

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION**

**March 11, 2013**

**TO:** Honorable René Oliveira, Chair, House Committee On Business & Industry

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE:** **HB372** by Deshotel (Relating to establishing the Workplace Fraud Prevention Act; providing penalties.), **As Introduced**

**No significant fiscal implication to the State is anticipated, however the provisions of the bill would increase the number of individuals performing construction services classified as employees and unemployment insurance assessments would increase. The amount of this increase and the amount and timing of any penalty revenue that would be generated under the provisions of the bill is unknown.**

The bill would amend the Labor Code to establish the Workplace Fraud Prevention Act which would require that construction contractors classify individuals performing construction services as an employee. The bill would prohibit any person from knowingly forming or assisting in the formation of a business entity, or paying or collecting a fee for the use of a business entity, for the purpose of facilitating a violation of this chapter, or knowingly assisting or conspiring with an individual to commit such a violation.

The bill would require the Texas Workforce Commission (TWC) to (1) provide a toll-free telephone number and website for use by the public in reporting violations of this chapter, and investigate any credible complaint received; (2) upon determining that a person has violated this chapter initiate enforcement actions to collect unpaid unemployment taxes, notify the Texas Department of Insurance of the violation, and notify the Attorney General of any possible violation of other law; and (3) issue an annual report regarding compliance with and enforcement of this act. Under the provisions of the bill, contractors performing services for the state or a political subdivision would be required to submit an affidavit affirming that (1) each individual performing services for the contractor has been properly classified; (2) the contractor is in compliance with Subchapter B, Chapter 234, of the Family Code, regarding the state directory of new hires; and (3) that the contractor will follow the provisions of this act.

The bill would allow TWC to impose administrative penalties with limits ranging from \$500 to \$5,000 under guidelines established in the bill. The bill would create the Workplace Fraud Prevention Enforcement Fund and would establish the fund to enforce the chapter created by the bill. The bill would require TWC to administer the fund which would receive money appropriated to the fund and any penalties collected under the provisions of Section 313.008 of the bill.

This legislation would do one or more of the following: create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either with or outside of the Treasury, or create a dedicated revenue source. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

Based on information provided by the Comptroller of Public Accounts, this analysis assumes that enactment of the bill would increase the number of individuals performing construction services classified as employees and that the extent of that increase would also result in an increase in unemployment insurance assessments; however, the amount of this increase as well as the amount and timing of any penalty revenue that would be generated under the provisions of the bill cannot be determined.

Based on information provided by the Texas Workforce Commission, the Office of the Attorney General, the Department of Transportation, the Facilities Commission and the Department of Insurance, it is assumed that duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources.

This bill would take effect September 1, 2013.

### **Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 302 Office of the Attorney General, 303 Facilities Commission, 304 Comptroller of Public Accounts, 320 Texas Workforce Commission, 454 Department of Insurance, 601 Department of Transportation

**LBB Staff:** UP, RB, MW, NV, ER, JM, AG