

Regular Session, 2011

SENATE BILL NO. 66

BY SENATORS RISER AND CHEEK

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

EMPLOYMENT. Provides with respect to mandatory verification, through the federal E-Verify system, to determine a person's residency status in the U.S. when engaged in public contract work. (8/15/11)

1 AN ACT
2 To enact R.S. 23:998, relative to the verification of legal status of certain aliens prior to
3 employment in public contract work; to provide for definitions; to provide for the
4 scope of applicability; to provide for the cost of such verification; to provide relative
5 to a de-funding of such federal program; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 23:998 is hereby enacted to read as follows:

8 **§998. Verification of residency of aliens engaged in public contract work**

9 **A. Findings. (1) The legislature finds that when illegal immigrants have**
10 **been living in this state and encouraged to reside here through the benefit of**
11 **employment without verifying immigration status, these practices impede and**
12 **obstruct the enforcement of federal immigration law, undermine the security**
13 **of our borders, and impermissibly restrict the privileges and immunities of the**
14 **citizens of Louisiana.**

15 **(2) The legislature finds that it is a compelling public interest of this**
16 **state to ensure that public monies are not spent to employ aliens that are not**
17 **legally residing in the United States or not authorized to work in the United**

1 **States thereby assuring taxpayers that their dollars are not spent in support of**
2 **such illegal aliens.**

3 **B. Definitions. For the purposes of this Section, the following terms**
4 **shall have the following meanings unless the context clearly indicates otherwise:**

5 **(1) "Legal alien" is a person who is or was lawfully present in the United**
6 **States at the time of employment and remains so for the duration of**
7 **employment, or a person who is or was permanently residing legally in the**
8 **United States at the time of employment and remains so for the duration of**
9 **employment.**

10 **(2) "Status verification system" is the electronic verification of work**
11 **authorization program of the Illegal Immigration Reform and Immigration**
12 **Responsibility Act of 1996, 8 U.S.C. 1324a, operated by the Department of**
13 **Homeland Security, known currently as the "E-Verify Program".**

14 **C. A private employer shall not bid on or otherwise contract with a**
15 **public entity for the physical performance of services within the state of**
16 **Louisiana unless the private employer attests in a sworn affidavit to both of the**
17 **following:**

18 **(1) The private employer is registered with and participates in a status**
19 **verification system to verify that new employees are legal citizens of the United**
20 **States or are legal aliens.**

21 **(2) The private employer shall continue, during the term of the contract,**
22 **to utilize such status verification system to verify the legal status of new**
23 **employees.**

24 **D. All costs to use the status verification system shall be borne by the**
25 **entity seeking or participating in a public contract.**

26 **E. Penalties; employer liability; appeal. (1) Any private employer**
27 **violating the provisions of this Section shall be subject to cancellation of any**
28 **public contract. A private employer whose participation in a public contract**
29 **is canceled for violation of this Section shall be ineligible to seek or participate**

1 in any state or public contract for a period not to exceed three years.

2 (2) Any private employer shall be liable for any additional costs
3 incurred by a public entity, occasioned by the cancellation of a contract, as
4 provided in this Section.

5 (3) Any private employer penalized under the provisions of this Section
6 shall have the right to appeal to the appropriate entity sanctioning the employer
7 or to the state district court of competent jurisdiction.

8 (4) Any person, contractor, or employer who complies with the
9 provisions of this Section shall not be liable, either criminally or civilly, under
10 state law for the hiring of an unauthorized alien, as defined in 8 U.S.C. §1324a,
11 if the information obtained in accordance with the status verification system
12 indicated that the individual's federal legal status allowed the employer to hire
13 the employee.

14 (5) Any person, contractor, or employer who complies with the
15 provisions of this Section shall not be liable, either criminally or civilly, under
16 state law for a refusal to hire an individual if the information obtained in
17 accordance with the status verification system indicated that the individual's
18 federal legal status was that of an unauthorized alien, as defined in 8 U.S.C.
19 §1324a.

20 F. The provisions of this Section shall only apply to contracts entered
21 into or bids offered on or after January 1, 2012.

22 G. In the event the status verification system expires or is de-funded and
23 extensions are not approved by the federal government, the provisions of this
24 Section shall no longer apply.

The original instrument and the following digest, which constitutes no
Section of the legislative instrument, were prepared by Mary Dozier O'Brien.

DIGEST

Riser (SB 66)

Present law contains no provisions relative to illegal aliens being employed to work on public contracts.

Proposed law requires private employers who contract with a public entity to register with and to participate in the federal status verification system, known presently as the "E-Verify" program.

Proposed law provides definitions for "legal alien" and "status verification system".

Proposed law provides that any person, contractor, or employer who complies with provisions of proposed law by utilizing the E-Verify system shall not be held civilly or criminally liable for correctly applying the information produced by the E-Verify system, if the information is later discovered to be erroneous.

Proposed law provides that if the federal status verification system expires or is de-funded, the provisions of the Section will no longer apply.

Effective August 15, 2011.

(Adds R.S. 23:998)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Labor and Industrial Relations to the original bill.

1. Amendments provide that any person, contractor, or employer who utilizes the E-Verify system as required by this Act, shall not be liable, either civilly or criminally for incorrect information regarding any employee's legal status obtained through the E-Verify system.