

HB 915

2009

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 of
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

Page 1 of 12

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

hb0915-00

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

HB 915

2009

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, 2010, 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

HB 915

2009

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 2009 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

HB 915

2009

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, 2010, 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;

HB 915

2009

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

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.

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:

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, 2010, 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

HB 915

2009

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, 2009, 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 2009 or any
325 subsequent source of federal funding is provided to fund the
326 provisions of that subsection.