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BLOGS

Archives;Immigration;Social Media & Technology;Week in Review

Technology in the Workplace: Week in Review (The E-Verify Edition)

Immigration is among the thornier and most complicated of all political issues, and also one of the most consequential to employers. A representative example: The current debate surrounding the federal worker eligibility status database, E-Verify.

One would think a program whose origins lie in legislation passed under Reagan, piloted under Clinton, expanded under George W. Bush and championed by the Obama administration would garner broad bipartisan and popular support. Instead, it has been forcefully opposed by groups spanning the ideological spectrum, from the Tea Party Nation and the Competitive Enterprise Institute on the right, to the AFL-CIO and other labor unions on the left, to coalitions of business owners that fall somewhere in the pragmatic middle.

E-Verify promises an easy, efficient method to check a potential employee's eligibility to work. Employers enter information from the completed Form I-9 into a simple government web interface to determine whether a new hire is eligible to work in the United States. Ideally the process is fast and immediate, not unlike paying a bill online.

Enrollment is currently required for certain federal contractors and subcontractors under federal law. A number of states and municipalities have also passed laws mandating use of E-Verify, and a bill in Congress that would eventually require all employers to use E-Verify, the Legal Workplace Act, is currently being considered in the House of Representatives (though may have stalled). Mitt Romney and Newt Gingrich have spoken favorably about E-Verify in the Republican debates.

Unfortunately, studies of the database have demonstrated a number of shortcomings. Error rates within the system are high, disqualifying workers that should be eligible and allowing some that should not be legally hired. The system is also "vulnerable to identity theft and employer fraud", according to a recent Government Accounting Office report. Illegal immigrants have found that E-Verify is an easy system to circumnavigate by using someone else's identification information, with or without that other person's knowledge.

E-Verify may also not be as efficient as hoped. According to Bloomberg Government, employer costs associated with checking the employment eligibility of new hires would have been approximately \$2.7 billion in 2010 had E-Verify been required of all employers. Those costs associated with E-Verify participation may hit small businesses especially hard, because they do not have human resources departments to ensure that proper procedures are followed or deal with any snags, and may not have the resources to pay the hefty penalties levied for erroneously hiring illegal workers. Some studies suggest that significant job loss would occur if the system became mandatory for all employers.

California recently passed a law banning required use of E-Verify by employers, largely in response to the enactment of ordinances by a number of California cities mandating its use.

Despite the flaws detailed in the Government Accounting Office report and elsewhere, the administration continues to promote use of E-Verify, and the Legal Workplace Act is supported by national business groups such as the U.S.



Chamber of Commerce and the National Restaurant Association. There is not an alternative database, either current or planned, that offers the same sort of simple worker eligibility verification for employers.

Several articles below describe the database and the issues surrounding E-Verify, and present various points of view. We'll keep an eye on the continuing debate in Congress, at the local level, and as the subject of political theater in the upcoming elections.

Technology in the Workplace

- New California Law Bars E-Verify Requirement for Employers ([LA Times](#))
- Mandating E-Verify Would be a Mistake ([Salt Lake Tribune](#))
- E-Verify Should Go National ([Arizona Republic](#))
- Another Immigration Misconception ([NY Times](#))
- Testimony from Craig Miller of the National Restaurant Association in Support of E-Verify ([Restaurant.org](#))
- AT&T Toggle Phone Feature Lets Users Separate Business, Personal Data ([Security News Daily](#))
- Who is GINA and What Does She Have to do with Your Facebook Page ([Inside Counsel](#))
- Social Media Survey from DLA Piper ([DLA Piper](#))
- Adverse Impact Calculator ([Quantitative Solutions for Workplace Issues](#))

Technology and the Law More Generally

- iPhone Accelerometer Could Spy on Keystrokes ([Wired](#))
- HTC Loses Early Patent Decision vs. Apple ([Reuters](#))
- Social Media Giant Sued For Trademark Infringement (Again) ([DuetsBlog](#))

Technology This Week

- RIM Apologies with Free Apps ([TechCrunch](#))
- The State of Social Media 2011: Social is the New Normal ([Fast Company](#))
- Google Unwraps Ice Cream Sandwich, the Next Generation Android OS ([Wired](#))
- RIM Unveils an Upgrade, But Little Else ([NY Times](#))
- GroupOn IPO may be Valued at \$12 Billion ([DealBook](#))

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