

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

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

57 citizenship or permanent legal residency; providing
 58 procedures with respect to verification of eligibility for
 59 benefits; prohibiting an agency from providing any state,
 60 local, or federal benefit in violation of the requirements
 61 of the act; providing for specified annual reports;
 62 clarifying that certain attestations do not constitute a
 63 crime; providing an effective date.

64

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

66

67 Section 1. This act may be cited as the "Florida Security
 68 and Immigration Compliance Act."

69 Section 2. Section 287.0576, Florida Statutes, is created
 70 to read:

71 287.0576 Compliance with federal work-authorization
 72 programs.-

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

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

83 (b) "Subcontractor" means a person who enters into a
 84 contract with a contractor for the performance of any part of

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85 such contractor's contract.

86 (2) An agency may not enter into a contract under s.
87 287.057 for contractual services unless the contractor registers
88 and participates in a federal work-authorization program.

89 (3) A contractor who receives a contract award under s.
90 287.057 for contractual services may not execute a contract,
91 purchase order, or subcontract in connection with the award
92 unless the contractor and all subcontractors providing services
93 for the contractor register and participate in a federal work-
94 authorization program. The contractor shall certify in writing
95 to the agency that it is in compliance with this subsection.

96 (4) A contractor shall ensure that each subcontractor
97 providing services for the contractor registers and participates
98 in a federal work-authorization program. Each subcontractor
99 shall certify in writing to the contractor that it is in
100 compliance with this subsection.

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

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

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

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

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

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

112 Section 3. Section 337.163, Florida Statutes, is created

113 to read:

114 337.163 Compliance with federal work-authorization
 115 program.—

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

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

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

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

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

140 (4) A contractor shall ensure that each subcontractor

141 providing services for the contractor registers and participates
 142 in a federal work-authorization program. Each subcontractor
 143 shall certify in writing to the contractor that it is in
 144 compliance with this subsection.

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

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

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

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

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

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

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

162 943.0311 Chief of Domestic Security; duties of the
 163 department with respect to domestic security.—

164 (8) (a) The Chief of Domestic Security shall negotiate the
 165 terms of a memorandum of understanding between the State of
 166 Florida and the United States Department of Justice or the
 167 United States Department of Homeland Security concerning:

168 1. The enforcement of federal immigration and customs

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169 laws.

170 2. The detention and removal of individuals not lawfully
171 present in the United States.

172 3. Investigations related to illegal immigration in the
173 state.

174 4. The establishment of training standards and the
175 creation of training programs for law enforcement officers as
176 provided in subsection (9).

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

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

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

196 Section 5. Section 951.30, Florida Statutes, is created to

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197 read:

198 951.30 County and municipal detention facilities;
 199 determination of lawful immigration status.-

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

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

218 (3) The Florida Sheriffs Association shall prepare and
 219 issue guidelines and procedures for compliance with this
 220 section.

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

223 PART IV

224 AGENCY ADMINISTRATION OF PUBLIC BENEFITS

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225 23.40 Agency administration of public benefits;
226 verification of lawful status.—

227 (1) Except as provided in subsection (3) or where exempted
228 by federal law, no later than July 1, 2012, each agency, as
229 defined in s. 20.03, shall verify the lawful presence in the
230 United States of any natural person 18 years of age or older who
231 has applied for state or local public benefits, as defined in 8
232 U.S.C. s. 1621, or for federal public benefits, as defined in 8
233 U.S.C. s. 1611, which are administered by the agency.

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

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

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

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

245 (c) Short-term, noncash, and in-kind emergency disaster
246 relief;

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

251 (e) Programs, services, or assistance, such as soup
252 kitchens, crisis counseling and intervention, and short-term

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253 shelter specified by the United States Attorney General in his
254 or her sole and unreviewable discretion after consultation with
255 appropriate federal agencies and departments, which:

256 1. Deliver in-kind services at the community level,
257 including services provided through public or private nonprofit
258 agencies;

259 2. Do not condition the provision of assistance, the
260 amount of assistance provided, or the cost of assistance
261 provided on the individual recipient's income or resources; and

262 3. Are necessary for the protection of life or safety;
263 (f) Prenatal care; or
264 (g) Postsecondary education.

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

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

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

278 2. The applicant for benefits must execute an affidavit
279 stating that he or she is a qualified alien or nonimmigrant
280 under the federal Immigration and Nationality Act, is 18 years

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281 of age or older, and is lawfully present in the United States.

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

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

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

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

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

308 (9) All errors and significant delays by the Systematic

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

316 (10) Notwithstanding subsection (5), it is not a crime for
317 an applicant for federal benefits, as defined in 8 U.S.C. s.
318 1611, or for state or local benefits, as defined in 8 U.S.C. s.
319 1621, to execute an affidavit that attests to his or her lawful
320 presence in the United States and that contains a false
321 statement if the affidavit is not required by this section.

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