

E-Verify use increases

Written by Diedre Shesgreen Gannett Washington Bureau

WASHINGTON -- The E-Verify system used to check workers' immigration status isn't just roiling the political waters in Springfield. It's doing so across the country.

With a stalemate in Washington over illegal immigration, states and localities around the country have recently passed, or are actively considering, measures to crack down on illegal immigration. And provisions to mandate the use of E-Verify--or, in at least one case, to forbid it--are a particularly popular legislative tack right now.

"We've been tracking these bills for the last six years or so, and the intensity is increasing, largely because of federal inaction," said Ann Morse, program director for the Immigrant Policy Project at the National Conference of State Legislatures, a nonpartisan group that monitors state initiatives.

So far this year, 10 states have enacted some kind of E-Verify provisions; eight states already had E-Verify provisions on the books, with many requiring public-sector employers, but not private businesses, to use the system to check the immigration status of new hires.

All the activity at the local level is frustrating employers, who face an increasingly complex patchwork of laws and regulations when it comes to checking a new hire's legal status.

E-Verify is a free database, maintained by the federal Department of Homeland Security, that employers can voluntarily use to check whether a new employee is legally authorized to work in the United States. From October 2009 through August 2010, E-Verify processed nearly 15 million inquiries from about 222,000 employers, according to a recent analysis by the nonpartisan Government Accountability Office.

Illegal immigration is always a hot-button issue, but even more so in a sour economy that has so many Americans struggling to find work. So it's no wonder that public pressure to address the issue has ramped up, and state and local officials are responding.

In Utah and Washington, for example, two counties recently passed legislation requiring employers to use E-Verify to check their employees' status. Alabama recently passed a law mandating that all employers use E-Verify, while Florida enacted a provision requiring state agencies, along with their contractors and sub-contractors, to use the database.

In Springfield, voters will face a referendum on the issue in February. Pushed to the ballot by the Ozarks Minutemen, the proposal would require the use of E-Verify by all

businesses, imposing fines and suspending business licenses of firms that hire illegal workers.

"States and localities are looking for what they can do to help enforce immigration laws," said Mark Krikorian, executive director of the Center for Immigration Studies, a Washington research group focused on lowering illegal immigration. With an estimated 11 million illegal immigrants in the United States, he said, "every town is a border town now." And the issue of illegal immigration is as relevant in Springfield as it is in El Paso, Texas.

For a variety of reasons, E-Verify provisions have become a politically appealing way to tackle illegal immigration. For starters, it has passed judicial muster. In May, the Supreme Court upheld an Arizona law requiring that state's employers to use E-Verify or face the suspension or revocation of their business licenses.

Plus, Krikorian said, E-Verify is effective, and it clamps down on employers, not illegal immigrants. "The most important first step ought to be E-Verify because frankly it's jobs that are attracting people,"

he said. "And you can't characterize this as arresting people on their way taking their kids out for ice cream."

Similarly, Jerry Wilson, a spokesman for the Ozarks Minutemen, said E-Verify is the most humane solution to the illegal immigration problem.

"If you take away that magnet that pulls them across the border, and that is the availability of these jobs, then the aliens will self-deport," he said, or they won't come in the first place. "That's what E-Verify will do."

If the Minutemen are successful in Springfield, Wilson added, "what we think will happen is other cities in the Ozarks will use this as a model and they will begin to pass these."

But what Wilson sees as a model, some business owners see as a headache.

"It's starting to spiral out of control, with everyone with a political agenda now wanting to do (immigration policy) their own way," said Lester Rosen, CEO of Employment Screening Resources, a company that provides pre-employment background screening of new hires. "It's hard enough to be a small or medium business, but then you drive 10 miles and there's a new rule. How do you open up branch offices or new locations?"

His company's blog summed up the situation this way: "E-Verify regulations are changing not only state by state, but also county by county. These changes are yet another example of the hodge-podge of varying E-Verify requirements that can be confusing to employers."

In California, political leaders have taken the opposite tack, with Gov. Jerry Brown recently signing a law that bars the state from mandating any use of E-Verify. Part of the motivation was to override local E-Verify rules and ordinances that had cropped up around the state.

The Springfield measure goes further than most, and may run afoul of federal law. Currently, states and local officials are allowed to require the use of E-Verify, but they can't impose civil or criminal penalties, other than through license suspension or similar provisions. So the Springfield measure's call for fines could be out-of-bounds.

"There are questions as to how constitutional the fining provision is," said Springfield Mayor Jim O'Neal. "That will get worked out in a court of law for sure."

O'Neal said he has heard complaints from the city's business leaders that the measure will harm economic development.

"It's an unwelcome sign in the front of the community--that's what the Chamber of Commerce and a lot of business people believe," said O'Neal, who has not taken a position on the referendum. They believe it "will have a negative impact on jobs" by discouraging new employers from moving to Springfield.

O'Neal and others said they would much prefer to see a single federal standard on E-Verify. That way "everybody's on a level playing field, and it's one standard, not 12," he said. "This law's going to be written differently all over the place. So I personally prefer a federal rule."

Rep. Lamar Smith, R-Texas, has introduced a bill to mandate that all U.S. employers use the E-Verify system to check the eligibility of new hires to work in the U.S.. The proposal won approval last month by the House Judiciary Committee.

But the measure's prospects in this Congress are far from certain. It has not yet been scheduled for a full House vote and would likely face considerable opposition in the Senate, where Democrats hold a narrow majority.

"There are forces arrayed against it," said Krikorian.

Yolanda Lorge, president of Grupo Latinoamericano in Springfield, said the federal proposal suffers from the same problems as the Springfield one. She fears it would drive more businesses to hire illegal workers under the table, so there is no paper trail of their employment at all. It would also gin up the already hot market for fraudulent identification documents that can be used to fool employers and E-Verify alike, she said. Some other critics have raised questions about the reliability of E-Verify's data, noting that it has mistakenly labeled naturalized citizens as ineligible to work in the U.S. In Illinois, state lawmakers set limits on the use of E-Verify until its accuracy is improved and there are better privacy safeguards in place.

Rep. Billy Long, R-Springfield, said he supports the bill but it is not a panacea. "I support E-Verify, but we need to make sure that it doesn't place additional burdens on small businesses," he said in a statement. "It is important to remember that the best way to keep illegal immigrants from taking jobs in our country is to keep our borders secure."

Lorge echoed that sentiment, if for different reasons, saying E-Verify is "not going to solve" the immigration problem. The current system is "chaotic," she said, but there's no one with the political courage in Washington to fix it.

On that count, she, O'Neal, and others agree -- a comprehensive solution would be better than a single initiative in Springfield or a narrowly-tailored E-Verify law from Washington. But the chances of this Congress agreeing to an immigration overhaul are slim to none.

"This issue has been poisoned so much that we don't even think rationally anymore," said Lorge.

So voters across the country are likely to see more initiatives like the one Springfield residents will vote on in February. "I expect it to be a very live area of debate" in the coming months, said Morse, the immigration expert with the National Council of State Legislatures.

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