

BILL ANALYSIS

S.B. 23
By: Schwertner
State Affairs
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Interested parties contend that businesses seeking state contracts should be required to participate in the federal E-verify program. S.B. 23 sets out guidelines that would require businesses that enter into contracts with a state agency to participate in the E-verify program as part of the awards process of a state contract.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

S.B. 23 amends the Government Code to prohibit a state agency, including a public institution of higher education, from awarding a contract for goods or services within Texas to a contractor unless the contractor registers with and participates in the federal electronic verification of employment authorization (E-verify) program to verify employee information. The bill requires the contractor to continue to participate in the program during the contract term and sets out a statement each state agency contract must include. The bill requires a state agency that determines that a contractor was ineligible to have the contract awarded or that a contractor has ceased participation in the E-verify program during the contract term to refer the matter to the comptroller of public accounts for action. The bill requires each state agency to develop procedures for the administration of these provisions not later than October 1, 2017.

S.B. 23 requires the comptroller, using procedures prescribed under the State Purchasing and General Services Act for barring vendors from participation in state contracts, to bar a contractor from participating in state contracts if a state agency determines that the contractor was awarded a contract in violation of the bill's provisions regarding verification of E-verify participation or that the contractor has ceased participation in that program during the contract term. The bill establishes that debarment is for a period of up to five years. The bill prohibits a contractor who registers with and participates in the E-verify program from being barred if, as a result of receiving inaccurate verification information from the E-verify program, the contractor hires or employs a person in violation of federal law.

S.B. 23 establishes as 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 that the employer participated in the federal E-verify program in accordance with the rules and guidelines of the program and received inaccurate

information. The bill expressly prohibits that affirmative defense provision from being construed to allow intentional discrimination of any class protected by law.

EFFECTIVE DATE

September 1, 2017.