

## **BILL ANALYSIS**

H.B. 202  
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Business & Industry  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

Interested parties contend that wage theft is a pervasive occurrence in certain business sectors and that the public would benefit from a database that lists employers who have been penalized for failure to pay wages or convicted of certain offenses involving such theft. H.B. 202 seeks to address this issue by requiring the Texas Workforce Commission to create such a database.

### **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. 202 amends the Labor Code to require the Texas Workforce Commission (TWC), not later than December 1, 2017, to make available on its website a publicly accessible database of all 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 by a final order of the TWC and have failed to comply with the requirements of that order, or have been convicted of an offense relating to the failure to pay wages or convicted of theft of service, if the offense involved the theft of a service that was rendered by an employee of the employer.

H.B. 202 requires the database to include, for an employer that is a business entity, the name under which the entity operates and the name of each individual who is an owner of the entity and actively involved in the management of the entity. The bill requires the TWC to provide notice to an employer not later than the 180th day before the date the employer is listed in the database and to establish by rule a process by which an employer may, at any time after receiving such notice, dispute the employer's inclusion in the database. The bill establishes that the process must require the 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. The bill requires the TWC to list an employer in the database until the third anniversary of the date the penalty is assessed or the employer is convicted. The bill requires an attorney representing the state to report to the TWC the name of each employer that is prosecuted and convicted in the attorney's jurisdiction of an offense that triggers inclusion in the TWC database.

H.B. 202 establishes that, for purposes of the database, 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. The bill 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 that is subject to the federal Davis-Bacon Act or another federal law that makes the Davis-Bacon Act applicable to the contract.

**EFFECTIVE DATE**

September 1, 2017.