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Aug. 01, 2013

Five construction workers labored for weeks at a federally funded, multi-housing project, expecting a paycheck at the end of each week. But as each Friday rolled around, the drywallers on the \$31 million Buckeye Trail Commons project in Dallas went home without one.

The men likely will never get paid.

The Florida-based general contractor on the project, Siltek Group Inc., contends it didn't hire the workers and knew nothing about the subcontractor that had brought them to the job site. That subcontractor, known as "J&D Outdoor Creations," was hired by yet another subcontractor at Buckeye Trail.

No paper trail exists to link the subcontractor to the federal job, said Soli Mercado-Spencer, an attorney for the Workers Defense Project, a construction workers' rights group in Dallas that is attempting to get restitution for the five laborers.

"That's the nature of construction work in Texas," Mercado-Spencer said. "Because our guys are so low on the totem pole, there's no paper trail that they even worked there."

Even if the state regulator could nab "John C. Castillo," reportedly the head of J&D Outdoor, Castillo could automatically get off the hook by claiming that the five laborers were self-employed as independent contractors — and were not his employees, Spencer said.

Texas lawmakers want to get tough on construction companies that commit a

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That helps lead to tens of millions of dollars in lost tax revenues and overburdened safety-net hospital emergency rooms full of workers that lack worker's compensation insurance, among other economic ills, the study showed. In 2012, Texas lost a minimum \$54.5 million in unemployment insurance tax, in addition to hundreds of millions more in federal income tax, because of payroll fraud, the study showed.

House Bill 2015 is expected to lead to a \$200 penalty on construction companies for each worker found to be misclassified. The Texas Workforce Commission is now reviewing its employer tax-auditing procedures to determine implementation of the law, TWC spokeswoman Lisa Givens said Thursday. The law takes effect Jan. 1.

The loudest criticism of the law has been that it doesn't go far enough and has no teeth for enforcement. The two largest agencies representing Dallas-Fort Worth government contractors endorsed it.

"It's good legislation," said Steve Harrison, co-counsel for TEXO, which represents mostly large construction contractors and subcontractors in the Dallas-Fort Worth area and East Texas. "The bill is intended to address the wrongs perpetrated in a relatively small percentage of the total construction market."

But some say the problem is more widespread.

As many as 20 percent of construction companies engage in payroll fraud, and those companies that pay required taxes and worker's compensation can be routinely underbid by 15 to 20 percent on federal jobs, some estimates show. That's why the bill needs to be tougher, they say.

"Few [contractors] will get caught," said John Hinson, division president for Marek Brothers Systems Inc., a drywall company in Coppel. "And for the few that might get

caught, what's a \$200 fine going to deter?

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“An overcorrection can cause unreasonable regulation that, in and of itself, can cost a lot and penalize innocent parties, including taxpayers,” Harrison said.

### Payroll fraud

Texas' booming construction industry has an estimated 225,000 workers, and the state has weathered the recession better than most.

But unlike other fast-growing states, Texas is the only state where workers' compensation is not required on private projects. Nor does the state have a formal program to conduct payroll fraud enforcement. States including New York, Florida, California, Virginia and North Carolina do.

Some construction trades, including electrical contractors and plumbing subcontractors, must be licensed in Texas. But general contractors and some subcontractors, such as drywallers and painters, do not require a license.

With no license required, a subcontractor can easily start up a new company that employs workers who aren't on the payroll, paid proper wages or covered by workers' compensation. And with so many layers of subs and workers, the rogue subcontractor can work in an unregulated environment, such as private construction, Harrison said.

“Without taking salary surveys several times a week, the prime contractor is unable to keep track of all the hundreds, sometimes thousands of different workers, suppliers and delivery persons at a job site beyond their own employees and the employees of the subcontractors with whom they contract to perform the work,” Harrison said.

Spencer says it is a tragedy that workers will spend days on a job and go home without a paycheck.

“It’s difficult,” she said. “But it’s typical. We see this very often. It happens all the

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