

BILL ANALYSIS

H.B. 2579
By: Davis, John
Economic & Small Business Development
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Interested parties express concern that an employer who relies on a court ruling or Texas Workforce Commission determination that, for purposes of the Texas Unemployment Compensation Act, service performed by an individual is not considered employment may be subject to penalties, interest, or sanctions based on the due date of the contribution in question if a subsequent ruling or determination finds that the service is employment. H.B. 2579 seeks to address this issue by providing relief from penalties and sanctions under the Texas Unemployment Compensation Act for an employer who reasonably relied on the initial ruling or determination.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

H.B. 2579 amends the Labor Code to establish that it is reasonable for an employer to rely on a court ruling or Texas Workforce Commission (TWC) determination that, for the purposes of the Texas Unemployment Compensation Act, service performed by an individual, including service in interstate commerce, is not employment under the act if the ruling is a judicial decision or precedent, including a published opinion, from a court in Texas or a TWC decision involving the employer as a party or a subject and the ruling or determination has not been reversed or otherwise invalidated. The bill requires the TWC to relieve an employer that reasonably relies on such a ruling or determination from certain penalties, interest, or sanctions imposed under the Texas Unemployment Compensation Act that result from a subsequent ruling or determination that the service in question is employment. The bill provides that an employer who receives such relief is not indebted to the state for the penalties, interest, or sanctions from which the employer is relieved and prohibits the employer from being considered delinquent on the payment of taxes, to the extent of the amount from which the employer is relieved. The bill authorizes an employer to reasonably rely on the initial ruling or determination until the earlier of the effective date of the subsequent ruling or determination invalidating the initial ruling or determination or the third anniversary of the due date of a contribution based on the service in question. The bill makes its provisions applicable only if the TWC determines that the nature of the business and the service in question are substantially unchanged from the time the initial ruling was issued or the initial determination was made.

EFFECTIVE DATE

September 1, 2011.