

By Senator Detert

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1 A bill to be entitled
2 An act relating to the enforcement of immigration
3 laws; providing a short title; creating s. 287.0576,
4 F.S.; providing definitions; prohibiting agencies from
5 entering into a contract for contractual services with
6 contractors that are not registered and participating
7 by a specified date in a federal work-authorization
8 program; providing procedures and requirements with
9 respect to the registration of contractors and
10 subcontractors; providing for enforcement; providing a
11 schedule for phased compliance; requiring the
12 Department of Management Services to adopt rules;
13 creating s. 337.163, F.S.; providing definitions;
14 prohibiting the Department of Transportation from
15 entering into a contract for contractual services with
16 contractors that are not registered and participating
17 by a specified date in a federal work-authorization
18 program; providing procedures and requirements with
19 respect to the registration of contractors and
20 subcontractors; providing for enforcement; providing a
21 schedule for phased compliance; requiring the
22 department to adopt rules; amending s. 943.0311, F.S.;
23 requiring the Chief of Domestic Security to negotiate
24 the terms of a memorandum of understanding between the
25 state and certain Federal Government entities
26 concerning the enforcement of federal immigration and
27 customs laws, the detention and removal of individuals
28 not lawfully present in the United States,
29 investigations related to illegal immigration in the

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30 state, and the establishment of specified training
31 standards and the creation of specified training
32 programs for law enforcement officers; providing that
33 the establishment of training standards and the
34 creation of training programs is contingent upon
35 federal funding; providing that law enforcement
36 officers trained in accordance with such standards are
37 authorized to enforce federal immigration and customs
38 laws while performing within the scope of their
39 authorized duties; creating s. 951.30, F.S.; providing
40 requirements and procedures with respect to the
41 determination of lawful immigration status of persons
42 charged with a crime and confined to a county or
43 municipal detention facility; providing for
44 construction; requiring the Florida Sheriffs
45 Association to prepare and issue specified guidelines
46 and procedures; creating part IV of ch. 23, F.S.;
47 requiring agencies to verify by a specified date the
48 lawful presence in the United States of any natural
49 person 18 years of age or older who has applied for
50 state or local public benefits, or for federal public
51 benefits, which are administered by the agency;
52 providing for enforcement; providing exceptions;
53 requiring the Board of Governors of the State
54 University System to set forth policies regarding
55 postsecondary education benefits; providing procedures
56 and requirements with respect to verification by an
57 agency of an individual's lawful presence in the
58 United States; providing a penalty for knowingly and

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59 willfully making a false, fictitious, or fraudulent
60 statement or representation in an affidavit attesting
61 to citizenship or permanent legal residency; providing
62 procedures with respect to verification of eligibility
63 for benefits; prohibiting an agency from providing any
64 state, local, or federal benefit in violation of the
65 requirements of the act; providing for specified
66 annual reports; clarifying that certain attestations
67 do not constitute a crime; providing an effective
68 date.

69
70 Be It Enacted by the Legislature of the State of Florida:

71
72 Section 1. This act may be cited as the "Florida Security
73 and Immigration Compliance Act."

74 Section 2. Section 287.0576, Florida Statutes, is created
75 to read:

76 287.0576 Compliance with federal work-authorization
77 programs.-

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

79 (a) "Federal work-authorization program" means any program
80 operated by the United States Department of Homeland Security
81 which provides electronic verification of work authorization
82 issued by the United States Citizenship and Immigration Services
83 or any equivalent federal work-authorization program operated by
84 the United States Department of Homeland Security which provides
85 for the verification of information regarding newly hired
86 employees under the Immigration Reform and Control Act of 1986,
87 Pub. L. No. 99-603.

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88 (b) "Subcontractor" means a person who enters into a
89 contract with a contractor for the performance of any part of
90 such contractor's contract.

91 (2) An agency may not enter into a contract under s.
92 287.057 for contractual services unless the contractor registers
93 and participates in a federal work-authorization program.

94 (3) A contractor who receives a contract award under s.
95 287.057 for contractual services may not execute a contract,
96 purchase order, or subcontract in connection with the award
97 unless the contractor and all subcontractors providing services
98 for the contractor register and participate in a federal work-
99 authorization program. The contractor shall certify in writing
100 to the agency that it is in compliance with this subsection.

101 (4) A contractor shall ensure that each subcontractor
102 providing services for the contractor registers and participates
103 in a federal work-authorization program. Each subcontractor
104 shall certify in writing to the contractor that it is in
105 compliance with this subsection.

106 (5) Subsections (2), (3), and (4) apply as follows:

107 (a) On or after July 1, 2012, with respect to contractors
108 or subcontractors employing 500 or more employees.

109 (b) On or after July 1, 2013, with respect to contractors
110 or subcontractors employing 100 or more employees.

111 (c) On or after July 1, 2014, with respect to all
112 contractors or subcontractors.

113 (6) This section shall be enforced without regard to race,
114 religion, gender, ethnicity, or national origin.

115 (7) The department shall adopt rules deemed necessary to
116 administer this section, including prescribing forms.

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117 Section 3. Section 337.163, Florida Statutes, is created to
118 read:

119 337.163 Compliance with federal work-authorization
120 program.—

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

122 (a) "Federal work-authorization program" means any program
123 operated by the United States Department of Homeland Security
124 which provides electronic verification of work authorization
125 issued by the United States Citizenship and Immigration Services
126 or any equivalent federal work-authorization program operated by
127 the United States Department of Homeland Security which provides
128 for the verification of information regarding newly hired
129 employees under the Immigration Reform and Control Act of 1986,
130 Pub. L. No. 99-603.

131 (b) "Subcontractor" means a person who enters into a
132 contract with a contractor for the performance of any part of
133 such contractor's contract.

134 (2) The department may not enter into a contract under this
135 chapter for contractual services unless the contractor registers
136 and participates in a federal work-authorization program.

137 (3) A contractor who receives a contract award under this
138 chapter for contractual services may not execute a contract,
139 purchase order, or subcontract in connection with the award
140 unless the contractor and all subcontractors providing services
141 for the contractor register and participate in a federal work-
142 authorization program. The contractor shall certify in writing
143 to the department that it is in compliance with this subsection.

144 (4) A contractor shall ensure that each subcontractor
145 providing services for the contractor registers and participates

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146 in a federal work-authorization program. Each subcontractor
147 shall certify in writing to the contractor that it is in
148 compliance with this subsection.

149 (5) Subsections (2), (3), and (4) apply as follows:

150 (a) On or after July 1, 2012, with respect to contractors
151 or subcontractors employing 500 or more employees.

152 (b) On or after July 1, 2013, with respect to contractors
153 or subcontractors employing 100 or more employees.

154 (c) On or after July 1, 2014, with respect to all
155 contractors or subcontractors.

156 (6) This section shall be enforced without regard to race,
157 religion, gender, ethnicity, or national origin.

158 (7) The department shall adopt rules deemed necessary to
159 administer this section, including prescribing forms.

160 Section 4. Subsection (8) is added to section 943.0311,
161 Florida Statutes, and, effective if funding under the federal
162 Homeland Security Appropriation Act of 2010 or any subsequent
163 source of federal funding is provided to fund the provisions of
164 the subsection, subsection (9) is added to that section, to
165 read:

166 943.0311 Chief of Domestic Security; duties of the
167 department with respect to domestic security.—

168 (8) (a) The Chief of Domestic Security shall negotiate the
169 terms of a memorandum of understanding between the State of
170 Florida and the United States Department of Justice or the
171 United States Department of Homeland Security concerning:

172 1. The enforcement of federal immigration and customs laws.

173 2. The detention and removal of individuals not lawfully
174 present in the United States.

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175 3. Investigations related to illegal immigration in the
176 state.

177 4. The establishment of training standards and the creation
178 of training programs for law enforcement officers as provided in
179 subsection (9).

180 (b) The memorandum of understanding shall be signed on
181 behalf of the state by the Chief of Domestic Security and the
182 Governor, or as otherwise required by the appropriate federal
183 agency.

184 (9) (a) Contingent upon funding in the federal Homeland
185 Security Appropriation Act of 2010 or any subsequent source of
186 federal funding, the Chief of Domestic Security shall work with
187 the regional domestic security task forces and the various state
188 entities responsible for establishing training standards
189 applicable to law enforcement officers to establish training
190 standards and create training programs that enhance the ability
191 of law enforcement officers to enforce federal immigration and
192 customs laws while performing within the scope of their
193 authorized duties.

194 (b) A law enforcement officer, as defined in s. 943.10, who
195 is trained in accordance with the standards established pursuant
196 to this subsection is authorized to enforce federal immigration
197 and customs laws while performing within the scope of his or her
198 authorized duties.

199 Section 5. Section 951.30, Florida Statutes, is created to
200 read:

201 951.30 County and municipal detention facilities;
202 determination of lawful immigration status.—

203 (1) If the lawful immigration status of any person who is

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204 charged with a crime and confined to a county or municipal
205 detention facility for any period of time cannot be verified
206 from documents in the possession of the county or municipal
207 prisoner or after a reasonable effort on the part of law
208 enforcement officials, such verification shall be made within 48
209 hours through a query to the Law Enforcement Support Center of
210 the United States Department of Homeland Security or other
211 office or agency designated for that purpose by the United
212 States Department of Homeland Security. If it is determined that
213 a county or municipal prisoner is in the United States
214 unlawfully, the law enforcement agency shall notify the United
215 States Department of Homeland Security.

216 (2) This section does not deny bond to a person who is
217 charged with a crime and confined to a county or municipal
218 detention facility or prevent the person from being released
219 from confinement if the person is otherwise eligible for
220 release.

221 (3) The Florida Sheriffs Association shall prepare and
222 issue guidelines and procedures for compliance with this
223 section.

224 Section 6. Part IV of chapter 23, Florida Statutes,
225 consisting of section 23.40, is created to read:

226 PART IV

227 AGENCY ADMINISTRATION OF PUBLIC BENEFITS

228 23.40 Agency administration of public benefits;
229 verification of lawful status.—

230 (1) Except as provided in subsection (3) or where exempted
231 by federal law, no later than July 1, 2012, each agency, as
232 defined in s. 20.03, shall verify the lawful presence in the

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233 United States of any natural person 18 years of age or older who
234 has applied for state or local public benefits, as defined in 8
235 U.S.C. s. 1621, or for federal public benefits, as defined in 8
236 U.S.C. s. 1611, which are administered by the agency.

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

239 (3) Verification of an individual's lawful presence in the
240 United States under this section is not required for:

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

243 (b) Assistance for health care items and services that are
244 necessary for the treatment of an emergency medical condition,
245 as defined in 42 U.S.C. s. 1396b(v) (3), of the individual
246 involved and that are not related to an organ-transplant
247 procedure;

248 (c) Short-term, noncash, and in-kind emergency disaster
249 relief;

250 (d) Public health assistance for immunizations with respect
251 to immunizable diseases and for testing and treatment of
252 symptoms of communicable diseases whether or not such symptoms
253 are caused by a communicable disease;

254 (e) Programs, services, or assistance, such as soup
255 kitchens, crisis counseling and intervention, and short-term
256 shelter specified by the United States Attorney General in his
257 or her sole and unreviewable discretion after consultation with
258 appropriate federal agencies and departments, which:

259 1. Deliver in-kind services at the community level,
260 including services provided through public or private nonprofit
261 agencies;

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262 2. Do not condition the provision of assistance, the amount
263 of assistance provided, or the cost of assistance provided on
264 the individual recipient's income or resources; and

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

266 (f) Prenatal care; or

267 (g) Postsecondary education.

268 (4) The Board of Governors of the State University System
269 shall set forth, or cause to be set forth, policies regarding
270 postsecondary education benefits that comply with all applicable
271 federal laws, including, but not limited to, those governing
272 ineligibility for public benefits as described in 8 U.S.C. s.
273 1611, s. 1621, or s. 1623.

274 (5) (a) Verification of an individual's lawful presence in
275 the United States by an agency that is required to make such
276 verification shall occur as follows:

277 1. The applicant for benefits must execute an affidavit
278 stating that he or she is a United States citizen or a permanent
279 legal resident of the United States and is 18 years of age or
280 older; or

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

285 (b) Any person who knowingly and willfully makes a false,
286 fictitious, or fraudulent statement or representation in an
287 affidavit executed pursuant to paragraph (a) commits a
288 misdemeanor of the first degree, punishable as provided in s.
289 775.082 or s. 775.083.

290 (6) For any applicant who has executed an affidavit

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291 attesting to the fact that he or she is an alien who is lawfully
292 present in the United States, verification of the applicant's
293 immigration status shall be made through the Systematic Alien
294 Verification for Entitlements Program established by the United
295 States Citizenship and Immigration Services or a successor
296 program designated by the United States Department of Homeland
297 Security. Until such verification of eligibility is made, the
298 affidavit may be presumed to be proof of lawful presence in the
299 United States for the purposes of this section.

300 (7) In carrying out this section, each agency shall
301 endeavor to improve efficiency, reduce delay in the verification
302 process, and provide for the expedient resolution of unique
303 individual circumstances where verification procedures would
304 impose an unusual hardship on a legal resident of the state.

305 (8) (a) An agency may not provide any state, local, or
306 federal benefit, as defined in 8 U.S.C. s. 1611 or s. 1621, in
307 violation of this section.

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

311 (9) All errors and significant delays by the Systematic
312 Alien Verification for Entitlements Program shall be reported to
313 the United States Department of Homeland Security and to the
314 Secretary of State, and each agency shall monitor the program
315 and report annually on errors and significant delays in the
316 verification process in order to ensure that the application of
317 the program is not wrongfully denying benefits to legal
318 residents of the state.

319 (10) Notwithstanding subsection (5), it is not a crime for

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320 an applicant for federal benefits, as defined in 8 U.S.C. s.
321 1611, or for state or local benefits, as defined in 8 U.S.C. s.
322 1621, to execute an affidavit that attests to his or her lawful
323 presence in the United States and that contains a false
324 statement if the affidavit is not required by this section.

325 Section 7. Except as otherwise expressly provided in this
326 act, this act shall take effect July 1, 2011.