

By: Vasut

H.B. No. 2744

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; creating civil penalties.

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).

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

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

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

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

10 Sec. 2264.1011. DEFINITIONS. In this subchapter:

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

13 (2) "State agency" has the meaning assigned by Section
14 2103.001.

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

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

24 "_____ (name of contractor) certifies that
25 _____ (name of contractor) is not ineligible to receive this
26 contract under Subchapter C, Chapter 2264, Government Code, and
27 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 may
14 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) knowingly hired a subcontractor, other than a
21 subcontractor who acts exclusively as a supplier for the contract,
22 to perform work under the contract who is not registered with or is
23 not participating in the E-verify program.

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

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

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

7 CHAPTER 53. EMPLOYMENT OF PERSONS NOT LAWFULLY PRESENT

8 Sec. 53.001. DEFINITIONS. In this chapter:

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

12 (2) "Employer" means a person, other than a
13 governmental entity, who:

14 (A) employs at least one employee; or

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

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

19 (4) "Person not lawfully present" means a person who,
20 at the time of employment, is not:

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

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

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

6 Sec. 53.003. PROHIBITED EMPLOYMENT. (a) An employer may
7 not knowingly hire, employ, recruit, or refer for a fee an
8 individual who is a person not lawfully present.

9 (b) For purposes of Subsection (a), an employer that hires,
10 employs, recruits, or refers for a fee an individual who is a person
11 not lawfully present is considered to have known the individual is a
12 person not lawfully present if the employer is not registered or
13 does not participate in the E-verify program.

14 (c) Not later than the 30th day after the date of the final
15 resolution of a proceeding under Section 53.004 relating to a
16 violation of Subsection (a) of this section, an employer shall
17 terminate the employment of an employee who is determined to be a
18 person not lawfully present. A violation of this subsection is a
19 separate violation for purposes of imposing a civil penalty under
20 Section 53.004.

21 Sec. 53.004. ENFORCEMENT; CIVIL PENALTY. (a) An employer
22 that violates this chapter is liable to the state for a civil
23 penalty in an amount equal to \$10,000 for each individual the
24 employer hires, employs, recruits, or refers for a fee in violation
25 of this chapter.

26 (b) An individual who has a reasonable belief that an
27 employer has violated this chapter may report the allegation to the

1 attorney general. The individual must include with the complaint a
2 signed statement describing the violation.

3 (c) The attorney general may bring an action to recover a
4 civil penalty imposed under Subsection (a). The attorney general
5 may recover reasonable attorney's fees and court costs incurred in
6 bringing an action under this subsection.

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

9 CHAPTER 181. EMPLOYMENT OF PERSONS NOT LAWFULLY PRESENT

10 Sec. 181.001. DEFINITIONS. In this chapter:

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

13 (2) "Person not lawfully present" has the meaning
14 assigned by Section 53.001, Labor Code.

15 (3) "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. PROHIBITED EMPLOYMENT. (a) A political
19 subdivision may not knowingly hire, employ, recruit, or refer for a
20 fee an individual who is a person not lawfully present.

21 (b) For purposes of Subsection (a), a political subdivision
22 that hires, employs, recruits, or refers for a fee an individual who
23 is a person not lawfully present is considered to have known the
24 individual is a person not lawfully present if the political
25 subdivision is not registered or does not participate in the
26 E-verify program.

27 (c) Not later than the 30th day after the date of the final

1 resolution of a proceeding under Section 181.003 relating to a
2 violation of Subsection (a) of this section, a political
3 subdivision shall terminate the employment of an employee who is
4 determined to be a person not lawfully present. A violation of this
5 subsection is a separate violation for purposes of imposing a civil
6 penalty under Section 181.003.

7 Sec. 181.003. ENFORCEMENT; CIVIL PENALTY. (a) A political
8 subdivision that violates this chapter is liable to the state for a
9 civil penalty in an amount equal to \$10,000 for each individual the
10 political subdivision hires, employs, recruits, or refers for a fee
11 in violation of this chapter.

12 (b) An individual who has a reasonable belief that a
13 political subdivision has violated this chapter may report the
14 allegation to the attorney general. The individual must include
15 with the complaint a signed statement describing the violation.

16 (c) The attorney general may bring an action to recover a
17 civil penalty imposed under Subsection (a). The attorney general
18 may recover reasonable attorney's fees and court costs incurred in
19 bringing an action under this subsection.

20 SECTION 7. 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(d),
23 Government Code, as added by this Act, not later than December 31,
24 2025.

25 SECTION 8. 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 9. Chapters 53, Labor Code, and 181, Local
4 Government Code, as added by this Act, apply beginning January 1,
5 2026.

6 SECTION 10. This Act takes effect September 1, 2025.