

By: Schwertner

S.B. No. 401

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to requiring state contractors to participate in the  
3 federal electronic verification of employment authorization  
4 program, or E-verify.

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

6 SECTION 1. The heading to Chapter 2264, Government Code, is  
7 amended to read as follows:

8 CHAPTER 2264. CERTAIN RESTRICTIONS ON [USE OF CERTAIN] PUBLIC  
9 SUBSIDIES AND STATE CONTRACTS

10 SECTION 2. Section 2264.101, Government Code, is  
11 transferred to Subchapter B, Chapter 2264, Government Code,  
12 redesignated as Section 2264.054, Government Code, and amended to  
13 read as follows:

14 Sec. 2264.054 [~~2264.101~~]. RECOVERY. (a) A public  
15 agency, local taxing jurisdiction, or economic development  
16 corporation, or the attorney general on behalf of the state or a  
17 state agency, may bring a civil action to recover any amounts owed  
18 to the public agency, state or local taxing jurisdiction, or  
19 economic development corporation under this subchapter [~~chapter~~].

20 (b) The public agency, local taxing jurisdiction, economic  
21 development corporation, or attorney general, as applicable, shall  
22 recover court costs and reasonable attorney's fees incurred in an  
23 action brought under Subsection (a).

24 (c) A business is not liable for a violation of this

1 subchapter [~~chapter~~] by a subsidiary, affiliate, or franchisee of  
2 the business, or by a person with whom the business contracts.

3 SECTION 3. The heading to Subchapter C, Chapter 2264,  
4 Government Code, is amended to read as follows:

5 SUBCHAPTER C. E-VERIFY PROGRAM [~~ENFORCEMENT~~]

6 SECTION 4. Subchapter C, Chapter 2264, Government Code, is  
7 amended by adding Sections 2264.1011, 2264.102, and 2264.103 to  
8 read as follows:

9 Sec. 2264.1011. DEFINITIONS. In this subchapter:

10 (1) "E-verify program" means the electronic  
11 verification of employment authorization program of the federal  
12 Illegal Immigration Reform and Immigrant Responsibility Act of 1996  
13 (Pub. L. No. 104-208, reprinted in note, 8 U.S.C. Section 1324a),  
14 operated by the United States Department of Homeland Security, or a  
15 successor employment authorization program designated by the  
16 United States Department of Homeland Security or other federal  
17 agency authorized to verify the employment authorization status of  
18 newly hired employees under the federal Immigration Reform and  
19 Control Act of 1986 (8 U.S.C. Section 1101 et seq.).

20 (2) "State agency" has the meaning assigned by Section  
21 2103.001.

22 Sec. 2264.102. VERIFICATION BY CONTRACTORS. (a) A state  
23 agency may not award a contract for goods or services within this  
24 state to a contractor unless the contractor and any subcontractor  
25 register with and participate in the E-verify program to verify  
26 employee information. The contractor and any subcontractor must  
27 continue to participate in the program during the term of the

1 contract.

2 (b) Each contract with a state agency must include the  
3 following statement:

4 "\_\_\_\_\_ (name of contractor) certifies that  
5 \_\_\_\_\_ (name of contractor) is not ineligible to receive this  
6 contract under Subchapter C, Chapter 2264, Government Code, and  
7 acknowledges that if this certification is inaccurate or becomes  
8 inaccurate during the term of the contract, the contractor may be  
9 barred from participating in state contracts."

10 (c) If a state agency determines that a contractor was  
11 ineligible to have the contract awarded under Subsection (a), that  
12 a contractor has ceased participation in the E-verify program  
13 during the term of the contract, or that a subcontractor is not  
14 registered with or is not participating in the E-verify program,  
15 the state agency shall refer the matter to the comptroller for  
16 action.

17 (d) Each state agency shall develop procedures for the  
18 administration of this section.

19 Sec. 2264.103. BARRING FROM STATE CONTRACTS. (a) Using  
20 procedures prescribed under Section 2155.077, the comptroller  
21 shall bar a contractor from participating in state contracts if the  
22 comptroller determines that the contractor:

23 (1) was awarded a contract in violation of Section  
24 2264.102;

25 (2) has ceased participation in the E-verify program  
26 during the term of the contract; or

27 (3) hired a subcontractor to perform work under the

1 contract who is not registered with or is not participating in the  
2 E-verify program.

3 (b) Debarment under this section is for a period of five  
4 years.

5 (c) A contractor who registers with and participates in the  
6 E-verify program as provided by Section 2264.102 may not be barred  
7 under this section if, as a result of receiving inaccurate  
8 verification information from the E-verify program, the contractor  
9 hires or employs a person in violation of 8 U.S.C. Section 1324a.

10 SECTION 5. Each state agency subject to Subchapter C,  
11 Chapter 2264, Government Code, as amended by this Act, shall  
12 develop the procedures required under Section 2264.102(d),  
13 Government Code, as added by this Act, not later than October 1,  
14 2015.

15 SECTION 6. Sections 2264.1011, 2264.102, and 2264.103,  
16 Government Code, as added by this Act, apply only in relation to a  
17 contract for which the request for bids or proposals or other  
18 applicable expression of interest is made public on or after the  
19 effective date of this Act.

20 SECTION 7. This Act takes effect September 1, 2015.