

By: Workman

H.B. No. 2886

A BILL TO BE ENTITLED

AN ACT

relating to the establishment of a work program for certain persons not legally authorized to be in the United States; providing penalties.

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

SECTION 1. Subtitle B, Title 2, Labor Code, is amended by adding Chapter 54 to read as follows:

CHAPTER 54. TEXAS IMMIGRANT RECONCILIATION ACT

Sec. 54.001. PURPOSE. The purpose of this chapter is to:

(1) provide a mechanism for obtaining information regarding foreign nationals who are not lawfully present in this state;

(2) provide a method to collect taxes to pay for services provided by this state and political subdivisions of this state to foreign nationals who are not lawfully present in this state;

(3) provide a legal method for a foreign national to work in this state;

(4) ensure that employers hire only legally eligible workers; and

(5) remove the incentive for human trafficking along the southern border of this state.

Sec. 54.002. DEFINITIONS. In this chapter:

(1) "Commission" means the Texas Workforce

1 Commission.

2 (2) "Resident alien card" means a Texas resident alien  
3 card issued under this chapter.

4 (3) "Unlawful resident alien" means a person not  
5 authorized by law to be present in the United States who is living  
6 in this state and has been issued a Texas resident alien card.

7 Sec. 54.003. ELIGIBILITY. (a) A foreign national who is  
8 not lawfully present in this state may apply for a Texas resident  
9 alien card.

10 (b) A resident alien card issued under this chapter:

11 (1) may be obtained by applying and paying a fee of  
12 \$4,000; and

13 (2) is valid for eight years.

14 (c) A person issued a resident alien card under this chapter  
15 may work legally in this state.

16 (d) On the expiration of a resident alien card issued under  
17 this chapter, the cardholder may apply for a new card.

18 (e) The commission may limit the number of resident alien  
19 cards the commission issues each year.

20 Sec. 54.004. APPLICATION. (a) The commission by rule  
21 shall adopt a form to be used to apply for a resident alien card  
22 under this chapter. The form must require the applicant to provide  
23 a permanent address and any other information the commission  
24 considers necessary.

25 (b) The resident alien card must be designed in a manner  
26 that prevents forgery.

27 (c) The resident alien card must include:

1           (1) a state-issued photograph of the cardholder;  
2           (2) the cardholder's fingerprint; and  
3           (3) a magnetic strip encoded with the cardholder's  
4 identifying information.

5           (d) An applicant for a resident alien card under this  
6 chapter must submit to a criminal history record information review  
7 by the Department of Public Safety of the State of Texas.

8           Sec. 54.005. NO ASSISTANCE IN GAINING CITIZENSHIP. An  
9 unlawful resident alien does not become a United States citizen  
10 because the person has been issued a resident alien card under this  
11 chapter. A resident alien card does not create an advantage to the  
12 cardholder in obtaining citizenship.

13           Sec. 54.006. WITHHOLDING OF STATE TAX. (a) An employer  
14 who hires an unlawful resident alien shall withhold from the  
15 unlawful resident alien's paycheck a state tax at the rate withheld  
16 for federal income taxes.

17           (b) An employer shall send the state tax withheld under this  
18 section to the comptroller.

19           (c) The comptroller shall issue a unique identification  
20 number for each cardholder.

21           Sec. 54.007. EFFECT OF EMPLOYMENT. (a) An employer has an  
22 affirmative defense against any charge by the federal government  
23 for hiring an unlawful resident alien if the employee holds a  
24 resident alien card issued under this chapter.

25           (b) An employer must provide benefits to an employee who has  
26 been issued a resident alien card that are similar to any benefits  
27 the employer provides to an employee who is lawfully present in the

1 United States under federal law.

2 (c) Employers must give preference to a person who is  
3 lawfully present in the United States under federal law in any  
4 hiring, promotion, or reduction in force decision.

5 (d) Except as provided by this section, an employer may not  
6 discriminate against an unlawful resident alien.

7 Sec. 54.008. ENFORCEMENT. (a) Commission employees shall  
8 serve as compliance officers to monitor employers and unlawful  
9 resident aliens throughout the state for purposes of this chapter.

10 (b) A compliance officer has authority to enter a place of  
11 business for inspection purposes and to question the employer and  
12 employees regarding compliance with this chapter.

13 (c) An employer who employs a foreign national who is not  
14 lawfully present in the state and who has not been issued a resident  
15 alien card is subject to a \$10,000 fine for each incident.

16 (d) A valid Texas driver's license is satisfactory evidence  
17 of an employee's compliance with this chapter.

18 (e) A compliance officer shall report any employee who does  
19 not have a resident alien card to the United States Immigration and  
20 Customs Enforcement. A foreign national who is not lawfully  
21 present in the state and who is employed without holding a resident  
22 alien card shall be deported and is ineligible to receive a resident  
23 alien card at a later date.

24 Sec. 54.009. STANDARDS OF CONDUCT. (a) The commission  
25 shall revoke a resident alien card if the cardholder is convicted of  
26 a Class B misdemeanor or greater offense.

27 (b) On release from prison for an offense described by

1 Subsection (a), the unlawful resident alien shall be deported and  
2 barred from obtaining a resident alien card at a later date.

3 (c) An unlawful resident alien who does not report wages for  
4 at least six months is required to return to the unlawful resident  
5 alien's native country for at least six months before the person may  
6 reenter the state and seek employment.

7 (d) If an unlawful resident alien is married to another  
8 unlawful resident alien, only one of the unlawful resident aliens  
9 must report wages to the comptroller.

10 Sec. 54.010. BENEFITS. A person issued a resident alien  
11 card under this chapter may obtain a Texas driver's license. The  
12 person must provide proof of insurance before being issued a  
13 driver's license. Failure to maintain insurance will result in  
14 immediate deportation of the unlawful resident alien.

15 Sec. 54.011. EMERGENCY CARE. An unlawful resident alien  
16 may receive emergency hospital care but is not eligible for other  
17 state-provided public health services.

18 Sec. 54.012. SOCIAL SECURITY. An unlawful resident alien  
19 is not eligible to receive federal social security benefits.

20 Sec. 54.013. USE OF MONEY. The state shall use taxes  
21 collected under this chapter to ensure compliance with this chapter  
22 and to provide supplemental money to a political subdivision that  
23 provides services to an unlawful resident alien. The money shall be  
24 used in the following manner and priority:

25 (1) to establish and train commission compliance  
26 officers;

27 (2) to reimburse political subdivisions for money

1 spent for an unlawful resident alien, including education and  
2 emergency health care expenses;

3 (3) to supplement the federal social security of  
4 residents of the state; and

5 (4) to supplement the cost of medical care in local  
6 communities.

7 SECTION 2. Not later than September 1, 2012, the Texas  
8 Workforce Commission shall adopt rules necessary for the  
9 administration of this Act.

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