

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

April 25, 2013

TO: Honorable John Davis, Chair, House Committee on Economic & Small Business Development

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: **HB1925** by Davis, John (Relating to the classification of certain construction workers and complaints filed with the Texas Workforce Commission; providing a penalty.),
Committee Report 1st House, Substituted

Estimated Two-year Net Impact to General Revenue Related Funds for HB1925, Committee Report 1st House, Substituted: an impact of \$0 through the biennium ending August 31, 2015.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2014	\$0
2015	\$0
2016	\$0
2017	\$0
2018	\$0

All Funds, Five-Year Impact:

Fiscal Year	Probable (Cost) from <i>Unempl Comp Sp Adm Acct</i> 165	Change in Number of State Employees from FY 2013
2014	(\$258,472)	0.5
2015	(\$43,929)	0.5
2016	(\$43,929)	0.5
2017	(\$43,929)	0.5
2018	(\$43,929)	0.5

Fiscal Analysis

The bill would amend the Labor Code relating to the classification of certain construction workers and complaints filed with the Texas Workforce Commission (TWC).

The bill would require TWC to maintain a file on each complaint received by telephone or submitted through the commission's Internet website; notify the person filing the complaint if the person's name and contact information are available; requires TWC to review its policies and procedures for enforcement and any commission rule regarding the construction industry; requires TWC to adopt rules and procedures to encourage and enforce the proper classification of workers in the construction industry as employees or independent contractors; and requires the commission to submit a report to the governor and the legislature regarding the efforts of the commission to ensure the proper classification of workers in the construction industry. TWC shall submit the first report not later than December 1, 2014.

The bill would take effect January 1, 2014.

Methodology

For the three calendar year period 2010-2012, TWC conducted an average of 547 audits of employers in the construction industry, based on the employers' North American Industry Classification System (NAICS) codes. The audits resulted in an average of 1,438 misclassified workers. Audits are conducted based upon: (1) Department of Labor quota requirements; (2) unemployment insurance claims which prompt wage investigations; and (3) complaints from the public alleging potential misclassification.

To implement the provisions of the bill, TWC estimates a total five-year cost of \$434,188. TWC estimates it would require 0.5 new program staff at a cost of \$42,165 each fiscal year in the tax department to address complaints received. TWC also estimates a technology cost of \$188,785 in fiscal year 2014 to make programming changes to the Unemployment Insurance tax system. Other administrative costs are estimated at \$27,522 in fiscal year 2014 and \$1,764 in fiscal years 2015-2018.

Based on information provided by the Department of Insurance and the Office of the Attorney General, it is assumed that duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources. This analysis does not consider any penalty revenue that may be generated from the implementation of the provisions of the bill.

Technology

TWC estimates a cost of \$211,868 over the five-year period for personnel services for 1.9 existing staff. TWC indicates it would take approximately 2,980 hours to make programming changes to the Unemployment Insurance tax system and internet website.

Local Government Impact

No fiscal implication to units of local government is anticipated.

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

LBB Staff: UP, NV, RB, MW