

BILL ANALYSIS

Senate Research Center
83R15642 MAW-F

C.S.S.B. 340
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Economic Development
3/21/2013
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Texas Pay Day Act provides for an administrative penalty to be assessed by the Texas Workforce Commission (TWC) when investigators determine that an employer has acted in “bad faith” in failing to pay its workers.

Based on data from TWC, the penalty has not been utilized often. In 2012, TWC assessed the bad faith penalty on less than 12 percent of the 1,028 cases in which wages were awarded to the employee; in 2009, the bad faith penalty was applied in only 86 cases.

C.S.S.B. 340 creates a clear standard by identifying acts that constitute bad faith by an employer and by requiring TWC to apply the penalty to employers who violate the Pay Day Act to serve as a deterrent to employers who continuously violate state law.

C.S.S.B. 340 amends current law relating to administrative penalties assessed by the Texas Workforce Commission against certain employers for failure to pay wages.

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 61.053(a), Labor Code, by amending Subsection (a) and adding Subsection (a-1), as follows:

(a) Requires, rather than authorizes, the Texas Workforce Commission (TWC) examiner (examiner), a wage claim appeal tribunal, or TWC, if the examiner, tribunal, or TWC determines that an employer acted in bad faith in not paying wages as required by this chapter, in addition to ordering the payment of wages, to assess an administrative penalty against the employer.

(a-1) Provides that, for the purposes of Subsection (a), acts that constitute bad faith by an employer include:

- (1) a history of previous violations of this chapter;
- (2) failure to pay wages to an employee as required by this chapter as an act of discrimination or retaliation against the employee;
- (3) failure to pay wages as required by this chapter to multiple employees at the same time;
- (4) failure to pay wages to an employee as required by this chapter knowing that the failure was a violation of state law; or
- (5) actions showing reckless disregard of the requirements of this chapter.

SECTION 2. Effective date: September 1, 2013.