

BILL ANALYSIS

Senate Research Center

S.B. 1408
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Business & Commerce
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AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Employees may file a claim with the Texas Workforce Commission (commission) against their employer for pay to which the employee believes he or she is entitled but has not received. Under current law, wage claims are adjudicated at the hearing officer level, and the commission has no authority to review those decisions. Because of this, wage claims are not able to be appealed or assessed for quality, nor can cases be adopted as precedents to help the commission provide guidance to both the hearing officers and the public as to how the law should be interpreted.

S.B. 1408 gives the commission review authority of wage claims in the same manner as used in unemployment compensation hearings. Wage claims would be heard initially by a commission examiner, with either party able to appeal the order to the full commission.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 301.0015, Labor Code, to require the Texas Workforce Commission (commission), in administering its functions under this title or another law, to limit its activities to those specifically provided under this section, including reviewing under Subchapter D (Wage Claims), Chapter 61, Labor Code, the decisions of a wage claim appeal tribunal regarding wage claims.

SECTION 2. Amends Section 301.006, Labor Code, to require a member of the commission who represents the public, notwithstanding Subsection (a), to serve as chair when the commission acts under Subchapter D, Chapter 61.

SECTION 3. Amends Section 61.001, Labor Code, to redefine "commission."

SECTION 4. Amends Section 61.052, Labor Code, to require a commission examiner, rather than the commission, to analyze each wage claim filed under Section 61.051 (Filing Wage Claim), Labor Code. Makes conforming changes.

SECTION 5. Amends Section 61.053, Labor Code, to authorize the commission examiner, wage claim appeal tribunal, or the commission, if those persons or entities determine that an employer acted in bad faith in not paying wages as required by this chapter, to assess an administrative penalty against the employer, in addition to ordering the payment of the wages. Makes conforming changes.

SECTION 6. Amends Section 61.054, Labor Code, to authorize either party to request a hearing to appeal, rather than contest, a preliminary wage determination order. Makes a conforming change.

SECTION 7. Amends Section 61.055, Labor Code, to make a conforming change.

SECTION 8. Amends Section 61.056, Labor Code, to make a conforming change.

SECTION 7. [sic] [Amends Section 61.057, Labor Code, as follows:]

Sec. 61.057. New heading: ESTABLISHMENT OF WAGE CLAIM APPEAL TRIBUNALS. Requires the commission to establish one or more impartial wage claim appeal tribunals to hear and decide disputed wage claims if the establishment of those wage claim appeal tribunals is necessary to ensure prompt disposal of wage claims cases on appeal. Provides that a wage claim appeal tribunal is composed of a salaried examiner.

SECTION 8. [sic] [Redesignates Section 61.057, Labor Code, as Section 61.058, and amends as follows:]

Sec. 61.058. Makes conforming changes.

SECTION 9. [Redesignates Section 61.058, Labor Code, as Section 61.059.]

SECTION 10. [Redesignates Section 61.059, Labor Code, as Section 61.060, and amends as follows:]

Sec. 61.060. New heading: WAGE CLAIM APPEAL TRIBUNAL CONSIDERATION OF PRELIMINARY WAGE DETERMINATION ORDER. Makes a conforming change.

SECTION 11. [Redesignates Section 61.060, Labor Code, as Section 61.061, as follows:]

Sec. 61.061. Makes conforming changes.

SECTION 12. [Redesignates Section 61.061, Labor Code, as Section 61.062, as follows:]

Sec. 61.062. Deletes existing text relating to the parties' right to judicial review of the order. Provides that the order becomes final 14 days after the date on which it is mailed unless further appeal is initiated as provided by Section 61.064, rather than unless a party to the appeal files a written motion for rehearing or the commission reopens the hearing before a certain date. Makes conforming changes.

SECTION 13. [Amends Section 61.063, Labor Code, as follows:]

Sec. 61.063. New heading: REMOVAL OR TRANSFER OF CLAIM PENDING BEFORE WAGE CLAIM APPEAL TRIBUNAL. Authorizes the commission to remove itself or transfer to another wage claim appeal tribunal the proceedings on a wage claim pending before a wage claim appeal tribunal. Requires a quorum of the commission to hear a proceeding removed to the commission under Subsection (a). Requires the commission to promptly mail to the parties before it a notice of order.

SECTION 14. [Amends Section 61.064, Labor Code, as follows:]

Sec. 61.064. New heading: COMMISSION REVIEW OF WAGE CLAIM APPEAL TRIBUNAL ORDER. Authorizes the commission to take certain actions regarding an order issued under Section 61.062.

SECTION 15. [Amends Section 61.065, Labor Code, as follows:]

Sec. 61.065. New heading: NOTICE OF COMMISSION ACTION. Requires the commission to mail to each party to the appeal notice of the decision, the amount of wages subject to the order, the amount of any penalty assessed, and the parties' right to judicial review of the order. Requires such notice to be mailed to a party's last known address, as shown by commission records.

SECTION 16. [Amends Section 61.066, Labor Code, as follows:]

Sec. 61.066. New heading: FINALITY OF COMMISSION ORDER. Provides that an order of the commission becomes final 14 days after the date the order is mailed unless, before that date, the commission, by order, reopens the appeal or a party to the appeal files a written motion for rehearing.

SECTION 17. [Redesignates Section 61.062, Labor Code, as Section 61.067, and amends as follows:]

Sec. 61.067. Provides that the exhaustion of a party's administrative remedies under this chapter does not include a motion for rehearing.

SECTION 18. [Redesignates Section 61.063, Labor Code, as Section 61.068.]

SECTION 19. [Redesignates Section 61.064, Labor Code, as Section 61.069.]

SECTION 20. [Redesignates Section 61.065, Labor Code, as Section 61.070.]

SECTION 21. [Redesignates Section 61.066, Labor Code, as Section 61.071.]

SECTION 22. [Redesignates Section 61.067, Labor Code, as Section 61.072.]

SECTION 23. Effective date: upon passage or September 1, 2005.