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LEGISLATIVE ACTION

Senate

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House

The Committee on Commerce and Tourism (Lee) recommended the following:

Senate Amendment

Delete lines 39 - 182

and insert:

287.137 Verification of work authorization status; public employers.-

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

(a) "Contractor" means a person or an entity that has more than 10 employees in this state and has entered into, or is attempting to enter into, a contract with a public employer to



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11 provide labor, supplies, or services to such employer.

12 (b) "Employee" has the same meaning as provided in s.
13 448.093.

14 (c) "Employment verification system" has the same meaning
15 as provided in s. 448.093.

16 (d) "Public employer" means a department, an agency, or a
17 political subdivision of this state which enters into, or
18 attempts to enter into, a contract with a contractor for an
19 amount that will, or is expected to, exceed the CATEGORY TWO
20 threshold amount provided in s. 287.017.

21 (e) "Subcontractor" means a person or an entity that has
22 more than 10 employees in this state and provides labor,
23 supplies, or services to or for a contractor or another
24 subcontractor pursuant to a contract that will, or is expected
25 to, exceed the CATEGORY TWO threshold amount provided in s.
26 287.017.

27 (f) "Unauthorized alien" means a person who is not
28 authorized under federal law to be employed in the United
29 States, as described in 8 U.S.C. s. 1324a(h)(3). The term shall
30 be interpreted consistently with that section and any applicable
31 federal rules or regulations.

32 (2) On or after July 1, 2021:

33 (a) Every public employer, contractor, and subcontractor
34 shall register with and use an employment verification system to
35 verify the work authorization status of all new employees and
36 identify whether an employee is an unauthorized alien.

37 (b) A public employer or a contractor or subcontractor in
38 this state may not enter into a contract under this section
39 unless each party to the contract registers with and uses an



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40 employment verification system.

41 Section 2. Section 448.093, Florida Statutes, is created to
42 read:

43 448.093 Definitions; use of employment verification system
44 required for private employers; business licensing enforcement.-

45 (1) DEFINITIONS.-As used in this section, the term:

46 (a) "Agency" means an agency, a department, a board, or a
47 commission of this state or a county, or municipality issuing a
48 license to operate a business in this state.

49 (b) "Department" means the Department of Economic
50 Opportunity.

51 (c) "Employee" means an individual whose work is performed
52 under the direction and supervision of the employer and whose
53 employer withholds tax pursuant to the Federal Insurance
54 Contributions Act (FICA) or federal income tax from the
55 individual's compensation, or whose employer issues an Internal
56 Revenue Service W-2 form, but not an Internal Revenue Service
57 Form 1099, to an individual for purposes of documenting
58 compensation. The term does not include a licensed independent
59 contractor as defined in federal laws or regulations.

60 (d) "Employer" means a person or an entity in this state
61 which employs an employee. The term does not include:

62 1. A government employer.

63 2. The occupant or owner of a private residence who hires:

64 a. Casual labor, as defined in s. 443.036, to be performed
65 entirely within the private residence; or

66 b. A licensed independent contractor, as defined in federal
67 laws or regulations, to perform a specified portion of labor or
68 services.



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70 3. An employee leasing company licensed pursuant to part XI
71 of chapter 468 which enters into a written agreement or
72 understanding with a client company which places the primary
73 obligation for compliance with this section upon the client
74 company. In the absence of a written agreement or understanding,
75 the term includes an employee leasing company.

76 (e) "Employment verification system" means:

77 1. An Internet-based system operated by the United States
78 Department of Homeland Security which allows participating
79 employers to electronically verify the employment eligibility of
80 newly hired employees; or

81 2. A substantially equivalent electronic employment
82 verification system that is permissible under department rule.

83 (f) "Knowingly employ an unauthorized alien" has the same
84 meaning as in 8 U.S.C. s. 1324a. The term shall be interpreted
85 consistently with 8 U.S.C. s. 1324a and any applicable federal
86 rules or regulations.

87 (g) "License" means a franchise, a permit, a certificate,
88 an approval, a registration, a charter, or any similar form of
89 authorization required by state law and issued by an agency for
90 the purpose of operating a business in this state. The term
91 includes, but is not limited to:

92 1. An article of incorporation.

93 2. A certificate of partnership, a partnership
94 registration, or an article of organization.

95 3. A grant of authority issued pursuant to state or federal
96 law.

97 4. A transaction privilege tax license.



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98 (h) "Unauthorized alien" means a person who is not
99 authorized under federal law to be employed in the United
100 States, as described in 8 U.S.C. s. 1324a(h) (3). The term shall
101 be interpreted consistently with that section and any applicable
102 federal rules or regulations.

103 (2) VERIFICATION OF EMPLOYMENT ELIGIBILITY; FINE FOR
104 VIOLATION; SUSPENSION OF BUSINESS LICENSE.-

105 (a) An employer shall, after making an offer of employment
106 which has been accepted by an individual, use an employment
107 verification system to verify such individual's employment
108 eligibility. Verification must occur within the period
109 stipulated by applicable federal rules or regulations. However,
110 an employer is not required to verify the employment eligibility
111 of a continuing employee hired before the date of the employer's
112 registration with an employment verification system.

113 (b) The requirement to use an employment verification
114 system shall be phased in as follows:

115 1. Employers having at least 500 employees in this state
116 must use an employment verification system beginning January 1,
117 2021.

118 2. Employers having at least 250 employees in this state
119 must use an employment verification system beginning July 1,
120 2021.

121 3. Employers having at least 150 employees in this state
122 must use an employment verification system beginning January 1,
123 2022.

124 4. Employers having more than 10 employees in this state
125 must use an employment verification system 90 days after the
126 effective date of any federal law, rule, regulation, or program



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127 that authorizes this state to issue a work permit, whether
128 temporary or permanent, to a qualifying undocumented alien.

129 (c) If an employer does not register with an employment
130 verification system, the department may impose a fine of up to
131 \$500 on the employer, who must then register with an employment
132 verification system and provide an affidavit of stating such
133 fact to the department within 30 days. If the employer does not
134 register with and provide the required affidavit within 30 days
135 after the imposition of the fine becomes final, the department
136 must order the appropriate agency to suspend all applicable
137 licenses held by the employer until the employer registers with
138 an employment verification system and provides the department
139 with the required affidavit.