

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

April 23, 2023

TO: Honorable Oscar Longoria, Chair, House Committee on Business & Industry

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB1054 by Turner (Relating to the classification of certain construction workers and the eligibility of those workers for unemployment benefits; providing an administrative penalty.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB1054, As Introduced : a negative impact of (\$1,963,224) through the biennium ending August 31, 2025.

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:

<i>Fiscal Year</i>	<i>Probable Net Positive/(Negative) Impact to General Revenue Related Funds</i>
2024	(\$1,641,612)
2025	(\$321,612)
2026	(\$135,680)
2027	(\$135,680)
2028	(\$135,680)

All Funds, Five-Year Impact:

<i>Fiscal Year</i>	<i>Probable (Cost) from General Revenue Fund 1</i>	<i>Change in Number of State Employees from FY 2023</i>
2024	(\$1,641,612)	4.5
2025	(\$321,612)	4.5
2026	(\$135,680)	2.0
2027	(\$135,680)	2.0
2028	(\$135,680)	2.0

Fiscal Analysis

The bill would amend the Labor code to require contractors to properly classify each person performing construction services as either an employee or an independent contractor. The bill would allow the Texas Workforce Commission (TWC) to impose an administrative penalty on a contractor that violates that requirement. The bill would require an annual report containing the number of complaints received, number of investigations resulting in any findings, and amount of fees, penalties, or fines collected as a result of the bill. The bill would be effective September 1, 2023.

Methodology

The Texas Workforce Commission (TWC) would be required to report on the misclassification of individuals performing construction services as either an employee or an independent contractor. The reporting requirement would be the responsibility of the Unemployment Insurance and Appellate Services divisions and the primary impact driver regarding the provisions of the bill.

This analysis assumes TWC would be required to develop the annual report relating to the number of complaints received regarding the misclassification of people performing construction services as either an employee or an independent contractor, the number of investigations of complaints resulting in any findings, and the amount of collected fees or penalties, or taxes paid back. Additionally, TWC's Unemployment Insurance IT system would require programming and development build-out to implement the reporting provision of the bill.

Based on these assumptions and analysis of TWC, the total costs and the full-time equivalent (FTE) requirements for the agency to implement the provisions of the bill in the 2024-25 biennium would be \$1,963,224 in General Revenue Funds and 4.5 FTEs. This total includes \$1,320,000 in General Revenue as one-time technology cost in fiscal year 2024. The FTEs include:

- Accounts Examiner II (\$42,511 plus \$13,531 in benefits per FTE per each fiscal year of the biennium)
Primary Function: Tax and audit investigations.
- Hearings Officer IV (\$34,024 plus \$10,830 in benefits per FTE per each fiscal year of the biennium)
Primary Function: High-skilled hearings resulting from the tax and audit investigations.

Based on the analysis of TWC regarding the estimated revenue generated from fees, penalties, or fines collected as a result of the bill, this analysis assumes the amount will not have a significant impact on the General Revenue-dedicated Unemployment Compensation Special Administration Account No. 165. Additionally, based on the analysis of the Texas Workforce Commission, this estimate assumes any additional duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources.

Technology

One-time technology costs of \$1,320,000 in General Revenue funds in fiscal year 2024 are associated with build out of the Unemployment Insurance system for required programming and development.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts, 320 Texas Workforce Commission

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