

SUBJECT: Duration of dormancy for abandoned wages

COMMITTEE: Government Reform — favorable, without amendment

VOTE: 4 ayes — Swinford, Allen, Casteel, R. Cook
0 nays
3 absent — Gallego, Callegari, T. Smith

WITNESSES: No public hearing

BACKGROUND: Property Code, sec. 72.101 sets forth state law regarding abandoned property. Personal property is presumed to be abandoned if, for more than three years, the existence and location of the owner is unknown to the property holder and no claim or act of ownership has been exercised.

Property Code, sec. 74.301 requires entities holding abandoned property to deliver it to the state comptroller by November 1 of each year. Reversion of abandoned property to the state, called escheat, occurs when a bank account is left inactive for an extended period or when a person dies without a legal will and without any legally recognizable heirs. The comptroller acts as custodian for unclaimed property until the owners or heirs are located. Cash is held in general revenue until claimed; personal property is auctioned periodically, with the proceeds held in general revenue.

During the 2003 regular session, the 78th Legislature enacted HB 826 by Y. Davis, which amended the duration of the dormancy period for unclaimed wages before escheat occurs. Subch. G of ch. 61 of the Labor Code, which will become effective September 1, 2003, shortens the dormancy period from three years to six months for unclaimed wages of less than \$100. The bill does not require companies that hold abandoned unclaimed wages of less than \$100 to revert ownership to the state by escheat until the payment has been abandoned for three years.

DIGEST: HB 4 would repeal subch. G of ch. 61 of the Labor Code. It would amend the Property Code by adding Sec. 72.1015, which would establish wages as abandoned after one year if the existence and location of the person to whom the wages are owed is unknown to the holder of the wages and no claim of ownership has been asserted or act of ownership has been exercised.

The bill would take effect September 1, 2003, if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect December 1, 2003.

SUPPORTERS SAY: HB 4 is needed to make the dormancy period for unclaimed wages consistent with other states and resolve issues raised by the changes made during the regular session. Over 30 other states have a one-year dormancy period for unclaimed wages, and adding Texas to that list would help ease accounting and reporting.

One year would be an appropriate dormancy period for unclaimed wages. Companies often lose track of former employees, but the state makes an effort to return the money to its rightful owner. Each year, the Comptroller's Office publishes a list of people for whom it is holding unclaimed property and posts a searchable list on its website. The Comptroller's Office and local news media make people aware that they should check the Comptroller's Office for any unclaimed property they may be owed. A three-year dormancy period hinders people from obtaining their unclaimed wages in a timely manner because little effort is made to notify them until the period has expired. By setting a six-month period for wages under \$100, HB 826, enacted during the regular session, sought to solve this problem for those with relatively small amounts of unclaimed wages, but it would be more practical and workable to set a one-year dormancy period for all unclaimed wages.

The change made by HB 826 would be difficult to implement. The accounting software used by many companies cannot distinguish between the amounts determined by the \$100 cutoff and so would be unable to alert the payroll department that the six-month dormancy period had passed for wages under \$100.

Companies currently report unclaimed wages once a year, but HB 826 could require them to report every six months. The comptroller's unclaimed property division is equipped to handle one peak per year, but not a second.

HB 4 also would clear up an inconsistency in HB 826. The legislation declares some wages abandoned after six months but does not require companies to revert ownership to the state by escheat until the payment has been abandoned for three years. All other unclaimed property law requires holders to turn over ownership when the property is declared abandoned.

HB 4 would add more money to the state's coffers. The fiscal note attached to HB 826 estimated a net benefit to general revenue of \$1.5 million in fiscal 2005. Only about 30 to 35 percent of money received as unclaimed property is claimed; the other 65 to 70 percent remains in general revenue and can be used to pay for state operations until claimed. By establishing a shorter time frame for escheat of abandoned wages, HB 4 would be a one-time boost to general revenue as the receipt of unclaimed wages would be recognized earlier than under prior law. The fiscal note attached to HB 4 estimates that it will generate a net \$6.5 million in fiscal 2005.

**OPPONENTS
SAY:**

No apparent opposition.

NOTES:

Art. 15 of SB 22 by Ellis, first called session, an omnibus government reorganization bill, was identical to HB 4 except for the December 1 effective date. SB 22 passed the Senate, but died in the House Government Reform Committee.