

SUBJECT: Debt collection procedures by the Workforce Commission

COMMITTEE: Economic Development — favorable, without amendment

VOTE: 8 ayes — Solis, Keffer, Clark, Deshotel, Homer, McClendon, Seaman, Yarbrough

0 nays

1 absent — Luna

WITNESSES: For — *Registered, but did not testify*: Bill Hammond, Texas Association of Business and Chambers of Commerce

Against — None

On — Steve Riley, Texas Workforce Commission

BACKGROUND: Labor Code, sec. 204.086 states that an individual, business, or other organization that acquires an organization or business or the majority of its assets is liable for any contributions, penalties, or interest that organization or business owed to the Texas Workforce Commission (TWC) at the time of acquisition. Sec. 204.086(b) authorizes TWC to bring suit against the business if the money due is not paid.

Chapter 213 of the Labor Code describes the procedures by which TWC may either file a civil suit or serve notice of an assessment against an employer for money owed to TWC. Sec. 213.032 allows an employer who receives an assessment to petition for judicial review.

DIGEST: HB 1103 would amend Labor Code, sec. 204.086(b) to authorize TWC to bring an action under Section 213 against employers who failed to pay the contributions, penalties, or interest due to the commission by a company or organization acquired by the employer.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2001.

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SUPPORTERS
SAY:

HB 1103 would update the code to conform to TWC's current practice. It would specify that the process to collect money owed to TWC by an employer who has acquired a business or organization owing money to the commission is governed by chapter 213. By allowing TWC to serve a notice of assessment to collect a debt under chapter 213, HB 1103 would keep many of these actions out of the state's overburdened court system, reduce paperwork, and save the state money. An employer who disagreed with the assessment, however, still could file a petition for judicial review.

During the recodification of the Labor Code in the 73rd Legislature, nearly all references to bringing suit for debt collection were changed to refer to Chapter 213; however, this section was missed at that time. HB 1103 simply would clean-up this section of the Labor Code.

OPPONENTS
SAY:

HB 1103 could reduce the legal protections afforded to individuals or businesses who acquire a company that owes money to TWC. Under current law, the commission bears the burden of proof in a lawsuit brought against a company or individual under Labor Code, sec. 204.086(b). Chapter 213, however, considers an assessment to be *prima facie* evidence of the charges contained within it, and therefore shifts the burden on the employer or individual to prove the incorrectness of the charges.

NOTES:

The companion bill, SB 1133 by Carona, has been referred to the Senate Business and Commerce Committee.