

By: González, Leach, Romero, Jr.

H.B. No. 94

Substitute the following for H.B. No. 94:

By: Simmons

C.S.H.B. No. 94

A BILL TO BE ENTITLED

AN ACT

relating to a database of employers penalized for failure to pay wages or convicted of certain offenses involving wage theft.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter D, Chapter 301, Labor Code, is amended by adding Section 301.070 to read as follows:

Sec. 301.070. DATABASE REGARDING WAGE THEFT. (a) In this section:

(1) "Attorney representing the state" means a district attorney, criminal district attorney, or county attorney performing the duties of a district attorney.

(2) "Employee" and "employer" have the meanings assigned by Section 61.001.

(b) The commission shall make available on its Internet website a publicly accessible list of all employers in this state that have been:

(1) assessed an administrative penalty under Section 61.053;

(2) ordered to pay wages by a final order of the commission and have failed to comply with Section 61.063; or

(3) convicted of an offense under:

(A) Section 61.019; or

(B) Section 31.04, Penal Code, if the offense involved the theft of a service that was rendered by an employee of

1 the employer.

2 (c) For an employer that is a business entity, the database
3 must include the name under which the entity operates and the name
4 of each individual who is an owner of the entity and actively
5 involved in the management of the entity.

6 (d) The commission must provide notice to an employer not
7 later than the 180th day before the date the employer is listed in
8 the database.

9 (e) The commission by rule shall establish a process by
10 which an employer may, at any time after receiving notice under
11 Subsection (d), dispute the employer's inclusion in the database.
12 The process must require the commission to investigate and make a
13 final determination regarding an employer dispute under this
14 subsection not later than the 21st day after the date the dispute is
15 filed.

16 (f) The commission shall list an employer in the database
17 until the third anniversary of the date the penalty is assessed or
18 the employer is convicted.

19 (g) An attorney representing the state shall report to the
20 commission the name of each employer that is prosecuted and
21 convicted in the attorney's jurisdiction of an offense described by
22 Subsection (b)(3).

23 (h) For purposes of this section, a person has been
24 convicted of an offense if the person was adjudged guilty of the
25 offense or entered a plea of guilty or nolo contendere in return for
26 a grant of deferred adjudication, regardless of whether the
27 sentence for the offense was ever imposed or whether the sentence

1 was probated and the person was subsequently discharged from
2 community supervision.

3 (i) This section does not impose any additional requirement
4 on a contractor performing work under a contract that is subject to:

5 (1) Chapter 2258, Government Code; or

6 (2) the Davis-Bacon Act (40 U.S.C. Section 3141 et
7 seq.) or another federal law that makes the Davis-Bacon Act
8 applicable to the contract.

9 SECTION 2. (a) The change in law made by this Act applies
10 only to an administrative penalty assessed on or after the
11 effective date of this Act. An administrative penalty assessed
12 before the effective date of this Act is governed by the law in
13 effect on the date the penalty was assessed, and the former law is
14 continued in effect for that purpose.

15 (b) The change in law made by this Act applies only to a
16 criminal proceeding that commences on or after the effective date
17 of this Act. A criminal proceeding that commences before the
18 effective date of this Act is governed by the law in effect on the
19 date the proceeding commenced, and the former law is continued in
20 effect for that purpose.

21 (c) The change in law made by this Act applies only to a
22 final order of the Texas Workforce Commission entered on or after
23 the effective date of this Act. A final order entered before the
24 effective date of this Act is governed by the law in effect on the
25 date the order was entered, and the former law is continued in
26 effect for that purpose.

27 SECTION 3. Not later than December 1, 2015, the Texas

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1 Workforce Commission shall establish the database required by
2 Section 301.070, Labor Code, as added by this Act.

3 SECTION 4. This Act takes effect September 1, 2015.