

1 A bill to be entitled  
2 An act relating to enforcement of immigration laws;  
3 creating chapter 986, F.S.; creating the "Florida Security  
4 and Immigration Compliance Act"; providing construction;  
5 providing definitions; prohibiting public employers from  
6 entering into a contract for the physical performance of  
7 services within the state with contractors not registered  
8 and participating in a federal work authorization program  
9 by a specified date; providing procedures and requirements  
10 with respect to the registration of contractors and  
11 subcontractors; providing for enforcement; requiring the  
12 Secretary of Business and Professional Regulation to  
13 prescribe forms and adopt rules; requiring the Chief of  
14 Domestic Security to negotiate the terms of a memorandum  
15 of understanding between the state and the United States  
16 Department of Justice or the United States Department of  
17 Homeland Security concerning the enforcement of federal  
18 immigration and customs laws, the detention and removal  
19 individuals not lawfully present in the United States,  
20 investigations related to illegal immigration in the  
21 state, the establishment of specified law enforcement  
22 training standards, and the creation of specified law  
23 enforcement training programs; providing for the  
24 establishment of law enforcement training standards and  
25 the creation of training programs contingent upon federal  
26 funding; providing that law enforcement officers trained  
27 in accordance with such programs are authorized to enforce  
28 federal immigration and customs laws while performing

29 | within the scope of their authorized duties; providing  
30 | requirements and procedures with respect to the  
31 | determination of lawful immigration status of persons  
32 | charged with a crime and confined to jail; providing  
33 | construction; requiring the Florida Sheriffs Association  
34 | to prepare and issue specified guidelines and procedures;  
35 | requiring agencies and political subdivisions of the state  
36 | to verify the lawful presence in the United States of any  
37 | natural person 18 years of age or older who has applied  
38 | for state or local public benefits, or for federal public  
39 | benefits, that are administered by an agency or a  
40 | political subdivision of the state by a specified date;  
41 | providing for enforcement; providing exceptions; requiring  
42 | the Board of Governors of the State University System to  
43 | set forth policies regarding postsecondary education  
44 | benefits; providing procedures and requirements with  
45 | respect to verification of lawful presence in the United  
46 | States by an agency or political subdivision; providing a  
47 | penalty for knowingly and willfully making a false,  
48 | fictitious, or fraudulent statement or representation in  
49 | an affidavit executed under the act; providing procedure  
50 | with respect to verification of eligibility for benefits;  
51 | prohibiting any agency or political subdivision of this  
52 | state from providing any state, local, or federal benefit  
53 | in violation of the act; providing for specified annual  
54 | reports; creating s. 337.163, F.S.; providing definitions;  
55 | prohibiting the Department of Transportation from entering  
56 | into a contract for the physical performance of services

57 within this state with contractors not registered and  
 58 participating in a federal work authorization program by a  
 59 specified date; prohibiting a contractor who receives a  
 60 contract award from the department for the performance of  
 61 services within this state from executing a contract,  
 62 purchase order, or subcontract in connection with the  
 63 award unless the contractor and all subcontractors  
 64 providing services register and participate in a federal  
 65 work authorization program; providing procedures and  
 66 requirements with respect to the registration of  
 67 contractors and subcontractors; providing for enforcement;  
 68 requiring the Secretary of Transportation to prescribe  
 69 forms and adopt rules; providing effective dates.

70

71 Be It Enacted by the Legislature of the State of Florida:

72

73 Section 1. Chapter 986, Florida Statutes, consisting of  
 74 sections 986.01, 986.02, 986.03, 986.04, 986.05, 986.06, and  
 75 986.07, is created to read:

76 986.01 Short title.--This chapter may be cited as the  
 77 "Florida Security and Immigration Compliance Act."

78 986.02 Construction.--All requirements of this chapter  
 79 concerning immigration or the classification of immigration  
 80 status shall be construed in conformity with federal immigration  
 81 law.

82 986.03 Definitions.--As used in this chapter:

83 (1) "Federal work authorization program" means any program  
 84 operated by the United States Department of Homeland Security

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85 that provides electronic verification of work authorization  
86 issued by the United States Bureau of Citizenship and  
87 Immigration Services or any equivalent federal work  
88 authorization program operated by the United States Department  
89 of Homeland Security that provides for the verification of  
90 information regarding newly hired employees under the  
91 Immigration Reform and Control Act of 1986, Pub. L. No. 99-603.

92 (2) "Public employer" means any department, agency, or  
93 instrumentality of the state or a political subdivision of the  
94 state.

95 (3) "Subcontractor" means any entity providing services  
96 for a contractor, whether as subcontractor, contract employee,  
97 staffing agency, or other entity, regardless of the level of  
98 subcontracting duties, if the services provided are related to  
99 the contractor's contract with an agency.

100 986.04 Compliance with federal work authorization  
101 program.--

102 (1) Commencing July 1, 2008, no public employer shall  
103 enter into a contract under s. 287.057 for the physical  
104 performance of services within this state unless the contractor  
105 registers and participates in a federal work authorization  
106 program.

107 (2) No contractor who receives a contract award under s.  
108 287.057 for the physical performance of services within this  
109 state shall execute a contract, purchase order, or subcontract  
110 in connection with the award unless the contractor and all  
111 subcontractors providing services for the contractor register  
112 and participate in a federal work authorization program. The

113 contractor shall certify in writing to the agency that it is in  
 114 compliance with this subsection.

115 (3) A contractor shall ensure that each subcontractor  
 116 providing services for the contractor registers and participates  
 117 in a federal work authorization program. Each subcontractor  
 118 shall certify in writing to the contractor that it is in  
 119 compliance with this subsection.

120 (4) This section shall be enforced without regard to race,  
 121 religion, gender, ethnicity, or national origin.

122 (5) Except as provided in s. 337.163(6), the Secretary of  
 123 Business and Professional Regulation shall prescribe forms and  
 124 adopt rules deemed necessary to administer and effectuate this  
 125 section and shall publish such rules on the Department of  
 126 Business and Professional Regulation's Internet website.

127 986.05 Chief of Domestic Security; responsibilities.--

128 (1) (a) The Chief of Domestic Security, as defined in s.  
 129 943.0311, shall negotiate the terms of a memorandum of  
 130 understanding between the State of Florida and the United States  
 131 Department of Justice or the United States Department of  
 132 Homeland Security concerning:

133 1. The enforcement of federal immigration and customs  
 134 laws.

135 2. The detention and removal of individuals not lawfully  
 136 present in the United States.

137 3. Investigations related to illegal immigration in the  
 138 state.

139 4. The establishment of law enforcement training standards  
 140 and the creation of law enforcement training programs as  
 141 provided in subsection (2).

142 (b) The memorandum of understanding shall be signed on  
 143 behalf of the state by the Chief of Domestic Security and the  
 144 Governor, or as otherwise required by the appropriate federal  
 145 agency.

146 (2) (a) Contingent upon funding in the federal Homeland  
 147 Security Appropriation Act of 2007 or any subsequent source of  
 148 federal funding, the Chief of Domestic Security shall work with  
 149 the regional domestic security task forces and the various state  
 150 entities responsible for establishing training standards  
 151 applicable to state law enforcement officers to establish  
 152 training standards and create training programs the purpose of  
 153 which is to enhance the ability of law enforcement officers to  
 154 enforce federal immigration and customs laws while performing  
 155 within the scope of their authorized duties.

156 (b) A law enforcement officer certified as trained in  
 157 accordance with this section is authorized to enforce federal  
 158 immigration and customs laws while performing within the scope  
 159 of his or her authorized duties.

160 986.06 Determination of lawful status.--

161 (1) If verification of the nationality or lawful  
 162 immigration status of any person who is charged with a crime and  
 163 confined to jail for any period of time cannot be made from  
 164 documents in the possession of the prisoner or after a  
 165 reasonable effort on the part of law enforcement officials to  
 166 determine the nationality or immigration status of the person so

167 confined, verification shall be made within 48 hours through a  
168 query to the Law Enforcement Support Center (LESC) of the United  
169 States Department of Homeland Security or other office or agency  
170 designated for that purpose by the United States Department of  
171 Homeland Security. If it is determined that the prisoner is in  
172 the United States unlawfully, the law enforcement agency shall  
173 notify the United States Department of Homeland Security.

174 (2) Nothing in this section shall be construed to deny a  
175 person bond or prevent a person from being released from  
176 confinement if such person is otherwise eligible for release.

177 (3) The Florida Sheriffs Association shall prepare and  
178 issue guidelines and procedures for compliance with the  
179 provisions of this section.

180 986.07 Agencies, political subdivisions; requirements.--

181 (1) Except as provided in subsection (3) or where exempted  
182 by federal law, no later than July 1, 2008, every agency or  
183 political subdivision of this state shall verify the lawful  
184 presence in the United States of any natural person 18 years of  
185 age or older who has applied for state or local public benefits,  
186 as defined in 8 U.S.C. s. 1621, or for federal public benefits,  
187 as defined in 8 U.S.C. s. 1611, that are administered by the  
188 agency or political subdivision.

189 (2) This section shall be enforced without regard to race,  
190 religion, gender, ethnicity, or national origin.

191 (3) Verification of an individual's lawful presence in the  
192 United States under this section shall not be required for:

193 (a) Any purpose for which lawful presence in the United  
194 States is not required by law, ordinance, or regulation;

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195       (b) Assistance for health care items and services that are  
196 necessary for the treatment of an emergency medical condition,  
197 as defined in 42 U.S.C. s. 1396b(v)(3), of the alien involved  
198 and are not related to an organ transplant procedure;

199       (c) Short-term, non-cash, in-kind emergency disaster  
200 relief;

201       (d) Public health assistance for immunizations with  
202 respect to immunizable diseases and for testing and treatment of  
203 symptoms of communicable diseases whether or not such symptoms  
204 are caused by a communicable disease;

205       (e) Programs, services, or assistance such as soup  
206 kitchens, crisis counseling and intervention, and short-term  
207 shelter specified by the United States Attorney General, in the  
208 United States Attorney General's sole and unreviewable  
209 discretion after consultation with appropriate federal agencies  
210 and departments, which:

211           1. Deliver in-kind services at the community level,  
212 including through public or private nonprofit agencies;

213           2. Do not condition the provision of assistance, the  
214 amount of assistance provided, or the cost of assistance  
215 provided on the individual recipient's income or resources; and

216           3. Are necessary for the protection of life or safety;

217       (f) Prenatal care; or

218       (g) Postsecondary education.

219       (4) The Board of Governors of the State University System  
220 shall set forth, or cause to be set forth, policies regarding  
221 postsecondary education benefits that comply with all applicable  
222 federal laws including, but not limited to, those governing



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223 ineligibility for public benefits as described in 8 U.S.C. s.  
224 1611, s. 1621, or s. 1623.

225 (5) (a) Verification of lawful presence in the United  
226 States by the agency or political subdivision required to make  
227 such verification shall occur as follows:

228 1. The applicant for benefits must execute an affidavit  
229 stating that he or she is a United States citizen or a permanent  
230 legal resident of the United States and is 18 years of age or  
231 older; or

232 2. The applicant for benefits must execute an affidavit  
233 stating that he or she is a qualified alien or nonimmigrant  
234 under the federal Immigration and Nationality Act, is 18 years  
235 of age or older, and is lawfully present in the United States.

236 (b) Any person who knowingly and willfully makes a false,  
237 fictitious, or fraudulent statement or representation in an  
238 affidavit executed pursuant to paragraph (a) commits a  
239 misdemeanor of the first degree, punishable as provided in s.  
240 775.082 or s. 775.083.

241 (6) For any applicant who has executed an affidavit  
242 attesting to the fact that he or she is an alien lawfully  
243 present in the United States, eligibility for benefits shall be  
244 made through the Systematic Alien Verification for Entitlements  
245 Program (SAVE) established by the United States Bureau of  
246 Citizenship and Immigration Services or a successor program  
247 designated by the United States Department of Homeland Security.  
248 Until such verification of eligibility is made, the affidavit  
249 may be presumed to be proof of lawful presence in the United  
250 States for the purposes of this section.

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251       (7) In carrying out the provisions of this section,  
252 agencies or political subdivisions of this state shall endeavor  
253 to improve efficiency, reduce delay in the verification process,  
254 and provide for the expedient resolution of unique individual  
255 circumstances where verification procedures would impose an  
256 unusual hardship on a legal resident of the state.

257       (8) (a) No agency or political subdivision of this state  
258 shall provide any state, local, or federal benefit, as defined  
259 in 8 U.S.C. s. 1611 or s. 1621, in violation of this section.

260       (b) Each state agency or department that administers any  
261 program of state or local public benefits shall compile an  
262 annual report with respect to its compliance with this section.

263       (9) Any and all errors and significant delays by the  
264 Systematic Alien Verification for Entitlements Program shall be  
265 reported to the United States Department of Homeland Security  
266 and to the Secretary of State, who will monitor the program and  
267 its verification application errors and significant delays and  
268 report annually on such errors and significant delays to ensure  
269 that the application of the program is not wrongfully denying  
270 benefits to legal residents of the state.

271       (10) Notwithstanding subsection (5), any applicant for  
272 federal benefits as defined in 8 U.S.C. s. 1611 or state or  
273 local benefits as defined in 8 U.S.C. s. 1621 shall not be  
274 guilty of any crime for executing an affidavit attesting to  
275 lawful presence in the United States that contains a false  
276 statement if such affidavit is not required by this section.

277       Section 2. Section 337.163, Florida Statutes, is created  
278 to read:

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279 337.163 Compliance with federal work authorization  
280 program.--

281 (1) As used in this section, the term:

282 (a) "Federal work authorization program" means any program  
283 operated by the United States Department of Homeland Security  
284 that provides electronic verification of work authorization  
285 issued by the United States Bureau of Citizenship and  
286 Immigration Services or any equivalent federal work  
287 authorization program operated by the United States Department  
288 of Homeland Security that provides for the verification of  
289 information regarding newly hired employees under the  
290 Immigration Reform and Control Act of 1986, Pub. L. No. 99-603.

291 (b) "Subcontractor" means any entity providing services  
292 for a contractor, whether as subcontractor, contract employee,  
293 staffing agency, or other entity, regardless of the level of  
294 subcontracting duties, if the services provided are related to  
295 the contractor's contract with the department.

296 (2) Commencing July 1, 2008, the department shall not  
297 enter into a contract under this chapter for the physical  
298 performance of services within this state unless the contractor  
299 registers and participates in a federal work authorization  
300 program.

301 (3) No contractor who receives a contract award under this  
302 chapter for the physical performance of services within this  
303 state shall execute a contract, purchase order, or subcontract  
304 in connection with the award unless the contractor and all  
305 subcontractors providing services for the contractor register  
306 and participate in a federal work authorization program. The

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307 contractor shall certify in writing to the department that it is  
308 in compliance with this subsection.

309 (4) A contractor shall ensure that each subcontractor  
310 providing services for the contractor registers and participates  
311 in a federal work authorization program. Each subcontractor  
312 shall certify in writing to the contractor that it is in  
313 compliance with this subsection.

314 (5) This section shall be enforced without regard to race,  
315 religion, gender, ethnicity, or national origin.

316 (6) The Secretary of Transportation shall prescribe all  
317 forms and adopt rules deemed necessary for the application of  
318 this section to any contract or agreement relating to public  
319 transportation and shall publish such rules and regulations on  
320 the department's Internet website.

321 Section 3. This act shall take effect July 1, 2007, except  
322 that subsection (2) of section 986.05, Florida Statutes, as  
323 created by this act, shall take effect only if funding under the  
324 federal Homeland Security Appropriation Act of 2007 or any  
325 subsequent source of federal funding is provided to fund the  
326 provisions of that subsection.