

By: Meza

H.B. No. 263

A BILL TO BE ENTITLED

AN ACT

relating to rest breaks for employees of certain contractors with a governmental entity; providing an administrative penalty.

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

SECTION 1. Subchapter Z, Chapter 2252, Government Code, is amended by adding Section 2252.909 to read as follows:

Sec. 2252.909. REST BREAKS REQUIRED FOR EMPLOYEES PERFORMING CONSTRUCTION WORK UNDER CONTRACTS WITH GOVERNMENTAL ENTITIES. (a) In this section:

(1) "Construction contract" means a contract or agreement for the performance of general construction.

(2) "Contractor" means a person, firm, or corporation contracting with a governmental entity for general construction.

(3) "Employee" means an individual paid by a contractor or subcontractor to perform general construction work or services.

(4) "General construction" means:

(A) erecting or preparing to erect a structure, including a building, bridge, roadway, public utility facility, or related structure;

(B) remodeling, extending, repairing, or demolishing a structure; or

(C) otherwise improving real property or a structure related to real property.

1           (5) "Governmental entity" means:

2                   (A) a board, commission, department, office, or  
3 other agency in the executive branch of state government; and

4                   (B) a political subdivision of this state,  
5 including a municipality, county, public school district, or  
6 special-purpose district or authority.

7           (6) "Rest break" means a break from work during work  
8 hours. The term does not include a regular meal break period  
9 provided to an employee by a contractor or subcontractor.

10           (b) A governmental entity contracting with a contractor  
11 shall require the contractor and any subcontractor to provide at  
12 least a 10-minute paid rest break within every four-hour period of  
13 work to each employee performing work under the contract.

14           (c) Each construction contract with a governmental entity  
15 must include terms that:

16                   (1) authorize an employee of a contractor or  
17 subcontractor required to work without a rest break in violation of  
18 Subsection (b) to make a verbal or written complaint to the  
19 governmental entity contracting with the contractor;

20                   (2) explain that, on confirmation of a violation of  
21 Subsection (b) that is the subject of a complaint, the governmental  
22 entity shall provide to the contractor written notice of the  
23 violation by hand delivery or certified mail;

24                   (3) inform a contractor that the governmental entity  
25 may impose an administrative penalty if the contractor fails to  
26 comply with Subsection (b) after the date on which the contractor  
27 receives notice under Subdivision (2); and

1           (4) explain that a penalty amount may be withheld from  
2 a payment otherwise owed to a contractor under the contract.

3           (d) In accordance with a construction contract governed by  
4 this section, the governmental entity may impose an administrative  
5 penalty in an amount of not less than \$100 and not more than \$500 per  
6 day if any employee is required to work without a rest break in  
7 violation of Subsection (b). A proceeding under this section to  
8 impose an administrative penalty is a contested case under Chapter  
9 [2001](#).

10           (e) Each governmental entity shall develop procedures for  
11 the administration of this section.

12           (f) This section does not preempt a local ordinance, rule,  
13 or other measure adopted by a political subdivision of this state  
14 requiring rest breaks in accordance with a construction contract  
15 that is compatible with and equal to or more stringent than the  
16 provisions of this section.

17           SECTION 2. Section 2252.909, Government Code, as added by  
18 this Act, applies only to a contract for which the solicitation of  
19 qualifications, proposals, or other similar expressions of  
20 interest is published on or after September 1, 2021.

21           SECTION 3. This Act takes effect September 1, 2021.