

## **BILL ANALYSIS**

H.B. 2858  
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State Affairs  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

The bill author has informed the committee that labor shortages have been a defining characteristic for this decade, largely due to the COVID-19 pandemic, and that Texas still has more open positions than unemployed workers. According to the U.S. Chamber of Commerce, Texas has 80 available workers for every 100 open jobs. The labor market also experiences seasonal shifts as people move out of the state.

H.B. 2858 seeks to address these problems by providing for the establishment of a temporary guest worker program in Texas if a waiver or other authorization can be obtained from the appropriate federal agency. Upon authorization, the governor may negotiate and enter into a memorandum of understanding with the government of a state in Mexico to create the program, and the parties will work together to facilitate the migration of legal Mexican temporary guest workers to fill jobs in Texas businesses identified as being most in need of skilled and unskilled migrant labor, with specified requirements that must be met by the program and the workers.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

H.B. 2858 amends the Government Code to require the governor to seek, as soon as practicable after the bill's effective date, from the appropriate federal agency a waiver or other authorization necessary to establish and implement a temporary guest worker program in Texas under the bill's provisions. The bill authorizes the governor, on receipt of the federal authorization and subject to that authorization and the bill's provisions, to negotiate and enter into a memorandum of understanding with the government of a state in Mexico to create a temporary guest worker program under which businesses in Texas may obtain legal foreign temporary guest workers through use of U.S. nonimmigrant visas, defined by the bill as visas issued by the federal government as provided in applicable federal law relating to admission of nonimmigrants.

H.B. 2858 authorizes the governor, under such a memorandum of understanding, to commit the state to work directly with officials of the government of the Mexican state selected for the program to encourage, facilitate, and support the migration of legal Mexican temporary guest workers from the Mexican state to Texas for the purpose of filling jobs with businesses in Texas identified by the Texas Workforce Commission as being most in need of skilled and unskilled

migrant labor. The program and memorandum of understanding must meet the following conditions:

- be compatible with the federal Immigration and Nationality Act and federal policies, procedures, and requirements for issuing U.S. nonimmigrant visas to Mexicans qualified to participate in the program, with particular attention to the following:
  - a business in Texas hiring a temporary guest worker through the program must demonstrate and certify that there are not sufficient workers where that labor is to be performed who are able, willing, qualified, and available at the time of application for a U.S. nonimmigrant visa; and
  - the employment of the temporary guest worker will not adversely affect the wages and working conditions of workers in Texas who are similarly employed;
- require that the Mexican state provide to businesses in Texas Mexican temporary guest workers who meet certain requirements, including that each temporary guest worker:
  - meets the legal requirements of federal law with regard to eligibility for a U.S. nonimmigrant visa;
  - passes a criminal background check;
  - undergoes standardized testing to satisfy the hiring business that the temporary guest worker possesses the requisite level of education or skill required for the job to be filled;
  - is issued a tamper-proof identification that includes personal information, a photo, a fingerprint, a visa number, and an expiration date; and
  - will be notified by the Mexican state before the expiration date of the U.S. nonimmigrant visa of the date the temporary guest worker is required to return to Mexico; and
- if a temporary guest worker fails to return to Mexico before expiration of the temporary guest worker's U.S. nonimmigrant visa, require the Mexican state to notify the business that hires the temporary guest worker, the governor, and United States Immigration and Customs Enforcement.

#### **EFFECTIVE DATE**

On passage, or, if the bill does not receive the necessary vote, September 1, 2025.