

BILL ANALYSIS

S.B. 340
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Economic & Small Business Development
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Current law authorizes a Texas Workforce Commission (TWC) examiner, a wage claim appeal tribunal, or the TWC, if one of those entities determines that an employer has acted in bad faith in not paying wages in accordance with applicable state law, to assess an administrative penalty against an employer. However, it has been reported that the penalty has not been assessed very often. The reports indicate that in 2012, the penalty was assessed in less than 12 percent of the cases in which a penalty was authorized.

Interested parties assert that Texas law needs to clearly provide the acts that constitute bad faith by an employer and that the current law does not sufficiently deter an employer from acting in bad faith in regard to paying wages. S.B. 340 seeks to address these concerns by amending current law relating to administrative penalties assessed by TWC against certain employers for failure to pay wages.

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

S.B. 340 amends the Labor Code to require, rather than authorize, a Texas Workforce Commission (TWC) examiner, a wage claim appeal tribunal, or TWC to assess an administrative penalty against an employer, in addition to ordering the payment of wages, if the examiner, tribunal, or TWC determines that the employer acted in bad faith in not paying wages as required by applicable state law. The bill specifies that for such purposes, acts that constitute bad faith by an employer include the following: a history of previous violations of statutory provisions relating to the payment of wages; failure to pay wages to an employee as an act of discrimination or retaliation against the employee; failure to pay wages to multiple employees at the same time; failure to pay wages to an employee knowing that the failure was a violation of state law; or actions showing reckless disregard of the requirements of those provisions.

EFFECTIVE DATE

September 1, 2013.