

BILL ANALYSIS

S.B. 1408
By: Estes
Economic Development
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Employees may file a claim with the Texas Workforce Commission (commission) against their employer for pay to which the employee believes he or she is entitled but has not received. Under current law, wage claims are adjudicated at the hearing officer level, and the commission has no authority to review those decisions. Because of this, wage claims are not able to be appealed or assessed for quality, nor can cases be adopted as precedents to help the commission provide guidance to both the hearing officers and the public as to how the law should be interpreted.

S.B. 1408 gives the commission review authority of wage claims in the same manner as used in unemployment compensation hearings. Wage claims would be heard initially by a commission examiner, with either party able to appeal the order to the full commission.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

ANALYSIS

SECTION 1. Amends Section 61.001(1), Labor Code, to redefine "commission."

SECTION 2. Amends Section 61.052, Labor Code, to require an examiner employed by the Texas Workforce Commission (commission), rather than the commission, to analyze each wage claim filed under Section 61.051 (Filing Wage Claim), Labor Code. Makes conforming changes.

SECTION 3. Amends Subchapter D, Chapter 61, Labor Code, by adding Section 61.0525, as follows:

Section 61.0525. ESTABLISHMENT OF WAGE CLAIM APPEAL TRIBUNALS. Requires the commission to establish one or more impartial wage claim appeal tribunals to hear and decide disputed wage claims if the commission determines that establishment of those tribunals is necessary to ensure prompt disposal of wage claims cases on appeal. Provides that a wage claim appeal tribunal is composed of a salaried examiner appointed by the commission.

SECTION 4. Amends Sections 61.053(a), (b), and (d), Labor Code, to authorize the commission examiner, wage claim appeal tribunal, or the commission, if those persons or entities determine that an employer acted in bad faith in not paying wages as required by this chapter, to assess an administrative penalty against the employer, in addition to ordering the payment of the wages. Makes conforming changes.

SECTION 5. Amends Section 61.054, Labor Code, to authorize either party to request a hearing before a wage claim tribunal to appeal, rather than contest, a preliminary wage determination order made under Section 61.052. Makes a conforming change.

SECTION 6. Amends Section 61.055, Labor Code, to make a conforming change.

SECTION 7. Amends Section 61.056(a), Labor Code, to make a conforming change.

SECTION 8. Amends Section 61.057, Labor Code, to make a conforming change.

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SECTION 9. Amends Section 61.059, Labor Code, as follows:

Section 61.059. New heading: **CONSIDERATION OF PRELIMINARY WAGE DETERMINATION ORDER.** Makes a conforming change.

SECTION 10. Amends Section 61.060, Labor Code, to make conforming changes.

SECTION 11. Amends Sections 61.061(a) and (c), Labor Code, as follows:

(a) Requires the wage claim appeal tribunal to mail to each party to the appeal notice of certain information, excluding the parties' right to judicial review of the order.

(c) Provides that the order of the wage claim tribunal becomes final 14 days after the date on which it is mailed unless a further appeal to the commission is initiated as provided by this subchapter. Deletes existing text relating to the date on which an order of the tribunal becomes final.

SECTION 12. Amends Subchapter D, Chapter 61, Labor Code, by adding Sections 61.0611, 61.0612, 61.0613, and 61.0614, as follows:

Section 61.0611. **REMOVAL OR TRANSFER OF CLAIM PENDING BEFORE WAGE CLAIM APPEAL TRIBUNAL.** Authorizes the commission by order to remove itself or transfer to another wage claim appeal tribunal the proceedings on a wage claim pending before a wage claim appeal tribunal. Requires the commission to promptly mail to the parties a notice of the order. Requires a quorum of the commission to hear a proceeding removed to the commission under.

Section 61.0612. **COMMISSION REVIEW OF WAGE CLAIM APPEAL TRIBUNAL ORDER.** Authorizes the commission to take certain actions regarding an order issued under Section 61.061.

Section 61.0613. **NOTICE OF COMMISSION ACTION.** Requires the commission to mail to each party to the appeal under Section 61.0612 notice of the decision, the amount of wages subject to the order, the amount of any penalty assessed, and the parties' right to judicial review of the order. Requires such notice to be mailed to a party's last known address, as shown by commission records.

Section 61.0614. **FINALITY OF COMMISSION ORDER.** Provides that an order of the commission becomes final 14 days after the date the order is mailed unless, before that date, the commission, by order, reopens the appeal or a party to the appeal files a written motion for rehearing.

SECTION 13. Amends Section 61.062(a), Labor Code, to authorize a party who has exhausted the party's administrative remedies under this chapter, other than a motion for rehearing, to bring suit to appeal the order.

SECTION 14. Amends Sections 301.0015(a) and (c), Labor Code, to require the commission, in administering its functions under this title or another law, to limit its activities to those specifically provided under this section, including reviewing under Subchapter D (Wage Claims), Chapter 61, Labor Code, the decisions of a wage claim appeal tribunal regarding wage claims. Makes conforming changes.

SECTION 15. Amends Section 301.006(b), Labor Code, to require the member of the commission who represents the public, notwithstanding Subsection (a), to serve as chair when the commission acts under Subchapter D, Chapter 61.

SECTION 16. Makes application of this Act prospective.

SECTION 17. Provides the effective date of this Act.

EFFECTIVE DATE

Upon passage, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2005.