

## **BILL ANALYSIS**

C.S.H.B. 2409  
By: Raney  
Business & Industry  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Interested parties contend that the goals of the program administered by the Texas Workforce Commission for purchasing from people with disabilities are undermined when a participating community rehabilitation program pays employees less than the federal minimum wage. C.S.H.B. 2409 seeks to ensure that Texans with disabilities are paid at least the federal minimum wage for their work in the program.

### **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**

C.S.H.B. 2409 amends the Human Resources Code to require the Texas Workforce Commission (TWC) to assist a community rehabilitation program that is participating in the program administered under statutory provisions relating to purchasing from people with disabilities and that pays workers with disabilities employed by the program wages that are less than the federal minimum wage in developing a plan to increase the wages paid to such workers to the federal minimum wage not later than September 1, 2019, for work relating to any products or services purchased from the community rehabilitation program through the purchasing program and to assist a community rehabilitation program and any worker with a disability, or request, to ensure the increase in wages paid to a worker with a disability does not affect the worker's eligibility to receive any federal benefits the worker received or was eligible to receive before the wage increase. The bill requires each such community rehabilitation program, to the maximum extent possible, to ensure that each worker with a disability remains employed by the program after the program increases the wages paid to those employees in accordance with that plan. The bill requires a community rehabilitation program that is unable to employ all workers with a disability after such a wage increase to work with the TWC and any other governmental entity to seek and obtain any job training that may be suitable for those former employees to find other employment that pays at least the federal minimum wage.

C.S.H.B. 2409 authorizes the TWC, at the worker's request and in addition to such job training assistance, to assist a worker with a disability not retained by a community rehabilitation program to secure employment in a position that pays at least the federal minimum wage. The bill authorizes the TWC, on request of a community rehabilitation program, to extend the period for compliance with the bill's program participation wage requirements for not more than 12 months if the community rehabilitation program requests the extension not later than July 1, 2019, and satisfies certain specified conditions. The bill requires the TWC to make a decision on

a request for such an extension not later than September 1, 2019, and prohibits the TWC from granting more than one extension to a community rehabilitation program. The bill requires the TWC, not later than January 31, 2019, to report to the legislature regarding the implementation of the bill's provisions providing for an increase in wages and requires the report to include any recommendations for legislative or agency rule changes necessary to assist the TWC and community rehabilitation program in performing their duties under such provisions. The bill's provisions providing for an increase in wages expire September 1, 2021.

C.S.H.B. 2409 prohibits a community rehabilitation program from participating in the program administered under statutory provisions relating to purchasing from people with disabilities unless each worker with a disability employed by the program is paid at least the federal minimum wage for any work relating to any products or services purchased from the community rehabilitation program through the purchasing program. The bill establishes that, to the extent of a conflict between this provision of the bill and the Texas Minimum Wage Act, this provision controls. The bill adds a temporary provision, set to expire September 1, 2021, to establish that such prohibition does not apply to a community rehabilitation program's eligibility to participate in the purchasing program before the later of September 1, 2019, or the date a compliance extension granted under the bill's provisions expires.

### **EFFECTIVE DATE**

September 1, 2017.

### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 2409 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

#### INTRODUCED

SECTION 1. Chapter 122, Human Resources Code, is amended by adding Sections 122.0075 and 122.0076 to read as follows:

Sec. 122.0075. INCREASE IN WAGES; PLAN. (a) This section applies to a community rehabilitation program that:

(1) is participating in the program administered under this chapter; and  
(2) pays workers with disabilities employed by the program wages that are less than the federal minimum wage under Section 6, Fair Labor Standards Act of 1938 (29 U.S.C. Section 206).

(b) The workforce commission shall assist a community rehabilitation program in developing a plan to increase the wages paid to its workers with disabilities to the federal minimum wage not later than September 1, 2019.

#### HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Chapter 122, Human Resources Code, is amended by adding Sections 122.0075 and 122.0076 to read as follows:

Sec. 122.0075. INCREASE IN WAGES; PLAN. (a) This section applies to a community rehabilitation program that:

(1) is participating in the program administered under this chapter; and  
(2) pays workers with disabilities employed by the program wages that are less than the federal minimum wage under Section 6, Fair Labor Standards Act of 1938 (29 U.S.C. Section 206).

(b) The workforce commission shall assist:  
(1) a community rehabilitation program in developing a plan to increase the wages paid to its workers with disabilities to the federal minimum wage not later than September 1, 2019, for work relating to any products or services purchased from the community rehabilitation program through the program administered under this chapter; and  
(2) a community rehabilitation program and any worker with a disability, or request, to

(c) Each community rehabilitation program shall, to the maximum extent possible, ensure that each worker with a disability remains employed by the program after the program increases the wages paid to those employees in accordance with the plan developed under Subsection (b).

(d) If a community rehabilitation program is unable to employ all workers with a disability after the program increases the wages paid to those employees to the federal minimum wage, the community rehabilitation program shall work with the workforce commission and any other governmental entity to seek for and obtain any job training that may be suitable for those former employees to find other employment that pays at least the federal minimum wage.

(e) This section expires September 1, 2019.

ensure the increase in wages paid to a worker with a disability does not affect the worker's eligibility to receive any federal benefits the worker received or was eligible to receive before the wage increase.

(c) Each community rehabilitation program shall, to the maximum extent possible, ensure that each worker with a disability remains employed by the program after the program increases the wages paid to those employees in accordance with the plan developed under Subsection (b).

(d) If a community rehabilitation program is unable to employ all workers with a disability after the program increases the wages paid to those employees to the federal minimum wage, the community rehabilitation program shall work with the workforce commission and any other governmental entity to seek and obtain any job training that may be suitable for those former employees to find other employment that pays at least the federal minimum wage.

(e) In addition to the assistance described by Subsection (d), the workforce commission may, at the worker's request, assist a worker with a disability not retained by a community rehabilitation program to secure employment in a position that pays at least the federal minimum wage.

(f) On request of a community rehabilitation program, the workforce commission may extend the period for compliance with the program participation requirements of Section 122.0076 for not more than 12 months if the community rehabilitation program:

(1) requests the extension not later than July 1, 2019;

(2) has demonstrated to the commission that an extension would be in the best interest of the program's employees with disabilities;

(3) has worked with the commission to develop a transition plan and made meaningful progress towards meeting the program participation requirements of Section 122.0076; and

(4) submits a revised transition plan to the commission detailing how an extension will allow the program to meet the program participation requirements of Section 122.0076.

(g) The workforce commission shall make a

Sec. 122.0076. WAGE REQUIREMENTS.

(a) A community rehabilitation program may not participate in the program administered under this chapter unless each worker with a disability employed by the program is paid at least the federal minimum wage under Section 6, Fair Labor Standards Act of 1938 (29 U.S.C. Section 206).

(b) To the extent of a conflict between this section and Chapter 62, Labor Code, this section controls.

SECTION 2. (a) Except as provided by Subsection (b) of this section, this Act takes effect September 1, 2017.

(b) Section 122.0076, Human Resources Code, as added by this Act, takes effect September 1, 2019.

decision on a request for an extension under Subsection (f) not later than September 1, 2019. The commission may not grant more than one extension to a community rehabilitation program.

(h) Not later than January 31, 2019, the workforce commission shall report to the legislature regarding the implementation of this section. The report must include any recommendations for legislative or agency rule changes necessary to assist the commission and community rehabilitation program in performing their duties under this section.

(i) This section expires September 1, 2021.

Sec. 122.0076. WAGE REQUIREMENTS.

(a) A community rehabilitation program may not participate in the program administered under this chapter unless each worker with a disability employed by the program is paid at least the federal minimum wage under Section 6, Fair Labor Standards Act of 1938 (29 U.S.C. Section 206), for any work relating to any products or services purchased from the community rehabilitation program through the program administered under this chapter.

(b) To the extent of a conflict between this section and Chapter 62, Labor Code, this section controls.

(c) This section does not apply to a community rehabilitation program's eligibility to participate in the program administered under this chapter before the later of:

(1) September 1, 2019; or

(2) the date an extension granted under Section 122.0075(f) expires.

(d) This subsection and Subsection (c) expire September 1, 2021.

SECTION 2. This Act takes effect September 1, 2017.