

1-1 By: Schwertner, et al. S.B. No. 23
 1-2 (In the Senate - Filed December 19, 2016; January 24, 2017,
 1-3 read first time and referred to Committee on Business & Commerce;
 1-4 March 20, 2017, reported adversely, with favorable Committee
 1-5 Substitute by the following vote: Yeas 7, Nays 1; March 20, 2017,
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16		X		
1-17			X	

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 23 By: Nichols

1-19 A BILL TO BE ENTITLED
 1-20 AN ACT

1-21 relating to requiring state contractors to participate in the
 1-22 federal electronic verification of employment authorization
 1-23 program, or E-verify.

1-24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-25 SECTION 1. The heading to Chapter 2264, Government Code, is
 1-26 amended to read as follows:

1-27 CHAPTER 2264. CERTAIN RESTRICTIONS ON [USE OF CERTAIN] PUBLIC
 1-28 SUBSIDIES AND STATE CONTRACTS

1-29 SECTION 2. Section 2264.101, Government Code, is
 1-30 transferred to Subchapter B, Chapter 2264, Government Code,
 1-31 redesignated as Section 2264.054, Government Code, and amended to
 1-32 read as follows:

1-33 Sec. 2264.054 [~~2264.101~~]. RECOVERY. (a) A public agency,
 1-34 local taxing jurisdiction, or economic development corporation, or
 1-35 the attorney general on behalf of the state or a state agency, may
 1-36 bring a civil action to recover any amounts owed to the public
 1-37 agency, state or local taxing jurisdiction, or economic development
 1-38 corporation under this subchapter [~~chapter~~].

1-39 (b) The public agency, local taxing jurisdiction, economic
 1-40 development corporation, or attorney general, as applicable, shall
 1-41 recover court costs and reasonable attorney's fees incurred in an
 1-42 action brought under Subsection (a).

1-43 (c) A business is not liable for a violation of this
 1-44 subchapter [~~chapter~~] by a subsidiary, affiliate, or franchisee of
 1-45 the business, or by a person with whom the business contracts.

1-46 SECTION 3. The heading to Subchapter C, Chapter 2264,
 1-47 Government Code, is amended to read as follows:

1-48 SUBCHAPTER C. E-VERIFY PROGRAM [~~ENFORCEMENT~~]

1-49 SECTION 4. Subchapter C, Chapter 2264, Government Code, is
 1-50 amended by adding Sections 2264.1011, 2264.102, 2264.103, and
 1-51 2264.104 to read as follows:

1-52 Sec. 2264.1011. DEFINITIONS. In this subchapter:

1-53 (1) "E-verify program" has the meaning assigned by
 1-54 Section 673.001.

1-55 (2) "State agency" has the meaning assigned by Section
 1-56 2103.001.

1-57 Sec. 2264.102. VERIFICATION BY CONTRACTORS. (a) A state
 1-58 agency may not award a contract for goods or services within this
 1-59 state to a contractor unless the contractor registers with and
 1-60 participates in the E-verify program to verify employee

2-1 information. The contractor must continue to participate in the
2-2 program during the term of the contract.

2-3 (b) Each contract with a state agency must include the
2-4 following statement:

2-5 "_____ (name of contractor) certifies that
2-6 _____ (name of contractor) is not ineligible to receive this
2-7 contract under Subchapter C, Chapter 2264, Government Code, and
2-8 acknowledges that if this certification is inaccurate or becomes
2-9 inaccurate during the term of the contract, the contractor may be
2-10 barred from participating in state contracts."

2-11 (c) If a state agency determines that a contractor was
2-12 ineligible to have the contract awarded under Subsection (a) or
2-13 that a contractor has ceased participation in the E-verify program
2-14 during the term of the contract, the state agency shall refer the
2-15 matter to the comptroller for action.

2-16 (d) Each state agency shall develop procedures for the
2-17 administration of this section.

2-18 Sec. 2264.103. BARRING FROM STATE CONTRACTS. (a) Using
2-19 procedures prescribed under Section 2155.077, the comptroller
2-20 shall bar a contractor from participating in state contracts if the
2-21 comptroller determines that the contractor:

2-22 (1) was awarded a contract in violation of Section
2-23 2264.102; or

2-24 (2) has ceased participation in the E-verify program
2-25 during the term of the contract.

2-26 (b) Debarment under this section is for a period of up to
2-27 five years.

2-28 (c) A contractor who registers with and participates in the
2-29 E-verify program as provided by Section 2264.102 may not be barred
2-30 under this section if, as a result of receiving inaccurate
2-31 verification information from the E-verify program, the contractor
2-32 hires or employs a person in violation of 8 U.S.C. Section 1324a.

2-33 Sec. 2264.104. AFFIRMATIVE DEFENSE; DISCRIMINATION
2-34 PROHIBITED. (a) It is an affirmative defense to a civil action for
2-35 damages or the imposition of a civil penalty for an employer's
2-36 refusal to hire or employ a person based on the employer's
2-37 participation in the E-verify program as required by this
2-38 subchapter that the employer participated in the E-verify program
2-39 in accordance with the rules and guidelines of the program and
2-40 received inaccurate information.

2-41 (b) Nothing in this section may be construed to allow
2-42 intentional discrimination of any class protected by law.

2-43 SECTION 5. Each state agency subject to Subchapter C,
2-44 Chapter 2264, Government Code, as amended by this Act, shall
2-45 develop the procedures required under Section 2264.102(d),
2-46 Government Code, as added by this Act, not later than October 1,
2-47 2017.

2-48 SECTION 6. Sections 2264.1011, 2264.102, and 2264.103,
2-49 Government Code, as added by this Act, apply only in relation to a
2-50 contract for which the request for bids or proposals or other
2-51 applicable expression of interest is made public on or after the
2-52 effective date of this Act.

2-53 SECTION 7. This Act takes effect September 1, 2017.

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