

By: Kolkhorst, et al.

S.B. No. 324

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, 2264.103, and 2264.104 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. INAPPLICABILITY OF SUBCHAPTER. This subchapter does not apply to a purchase of goods or services:

(1) for which notice is not required to be posted in the electronic state business daily under Section 2155.083; or

(2) by a state agency under purchasing authority delegated to the agency under Section 2155.132 if competitive bidding is not required for the purchase under Subsection (e) of that section.

Sec. 2264.103. 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 inaccurate during the term of the contract, the contractor may be barred from participating in state contracts."

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

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

Sec. 2264.104. BARRING FROM STATE CONTRACTS. (a) Using procedures prescribed under Section 2155.077, the comptroller may bar a contractor from participating in state contracts if the comptroller determines that the contractor:

(1) was awarded a contract in violation of Section 2264.103;

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

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

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

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

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

15 CHAPTER 53. VERIFICATION OF EMPLOYEE INFORMATION

16 Sec. 53.001. DEFINITIONS. In this chapter:

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

20 (2) "Employer" means a person, other than a
21 governmental entity or a sole proprietorship, who:

22 (A) employs one or more employees; or
23 (B) acts directly or indirectly in the interests
24 of an employer in relation to an employee.

25 (3) "Employment" means any service, including service
26 in interstate commerce, that is performed for wages or under a
27 contract of hire, whether written or oral or express or implied.

1 The term does not include any service performed by an individual for
2 wages if it is shown that the individual is free from control or
3 direction in the performance of the service, both under any
4 contract of service and in fact.

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

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

12 Sec. 53.003. VERIFICATION. An employer shall register and
13 participate in the E-verify program to verify information of all
14 new employees.

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

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

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

27 CHAPTER 181. VERIFICATION OF EMPLOYEE INFORMATION

1 Sec. 181.001. DEFINITIONS. In this chapter:

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

4 (2) "Political subdivision" means a county,
5 municipality, school district, junior college district, other
6 special district, or other subdivision of state government.

7 Sec. 181.002. VERIFICATION. A political subdivision shall
8 register and participate in the E-verify program to verify
9 information of all new employees.

10 Sec. 181.003. TERMINATION OF EMPLOYMENT. An employee of a
11 political subdivision who is responsible for verifying information
12 of new employees of the political subdivision as required by
13 Section 181.002 is subject to immediate termination of employment
14 if the employee fails to comply with that section.

15 SECTION 7. Each state agency subject to Subchapter C,
16 Chapter 2264, Government Code, as amended by this Act, shall
17 develop the procedures required under Section 2264.103(d),
18 Government Code, as added by this Act, not later than December 31,
19 2025.

20 SECTION 8. Sections 2264.1011, 2264.102, 2264.103, and
21 2264.104, Government Code, as added by this Act, apply only in
22 relation to a contract for which the request for bids or proposals
23 or other applicable expression of interest is made public on or
24 after the effective date of this Act.

25 SECTION 9. As soon as practicable after the effective date
26 of this Act, each appropriate state agency subject to Section
27 53.004, Labor Code, as added by this Act, shall adopt rules and

1 prescribe forms as required by that section.

2 SECTION 10. Sections 53.003, Labor Code, and 181.002, Local
3 Government Code, as added by this Act, apply beginning January 1,
4 2027.

5 SECTION 11. This Act takes effect September 1, 2025.