

By: Schwertner

S.B. No. 197

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to requiring state contractors to participate in the  
3 federal electronic verification of employment authorization  
4 program, or E-verify.

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

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

8 CHAPTER 2264. CERTAIN RESTRICTIONS ON [USE OF CERTAIN] PUBLIC  
9 SUBSIDIES AND STATE CONTRACTS

10 SECTION 2. Section 2264.101, Government Code, is  
11 transferred to Subchapter B, Chapter 2264, Government Code,  
12 redesignated as Section 2264.054, Government Code, and amended to  
13 read as follows:

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

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

24 (c) A business is not liable for a violation of this

1 subchapter [~~chapter~~] by a subsidiary, affiliate, or franchisee of  
2 the business, or by a person with whom the business contracts.

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

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

6 SECTION 4. Subchapter C, Chapter 2264, Government Code, is  
7 amended by adding Sections 2264.1011, 2264.102, 2264.103, and  
8 2264.104 to read as follows:

9 Sec. 2264.1011. DEFINITIONS. In this subchapter:

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

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

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

20 (b) Each contract with a state agency must include the  
21 following statement:

22 "\_\_\_\_\_ (name of contractor) certifies that  
23 \_\_\_\_\_ (name of contractor) is not ineligible to receive this  
24 contract under Subchapter C, Chapter 2264, Government Code, and  
25 acknowledges that if this certification is inaccurate or becomes  
26 inaccurate during the term of the contract, the contractor may be  
27 barred from participating in state contracts."

1       (c) If a state agency determines that a contractor was  
2 ineligible to have the contract awarded under Subsection (a) or  
3 that a contractor has ceased participation in the E-verify program  
4 during the term of the contract, the state agency shall refer the  
5 matter to the comptroller for action.

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

8       Sec. 2264.103. BARRING FROM STATE CONTRACTS. (a) Using  
9 procedures prescribed under Section 2155.077, the comptroller  
10 shall bar a contractor from participating in state contracts if a  
11 state agency under Section 2264.102 determines that the contractor:

12           (1) was awarded a contract in violation of Section  
13 2264.102; or

14           (2) has ceased participation in the E-verify program  
15 during the term of the contract.

16       (b) Debarment under this section is for a period of up to  
17 five years.

18       (c) A contractor who registers with and participates in the  
19 E-verify program as provided by Section 2264.102 may not be barred  
20 under this section if, as a result of receiving inaccurate  
21 verification information from the E-verify program, the contractor  
22 hires or employs a person in violation of 8 U.S.C. Section 1324a.

23       Sec. 2264.104. AFFIRMATIVE DEFENSE; DISCRIMINATION  
24 PROHIBITED. (a) It is an affirmative defense to a civil action for  
25 damages or the imposition of a civil penalty for an employer's  
26 refusal to hire or employ a person based on the employer's  
27 participation in the E-verify program as required by this

1 subchapter that the employer participated in the E-verify program  
2 in accordance with the rules and guidelines of the program and  
3 received inaccurate information.

4 (b) This section may not be construed to allow intentional  
5 discrimination of any class protected by law.

6 SECTION 5. Section 81.072, Natural Resources Code, and  
7 Section 223.051, Transportation Code, as added by Chapter 533 (S.B.  
8 312), Acts of the 85th Legislature, Regular Session, 2017, are  
9 repealed.

10 SECTION 6. Each state agency subject to Subchapter C,  
11 Chapter 2264, Government Code, as amended by this Act, shall  
12 develop the procedures required under Section 2264.102(d),  
13 Government Code, as added by this Act, not later than October 1,  
14 2019.

15 SECTION 7. Sections 2264.1011, 2264.102, and 2264.103,  
16 Government Code, as added by this Act, apply only in relation to a  
17 contract for which the request for bids or proposals or other  
18 applicable expression of interest is made public on or after the  
19 effective date of this Act.

20 SECTION 8. This Act takes effect September 1, 2019.