

SUBJECT: Requiring state agencies to use the federal E-Verify system for new hires

COMMITTEE: State Affairs — favorable, without amendment

VOTE: 9 ayes — Cook, Farney, Farrar, Geren, Harless, Huberty, Kuempel, Minjarez, Smithee

1 nay — Giddings

3 absent — Craddick, Oliveira, Sylvester Turner

SENATE VOTE: On final passage, May 7 — 20-11 (Ellis, Garcia, Hinojosa, Lucio, Menéndez, Rodríguez, Uresti, Watson, West, Whitmire, Zaffirini)

WITNESSES: (*On House companion bill, HB 183*)

For — Michael Openshaw, North Texas Tea Party; (*Registered, but did not testify*: MerryLynn Gerstenschlager, Texas Eagle Forum; Cindy Asmussen)

Against — Maxie Gallardo, Workers Defense Project; (*Registered, but did not testify*: Jennifer Allmon, The Texas Catholic Conference of Bishops; Leroy Cavasos, San Antonio Hispanic Chamber of Commerce, (SAHCC); Harrison Hiner, Texas State Employees Union; Elizabeth Lippincott, Texas Border Coalition; Rebecca Marques, ACLU of Texas; Celina Moreno, MALDEF)

On — (*Registered, but did not testify*: Susanna Cutrone, Texas Workforce Commission)

BACKGROUND: Gov. Rick Perry issued executive order RP 80 on December 3, 2014, which required all agencies under the direction of the governor to use the federal E-verify system to verify the employment eligibility of all current and prospective employees.

The order also mandated that these agencies require contractors to use the E-Verify system to verify all of certain employees. The order took effect

immediately and remains in effect and in full force until modified, amended, rescinded, or superseded by the governor.

DIGEST: SB 374 would require state agencies to register and participate in the federal E-Verify program to electronically verify employment authorization of all new employees. The bill would apply to a department, commission, board, office, or other agency of any branch of state government, including an institution of higher education.

The Texas Workforce Commission would be required to adopt rules and prescribe forms to implement this bill.

The bill would take effect September 1, 2015.

SUPPORTERS SAY: SB 374 would codify an executive order announced in December 2014 to verify that individuals employed in Texas were legally eligible to work in the United States. The E-verify system is the most accurate and efficient way to check a person's legal status to work in this country. More than 98 percent of new employees processed in the program are confirmed or denied within 24 hours, and many times they are verified instantly.

The E-Verify system would be accurate and effective. The federal government has improved the system, which now includes a photo matching feature. Further, if an individual were unconfirmed after an initial check, that person would be subject to another process to continue the verification and ensure accuracy.

Implementation of the E-Verify system would be quick and simple and would not impose large costs or burdens on state agencies. The bill would differ from the executive order that required verification of all current and new employees by limiting the use of E-Verify system to new employees. Contractors and general contractors would not be affected by the bill. The E-Verify system uses the same information that is already being collected on I-9 forms required for all new employees, so it would not be a burden to collect or input the information into the system.

Many state agencies, such as the Texas Facilities Commission, the Department of Transportation, and the Texas Workforce Commission, have implemented the policy without any problems. The system also is being used by thousands of businesses nationwide. The bill would ensure that agencies did not use state tax dollars to hire immigrants who were ineligible to work legally in the United States.

Requiring agencies to use the E-Verify system would not create hiring discrimination because the system could be used only after hiring a worker and therefore could not be used to screen out prospective employees.

OPPONENTS
SAY:

SB 374 would require state agencies to use a potentially inaccurate employment authorization verification system. Individuals with proper employment authorization could be matched to someone who was not eligible to work in the United States. There is greater potential for error when verifying the status of legal permanent residents and work-eligible non-citizens because federal agencies vary in how data is entered into their databases. Further, legal status can change continually, and sometimes databases are not updated quickly enough to assure an accurate verification.

This bill would impose extra burdens and costs onto the agencies required to use this system. Employers already submit I-9 forms on all new hires. Many employers have stated that transitioning to a new system would be difficult or disruptive. Training and maintaining human resources personnel to oversee the system would add costs and time, and training each of these personnel itself could take several hours per person. The bill could lead to increased discrimination in hiring and might discourage agencies from hiring people based on race or ethnicity by creating obstacles to verifying their work authorization status.

State agencies should not be required to enforce federal immigration laws. Agencies currently do not have problems with hiring immigrants who do not have legal status to work. Requiring the E-Verify system to be used by all agencies would be unnecessary at the state level.