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LEGISLATIVE ACTION

Senate

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House

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

Senate Amendment to Amendment (110576)

Delete lines 32 - 123

and insert:

(2) On or after July 1, 2022:

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

(b) A public employer or a contractor or subcontractor in



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11 this state may not enter into a contract under this section
12 unless each party to the contract registers with and uses an
13 employment verification system.

14 Section 2. Section 448.093, Florida Statutes, is created to
15 read:

16 448.093 Definitions; use of employment verification system
17 required for private employers; business licensing enforcement.-

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

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

22 (b) "Department" means the Department of Economic
23 Opportunity.

24 (c) "Employee" means an individual whose work is performed
25 under the direction and supervision of the employer and whose
26 employer withholds tax pursuant to the Federal Insurance
27 Contributions Act (FICA) or federal income tax from the
28 individual's compensation, or whose employer issues an Internal
29 Revenue Service W-2 form, but not an Internal Revenue Service
30 Form 1099, to an individual for purposes of documenting
31 compensation. The term does not include a licensed independent
32 contractor as defined in federal laws or regulations.

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

35 1. A government employer.

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

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

39 b. A licensed independent contractor, as defined in federal



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40 laws or regulations, to perform a specified portion of labor or
41 services.

42 3. An employee leasing company licensed pursuant to part XI
43 of chapter 468 which enters into a written agreement or
44 understanding with a client company which places the primary
45 obligation for compliance with this section upon the client
46 company. In the absence of a written agreement or understanding,
47 the term includes an employee leasing company.

48 (e) "Employment verification system" means:

49 1. An Internet-based system operated by the United States
50 Department of Homeland Security which allows participating
51 employers to electronically verify the employment eligibility of
52 newly hired employees; or

53 2. A substantially equivalent electronic employment
54 verification system that is permissible under department rule.

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

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

64 1. An article of incorporation.

65 2. A certificate of partnership, a partnership
66 registration, or an article of organization.

67 3. A grant of authority issued pursuant to state or federal
68 law.



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69 4. A transaction privilege tax license.
70 (h) "Unauthorized alien" means a person who is not
71 authorized under federal law to be employed in the United
72 States, as described in 8 U.S.C. s. 1324a(h)(3). The term shall
73 be interpreted consistently with that section and any applicable
74 federal rules or regulations.
75 (2) VERIFICATION OF EMPLOYMENT ELIGIBILITY; FINE FOR
76 VIOLATION; SUSPENSION OF BUSINESS LICENSE.—
77 (a) An employer shall, after making an offer of employment
78 which has been accepted by an individual, use an employment
79 verification system to verify such individual's employment
80 eligibility. Verification must occur within the period
81 stipulated by applicable federal rules or regulations. However,
82 an employer is not required to verify the employment eligibility
83 of a continuing employee hired before the date of the employer's
84 registration with an employment verification system.
85 (b) The requirement to use an employment verification
86 system shall be phased in as follows:
87 1. Employers having at least 500 employees in this state
88 must use an employment verification system beginning January 1,
89 2022.
90 2. Employers having at least 250 employees in this state
91 must use an employment verification system beginning July 1,
92 2022.
93 3. Employers having at least 150 employees in this state
94 must use an employment verification system beginning January 1,
95 2023.