Inland Rep. Ken Calvert wants mandatory E-Verify, but does it work?

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A House bill co-sponsored by an Inland congressman would require employers to use a federal online database to verify a prospective employee's eligibility to work in the United States.

The Legal Workforce Act cleared the House Judiciary Committee by a 20-10 vote Oct. 25, setting up a future vote by the full House of Representatives.

The bill would mandate the use of E-Verify, an online system maintained by the Department of Homeland Security that checks information provided by potential new hires against homeland security, Social Security and State Department records. The goal is ensure American jobs go to those who are legally allowed to work here.

The bill's lead sponsors are Reps. Bob Goodlatte, R-Virginia; Lamar Smith, R-Texas; and Ken Calvert, R-Corona. Calvert, who represents much of western Riverside County, wrote the bill that created E-Verify in 1996.

"Mandatory E-Verify is long overdue," Calvert said in a news release on the bill's introduction. "The program is ready to go mandatory and the Legal Workforce Act will deliver on the promise to ensure that American jobs go to American workers and those authorized to work in the U.S."

Critics say E-Verify can be manipulated and can wrongly deny jobs to eligible workers. A consulting firm's 2009 audit found that due mainly to identify fraud, E-Verify cleared 54 percent of unauthorized workers.

"The system has already proven remarkably ineffective at its intended purpose – keeping unauthorized workers away from jobs," David Bier, an immigration policy analyst with the Libertarian CATO Institute, wrote in a May 2017 blog post on CATO's website.

Calvert defended E-Verify in a telephone interview Monday, Nov. 6.

"I don't believe that people who are here illegally should be working," he said. "(E-Verify has) been in effect for almost 20 years. It's worked very well. It's grown. It's something that a lot of employers are happy to use and I'm looking forward to the day when it's mandatory."

More than 750,000 employers use E-Verify, which is free for employers to use, Calvert said. He contends it has an accuracy rate of almost 100 percent.

"For government work, that's pretty good," Calvert added.

The Legal Workforce Act isn't the first attempt in Congress to make E-Verify mandatory.

But Republicans now control both houses of Congress, and there's talk of including mandatory E-Verify in a bipartisan fix to let thousands of undocumented immigrants, shielded from deportation by the Deferred Action for Childhood Arrivals program, stay beyond the Trump administration's March deadline to wind down DACA.

"Small price to pay"

Businesses in at least 20 states, as well as federal contractors, are legally required to use E-Verify, according to U.S. Citizenship and Immigration Services. California law bars local governments and the state from mandating E-Verify use by private employers.

Jon Robertson, an Irvine attorney whose practice deals with employment law, supports mandatory E-Verify.

"It allows lawful employers immediate information to confirm that a potential hire can be legally employed, thus making the hiring process faster and more reliable," he said. "Second, it will help to reduce unscrupulous employers, which seek to hire employees who cannot be legally hired, from exploiting unlawful alien workers by not paying them the minimum wage, not withholding employment taxes and not providing any other benefits for their labor."

He added: "E-Verify is a little balky. But if employers would have this resource to comply with the law and avoid liability (it's) a small price to pay."

In a news release lauding the judiciary committee's approval of the Legal Workforce Act, Goodlatte, the Virginia congressman, said mandatory E-Verify takes less than two minutes to use and improves upon the paper-based system used to determine employee eligibility.

The bill would phase-in mandatory E-Verify. Employers with more than 10,000 workers would have to comply within six months of the bill becoming law, while businesses with one to 19 employees would have two years.

The CATO Institute maintains E-Verify use isn't consistently enforced in states where it's mandated. The institute's Alex Nowrasteh cites a 2013 Congressional Budget Office report on a bill similar to the Legal Workforce Act, which found that mandating a system to verify employment eligibility would cost the federal government about $635 million from 2014 to 2018 to implement.

Democratic congressional candidate Julia Peacock, right, addresses protesters upset with President Donald Trump's travel ban at Ontario International Airport in this January file photo.

"Is the federal government going to have to create another agency to oversee compliance with E-Verify?," said Julia Peacock, a Democrat running against Calvert in 2018.

Peacock cited a 2013 American Civil Liberties Union report on E-Verify, which found one in every 400 E-Verify submissions resulted in a "temporary non-confirmation" that was later reversed on appeal. One woman lost out on a higher-paying job because an employer placed two spaces after her last name, the report read.

"Mr. Calvert has been misleading people for all the years he's been trying to push this faulty program," Peacock said.

Even a 0.15 percent E-Verify error rate leads to 187,500 legally eligible workers a year being wrongly denied employment, Nowrasteh wrote in his commentary for CATO.

Calvert's spokesman, Jason Gagnon, replied: "In the very rare instances where there's a mismatch in the database, those individuals who are authorized to work in our country are able to quickly resolve the mismatch and (are) later confirmed as work-authorized."

"Many of the unresolved mismatches are very likely to be individuals who are not authorized to work in our country," added Gagnon, who referenced a federal report that put E-Verify's accuracy rate at 98.88 percent.

Matt Woody, an independent candidate challenging Calvert, said a more comprehensive approach to immigration is needed.

"E-Verify is not ready for prime time," said Woody, who also cited accuracy concerns about E-Verify.

"Neither party has worked diligently to enforce the immigration laws we do have. The states with mandatory E-Verify … there's not very much compliance. The system was not set up to be used on the scale the House bill envisions."

The Society for Human Resource Management, a professional society for the HR field, supports the bill in general, said Chatrane Birbal, a senior adviser with the society's government affairs team. The society is concerned about the audit that showed 54 percent of unauthorized workers being cleared by E-Verify, she said.

E-Verify must be efficient and adequate barriers to identity theft must be in place, Birbal said, adding the bill requires homeland security to start two pilot programs to bolster E-Verify's identity theft safeguards.