

HOUSE SUMMARY OF SENATE AMENDMENTS

House Bill No. 342 by Representative Edwards

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

Synopsis of Senate Amendments

1. Technical amendments.
2. Adds a provision that a private employer must require a subcontractor to submit a sworn affidavit verifying participation in the status verification system for both existing and new employees.
3. Extends immunity from civil or criminal liability to an employer who retains employment an unauthorized alien if the information obtained from the system allowed the employer to hire that employee.
4. Adds a provision to hold harmless a person, contractor, or employer for actions of a subcontractor unless such person had actual knowledge of the subcontractor's failure to comply with requirements related to the status verification system.

Digest of Bill as Finally Passed by Senate

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)