



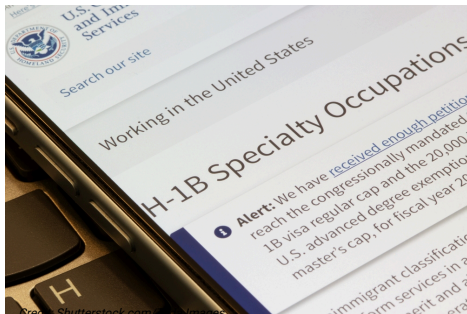
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The Texas attorney general's investigations into alleged H-1B abuse raise questions about states' authority in the federal visa programme, and may signal wider use of state fraud and employment laws to scrutinise foreign hiring.

Key takeaways

- Texas is investigating three companies for alleged efforts to "fraudulently sponsor H-1B visas."
- Although the H-1B programme is federally regulated, Texas is testing its authority through applicable fraud and employment laws.
- Increased state enforcement could further deter foreign hiring, though courts are likely to determine the limits of such intervention.



The Texas attorney general Ken Paxton has launched investigations into three businesses for alleged "H-1B visa abuse," according to a 28 January 2026 announcement. The move marks the first time a state attorney general has taken action against private employers' H-1B practices during US President Donald Trump's second term.

Paxton claimed that the businesses – which he did not identify – set up "sham companies featuring websites advertising nonexistent products or services to Texas consumers in order to fraudulently sponsor H-1B visas." He has

demanded documents identifying all employees working for the companies, records detailing the specific products or services provided, financial statements and communications related to company operations of each business.

The 28 January announcement came one day after the Texas governor Greg Abbott directed all state agencies to freeze new H-1B visa petitions and review current H-1B programme use.

Can states enforce against H-1B violations?

The Immigration and Nationality Act 1965, as amended, created the H-1B visa classification and delegated regulation and enforcement powers to several federal agencies, including the US Department of Homeland Security (DHS), the US Department of Labor (DOL) and the US Department of State.

Recent federal efforts to curb the employment of foreign workers have perhaps emboldened states to "encroach on power of the executive," Greenspoon Marder partner Hector Chichoni said.

In September 2025, the Trump administration imposed a US\$100,000 fee on all new H-1B visa petitions. More recently, the State Department started reviewing H-1B applicants' social media accounts to identify those "who are inadmissible to the United States."

Although the H-1B programme is federally regulated, its impact on local labour markets and its overlap with jurisdictional employment laws may allow states some room to enforce against alleged violations.

Chichoni said that the Texas attorney general is not, in this instance, “ruling on or enforcing immigration law directly.” Rather, Paxton is “ostensibly trying to enforce” the state fraud and employment laws that “impact H-1B employment,” Troutman Pepper Locke partner Robert Lee added.

FY 2027 H-1B lottery may attract more state scrutiny

State efforts to regulate H-1B practices through applicable wage laws may intensify once the DHS’ new rule favouring the allocation of H-1B visas to higher-paid beneficiaries takes effect on 27 February 2026, Chichoni said.

Level IV employers – or those paying an average annual salary of US\$162,528 or more to H-1B workers – will receive four entries into the selection pool, while level I employers will only receive one entry. Level II and III employers will receive two and three entries, respectively.

These classifications will determine employers’ fate in the FY 2027 H-1B lottery, which will run from 4 March 2026 to 19 March 2026. Employers will be required to provide the appropriate Standard Occupational Classification code of the open position and the area of employment that serves as the basis for the Occupational Employment and Wage Statistics wage level indicated on the registration.

Chichoni emphasised the need “to ensure that the open positions are correctly classified.” He said that state labour departments and other agencies are likely to scrutinise employers’ H-1B job classifications as they become a more critical factor in the selection process.

H-1B programme as a “pawn”

This scrutiny won’t stop with Texas.

Troutman’s Lee said that he anticipates that other Republican-led states will follow suit in coming months. He added that state investigations into H-1B practices are likely to attract federal attention.

“The Texas case is very high profile, and I’m confident that even if they don’t find any violations of state laws, they would turn over whatever information they have to the federal agencies who could then pursue further investigations for violations of the H-1B programme,” Lee said. “And this would be true of any state investigation, whether or not they’re able to prove wrongdoing under state laws.”

Federal efforts have already made some employers – particularly smaller companies – hesitant to participate in the H-1B programme, and Chichoni said that state enforcement could further discourage foreign hiring. He also said that he anticipates legal challenges to Paxton’s investigations and future state H-1B actions.

“We used to call the H-1B the ‘queen’ of all professional visas, and now I think it’s a pawn,” Chichoni said. “States are pushing the limits of the law, and I think courts will play a very important role in curbing – or facilitating – this exercise of power.”

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