 that is compatible with and equal to or more stringent than the
19 provisions of this section.

20 SECTION 2. Section 2252.911, Government Code, as added by
21 this Act, applies only to a contract for which the solicitation of
22 qualifications, proposals, or other similar expressions of
23 interest is published on or after the effective date of this Act.

24 SECTION 3. This Act takes effect on the 91st day after the
25 last day of the legislative session.