

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

April 12, 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 the eligibility of those workers for unemployment benefits; providing penalties.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB1925, As Introduced: 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	(\$244,236)	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 the eligibility of those workers for unemployment benefits. The bill would require the Texas Workforce Commission (TWC) to provide information regarding the procedure for the public to report violations on its internet website; authorize TWC to impose an administrative penalty; require TWC to notify each governmental entity that TWC reasonably believes has received construction services provided by a contractor that TWC determines to have violated the provisions of the bill and would specify requirements for such notification; and require TWC to issue an annual report regarding compliance with and enforcement of the bill.

The bill would take effect September 1, 2013.

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. Under the "five of nine" provisions of new Section 301.202 of the Texas Labor Code, it is more likely that an individual will be classified as an independent contractor. As such, TWC anticipates that the number of misclassified workers would equate to half (719) of the amount TWC experienced during the 2010-2012 calendar year period.

To implement the provisions of the bill, TWC estimates a total five-year cost of \$419,952. 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 \$194,448 in fiscal year 2014 to make programming changes to the Unemployment Insurance tax system. Other administrative costs are estimated at \$7,623 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 \$197,632 over the five-year period for personnel services for 1.9 existing staff. TWC indicates it would take approximately 3,276 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: 302 Office of the Attorney General, 304 Comptroller of Public Accounts,
320 Texas Workforce Commission, 454 Department of Insurance

LBB Staff: UP, NV, RB, MW