

BILL ANALYSIS

Senate Research Center

S.B. 2296
By: Powell
Natural Resources & Economic Development
4/8/2019
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

S.B. 2296 seeks to allow the practice of common paymaster payroll.

The Texas Workforce Commission (TWC) has long disallowed the practice known as "payrolling," in which an entity that is not a licensed professional employer organization (PEO) reports the wages of employees working for other employers under its own employer account number. There are two main types of payroll, "traditional" and "common paymaster," both of which are disallowed under current TWC practice. In the traditional payroll situation, a client company may attempt to avoid the unemployment tax obligations of an employer by assigning its employees to an outside entity known as a payroll company for payroll purposes only - the payroll company, though, does not act as an employer in any other way. Texas considers such workers to be employed by the clients, not by the payroll entity. The other type of payroll involves "common paymaster" situations, in which separate, related companies establish a new entity, or designate one entity from among the group, for the purpose of handling personnel and payroll matters for the members of that group, or else allow one of the members of the group to handle payroll matters for the rest of the group's members, either for an administrative fee or as a matter of convenience.

Interested parties assert that there is an advantage and convenience that common paymaster payroll can bring to a group of related companies, such as small businesses owned by one family. In recognition of these benefits, S.B. 2296 amends Texas Labor Code Section 201.001(11) to include within the definition of "employing unit" a provider of services described in Section 91.001(14)(C) of the Labor Code.

As proposed, S.B. 2296 amends current law relating to definition of a common paymaster.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Workforce Commission in SECTION 1 (Section 201.001, Labor Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subdivision (11), Section 201.001, Labor Code, as follows:

(11) Provides that, effective January 1, 2020, the definition of "employing unit" includes a common paymaster, as defined in 26 U.S.C. Section 3306(p).

(A) Requires the Texas Workforce Commission to adopt rules as necessary to implement the inclusion of common paymaster.

(B) Prohibits the inclusion of common paymaster to the definition of "employing unit" from negating a person's obligations with respect to acquisitions of experience-rated employers and transfers of compensation experience pursuant to Subchapter E (Acquisition of Experience-Rated Employer), Chapter 204, Labor Code.

SECTION 2. Effective date: January 1, 2020.