86R2247 MTB-F

By:  Schwertner S.B. No. 197

A BILL TO BE ENTITLED

AN ACT

relating to requiring state contractors to participate in the federal electronic verification of employment authorization program, or E-verify.

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

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

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

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

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

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

(c)  A business is not liable for a violation of this subchapter [~~chapter~~] by a subsidiary, affiliate, or franchisee of the business, or by a person with whom the business contracts.

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

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

SECTION 4.  Subchapter C, Chapter 2264, Government Code, is amended by adding Sections 2264.1011, 2264.102, 2264.103, and 2264.104 to read as follows:

Sec. 2264.1011.  DEFINITIONS. In this subchapter:

(1)  "E-verify program" has the meaning assigned by Section 673.001.

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

Sec. 2264.102.  VERIFICATION BY CONTRACTORS. (a)  A state agency may not award a contract for goods or services within this state to a contractor unless the contractor registers with and participates in the E-verify program to verify employee information. The contractor must continue to participate in the program during the term of the contract.

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

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

(c)  If a state agency determines that a contractor was ineligible to have the contract awarded under Subsection (a) or that a contractor has ceased participation in the E-verify program during the term of the contract, the state agency shall refer the matter to the comptroller for action.

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

Sec. 2264.103.  BARRING FROM STATE CONTRACTS. (a)  Using procedures prescribed under Section 2155.077, the comptroller shall bar a contractor from participating in state contracts if a state agency under Section 2264.102 determines that the contractor:

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

(2)  has ceased participation in the E-verify program during the term of the contract.

(b)  Debarment under this section is for a period of up to five years.

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

Sec. 2264.104.  AFFIRMATIVE DEFENSE; DISCRIMINATION PROHIBITED. (a)  It is an affirmative defense to a civil action for damages or the imposition of a civil penalty for an employer's refusal to hire or employ a person based on the employer's participation in the E-verify program as required by this subchapter that the employer participated in the E-verify program in accordance with the rules and guidelines of the program and received inaccurate information.

(b)  This section may not be construed to allow intentional discrimination of any class protected by law.

SECTION 5.  Section 81.072, Natural Resources Code, and Section 223.051, Transportation Code, as added by Chapter 533 (S.B. 312), Acts of the 85th Legislature, Regular Session, 2017, are repealed.

SECTION 6.  Each state agency subject to Subchapter C, Chapter 2264, Government Code, as amended by this Act, shall develop the procedures required under Section 2264.102(d), Government Code, as added by this Act, not later than October 1, 2019.

SECTION 7.  Sections 2264.1011, 2264.102, and 2264.103, Government Code, as added by this Act, apply only in relation to a contract for which the request for bids or proposals or other applicable expression of interest is made public on or after the effective date of this Act.

SECTION 8.  This Act takes effect September 1, 2019.