

BILL ANALYSIS

S.B. 243
By: Flores
Intergovernmental Affairs
Committee Report (Unamended)

BACKGROUND AND PURPOSE

A 2016 investigative report by the *Austin American-Statesman* found that migrant agricultural workers were being subjected to inhumane living conditions, such as being housed in empty shipping containers and homes flooded with sewage. The report also found that despite numerous reports of noncompliance, the Texas Department of Housing and Community Affairs (TDHCA) had not penalized any facility operator for noncompliance since 2005. The bill sponsor has informed the committee that although TDHCA is responsible for overseeing migrant labor housing facility regulations, it lacks sufficient accountability and enforcement mechanisms, particularly for repeat offenders and that historically, TDHCA has lacked full-time staff dedicated to investigations and does not have a civil penalty structure for repeated violations. The bill sponsor has further informed the committee that migrant laborers are often reluctant to report violations or collect damages related to substandard housing conditions because of fear of retaliation against which they have no legal protection, which creates a major barrier to investigations and enforcement. S.B. 243 seeks to address this issue by strengthening the TDHCA penalty structure for violations of provisions governing migrant labor housing facilities and by providing for increased accountability and enforcement of those provisions.

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 Department of Housing and Community Affairs in SECTION 1 of this bill.

ANALYSIS

S.B. 243 amends the Government Code to change the amount of the civil penalty for a violation of provisions governing migrant labor housing facilities or a rule adopted under those provisions from \$200 for each day that the violation occurs to a minimum of \$50 for each person occupying the migrant labor housing facility in violation of those provisions for each day that the violation occurs. The bill does the following with respect to the violations and penalties:

- extends the authority to bring an action to collect a civil penalty to the following entities:
 - the Texas Department of Housing and Community Affairs (TDHCA), which must bring the action through a prescribed contested case hearing process; and
 - a migrant agricultural worker if a complaint regarding the violation for which the civil penalty is sought has been submitted to TDHCA and if, at the time the complaint is submitted, the worker lives in the migrant labor housing facility that is the subject of the complaint and is not temporarily in the United States under an H-2A visa;

- requires TDHCA by rule to adopt a penalty schedule that increases the amount of the penalty assessed against a person who commits repeat violations; and
- requires a penalty collected through an action brought by TDHCA, a county attorney, or the attorney general to be deposited to the credit of the general revenue fund and restricts appropriation of the penalty to TDHCA for the enforcement of provisions governing migrant labor housing facilities.

S.B. 243 prohibits an action to collect a civil penalty for a violation regarding a migrant labor housing facility from being brought during the following periods:

- while a contested case hearing brought by TDHCA and relating to the same migrant labor housing facility is pending;
- while an action for injunctive relief relating to the same violation is pending;
- while an action brought by a county attorney or the attorney general and relating to the same migrant labor housing facility is pending; or
- while the facility operator is waiting for the facility to be inspected to confirm remediation of the violation or is providing housing at another facility to which the migrant agricultural workers who occupied the facility that is the subject of the action have been relocated.

S.B. 243 establishes that such a civil penalty begins accruing on the earlier of the following dates:

- for a violation subject to the general remediation period prescribed by the bill, the day TDHCA determines, based on information submitted by the facility operator, that the operator has failed to remedy the violation or the day an inspection by TDHCA establishes that the operator has failed to remedy the violation; or
- for a violation that TDHCA determines poses an imminent hazard or threat to the health and safety of the occupants of the facility, the 31st day following the date that notification of the complaint is received from TDHCA, unless the operator has relocated the migrant agricultural workers who occupied the facility that is the subject of the complaint.

S.B. 243 requires TDHCA to do the following with regard to complaints regarding a migrant labor housing facility:

- establish by rule a process for the submission to TDHCA of such a complaint that must allow the submission of complaints in the following manner:
 - only by an occupant, a prospective occupant, or the designated representative of an occupant or prospective occupant of the facility, or an individual, including the owner or tenant of an adjacent property, that has observed a clear violation regarding the facility; and
 - through TDHCA's website, in person at any TDHCA office, or by telephone or written notice to TDHCA;
- establish a process by rule for determining whether a complaint is unfounded or does not violate the standards adopted by TDHCA, and for the investigation, resolution, or dismissal of a complaint, including confirmation of remediation through the methods prescribed by the bill;
- not later than the fifth day after the date on which a complaint is received, provide the operator of the facility that is the subject of a complaint notice that includes the date the complaint was received, the complaint's subject matter, the name of each person contacted in relation to the complaint, if any, and the timeline for remedying a complaint that is not otherwise dismissed by TDHCA; and
- serve such notification via registered or certified mail, return receipt requested, if unable to make contact with the operator for the purpose of serving the notification.

The bill authorizes TDHCA to dismiss a complaint that it determines is unfounded or does not violate the standards adopted by rule. The bill requires TDHCA to provide timely notice of any complaint dismissal, including the explanation for the dismissal, to the applicable facility

operator and to include a statement of the reason for the dismissal in the record of the complaint. The bill prohibits a designated representative from being required to reveal the name of any migrant agricultural worker on whose behalf the representative submitted a complaint if TDHCA reviews the written authorization establishing the representation and verifies that the representative is authorized to submit the complaint. The bill defines "designated representative" as an individual or organization to whom a migrant agricultural worker has given written authorization to exercise the worker's right to file a complaint regarding a migrant labor housing facility.

S.B. 243 requires the operator of a migrant labor housing facility to remedy a complaint not later than the seventh day after the date that notice of the complaint is received from TDHCA, unless the operator is subject to the other remediation period prescribed by the bill. The bill requires TDHCA to establish by rule a procedure by which a facility operator may submit proof of remediation of a complaint through visual evidence and a sworn affidavit. The bill requires TDHCA to have a facility whose operator receives notice of a complaint via registered or certified mail or does not submit proof of remediation inspected as soon as possible following the seventh day after the date the notice is received to ensure remediation of the complaint.

S.B. 243 sets out the following provisions that apply to remediation of a complaint alleging a violation that TDHCA determines poses an imminent hazard or threat to the health and safety of the occupants of the migrant labor housing facility, including violations of TDHCA rules concerning sanitation:

- a requirement for the operator of the facility that is the subject of such a complaint to remedy the complaint not later than the 30th day after the date that notice of the complaint is received;
- an authorization for TDHCA to refer the complaint to a local authority for immediate inspection of the facility; and
- a requirement for TDHCA to establish by rule a procedure for requiring the owner of the facility to relocate or provide for the relocation of the facility's occupants to another housing facility if the remediation of the complaint is projected to take longer than a period of 30 days.

The housing facility to which a person is relocated must meet applicable occupancy standards, must be located in the same vicinity as the vacated facility, and may not require a rent payment from a displaced migrant agricultural worker that exceeds the rent charged for the vacated facility. The bill excludes from the relocation requirement a migrant agricultural worker who is temporarily in the United States under an H-2A visa.

S.B. 243 prohibits the following from retaliating against a person for filing a complaint or providing information in good faith relating to a possible violation of provisions governing migrant labor housing facilities:

- a person who owns, establishes, maintains, operates, or otherwise provides a migrant labor housing facility;
- a person who employs a migrant agricultural worker who occupies a migrant labor housing facility; or
- a farm labor contractor.

S.B. 243 authorizes the court in a suit brought under provisions governing migrant labor housing facilities to award reasonable attorney's fees to the prevailing party. The bill requires TDHCA to identify other state agencies that may interact with occupants of migrant housing facilities to assist TDHCA in identifying and locating unlicensed migrant labor housing facilities. The bill restricts the purposes for which such information provided to TDHCA may be used to identifying and locating unlicensed migrant labor housing facilities and establishes that the information must be free of identification information relating to individual migrant agricultural workers and is confidential and not subject to disclosure under state public information law.

S.B. 243 requires TDHCA, for the purposes of outreach and education services regarding migrant labor housing facilities, to do the following:

- provide to migrant agricultural workers in different regions of Texas and to persons who own, establish, maintain, operate, procure, make arrangements for, or otherwise provide such facilities educational materials or programs that are presented in English, Spanish, and other languages as appropriate and that inform the workers of their rights and remedies and the persons of their obligations, respectively, under the bill's provisions;
- ensure that, in each region of Texas where such facilities are most common, there are persons capable of providing such information in English, Spanish, and other languages as appropriate; and
- conduct research, including by surveying migrant agricultural workers, concerning what types of migrant labor housing facilities are most common in different regions of Texas and what regions of Texas most need additional or improved migrant labor housing facilities.

S.B. 243 requires TDHCA to adopt the rules necessary to implement the bill's provisions not later than March 1, 2026. The bill's provisions relating to civil penalties, the complaint process, remediation of complaints, and retaliation relating to a complaint apply only to a violation that occurs on or after the bill's effective date. A violation that occurs before the bill's effective date is governed by the law in effect on the date the violation occurred, and the former law is continued in effect for that purpose. For these purposes, a violation occurs before the bill's effective date if any element of the violation occurs before that date.

EFFECTIVE DATE

September 1, 2025.