

By: Romero, Jr.

H.B. No. 863

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the prevailing wage for work associated with public
3 work contracts; authorizing a penalty.

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

5 SECTION 1. Section 2258.023, Government Code, is amended by
6 amending Subsections (a), (b), and (d) and adding Subsections (b-1)
7 and (f) to read as follows:

8 (a) The contractor who is awarded a contract by a public
9 body or a subcontractor of the contractor:

10 (1) shall pay not less than the rates determined under
11 Section 2258.022 to a worker employed by it in the execution of the
12 contract; and

13 (2) may not improperly classify a worker employed by
14 it in the execution of the contract as an independent contractor in
15 order to avoid paying the worker under Subdivision (1).

16 (b) A contractor or subcontractor who violates this section
17 shall pay to the state or a political subdivision of the state on
18 whose behalf the contract is made \$90 [~~7~~, ~~\$60~~] for:

19 (1) each worker employed for each calendar day or part
20 of the day that the worker is paid less than the wage rates
21 stipulated in the contract; or

22 (2) each worker misclassified as an independent
23 contractor for each calendar day or part of the day that the worker
24 is misclassified.

1 (b-1) A public body awarding a contract shall specify the
2 ~~[this]~~ penalty provided for by Subsection (b) in the contract.

3 (d) The public body shall:

4 (1) audit a public work contract to ensure compliance
5 with this chapter:

6 (A) throughout the term of the contract; and

7 (B) not later than the 30th day before the date
8 the work is scheduled to be completed on the contract; and

9 (2) use any money collected under this section to
10 offset the costs incurred in the administration of this chapter.

11 (f) The payment requirement under Subsection (a)(1) may
12 only be satisfied by payment to the employee in the form of per diem
13 wages.

14 SECTION 2. The change in law made by this Act applies only
15 to a public work contract entered into on or after the effective
16 date of this Act. A public work contract entered into before the
17 effective date of this Act is governed by the law in effect on the
18 date the contract was entered into, and the former law is continued
19 in effect for that purpose.

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