

(KEYWORD, SUMMARY, AND DIGEST as amended by Senate committee amendments)

PUBLIC CONTRACTS. Provides for the verification of citizenship of employees engaged in public contract work.

DIGEST

Proposed law provides for the definition of a "status verification system" as the electronic verification of work authorization program of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. 1324(a), and operated by the U.S. Dept. of Homeland Security, known as the "E-Verify" program.

Proposed law provides for the definition of "legal alien" as a person who is or was lawfully present or permanently residing legally in the U.S. and allowed to work at the time of employment and remains so throughout the duration of that employment.

Proposed law provides that a private employer shall not bid on or otherwise contract with a public entity unless the private employer verifies in a sworn affidavit attesting to both of the following:

- (1) The private employer is registered and participates in a status verification system to verify that all employees in the state of La. are legal citizens of the U.S. or are legal aliens.
- (2) The private employer must continue, during the term of the contract, to utilize a status verification system to verify the legal status of all new employees in the state of La.
- (3) The private employer shall require all subcontractors to submit to the employer a sworn affidavit verifying compliance with Paragraphs (1) and (2) above.

Proposed law provides that any private employer found to be in violation of the provisions of proposed law may be subject to cancellation of any public contract, resulting in ineligibility for any public contract for a period of not more than three years from the date the violation is discovered.

Proposed law further provides that the private employer shall be liable for any additional costs incurred by a public entity, occasioned by the cancellation of a contract or loss of any license or permit to do business in the state.

Proposed law provides that a private employer penalized in accordance with proposed law shall have the right to appeal to the appropriate agency, department, or other public entity sanctioning the person or to the court of competent jurisdiction.

Proposed law provides that any person, contractor, or employer who complies with the provisions of this Section shall not be civilly or criminally liable under state law for the hiring of an unauthorized alien, as defined by 8 U.S.C. 1324(h)(3), if the information obtained in accordance with the status verification system indicated that the employee's federal legal status allowed the employer to hire that employee.

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

Proposed law provides that no person, contractor, or employer shall be penalized under provisions of proposed law for actions of a subcontractor unless such person, contractor, or employer had actual knowledge of such subcontractor's failure to comply with proposed law.

Proposed law applies only to contracts entered into or bids offered on or after Jan. 1, 2012.

Proposed law provides that in the event the status verification system expires and extensions are not approved by the federal government, the provisions of proposed law shall no longer apply.

(Adds R.S. 38:2212.10)

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Transportation, Highways and Public Works to the original bill.

1. Made technical changes.
2. Provided for the definition of "legal alien" as a person who is or was lawfully present or permanently residing legally in the U.S. and allowed to work at the time of employment and remains so throughout the duration of that employment.
3. Immuned employers from civil or criminal liability under certain circumstances.

House Floor Amendments to the engrossed bill.

1. Revised proposed law to apply to "all employees" in the state of La., instead of just "new employees".
2. Revised the proposed law to require the continued verification of all "new employees in the state of La."

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Transportation, Highways, and Public Works to the reengrossed bill.

1. Corrected federal law name to "Illegal Immigration Reform and Immigrant Responsibility Act of 1996".
2. Added to proposed law requirement that private employers require all subcontractors to submit to the employer a sworn affidavit verifying compliance with "E-Verify" for subcontractor's employees in the state of Louisiana.
3. Made public contract cancellation and 3 year public contract debarment discretionary, rather than mandatory, for any private employer who violates proposed law.
4. Added provision to proposed law holding harmless any person, contractor, or employer for a subcontractor violation of provisions of proposed law unless such person, contractor, or employer had actual knowledge thereof.