

By: Kolkhorst

S.B. No. 1621

A BILL TO BE ENTITLED

AN ACT

relating to requiring state contractors, political subdivisions of this state, and private employers 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, and 2264.103 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 and any subcontractor register with and participate in the E-verify program to verify employee information. The contractor and any subcontractor 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

1 inaccurate during the term of the contract, the contractor may be  
2 barred from participating in state contracts."

3 (c) If a state agency determines that a contractor was  
4 ineligible to have the contract awarded under Subsection (a), that  
5 a contractor has ceased participation in the E-verify program  
6 during the term of the contract, or that a subcontractor is not  
7 registered with or is not participating in the E-verify program,  
8 the state agency shall refer the matter to the comptroller for  
9 action.

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

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

16 (1) was awarded a contract in violation of Section  
17 2264.102;

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

20 (3) hired a subcontractor to perform work under the  
21 contract who is not registered with or is not participating in the  
22 E-verify program.

23 (b) Debarment under this section is for a period of one year  
24 except that the debarment may be extended by the comptroller for  
25 additional one-year periods if the comptroller determines that the  
26 grounds for debarment under this section continue to exist.

27 SECTION 5. Subtitle B, Title 2, Labor Code, is amended by

adding Chapter 53 to read as follows:

CHAPTER 53. VERIFICATION OF EMPLOYEE INFORMATION

Sec. 53.001. DEFINITIONS. In this chapter:

(1) "Commission" means the Texas Workforce Commission.

(2) "Employee" means an individual who is employed by an employer for compensation. The term includes an individual employed on a part-time basis.

(3) "Employer" means a person, other than a governmental entity, who:

(A) employs one or more employees; or

(B) acts directly or indirectly in the interests of an employer in relation to an employee.

(4) "Employment" means any service, including service in interstate commerce, that is performed for wages or under a contract of hire, whether written or oral or express or implied. The term does not include any service performed by an individual for wages if it is shown that the individual is free from control or direction in the performance of the service, both under any contract of service and in fact.

(5) "E-verify program" has the meaning assigned by Section 673.001, Government Code.

Sec. 53.002. EMPLOYEE STATUS. An employer may not classify an individual performing services for the employer as an independent contractor instead of as an employee of the employer solely for the purpose of avoiding the requirements applicable to an employer under this chapter.

1       Sec. 53.003. VERIFICATION. An employer shall register and  
2 participate in the E-verify program to verify information of all  
3 new employees.

4       Sec. 53.004. ENFORCEMENT BY STATE AGENCIES.  
5 Notwithstanding any other law, each appropriate state agency shall  
6 ensure that employers in this state comply with Section 53.003 and  
7 may require compliance with that section as a condition of a  
8 license, certificate, registration, permit, or other authorization  
9 issued by the agency that is required for a person to practice or  
10 engage in a particular business, occupation, or profession in this  
11 state.

12       Sec. 53.005. RULES. The commission shall adopt rules and  
13 prescribe forms for the implementation of this chapter.

14       SECTION 6. Subtitle C, Title 5, Local Government Code, is  
15 amended by adding Chapter 181 to read as follows:

16               CHAPTER 181. VERIFICATION OF EMPLOYEE INFORMATION

17       Sec. 181.001. DEFINITIONS. In this chapter:

18               (1) "E-verify program" has the meaning assigned by  
19 Section 673.001, Government Code.

20               (2) "Political subdivision" means a county,  
21 municipality, school district, junior college district, other  
22 special district, or other subdivision of state government.

23       Sec. 181.002. VERIFICATION. A political subdivision shall  
24 register and participate in the E-verify program to verify  
25 information of all new employees.

26       Sec. 181.003. TERMINATION OF EMPLOYMENT. An employee of a  
27 political subdivision who is responsible for verifying information

1 of new employees of the political subdivision as required by  
2 Section 181.002 is subject to immediate termination of employment  
3 if the employee fails to comply with that section.

4       SECTION 7. Each state agency subject to Subchapter C,  
5 Chapter 2264, Government Code, as amended by this Act, shall  
6 develop the procedures required under Section 2264.102(d),  
7 Government Code, as added by this Act, not later than October 1,  
8 2023.

9       SECTION 8. Sections 2264.1011, 2264.102, and 2264.103,  
10 Government Code, as added by this Act, apply only in relation to a  
11 contract for which the request for bids or proposals or other  
12 applicable expression of interest is made public on or after the  
13 effective date of this Act.

14       SECTION 9. This Act takes effect September 1, 2023.