

By: Pena

H.B. No. 2757

A BILL TO BE ENTITLED

AN ACT

relating to the establishment of the Texas Commission on Immigration and Migration and a migrant worker visa pilot project.

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

SECTION 1. Subtitle C, Title 3, Government Code, is amended by adding Chapter 329 to read as follows:

CHAPTER 329. TEXAS COMMISSION ON IMMIGRATION AND MIGRATION

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 329.001. SHORT TITLE. This chapter is known as the Texas Commission on Immigration and Migration Act.

Sec. 329.002. DEFINITIONS. In this chapter:

(1) "Commission" means the Texas Commission on Immigration and Migration.

(2) "Pilot project" means the pilot project created under Subchapter D.

(3) "Pilot project memorandum of understanding" means the memorandum of understanding described in Section 329.151.

(4) "State agency" means a department, board, commission, office, or other agency in the executive, legislative, or judicial branch of state government. The term includes a state institution of higher education as defined by Section 61.003, Education Code.

(5) "United States nonimmigrant visa" means a visa issued by the federal government as provided in 8 U.S.C. Sections

1 1101 and 1184.

2 [Sections 329.003-329.050 reserved for expansion]

3 SUBCHAPTER B. ESTABLISHMENT OF COMMISSION

4 Sec. 329.051. ESTABLISHMENT AND COMPOSITION. The Texas
5 Commission on Immigration and Migration is an advisory commission
6 composed of 26 members as follows:

7 (1) the lieutenant governor;

8 (2) the speaker of the house of representatives;

9 (3) a member of the minority party in the senate chosen
10 by the senators who are members of that party;

11 (4) a member of the minority party in the house of
12 representatives chosen by the representatives who are members of
13 that party;

14 (5) the governor or the governor's designee;

15 (6) the attorney general or the attorney general's
16 designee;

17 (7) the commissioner of agriculture or the
18 commissioner's designee;

19 (8) the director of the Texas Economic Development and
20 Tourism Office or the director's designee;

21 (9) the executive director of the Texas Workforce
22 Commission or the executive director's designee;

23 (10) the comptroller or the comptroller's designee;

24 (11) three members of the house of representatives
25 appointed by the speaker of the house of representatives, not more
26 than two of whom may be from the same political party;

27 (12) three members of the public appointed by the

1 speaker of the house of representatives in accordance with Section
2 329.052;

3 (13) three members of the senate appointed by the
4 lieutenant governor, not more than two of whom may be from the same
5 political party;

6 (14) three members of the public appointed by the
7 lieutenant governor in accordance with Section 329.052; and

8 (15) four members of the public appointed by the
9 governor in accordance with Section 329.052.

10 Sec. 329.052. ELIGIBILITY OF PUBLIC MEMBERS; TERMS. (a)
11 Public members of the commission appointed under Section 329.051
12 must:

13 (1) be residents of this state; and

14 (2) be appointed with due regard for:

15 (A) geographic representation;

16 (B) diversity;

17 (C) education, including academic
18 postgraduate-level degrees related to the immigrant community in
19 this state; and

20 (D) knowledge and experience.

21 (b) An appointment by the lieutenant governor, the speaker
22 of the house of representatives, or the governor may include a
23 representative from:

24 (1) an immigrant or immigrant-serving community-based
25 organization;

26 (2) a philanthropic organization;

27 (3) an advocacy group;

1 (4) a business, including an immigrant entrepreneur;

2 (5) a union;

3 (6) academia; or

4 (7) a faith-based organization.

5 (c) Public members of the commission serve three-year
6 terms.

7 (d) A public member shall serve until a successor is
8 appointed and qualified.

9 Sec. 329.053. VACANCY. A vacancy in the membership of the
10 commission shall be filled for the unexpired term in the manner
11 provided for the original appointment.

12 Sec. 329.054. PRESIDING OFFICER. The governor or, at the
13 discretion of the governor, the lieutenant governor shall serve as
14 presiding officer of the commission.

15 Sec. 329.055. VOTE. A vote of the majority of the
16 commission members present when a quorum is present is an action of
17 the commission.

18 Sec. 329.056. MEETINGS. The commission shall meet at least
19 quarterly and at other times at the call of the presiding officer.

20 Sec. 329.057. COMPENSATION; REIMBURSEMENT. A member of the
21 commission is not entitled to compensation for the member's service
22 but may receive per diem and travel expenses in accordance with the
23 General Appropriations Act.

24 Sec. 329.058. STAFF. The office of the attorney general
25 shall staff the commission.

26 [Sections 329.059-329.100 reserved for expansion]

27 SUBCHAPTER C. COMMISSION POWERS AND DUTIES

1 Sec. 329.101. GENERAL POWERS AND DUTIES. The commission
2 shall:

3 (1) conduct a thorough review of the economic, legal,
4 cultural, and educational impact of illegal immigration on this
5 state and its political subdivisions;

6 (2) conduct a thorough examination of state and
7 federal laws relating to immigration, migration, and guest worker
8 programs;

9 (3) develop a comprehensive, coordinated, and
10 sustainable state plan to address:

11 (A) immigration and the use of migrant workers in
12 the state; and

13 (B) integration of immigrants;

14 (4) make legislative recommendations to the governor
15 and the legislature to implement the state plan described in
16 Subdivision (3):

17 (A) consistent with the respective
18 constitutional powers, rights, and responsibilities of the United
19 States and of this state; and

20 (B) to protect the health, safety, and welfare of
21 the residents of this state;

22 (5) advise the governor and the legislature on
23 proposed legislation related to immigration:

24 (A) to encourage a comprehensive, coordinated,
25 and sustainable state response to issues related to immigration;
26 and

27 (B) on request of:

- 1 (i) the governor;
2 (ii) the lieutenant governor;
3 (iii) the speaker of the house of
4 representatives;
5 (iv) a member of the minority party in the
6 senate chosen by the senators who are members of that party; or
7 (v) a member of the minority party in the
8 house of representatives chosen by the representatives who are
9 members of that party; and

10 (6) comply with the Migrant Worker Visa Pilot Project.

11 Sec. 329.102. STATE AGENCY INFORMATION. (a) The
12 commission may request a state agency to provide the commission
13 with information available to the state agency that the commission
14 considers necessary to discharge the commission's duties under this
15 chapter.

16 (b) A state agency shall cooperate with the commission to
17 furnish the commission with the information requested under
18 Subsection (a):

19 (1) to the extent not inconsistent with law;
20 (2) within the limits of the state agency's statutory
21 authority; and

22 (3) on as timely a basis as is necessary to accomplish
23 the purposes of this chapter.

24 Sec. 329.103. TESTIMONY; EXPERT CONSULTANTS. (a) In
25 performing its powers and duties, the commission may invite
26 testimony from the governor, legislators, state agencies, and
27 members of the public.

1 (b) The commission may consult with experts or other
2 knowledgeable individuals in the public or private sector on any
3 matter related to the commission's powers and duties under this
4 chapter.

5 Sec. 329.104. PUBLIC HEARING. The commission may hold one
6 or more public hearings that it considers advisable and in
7 locations in this state that it chooses to afford interested
8 persons an opportunity to appear and present views on any subject
9 relating to the commission's powers and duties under this chapter.

10 Sec. 329.105. REPORT. (a) The commission annually shall
11 report to the legislature and governor on its activities and
12 recommendations.

13 (a-1) The commission shall submit an initial report to the
14 legislature and governor not later than six months after the date of
15 the first meeting of the commission. The commission shall submit
16 its first annual report to the legislature and governor not later
17 than six months after the date the initial report is submitted, or
18 as soon as practicable after that date. This subsection expires
19 January 1, 2014.

20 (b) The commission shall provide any report submitted under
21 this section to the public on request.

22 Sec. 329.106. COLLABORATION ON INTEGRATION OF IMMIGRANTS;
23 EVALUATION OF STATE GOVERNMENT. (a) Consistent with the state plan
24 described in Section 329.101(3), the commission shall:

25 (1) work collaboratively with federal, state, and
26 local governments to facilitate integration of immigrants in the
27 state; and

1 (2) work collaboratively with businesses and
2 community organizations to ensure that public input into the
3 process is consistently maintained with regard to integration of
4 immigrants.

5 (b) The commission shall evaluate the structure and
6 organization of government in this state, including state agencies,
7 independent entities, political subdivisions, and school
8 districts, and advise the legislature and governor regarding the
9 best way to achieve immigrant integration in the delivery of
10 services and programs in a cost-neutral manner.

11 (c) In its examination of immigrant integration in this
12 state, the commission shall identify any measures that will bring
13 enhanced lawfulness, economy, efficiency, and accountability to
14 government operations.

15 [Sections 329.107-329.150 reserved for expansion]

16 SUBCHAPTER D. MIGRANT WORKER VISA PILOT PROJECT

17 Sec. 329.151. PILOT PROJECT MEMORANDUM OF UNDERSTANDING.

18 (a) With the assistance of the attorney general, the governor may
19 negotiate and enter into a memorandum of understanding with the
20 government of a state in Mexico to create the Migrant Worker Visa
21 Pilot Project, under which Texas businesses may obtain legal
22 foreign migrant workers through use of United States nonimmigrant
23 visas.

24 (b) The commission shall recommend to the legislature and
25 the governor policies and programs that will educate, encourage,
26 support, and facilitate Texas businesses in need of temporary
27 workers to participate in the pilot project.

1 Sec. 329.152. REQUIREMENTS FOR PILOT PROJECT AND PILOT
2 PROJECT MEMORANDUM OF UNDERSTANDING. (a) Under the pilot project
3 memorandum of understanding, the governor may commit this state,
4 including the commission, to work directly with officials of the
5 government of the Mexican state selected for the pilot project to
6 encourage, facilitate, and support the migration of legal Mexican
7 migrant workers from the Mexican state to Texas for the purpose of
8 filling jobs with Texas businesses most in need of skilled and
9 unskilled migrant labor.

10 (b) The pilot project and the pilot project memorandum of
11 understanding must:

12 (1) be compatible with the Immigration and Nationality
13 Act, 8 U.S.C. Section 1101 et seq., and federal policies,
14 procedures, and requirements for issuing United States
15 nonimmigrant visas to Mexicans qualified to participate in the
16 pilot project, with particular attention to the following:

17 (A) a Texas business hiring a migrant worker
18 through the pilot project shall demonstrate and certify that there
19 are not sufficient workers where that labor is to be performed who
20 are able, willing, qualified, and available at the time of
21 application for a United States nonimmigrant visa; and

22 (B) the employment of the migrant worker will not
23 adversely affect the wages and working conditions of workers in
24 this state who are similarly employed;

25 (2) require that the Mexican state provide to Texas
26 businesses Mexican migrant workers who meet certain requirements,
27 including that each migrant worker:

1 (A) meets the legal requirements of federal law
2 with regard to eligibility for a United States nonimmigrant visa;

3 (B) passes a criminal background check;

4 (C) undergoes standardized testing to satisfy
5 the hiring Texas business that the migrant worker possesses the
6 requisite level of education or skill required for the job to be
7 filled;

8 (D) is issued a tamper-proof identification that
9 includes personal information, photo, fingerprint, visa number,
10 and an expiration date; and

11 (E) will be notified by the Mexican state before
12 the expiration date of the United States nonimmigrant visa of the
13 date the migrant worker is required to return to Mexico; and

14 (3) if a migrant worker fails to return to Mexico
15 before expiration of the migrant worker's United States
16 nonimmigrant visa, require the Mexican state to notify:

17 (A) the Texas business that hires the migrant
18 worker;

19 (B) the advisory committee created under
20 Subchapter E; and

21 (C) United States Immigration and Customs
22 Enforcement.

23 Sec. 329.153. EXPANSION TO SIMILAR PILOT PROJECTS. (a)
24 After the first anniversary of the date the pilot project
25 memorandum of understanding is executed under Section 329.152, if
26 the governor determines, after consultation with the commission,
27 that the pilot project is successful, the governor may enter into

1 one or more additional memoranda of understanding to create similar
2 pilot projects, except that the governor may not enter into a
3 similar pilot project memorandum of understanding with a country:

4 (1) designated by the United States Department of
5 State as a state sponsor of terrorism;

6 (2) against which the United States has declared war;
7 or

8 (3) against which the United States has imposed
9 sanctions as listed under a sanctions program of the Office of
10 Foreign Assets Control within the United States Department of the
11 Treasury.

12 (b) After the governor has entered into one or more
13 additional memoranda of understanding under Subsection (a), the
14 governor, in consultation with the commission, may periodically
15 evaluate whether to enter into additional pilot projects subject to
16 the limitations of Subsections (a)(1) through (3).

17 (c) A memorandum of understanding creating a similar pilot
18 project shall comply with the requirements of Section 329.152.

19 (d) A similar pilot project created under this section shall
20 operate in a manner substantially similar to the pilot project
21 implemented under Section 329.151.

22 [Sections 329.154-329.200 reserved for expansion]

23 SUBCHAPTER E. ADVISORY COMMITTEE

24 Sec. 329.201. CREATION OF ADVISORY COMMITTEE. (a) The
25 commission shall create an advisory committee to perform the
26 studies required by this subchapter.

27 (b) The commission shall appoint at least one member of the

1 commission to the advisory committee.

2 (c) The advisory committee may work jointly with a similar
3 committee of a Mexican state.

4 Sec. 329.202. REIMBURSEMENT. A member of the advisory
5 committee may not receive a per diem or travel expenses.

6 Sec. 329.203. ADVISORY COMMITTEE DUTIES. The advisory
7 committee shall:

8 (1) study the process and results of the pilot
9 project;

10 (2) study the impact of existing federal law on the
11 ability to meet the needs of Texas businesses and Mexican migrant
12 workers;

13 (3) study the current United States nonimmigrant visa
14 application process from both the employer and employee perspective
15 to understand:

16 (A) the strengths and weaknesses of the existing
17 law; and

18 (B) the United States nonimmigrant visa process
19 and the implications to regional employment and security;

20 (4) document the state and regional economic impact
21 and security implications of existing law and processes;

22 (5) educate the populations of Texas and a Mexican
23 state on issues to create alignment around a shared vision; and

24 (6) present the committee's findings annually to the
25 commission in a detailed report that includes recommendations to
26 the commission on how to best address the challenges of
27 immigration, employment, and security.

1 Sec. 329.204. COMMISSION RECOMMENDATIONS. (a) The
2 commission shall use the information generated by the advisory
3 committee pursuant to the pilot project to make recommendations to
4 the governor not later than the first anniversary after the date the
5 pilot project memorandum of understanding is executed.

6 (b) The commission shall consider including in the
7 recommendations:

8 (1) observations and market recommendations;

9 (2) one or more proposals to amend existing law as
10 necessary to accomplish the recommendations made by the commission
11 and to meet the realities of current economic necessities;

12 (3) a recommendation as to whether, and if so, to what
13 extent, the current caps on the H-2B United States nonimmigrant
14 visas should be raised; and

15 (4) a recommendation as to whether the wait time
16 between receiving H-2B United States nonimmigrant visas should be
17 shortened.

18 (c) The governor may report the recommendations of the
19 commission to the president of the United States, Congress, and the
20 United States attorney general.

21 SECTION 2. Not later than November 1, 2011, the governor,
22 lieutenant governor, and speaker of the house of representatives
23 shall appoint the initial public members to the Texas Commission on
24 Immigration and Migration as follows:

25 (1) the following are appointed to a three-year term:

26 (A) one member appointed by the lieutenant
27 governor;

1 (B) one member appointed by the speaker of the
2 house of representatives; and

3 (C) one member appointed by the governor;

4 (2) the following are appointed to a two-year term:

5 (A) one member appointed by the lieutenant
6 governor;

7 (B) one member appointed by the speaker of the
8 house of representatives; and

9 (C) one member appointed by the governor; and

10 (3) the following are appointed to a one-year term:

11 (A) one member appointed by the lieutenant
12 governor;

13 (B) one member appointed by the speaker of the
14 house of representatives; and

15 (C) two members appointed by the governor.

16 SECTION 3. This Act takes effect September 1, 2011.