

HOUSE BILL REPORT

HB 2568

As Reported by House Committee On:
Labor & Workforce Development

Title: An act relating to maintaining voluntary use of electronic employment verification systems.

Brief Description: Maintaining voluntary use of electronic employment verification systems.

Sponsors: Representatives Kenney, Sells, Hunt, Hasegawa, Moscoso, Hudgins, Ryu, Pettigrew, Ormsby, Santos, Reykdal, Eddy, Fitzgibbon, Upthegrove, Appleton and Maxwell.

Brief History:

Committee Activity:

Labor & Workforce Development: 1/24/12, 1/27/12 [DPS].

Brief Summary of Substitute Bill

- Prohibits the state and municipalities from requiring that a private employer use the Employment Eligibility Verification program, unless required by the federal government.

HOUSE COMMITTEE ON LABOR & WORKFORCE DEVELOPMENT

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Sells, Chair; Reykdal, Vice Chair; Green, Kenney, Miloscia, Moeller, Ormsby and Roberts.

Minority Report: Do not pass. Signed by 4 members: Representatives Shea, Assistant Ranking Minority Member; Fagan, Taylor and Warnick.

Staff: Alexa Silver (786-7190).

Background:

Federal law makes it unlawful for employers to knowingly hire workers who are unauthorized to work in the United States. Employers are required to verify the employment

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eligibility and identity of workers using the procedures specified in federal law (the Form I-9 process).

The Department of Homeland Security (DHS) and the Social Security Administration (SSA) operate the Employment Eligibility Verification (E-Verify) program. E-Verify is an online program that checks employees' information against government records to determine employment authorization for employers.

To use E-Verify, a participating employer submits an employee's Form I-9 information to the program, which compares the information against DHS and SSA records. If the information matches, the program provides an "employment authorized" response. If the information does not match, the program provides an initial response of "DHS verification in process," in which case DHS will review the case, or "tentative non-confirmation," in which case the employer must promptly notify the employee. The employee may choose to contest the result. If the employee does not take action, the program provides a result of "final non-confirmation."

The E-Verify program is largely voluntary. However, the federal government requires all federal agencies to verify their new hires through E-Verify. In addition, contractors and covered subcontractors who are awarded federal contracts that last more than 120 days and exceed \$100,000 must use E-Verify. According to the National Conference of State Legislatures, 17 states require the use of E-Verify by either public or private employers, two states encourage the use of E-Verify, and two states limit the use of E-Verify. In Washington, the following municipalities require the use of E-Verify, either for public employees or county or city contractors: Centralia, Chehalis, Clark County, Kennewick, Lakewood, Lewis County, Napavine, Pierce County, City of Sumner, Washougal, and Whatcom County.

Summary of Substitute Bill:

The Legislature makes findings regarding E-Verify, including the costs of making the program mandatory and the significant challenges that remain for the program.

Except as required by federal law or as a condition of receiving federal funds, neither the state nor any county, city, town, or other political subdivision may require a private employer to use an electronic employment verification system. Prohibited requirements include requirements that an employer use E-Verify as a condition of receiving a government contract, as a condition of applying for or maintaining a business license, or as a penalty for violating licensing or similar laws.

An electronic employment verification system means an employment verification system that allows employers to electronically verify workers' employment authorization with the federal government. It includes the E-Verify program. It does not include any employment eligibility systems required by federal law, including the Form I-9.

Substitute Bill Compared to Original Bill:

The substitute bill adds a legislative finding regarding the need for certainty and stability in the state's workforce, as well as the need for federal immigration reform.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) This bill maintains the intent of federal law by ensuring that private employers retain the ability to choose whether to participate in E-Verify. Mandating E-Verify without reform kills jobs and businesses. The costs associated with E-Verify come at a time when employers are struggling and employees remain unemployed. The program keeps United States citizens from working and discriminates against foreign-born, legally authorized workers. Correcting errors costs employers and employees time and money. E-Verify pushes the economy underground, which has an impact on workers and on the state's revenues. E-Verify could be accepted as part of comprehensive reform that also addresses a path to legalization and a more flexible visa program for the future farm workforce. An enforcement-only approach would be destructive to Washington agriculture. Municipalities do not have jurisdiction over immigration law and are unable to pass balanced immigration reform. A hodgepodge of local and state E-Verify laws would be a mess for compliance. This bill sends a message that Congress needs to enact immigration reform.

(Opposed) None.

Persons Testifying: Representative Kenney, prime sponsor; Mike Gempler, Washington Growers Association; Pramila Jayapal, One America; Marcio Ayon, Main Street Alliance; Jorge Baron, Northwest Immigrants Rights Project; Rebecca Johnson, Washington State Labor Council; Carino Barragan, Casa Latina; Diakouda Guining, Washington New Century Movement; Juan Jose Bocanegro, E-Verify Coalition; Antonio Flores, El Komite; and Jorge Quiroga, Saint Mary's Catholic Church.

Persons Signed In To Testify But Not Testifying: Ricardo Sanchez, SeaMar; and Teresa Mosqueda, Washington State Labor Council.