

BILL ANALYSIS

H.B. 28
By: Romero, Jr.
State Affairs
Committee Report (Unamended)

BACKGROUND AND PURPOSE

It has been noted that some contractors awarded a contract for a public work project may misclassify workers as independent contractors to cut costs. This practice has caused concern because misclassified workers are unable to receive benefits such as workers' compensation and overtime, and the state may miss the opportunity to receive billions of dollars in federal income tax revenue and unemployment insurance. H.B. 28 seeks to address these concerns and deter misclassification by providing for certain fines and audits relating to the payment of prevailing wages for work associated with public work contracts.

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 this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

H.B. 28 amends the Government Code to prohibit a contractor who is awarded a contract by a public body or a subcontractor of the contractor from improperly classifying a worker employed by it in the execution of the contract as an independent contractor in order to avoid paying the worker the required prevailing wage rates. The bill requires a contractor or subcontractor who violates this prohibition to pay to the state or a political subdivision of the state on whose behalf the contract is made \$90 for each worker misclassified as an independent contractor for each calendar day or part of the day that the worker is misclassified.

H.B. 28 establishes that the requirement for a contractor who is awarded a contract by a public body or a subcontractor of the contractor to pay the required prevailing wage rates to a worker employed by it in the execution of the contract may only be satisfied by payment to the employee in the form of per diem wages. The bill increases from \$60 to \$90 the fine that a contractor or subcontractor who violates that requirement is required to pay to the state or a political subdivision of the state on whose behalf the contract is made for each worker employed for each calendar day or part of the day that the worker is paid less than the wage rates stipulated in the contract.

H.B. 28 requires a public body awarding a public work contract to audit the contract to ensure compliance with prevailing wage rate requirements throughout the term of the contract and not later than the 30th day before the date the work is scheduled to be completed on the contract.

EFFECTIVE DATE

September 1, 2019.