

BILL ANALYSIS

Senate Research Center

C.S.S.B. 23
By: Schwertner et al.
Business & Commerce
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Current law requires state agencies to participate in the federal electronic verification of employment authorization program, or E-verify, to ensure the employment eligibility of all new employees. This verification helps ensure that public money only goes to people who are eligible to work in the United States.

However, this program is not required to be used by businesses seeking state contracts. Despite Texas state agencies having awarded more than \$91 billion in contracts in the 2016-2017 biennium, there is no statutory requirement that these taxpayer-derived funds only be disbursed to those who are legally eligible to work in the United States.

S.B. 23 sets forth guidelines that would require all businesses who enter into contracts with a state agency to participate in the E-verify program as part of the awards process of a state contract. (Original Author's / Sponsor's Statement of Intent)

C.S.S.B. 23 amends current law relating to requiring state contractors to participate in the federal electronic verification of employment authorization program, or E-verify.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends the heading to Chapter 2264, Government Code, to read as follows:

CHAPTER 2264. CERTAIN RESTRICTIONS ON PUBLIC SUBSIDIES AND STATE CONTRACTS

SECTION 2. Transfers Section 2264.101, Government Code, to Subchapter B, Chapter 2264, Government Code, redesignates it as Section 2264.054, Government Code, and amends it, as follows:

Sec. 2264.054. RECOVERY. (a) Authorizes certain entities to bring a civil action to recover any amounts owed to certain entities under this subchapter, rather than chapter.

(b) Makes no changes to this subsection.

(c) Makes a conforming change.

SECTION 3. Amends the heading to Subchapter C, Chapter 2264, Government Code, to read as follows:

SUBCHAPTER C. E-VERIFY PROGRAM

SECTION 4. Amends Subchapter C, Chapter 2264, Government Code, by adding Sections 2264.1011, 2264.102, 2264.103, and 2264.104 as follows:

Sec. 2264.1011. DEFINITIONS. Defines "E-verify program" and "state agency."

Sec. 2264.102. VERIFICATION BY CONTRACTORS. (a) Prohibits a state agency from awarding a contract for goods or services within this state to a contractor unless the contractor registers with and participates in the E-verify program. Requires the contractor to continue to participate in the program during the term of the contract.

(b) Requires each contract with a state agency to include a certain statement. Sets forth the language of the statement.

(c) Requires a state agency to refer the matter to the Texas comptroller of public accounts (comptroller) for action if the state agency determines that a contractor was ineligible to have the contract awarded under Subsection (a) or that a contractor has ceased participation in the E-verify program during the term of the contract.

(d) Requires each state agency to develop procedures for the administration of this section.

Sec. 2264.103. BARRING FROM STATE CONTRACTS. (a) Requires the comptroller to bar a contractor from participating in state contracts if the comptroller makes certain determinations using procedures prescribed under Section 2155.077 (Barring Vendor From Participation in State Contracts).

(b) Provides that debarment under this section is for a period of up to five years.

(c) Prohibits a contractor who registers with and participates in the E-verify program from being barred under this section if, as a result of receiving inaccurate verification information from the E-verify program, the contractor hires or employs a person in violation of 8 U.S.C. Section 1324a.

Sec. 2264.104. AFFIRMATIVE DEFENSE; DISCRIMINATION PROHIBITED. (a) Provides that it is an affirmative defense to a civil action for damages or the imposition of a civil penalty for an employer's refusal to hire or employ a person based on the employer's participation in the E-verify program as required by this subchapter that the employer participated in the E-verify program in accordance with the rules and guidelines of the program and received inaccurate information.

(b) Provides that nothing in this section may be construed to allow intentional discrimination of any class protected by law.

SECTION 5. Requires each state agency subject to Subchapter C, Chapter 2264, Government Code, as amended by this Act, to develop the procedures required under Section 2264.102(d), Government Code, as added by his Act, not later than October 1, 2017.

SECTION 6. Makes application of Sections 2264.1011, 2264.102, and 2264.103, Government Code, as added by this Act, prospective.

SECTION 7. Effective date: September 1, 2017.