

By: Louderback

H.B. No. 1488

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 providing an administrative penalty.

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

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

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

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

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

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

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

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

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

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

14 Sec. 2264.1011. DEFINITIONS. In this subchapter:

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

17 (2) "State agency" has the meaning assigned by Section
18 2103.001.

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

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

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

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

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

16 Sec. 2264.103. BARRING FROM STATE CONTRACTS. (a) Using
17 procedures prescribed under Section 2155.077, the comptroller may
18 bar a contractor from participating in state contracts if the
19 comptroller determines that the contractor:

20 (1) was awarded a contract in violation of Section
21 2264.102;

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

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

27 (b) Debarment under this section is for a period of one year

1 except that the debarment may be extended by the comptroller for
2 additional one-year periods if the commission determines that the
3 grounds for debarment under this section continue to exist.

4 SECTION 5. Subtitle B, Title 2, Labor Code, is amended by
5 adding Chapter 53 to read as follows:

6 CHAPTER 53. VERIFICATION OF EMPLOYEE INFORMATION

7 Sec. 53.001. DEFINITIONS. In this chapter:

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

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

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

15 (A) employs one or more employees; or

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

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

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

27 Sec. 53.002. EMPLOYEE STATUS. An employer may not classify

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

5 Sec. 53.003. VERIFICATION. An employer shall register and
6 participate in the E-verify program to verify information of all
7 new employees.

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

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

18 SECTION 6. Sec. 301.009(a), Government Code, is amended to
19 read as follows:

20 Sec. 301.009. COMMISSION DIVISIONS. (a) The Commission
21 shall have:

- 22 (1) a division of workforce development;
- 23 (2) a division of unemployment compensation; ~~and~~
- 24 (3) a civil rights division~~[-]~~; and
- 25 (4) a legal hiring compliance division.

26 SECTION 7. Chapter 301, Labor Code, is amended by adding
27 Subchapter L. to read as follows:

1 SUBCHAPTER L. LEGAL HIRING COMPLIANCE DIVISION

2 Sec. 301.201. LEGAL HIRING COMPLIANCE DIVISION. The
3 commission shall establish and operate a legal hiring compliance
4 division to ensure private employer compliance with E-verify
5 requirements under Chapter 53, Labor Code.

6 Sec. 301.202. POWERS AND DUTIES OF COMMISSION. (a) The
7 commission has the power to conduct investigations of employers
8 suspected of violating hiring laws and regulations regarding
9 unauthorized workers and noncompliance with E-verify requirements.

10 (b) The commission may receive complaints or reports from
11 any individual, organization, or government agency regarding
12 suspected violations of legal hiring practices. The commission
13 shall review all complaints and shall initiate investigations to
14 determine compliance with E-verify requirements under Chapter 53,
15 Labor Code.

16 (c) A complaint filed with the commission must include the
17 following information:

- 18 (1) the name of the complainant;
19 (2) the name of the employer; and
20 (3) the nature and description of any alleged
21 violation.

22 Sec. 301.203. CONFIDENTIALITY. (a) Information obtained
23 in connection with an investigation under this subchapter is
24 confidential and not subject to public disclosure, except as
25 otherwise provided by law.

26 (b) The commission may disclose information:

- 27 (1) to other state agencies for the purposes of

1 reporting continued noncompliance with Chapter 53, Labor Code; and
2 (2) to the comptroller for the purposes of determining
3 continued eligibility for state contracts under Chapter 2264,
4 Subchapter C, Government Code.

5 Sec. 301.204. ADMINISTRATIVE PENALTY. (a) The commission
6 shall impose on an employer who violates this chapter an
7 administrative penalty in an amount equal to \$5,000 for each
8 violation, unless the employer takes corrective action to achieve
9 compliance.

10 (b) If, following an investigation under Section
11 301.202(b), the commission determines that the employer violated
12 this chapter, the commission may recover from the employer
13 reasonable investigative costs incurred by the commission in
14 conducting the investigation, regardless of whether the employer
15 has taken an action described by Subsection (a).

16 Sec. 301.205. NOTICE TO LICENSING AGENCIES. If the
17 commission determines that an employer has refused to take
18 corrective action as required by this subchapter, the commission
19 shall send notice of continued noncompliance to each state agency
20 that issues a license to the employer for action under Sec. 53.004,
21 Labor Code.

22 Sec. 301.206. MODEL POLICIES AND COMPLIANCE GUIDANCE. (a)
23 The commission shall develop model policies and standardized forms
24 to support private employers in fulfilling legal hiring
25 obligations. Model policies adopted under this section must
26 include procedures and compliance checklists to ensure adherence to
27 E-Verify regulations and prevent unauthorized hiring practices.

1 (b) The commission shall provide publicly available
2 information regarding:

3 (1) how to report suspected violations of mandatory
4 E-verify regulations; and

5 (2) the commission's jurisdiction and authority
6 regarding investigations of E-verify noncompliance.

7 Sec. 301.207. RULES. The commission shall adopt rules as
8 necessary to implement and enforce this subchapter.

9 SECTION 8. Subtitle C, Title 5, Local Government Code, is
10 amended by adding Chapter 181 to read as follows:

11 CHAPTER 181. VERIFICATION OF EMPLOYEE INFORMATION

12 Sec. 181.001. DEFINITIONS. In this chapter:

13 (1) "E-Verify program" has the meaning assigned by
14 Section 673.001, Government Code.

15 (2) "Political subdivision" means a county,
16 municipality, school district, junior college district, other
17 special district, or other subdivision of state government.

18 Sec. 181.002. VERIFICATION. A political subdivision shall
19 register and participate in the E-Verify program to verify
20 information of all new employees.

21 Sec. 181.003. TERMINATION OF EMPLOYMENT. An employee of a
22 political subdivision who is responsible for verifying information
23 of new employees of the political subdivision as required by
24 Section 181.002 is subject to immediate termination of employment
25 if the employee fails to comply with that section.

26 SECTION 9. SEVERABILITY. If any provision of this Act or
27 its application to any person or circumstance is held invalid, the

1 invalidity does not affect other provisions or applications of this
2 Act that can be given effect without the invalid provision or
3 application, and to this end, the provisions of this Act are
4 declared to be severable.

5 SECTION 10. As soon as practicable after the effective date
6 of this Act, the commission shall develop model policies required
7 by Sec. 301.206, Government Code.

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

13 SECTION 12. This Act applies to employment decisions or
14 contracts made on or after the effective date of this Act. A
15 contract of employment signed before the effective date of this Act
16 are governed by the law that was in effect immediately before the
17 effective date of this Act, and the former law is continued in
18 effect for that purpose.

19 SECTION 13. This Act takes effect immediately if it
20 receives a vote of two-thirds of all the members elected to each
21 house, as provided by Section 39, Article III, Texas Constitution.
22 If this Act does not receive the vote necessary for immediate
23 effect, this Act takes effect September 1, 2025.