

BILL ANALYSIS

H.B. 2872
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International Relations & Economic Development
Committee Report (Unamended)

BACKGROUND AND PURPOSE

There are concerns regarding employers that underpay or fail to pay employees in Texas, including those that undercount hours worked and write bad paychecks. In addition to harming workers, legitimate business are undercut by any unscrupulous business that doesn't pay full wages or minimum wage. H.B. 2872 seeks to address these concerns by requiring the Texas Workforce Commission to make a publicly accessible list available on its website of employers in Texas that have been assessed an administrative penalty for acting in bad faith in not paying wages, have been ordered to pay wages but have failed to do so, or have been convicted of certain offenses relating to wages and theft of service.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Workforce Commission in SECTION 1 of this bill.

ANALYSIS

H.B. 2872 amends the Labor Code to require the Texas Workforce Commission (TWC) to make available on its website a publicly accessible list of all employers in Texas that have been assessed an administrative penalty for acting in bad faith in not paying wages, ordered to pay wages by a final order of TWC and have failed to comply with statutory provisions requiring payment to TWC of wages or a penalty, or convicted of a failure to pay wages offense or a theft of service offense involving the theft of a service that was rendered by an employee of the employer. The bill requires the database, for an employer that is a business entity, to include the name under which the entity operates and the name of each individual who is an owner of and actively involved in the management of the entity. The bill requires TWC to establish the database not later than December 1, 2023, and to do the following with respect to the database:

- provide notice to an employer not later than the 180th day before the date the employer is listed in the database;
- establish by rule a process by which an employer may, at any time after receiving notice, dispute the employer's initial inclusion or continued inclusion in the database, as applicable, that requires TWC to investigate and make a final determination regarding such an employer dispute not later than the 21st day after the date the dispute is filed;
- consider, in a dispute regarding an employer's continued inclusion in the database, any material changes to the employer's management or ownership following the incident for which the employer was initially included in the database; and

- list an employer in the database until the third anniversary of the date the penalty is assessed or the employer is convicted, unless the employer is removed from the database as a result of a determination by TWC following a dispute.

H.B. 2872 requires an attorney representing the state who is a district attorney, criminal district attorney, or county attorney performing the duties of a district attorney to report to TWC the name of each employer that is prosecuted and convicted in the attorney's jurisdiction of a failure to pay wages offense or theft of service offense and establishes that a person has been convicted of an offense if the person was adjudged guilty of the offense or entered a plea of guilty or nolo contendere in return for a grant of deferred adjudication community supervision, regardless of whether the sentence for the offense was ever imposed or whether the sentence was probated and the person was subsequently discharged from community supervision.

H.B. 2872 expressly does not impose any additional requirement on a contractor performing work under a contract that is subject to Government Code provisions relating to prevailing wage rates or the federal Davis-Bacon Act or another federal law that makes the Davis-Bacon Act applicable to the contract.

H.B. 2872 applies only to an employer for whom an administrative penalty is assessed on or after the bill's effective date, who is subject to a final order of TWC entered on or after that date, or for whom a judgment of conviction is entered, or who is placed on deferred adjudication community supervision, on or after the bill's effective date, regardless of whether the conduct giving rise to the penalty or order, or the offense for which the employer was convicted, or for which the employer was placed on deferred adjudication community supervision, was committed before, on, or after that date, as applicable.

EFFECTIVE DATE

September 1, 2023.