HOUSE
RESEARCH
ORGANIZATION bill digest   4/10/2019

(2nd reading)
HB 48
M. González

SUBJECT: Implementing a database of wage theft law violators

COMMITTEE: International Relations and Economic Development — favorable, without
               amendment

VOTE: 9 ayes — Anchia, Frullo, Blanco, Cain, Larson, Metcalf, Perez, Raney,
               Romero

               0 nays

WITNESSES: For — Caitlin Boehne, Equal Justice Center; Arash Farasat and Stephanie
               Gharakhanian, Workers Defense Action Fund; (*Registered, but did not
               testify*: Lauren Oertel, Austin Justice Coalition; Jonathan Lewis, Center
               for Public Policy Priorities; Charley Wilkison, Combined Law
               Enforcement Associations of Texas; Fatima Menendez, MALDEF;
               Samantha Robles, Progress Texas; Currie Hallford, Texas Political &
               Legislative Committee/CWA; Rene Lara, Texas AFL-CIO; Ted Raab,
               Texas AFT; Portia Bosse, Texas State Teachers Association; Laura
               Monroy; Susan Motley; Adam Orman; Edward Sills; Amanda Weems)

               Against — (*Registered, but did not testify*: James Hines, Texas
               Association of Business)

               On — Chuck Ross, Texas Workforce Commission

BACKGROUND: Labor Code sec. 61.053 authorizes the Texas Workforce Commission
               (TWC), one of its examiners, or a wage claim appeal tribunal to assess an
               administrative penalty, in addition to ordering the payment of wages,
               against an employer determined to have acted in bad faith in not paying
               wages.

               An employer ordered by TWC to pay wages or a penalty is required under
               Labor Code sec. 61.063 to pay the penalty to the commission within 30
               days, or, if the employer elects to contest the TWC's final order in court,
               to send the amount to TWC for deposit in an escrow account pending
               judicial review.

Labor Code sec. 61.019 and Penal Code sec. 31.04 provide criminal penalties for failure to pay wages and for theft of service and define the necessary conditions of intent and conduct for these offenses.

Since 2016, the Texas Workforce Commission (TWC) has ordered employers to pay on average about $10 million per year in unpaid wages and collected about $6 million per year.

DIGEST: HB 48 would require the Texas Workforce Commission to publish on its website a database of employers that had been finally convicted of failure to pay wages, penalized by the commission for failure to pay wages, or finally convicted of theft of service, if the victim was an employee. The list also would include employers that had failed to comply with a TWC order to pay wages to an employee or deposit the amount into an escrow account pending judicial review of the order.

The database would include the names of individuals and businesses meeting these criteria, including the operating name of each business and the name of each owner actively involved in management.

The commission would be required to provide at least 180 days' notice to an employer before listing it in the database. TWC by rule would establish a process by which employers could dispute their inclusion in the database. Each listing would remain in the database for three years from the date of the conviction or penalty.

Listings of convicted employers in the database would be added on the basis of information provided by state attorneys. HB 48 would require them to report to TWC the name of each employer prosecuted and convicted for wage theft in their jurisdiction, as well as those who entered a plea of guilty or no contest in return for a grant of deferred adjudication. For purposes of the database, individuals who pleaded in this manner would be considered to have been convicted.

The bill would apply only to employers convicted on or after the effective

date of the bill, to those for whom an administrative penalty was assessed on or after that date, and to those who were subject to a final order of TWC entered on or after that date, regardless of whether the conduct giving rise to the penalty, order, or conviction occurred before, on, or after that date.

The commission would establish the database by December 1, 2019.

The bill would take effect September 1, 2019.