

By: Tepper

H.B. No. 1308

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to employment practices of governmental entities, state  
3 contractors, and private employers in this state regarding the  
4 legal status of employees, including requiring participation in the  
5 federal electronic verification of employment authorization  
6 program, or E-verify program, and authorizing the suspension of  
7 certain licenses held by private employers for certain conduct in  
8 relation to the employment of persons not lawfully present.

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

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

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

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

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

24 (b) The public agency, local taxing jurisdiction, economic

1 development corporation, or attorney general, as applicable, shall  
2 recover court costs and reasonable attorney's fees incurred in an  
3 action brought under Subsection (a).

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

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

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

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

13 Sec. 2264.1011. DEFINITIONS. In this subchapter:

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

16 (2) "State agency" has the meaning assigned by Section  
17 2103.001.

18 Sec. 2264.102. VERIFICATION BY CONTRACTORS. (a) Except as  
19 provided by Subsection (b), a state agency may not award a contract  
20 for goods or services within this state to a contractor unless the  
21 contractor and any subcontractor register with and participate in  
22 the E-verify program to verify employee information. The  
23 contractor and any subcontractor must continue to participate in  
24 the program during the term of the contract.

25 (b) This section does not apply to a contract for goods or  
26 services:

27 (1) a state agency determines is necessary to the

1 operation of the agency; and

2 (2) for which the agency can find no reasonable  
3 alternative to a bid submitted by a contractor that does not  
4 participate in the E-verify program or require its subcontractors  
5 to participate in the E-verify program.

6 (c) Each contract with a state agency must include the  
7 following statement:

8 "The contractor certifies that the contractor is not  
9 ineligible to receive this contract under Subchapter C, Chapter  
10 2264, Government Code, and acknowledges that if this certification  
11 is inaccurate or becomes inaccurate during the term of the  
12 contract, the contractor may be barred from participating in state  
13 contracts."

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

21 (e) Each state agency shall develop procedures for the  
22 administration of this section.

23 Sec. 2264.103. BARRING FROM STATE CONTRACTS. (a) Using  
24 procedures prescribed under Section 2155.077, the comptroller may  
25 bar a contractor from participating in state contracts if the  
26 comptroller determines that the contractor was awarded a contract  
27 in violation of Section 2264.102 or, in violation of Section

1 2264.102:

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

4 (2) knowingly hired a subcontractor, other than a  
5 subcontractor who acts exclusively as a supplier for the contract,  
6 to perform work under the contract who is not registered with or is  
7 not participating in the E-verify program.

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

12 (c) It is an affirmative defense to a debarment proceeding  
13 under this section that the contractor did not know that a  
14 subcontractor hired to perform work under the contract is not  
15 registered with or is not participating in the E-verify program.

16 SECTION 5. Subtitle A, Title 6, Government Code, is amended  
17 by adding Chapter 621 to read as follows:

18 CHAPTER 621. VERIFICATION OF EMPLOYEE INFORMATION; EMPLOYMENT OF  
19 PERSONS NOT LAWFULLY PRESENT

20 SUBCHAPTER A. GENERAL PROVISIONS

21 Sec. 621.001. DEFINITIONS. In this chapter:

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

24 (2) "Governmental entity" has the meaning assigned by  
25 Section 620.001, except that the term includes a school district or  
26 open-enrollment charter school.

27 (3) "Person not lawfully present" means a person who,

1 at the time of employment, is not:

2 (A) a citizen or national of the United States;

3 or

4 (B) an alien who is lawfully admitted for  
5 permanent residence in the United States under the federal  
6 Immigration and Nationality Act (8 U.S.C. Section 1101 et seq.) or  
7 authorized to be employed by that Act or by the United States  
8 attorney general.

9 SUBCHAPTER B. VERIFICATION OF EMPLOYEE INFORMATION

10 Sec. 621.051. E-VERIFY PROGRAM. (a) A governmental entity  
11 shall register and participate in the E-verify program to verify  
12 information of all new employees.

13 (b) This section may not be construed as limiting a  
14 requirement imposed on a state agency under Chapter 673.

15 SUBCHAPTER C. EMPLOYMENT OF PERSONS NOT LAWFULLY PRESENT

16 Sec. 621.101. PROHIBITED EMPLOYMENT. A governmental entity  
17 may not knowingly hire, employ, recruit, or refer for a fee a person  
18 not lawfully present.

19 SUBCHAPTER D. ENFORCEMENT

20 Sec. 621.151. REPORTING VIOLATION. (a) A person who has a  
21 reasonable belief that a governmental entity violated this chapter  
22 may report the allegation to the attorney general.

23 (b) The person alleging a violation under Subsection (a)  
24 must, to the extent known by the person, provide to the attorney  
25 general:

26 (1) the name, address, and telephone number of the  
27 person filing the report;

1           (2) the name and address of the governmental entity;

2           (3) if applicable, the name of the person alleged to be  
3 a person not lawfully present who has performed or will perform work  
4 for the governmental entity;

5           (4) the information that caused the person to make the  
6 report and the source of the information; and

7           (5) any other information relevant to the allegation.

8           Sec. 621.152. INVESTIGATION. (a) On receipt of a report  
9 made under Section 621.151, the attorney general shall determine  
10 whether reasonable cause exists to merit an investigation of the  
11 allegation. If the attorney general determines reasonable cause  
12 exists, the attorney general shall conduct an investigation.

13           (b) A governmental entity must comply with reasonable  
14 requests for documents or other information made by the attorney  
15 general during an investigation conducted under this section,  
16 including a request for:

17           (1) documents related to the legal status of an  
18 employee;

19           (2) if applicable, evidence related to the entity's  
20 affirmative defense under Section 621.153;

21           (3) documents related to the entity's finances and  
22 operations; or

23           (4) other documents or information the attorney  
24 general determines necessary for conducting the investigation.

25           (c) The attorney general may request the assistance of the  
26 Department of Public Safety and local law enforcement entities to  
27 ensure compliance with this section.

1       (d) In conducting an investigation under this section, the  
2 attorney general may not interview a minor or collect information  
3 related to a minor without first obtaining consent from the minor's  
4 parent or legal guardian.

5       (e) Information the attorney general obtains during an  
6 investigation under this section is confidential and excepted from  
7 disclosure under Chapter 552 but may be used in an administrative  
8 proceeding under this chapter at the attorney general's discretion.

9       Sec. 621.153. AFFIRMATIVE DEFENSE. It is an affirmative  
10 defense to a proceeding under this subchapter in relation to an  
11 alleged violation of Subchapter C that the governmental entity  
12 complied in good faith with the document review requirements  
13 described by the federal Immigration Reform and Control Act of 1986  
14 (8 U.S.C. Section 1324a(b)).

15       Sec. 621.154. DETERMINATION BY ATTORNEY GENERAL;  
16 OPPORTUNITY TO CURE. (a) If the attorney general determines under  
17 Section 621.152 that a governmental entity violated this chapter,  
18 the attorney general shall provide written notice of the  
19 determination to the entity. The notice must explain the  
20 governmental entity's options for taking corrective action to cure  
21 the violation, which must include:

22               (1) for a violation under Section 621.051, submitting  
23 to the attorney general evidence that the entity has registered and  
24 is participating in the E-verify program to verify information of  
25 all new employees; or

26               (2) for a violation under Section 621.101, submitting  
27 to the attorney general, as applicable:

1           (A) evidence that the person not lawfully present  
2 is no longer employed by or working for the entity; or

3           (B) a sworn statement attesting that the entity  
4 has ceased and will continue to cease recruiting or referring for a  
5 fee persons not lawfully present.

6           (b) On receipt of notice from the attorney general under  
7 Subsection (a), the governmental entity shall take appropriate  
8 corrective action to cure the violation. Not later than the 10th  
9 business day after the date the governmental entity receives the  
10 notice, the entity must notify the attorney general of the  
11 corrective action taken by the entity to cure the violation.

12           (c) If the attorney general determines that the  
13 governmental entity has taken appropriate corrective action under  
14 Subsection (b), the attorney general shall close the investigation  
15 and promptly notify the entity accordingly.

16           Sec. 621.155. STATE GRANT FUNDING ELIGIBILITY. (a) A  
17 governmental entity is ineligible to receive grant funding from  
18 this state if:

19           (1) the entity fails to reply to the attorney general's  
20 notice under Section 621.154; or

21           (2) the attorney general determines that the  
22 corrective action taken by the entity under that section did not  
23 cure the entity's violation.

24           (b) The attorney general shall provide to a governmental  
25 entity described by Subsection (a) written notice, as applicable,  
26 that:

27           (1) the entity:



1           (A) is in violation of this chapter;  
2           (B) is ineligible to receive grant funding from  
3 this state; and

4           (C) may take appropriate corrective action to  
5 cure the violation and become eligible to receive state grant  
6 funding; or

7           (2) the entity:

8           (A) has failed to reply to the attorney general's  
9 notice under Section 621.154;

10           (B) is ineligible to receive grant funding from  
11 the state; and

12           (C) may reply to the notice and become eligible  
13 to receive state grant funding.

14           Sec. 621.156. COMPTROLLER RECORDS. (a) The comptroller  
15 shall maintain a list of governmental entities identified by the  
16 attorney general under Subsection (b) for purposes of ensuring that  
17 an entity included in the list does not receive grant funding from  
18 this state.

19           (b) At the time the attorney general sends notice to a  
20 governmental entity under Section 621.155(b), the attorney general  
21 shall provide to the comptroller the identity of the entity for  
22 inclusion in the list the comptroller maintains under Subsection  
23 (a).

24           (c) Information provided to the comptroller by the attorney  
25 general under this section is confidential and excepted from  
26 disclosure under Chapter 552.

27           Sec. 621.157. REINSTATEMENT OF GRANT ELIGIBILITY. (a) A

1 governmental entity may request that the attorney general reinstate  
2 the entity's eligibility to receive grant funding from this state  
3 by notifying the attorney general, as appropriate, of:

4 (1) corrective action taken by the entity to cure the  
5 violation; or

6 (2) the entity's reply to the attorney general's  
7 notice under Section 621.154.

8 (b) If the attorney general determines that the corrective  
9 action taken by the governmental entity cured the violation or that  
10 the entity's reply is responsive to the notice, as appropriate, the  
11 entity becomes eligible to receive grant funding from this state.

12 (c) At the time the attorney general makes a determination  
13 under Subsection (b), the attorney general shall instruct the  
14 comptroller to remove the governmental entity from the list the  
15 comptroller maintains under Section 621.156, and the comptroller  
16 shall remove the entity from the list.

17 SECTION 6. Subtitle B, Title 2, Labor Code, is amended by  
18 adding Chapter 53 to read as follows:

19 CHAPTER 53. VERIFICATION OF EMPLOYEE INFORMATION; EMPLOYMENT OF  
20 PERSONS NOT LAWFULLY PRESENT

21 SUBCHAPTER A. GENERAL PROVISIONS

22 Sec. 53.001. DEFINITIONS. In this chapter:

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

26 (2) "Employer" means a person, other than a  
27 governmental entity, who:

1           (A) employs at least 25 employees; or  
2           (B) acts directly or indirectly in the interests  
3 of an employer in relation to an employee.

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

6           (4) "License" means a license, certificate,  
7 registration, permit, or other authorization that:

8           (A) is issued by a licensing authority;

9           (B) is subject before expiration to renewal,  
10 suspension, revocation, forfeiture, or termination by a licensing  
11 authority; and

12           (C) is required for a person to practice or  
13 engage in a particular business, occupation, or profession.

14           (5) "Licensing authority" means a department,  
15 commission, board, office, or other agency of this state that  
16 issues or renews a license.

17           (6) "Person not lawfully present" means a person who,  
18 at the time of employment, is not:

19           (A) a citizen or national of the United States;  
20 or

21           (B) an alien who is lawfully admitted for  
22 permanent residence in the United States under the federal  
23 Immigration and Nationality Act (8 U.S.C. Section 1101 et seq.) or  
24 authorized to be employed by that Act or by the United States  
25 attorney general.

26           Sec. 53.002. EMPLOYEE STATUS. An employer may not classify  
27 an individual performing services for the employer as an

1 independent contractor instead of as an employee of the employer  
2 solely for the purpose of avoiding the requirements applicable to  
3 an employer under this chapter.

4 SUBCHAPTER B. VERIFICATION OF EMPLOYEE INFORMATION

5 Sec. 53.051. VERIFICATION. An employer shall register and  
6 participate in the E-verify program to verify information of all  
7 new employees.

8 SUBCHAPTER C. EMPLOYMENT OF PERSONS NOT LAWFULLY PRESENT

9 Sec. 53.101. PROHIBITED EMPLOYMENT. An employer may not  
10 knowingly hire, employ, recruit, or refer for a fee an individual  
11 who is a person not lawfully present.

12 SUBCHAPTER D. ENFORCEMENT

13 Sec. 53.151. REPORTING VIOLATION. (a) A person who has a  
14 reasonable belief that an employer violated this chapter may report  
15 the allegation to the attorney general.

16 (b) The person alleging a violation under Subsection (a)  
17 must, to the extent known by the person, provide to the attorney  
18 general:

19 (1) the name, address, and telephone number of the  
20 person filing the report;

21 (2) the name and address of the employer;

22 (3) if applicable, the name of the person not lawfully  
23 present who has performed or will perform work for the employer;

24 (4) the information that caused the person to make the  
25 report and the source of the information; and

26 (5) any other information relevant to the allegation.

27 Sec. 53.152. INVESTIGATION BY ATTORNEY GENERAL. (a) On

1 receipt of a report made under Section 53.151, the attorney general  
2 shall determine whether reasonable cause exists to merit an  
3 investigation of the allegation. If the attorney general  
4 determines reasonable cause exists, the attorney general shall  
5 conduct an investigation.

6 (b) An employer must comply with reasonable requests for  
7 documents or other information made by the attorney general during  
8 an investigation, including a request for:

9 (1) documents related to the legal status of an  
10 employee;

11 (2) if applicable, evidence related to an employer's  
12 affirmative defense under Section 53.153;

13 (3) documents related to the employer's finances and  
14 operations;

15 (4) a list of all licenses held by the employer; and

16 (5) other documents or information the attorney  
17 general determines necessary for conducting the investigation.

18 (c) The attorney general may request the assistance of the  
19 Department of Public Safety and local law enforcement entities to  
20 ensure compliance with this section.

21 (d) In conducting an investigation under this section, the  
22 attorney general may not:

23 (1) interview a minor or collect information related  
24 to a minor without first obtaining consent from the minor's parent  
25 or legal guardian; or

26 (2) visit the employer's premises at an unreasonable  
27 time without obtaining the employer's consent.

1 (e) Information obtained during an investigation under this  
2 section is confidential and excepted from disclosure under Chapter  
3 552, but may be used in an administrative proceeding under this  
4 chapter at the attorney general's discretion.

5 Sec. 53.153. AFFIRMATIVE DEFENSE. It is an affirmative  
6 defense to a proceeding under this subchapter in relation to an  
7 alleged violation of Subchapter C that the employer complied in  
8 good faith with the document review requirements described by the  
9 federal Immigration Reform and Control Act of 1986 (8 U.S.C.  
10 Section 1324a(b)).

11 Sec. 53.154. INITIAL DETERMINATION BY ATTORNEY GENERAL;  
12 OPPORTUNITY TO CURE. (a) If the attorney general determines under  
13 Section 53.152 that the employer violated this chapter, the  
14 attorney general shall provide written notice of the determination  
15 to the employer. The notice must:

16 (1) explain the employer's options for taking  
17 corrective action to cure the violation, which must include:

18 (A) for a violation under Section 53.002,  
19 submitting to the attorney general evidence that the employer is  
20 properly classifying individuals performing services for the  
21 employer, together with a sworn statement attesting that the  
22 employer will continue to do so;

23 (B) for a violation under Section 53.051,  
24 submitting to the attorney general evidence that the employer has  
25 registered and is participating in the E-verify program to verify  
26 information of all new employees; or

27 (C) for a violation under Section 53.101,

1 submitting to the attorney general, as applicable:

2 (i) evidence that the person not lawfully  
3 present is no longer employed by or working for the employer; or

4 (ii) a sworn statement attesting that the  
5 employer has ceased and will continue to cease recruiting or  
6 referring for a fee persons not lawfully present; and

7 (2) inform the employer that each license held by the  
8 employer is subject to suspension if the employer does not take  
9 appropriate corrective action and notify the attorney general of  
10 that action in the time prescribed by Subsection (b).

11 (b) On receipt of notice from the attorney general under  
12 Subsection (a), the employer shall take appropriate corrective  
13 action to cure the violation. Not later than the 10th business day  
14 after the date the employer receives the notice, the employer must  
15 notify the attorney general of the corrective action taken by the  
16 employer to cure the violation.

17 Sec. 53.155. FINAL DETERMINATION BY ATTORNEY GENERAL;  
18 LICENSE SUSPENSION FOR FAILURE TO CURE; RIGHT TO JUDICIAL REVIEW.

19 (a) If the attorney general determines that an employer has taken  
20 appropriate corrective action under Section 53.154(b), the  
21 attorney general shall close the investigation and promptly notify  
22 the employer accordingly.

23 (b) If the attorney general determines that an employer  
24 failed to reply to the attorney general's notice under Section  
25 53.154(b) or that the corrective action taken by the employer under  
26 that subsection did not cure the employer's violation, the attorney  
27 general shall promptly provide written notice to the employer that:

1           (1) the employer has been finally determined by the  
2 attorney general to have violated this chapter; and

3           (2) each license issued to the employer by a licensing  
4 authority will be suspended for a period of two years, subject to  
5 judicial review of the attorney general's determination as a  
6 contested case under Chapter 2001, Government Code.

7           (c) Not later than the 30th day after the date an employer  
8 receives notice under Subsection (b), an employer may seek judicial  
9 review as provided by Chapter 2001, Government Code, of the  
10 attorney general's determination.

11           Sec. 53.156. ORDER FOR LICENSE SUSPENSION. If an employer  
12 finally determined by the attorney general to have violated this  
13 chapter does not seek judicial review of the attorney general's  
14 determination in the time prescribed by Section 53.155 or does not  
15 prevail on judicial review, the attorney general shall promptly:

16           (1) render a final order suspending each license held  
17 by the employer for a period of two years; and

18           (2) send a copy of the order to:

19                   (A) the employer; and

20                   (B) each licensing authority that issued a  
21 license held by the employer.

22           Sec. 53.157. ACTION BY LICENSING AUTHORITY. (a) On receipt  
23 from the attorney general of a final order under this chapter  
24 suspending an employer's license, a licensing authority shall  
25 immediately determine if the authority has issued a license to the  
26 person named on the order and, if a license has been issued:

27           (1) record the suspension of the license in the



1 licensing authority's records;

2 (2) report the suspension as appropriate;

3 (3) provide written notice of the suspension to the  
4 person; and

5 (4) demand surrender of the suspended license if  
6 required by law for other cases in which a license is suspended.

7 (b) A licensing authority shall implement the terms of a  
8 final order suspending a license without additional review or  
9 hearing. The authority may provide notice as appropriate to the  
10 license holder or to others concerned with the license.

11 (c) A licensing authority may not modify, remand, reverse,  
12 vacate, or stay an order suspending a license issued under this  
13 chapter and may not review, vacate, or reconsider the terms of a  
14 final order suspending a license.

15 (d) A person who is the subject of a final order suspending a  
16 license is not entitled to a refund for any fee or other amount paid  
17 to the licensing authority.

18 (e) A person who continues to engage in the business,  
19 occupation, profession, or other licensed activity after the  
20 implementation of the order suspending a license by the licensing  
21 authority is liable for the same civil, administrative, and  
22 criminal penalties provided for engaging in the licensed activity  
23 without a license or while a license is suspended that apply to any  
24 other license holder of that licensing authority.

25 (f) A licensing authority is exempt from liability to a  
26 license holder for any act authorized under this chapter performed  
27 by the authority.

1       (g) Except as provided by this chapter, an order suspending  
2 a license does not affect the power of a licensing authority to  
3 grant, deny, suspend, revoke, terminate, or renew a license.

4       Sec. 53.158. ENFORCEMENT BY STATE AGENCIES; RULES. (a)  
5 Notwithstanding any other law and in addition to any duty relating  
6 to the enforcement of this chapter that is assigned to another  
7 governmental entity by this subchapter, each appropriate state  
8 agency shall ensure that employers in this state comply with this  
9 chapter and may require compliance with this chapter as a condition  
10 of a license.

11       (b) Each appropriate state agency shall adopt rules and  
12 prescribe forms as necessary to implement this section.

13       SECTION 7. Subchapter [A](#), Chapter [204](#), Labor Code, is  
14 amended by adding Section 204.0021 to read as follows:

15       Sec. 204.0021. ADDITIONAL REQUIREMENT FOR WAGE REPORTING.  
16 Any verification form or electronic process used by the commission  
17 for an employer to report wages paid by the employer for purposes of  
18 this subtitle must require the employer to certify the employer's  
19 compliance with Chapter 53.

20       SECTION 8. Each state agency subject to Subchapter [C](#),  
21 Chapter [2264](#), Government Code, as amended by this Act, shall  
22 develop the procedures required under Section 2264.102(e),  
23 Government Code, as added by this Act, not later than December 31,  
24 2025.

25       SECTION 9. Sections 2264.1011, 2264.102, and 2264.103,  
26 Government Code, as added by this Act, apply only in relation to a  
27 contract for which the request for bids or proposals or other

1 applicable expression of interest is made public on or after the  
2 effective date of this Act.

3         SECTION 10. As soon as practicable after the effective date  
4 of this Act, each appropriate state agency subject to Section  
5 53.158, Labor Code, as added by this Act, shall adopt rules and  
6 prescribe forms as required by that section.

7         SECTION 11. Section 204.0021, Labor Code, Subchapter C,  
8 Chapter 53, Labor Code, and Chapter 621, Government Code, as added  
9 by this Act, apply beginning January 1, 2027.

10         SECTION 12. It is the intent of the legislature that every  
11 provision in this Act, and every application of the provisions in  
12 this Act to every person, group of persons, or circumstances, is  
13 severable from each other. If any application of any provision in  
14 this Act to any person, group of persons, or circumstances is found  
15 by a court to be invalid for any reason, the remaining applications  
16 of that provision to all other persons and circumstances shall be  
17 severed and may not be affected.

18         SECTION 13. This Act takes effect September 1, 2025.