

Regular Session, 2011

ACT No. 376

HOUSE BILL NO. 342

BY REPRESENTATIVES EDWARDS, ARMES, BALDONE, HENRY BURNS, BURRELL, CARMODY, CHANDLER, DIXON, DOERGE, DOWNS, ELLINGTON, GISCLAIR, GUILLORY, HARDY, HENRY, HILL, HINES, HOFFMANN, HOWARD, JOHNSON, SAM JONES, KATZ, LANDRY, LEBAS, LIGI, LITTLE, LORUSSO, MCVEA, MONToucET, POPE, RICHARD, RICHARDSON, SMILEY, GARY SMITH, JANE SMITH, TALBOT, TEMPLET, WHITE, WILLIAMS, AND WILLMOTT AND SENATOR NEVERS

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

1 AN ACT

2 To enact R.S. 38:2212.10, relative to public contracts; to provide for the verification of
3 employees engaged in public contract work; to provide for penalties; and to provide
4 for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. R.S. 38:2212.10 is hereby enacted to read as follows:

7 §2212.10. Verification of employees involved in public contract work

8 A.(1) The legislature finds that when illegal immigrants are living in this
9 state and are encouraged to reside here through the benefit of employment without
10 verification of immigration status, the result is that the enforcement of federal
11 immigration law is impeded and obstructed, the security of the nation's borders is
12 undermined, and the privileges and immunities of the citizens of Louisiana are
13 impermissibly restricted.

14 (2) The legislature further finds that it is a compelling public interest of this
15 state to discourage illegal immigration by requiring employers who do business with
16 the state of Louisiana to cooperate fully with federal immigration authorities in the
17 enforcement of federal immigration law.

18 B. For the purposes of this Section, the following terms shall mean:

19 (1) "Legal alien" is a person who is or was lawfully present or permanently
20 residing legally in the United States and allowed to work at the time of employment
21 and remains so throughout the duration of that employment.

1 (2) "Status verification system" means the electronic verification of work
2 authorization program of the Illegal Immigration Reform and Immigrant
3 Responsibility Act of 1996, 8 U.S.C. 1324(a), and operated by the United States
4 Department of Homeland Security, known as the "E-Verify" program.

5 C. A private employer shall not bid on or otherwise contract with a public
6 entity for the physical performance of services within the state of Louisiana unless
7 the private employer verifies in a sworn affidavit attesting to both of the following:

8 (1) The private employer is registered and participates in a status verification
9 system to verify that all employees in the state of Louisiana are legal citizens of the
10 United States or are legal aliens.

11 (2) The private employer shall continue, during the term of the contract, to
12 utilize a status verification system to verify the legal status of all new employees in
13 the state of Louisiana.

14 (3) The private employer shall require all subcontractors to submit to the
15 employer a sworn affidavit verifying compliance with Paragraphs (1) and (2) of this
16 Subsection.

17 D.(1) Any private employer violating the provisions of this Section may be
18 subject to cancellation of any public contract, resulting in ineligibility for any public
19 contract for a period of not more than three years from the date the violation is
20 discovered.

21 (2) Any private employer shall be liable for any additional costs incurred by
22 a public entity, occasioned by the cancellation of a contract or loss of any license or
23 permit to do business in the state, as provided in this Subsection.

24 (3) Any private employer penalized in accordance with this Section shall
25 have the right to appeal to the appropriate agency, department, or other public entity
26 sanctioning the employer or to a court of competent jurisdiction.

27 (4) Any person, contractor, or employer who complies with the provisions
28 of this Section shall not be civilly or criminally liable under state law for either
29 hiring or retaining in its employ an unauthorized alien, as defined by 8 U.S.C.
30 1324a(h)(3), if the information obtained in accordance with the status verification

1 system indicated that the employee's federal legal status allowed the employer to hire
2 that employee.

3 (5) Any person, contractor, or employer who complies with the provisions
4 of this Section shall not be civilly or criminally liable under state law for a refusal
5 to either hire or retain an individual in its employ if the information obtained in
6 accordance with the status verification system indicated that the individual's federal
7 legal status was that of an unauthorized alien, as defined in 8 U.S.C. 1324a(h)(3).

8 (6) No person, contractor, or employer shall be penalized under the
9 provisions of this Section for the actions of a subcontractor unless such person,
10 contractor, or employer had actual knowledge of such subcontractor's failure to
11 comply with the provision of this Section.

12 E. The provisions of this Section shall apply only to contracts entered into
13 or bids offered on or after January 1, 2012.

14 F. In the event the status verification system expires and extensions are not
15 approved by the federal government, the provisions of this Section shall no longer
16 apply.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____