
Labor & Workforce Development Committee

HB 2568

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 Summary of Bill

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

Hearing Date: 1/24/12

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 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

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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 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.

Appropriation: None.

Fiscal Note: Requested on January 17, 2012.

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