

By: Howard of Fort Bend

H.B. No. 4486

A BILL TO BE ENTITLED

AN ACT

relating to the participation of governmental entities and other employers in a federal work eligibility verification program; establishing an unlawful employment practice.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle A, Title 6, Government Code, is amended by adding Chapter 619 to read as follows:

CHAPTER 619. VERIFICATION OF EMPLOYEE INFORMATION

Sec. 619.001. DEFINITIONS. In this chapter:

(1) "Governmental entity" means:

(A) the state;

(B) a political subdivision of the state, including a municipality, a county, or any kind of district; or

(C) an institution, board, commission, office, department, court, or other agency:

(i) in the executive, judicial, or legislative branch of state government, including an institution of higher education as defined by Section 61.003, Education Code; or

(ii) of a political subdivision of the state.

(2) "Status verification system" means:

(A) the electronic verification of work authorization program of Section 403(a) of the federal Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Pub.

1 L. No. 104-208, reprinted in note, 8 U.S.C. Section 1324a),
2 operated by the United States Department of Homeland Security and
3 known as the Basic Pilot Program or E-Verify; or

4 (B) any other federal verification program
5 designated by the United States Department of Homeland Security or
6 any other federal agency authorized to verify the work eligibility
7 status of newly hired employees under the federal Immigration
8 Reform and Control Act of 1986 (Pub. L. No. 99-603).

9 Sec. 619.002. VERIFICATION. A governmental entity shall
10 register with and participate in a status verification system to
11 verify the federal employment authorization status of all new
12 employees.

13 Sec. 619.003. RULES. The Texas Workforce Commission shall
14 adopt rules and prescribe forms to implement this chapter. The
15 Texas Workforce Commission shall publish the proposed and adopted
16 rules on the commission's website as well as in the Texas Register.

17 SECTION 2. Chapter 2252, Government Code, is amended by
18 adding Subchapter F to read as follows:

19 SUBCHAPTER F. STATUS VERIFICATION SYSTEM

20 Sec. 2252.151. DEFINITIONS. In this subchapter:

21 (1) "Governmental entity" has the meaning assigned by
22 Section 619.001.

23 (2) "Status verification system" means an electronic
24 system operated by the federal government through which a
25 governmental entity may make an inquiry, by exercise of authority
26 delegated under 8 U.S.C. Section 1373, to verify or ascertain the
27 citizenship or immigration status of an individual. The term

1 includes:

2 (A) the electronic verification of work
3 authorization program of Section 403(a) of the federal Illegal
4 Immigration Reform and Immigrant Responsibility Act of 1996 (Pub.
5 L. No. 104-208, reprinted in note, 8 U.S.C. Section 1324a),
6 operated by the United States Department of Homeland Security and
7 known as the Basic Pilot Program or E-Verify;

8 (B) any federal verification program designated
9 by the United States Department of Homeland Security or any other
10 federal agency authorized to verify the work eligibility status of
11 newly hired employees under the federal Immigration Reform and
12 Control Act of 1986 (Pub. L. No. 99-603);

13 (C) any other independent, third-party system
14 with an equal or higher degree of reliability as the other programs,
15 systems, or processes described in this subdivision; and

16 (D) the Social Security Number Verification
17 Service or another similar online verification process implemented
18 by the United States Social Security Administration.

19 (3) "Subcontractor" includes a contract employee and
20 staffing agency.

21 Sec. 2252.152. VERIFICATION. (a) A governmental entity
22 may not enter into a contract for the physical performance of
23 services within this state with a contractor unless the contractor
24 registers with and participates in a status verification system to
25 verify the work eligibility status of all new employees.

26 (b) A contractor may not enter into a contract with a
27 governmental entity for the physical performance of services in

1 this state unless the contractor and all subcontractors under the
2 contract register with and participate in a status verification
3 system to verify the work eligibility status of all new employees.

4 Sec. 2252.153. RULES. The Texas Workforce Commission shall
5 adopt rules and prescribe forms to implement this subchapter. The
6 Texas Workforce Commission shall publish the proposed and adopted
7 rules on the commission's website as well as in the Texas Register.

8 SECTION 3. Subchapter B, Chapter 21, Labor Code, is amended
9 by adding Section 21.062 to read as follows:

10 Sec. 21.062. DISCRIMINATION BASED ON NATIONAL ORIGIN. (a)
11 In this section:

12 (1) "Status verification system" has the meaning
13 assigned by Section 619.001, Government Code.

14 (2) "Unauthorized alien" has the meaning assigned by 8
15 U.S.C. Section 1324a(h)(3).

16 (b) An employer commits an unlawful employment practice if
17 the employer discharges an employee working in this state who is a
18 United States citizen or permanent resident alien while retaining
19 an employee who the employer knows or reasonably should know is an
20 unauthorized alien who is working in this state in a job category:

21 (1) that requires equal skill, effort, and
22 responsibility as the job category held by the discharged employee;
23 and

24 (2) under which work is performed in similar working
25 conditions as in the job category held by the discharged employee.

26 (c) An employer who was enrolled in and used a status
27 verification system to verify the employment eligibility of its

1 employees in this state on the date of the discharge described by
2 Subsection (b) is exempt from liability, investigation, or suit
3 arising under this section.

4 SECTION 4. (a) Subchapter F, Chapter 2252, Government
5 Code, as added by this Act, applies only in relation to a contract
6 or contract extension made on or after the effective date of this
7 Act.

8 (b) Section 21.062, Labor Code, as added by this Act,
9 applies to conduct of an employer occurring on or after the
10 effective date of this Act. Conduct occurring before that date is
11 governed by the law in effect on the date the conduct occurred, and
12 the former law is continued in effect for that purpose.

13 SECTION 5. This Act takes effect September 1, 2009.