

Amendment No.

CHAMBER ACTION

Senate

House

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Representative Byrd offered the following:

**Amendment (with title amendment)**

Remove everything after the enacting clause and insert:

Section 1. Subsection (6) of section 288.061, Florida Statutes, is renumbered as subsection (7), and a new subsection (6) is added to that section to read:

288.061 Economic development incentive application process.—

(6) Beginning July 1, 2020, the executive director may not approve an economic development incentive application unless the application includes proof to the department that the applicant business is registered with and uses the E-Verify system, as

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14 defined in s. 448.095, to verify the work authorization status  
15 of all newly hired employees. If the department determines that  
16 an awardee is not complying with this subsection, the department  
17 must notify the awardee by certified mail of the department's  
18 determination of noncompliance and the awardee's right to appeal  
19 the determination. Upon a final determination of noncompliance,  
20 the awardee must repay all moneys received as an economic  
21 development incentive to the department within 30 days after the  
22 final determination.

23 Section 2. Section 448.095, Florida Statutes, is created  
24 to read:

25 448.095 Employment eligibility.-

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

27 (a) "Agency" means any agency, department, board, or  
28 commission of this state or a county or municipality in this  
29 state that issues a license to operate a business in this state.

30 (b) "Contractor" means a person or entity that has entered  
31 or is attempting to enter into a contract with a public employer  
32 to provide labor, supplies, or services to such employer in  
33 exchange for salary, wages, or other remuneration.

34 (c) "Department" means the Department of Economic  
35 Opportunity.

36 (d) "Employee" means a person filling an authorized and  
37 established position who performs labor or services for a public

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38 or private employer in exchange for salary, wages, or other  
39 remuneration.

40 (e) "E-Verify system" means an Internet-based system  
41 operated by the United States Department of Homeland Security  
42 that allows participating employers to electronically verify the  
43 employment eligibility of newly hired employees.

44 (f) "Legal alien" means a person who is or was lawfully  
45 present or permanently residing legally in the United States and  
46 allowed to work at the time of employment and remains so  
47 throughout the duration of that employment.

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

53 1. An article of incorporation.

54 2. A certificate of partnership, a partnership  
55 registration, or an article of organization.

56 3. A grant of authority issued pursuant to state or  
57 federal law.

58 4. A transaction privilege tax license.

59 (h) "Private employer" means a person or entity that  
60 transacts business in this state, has a license issued by an  
61 agency, and employs persons to perform labor or services in this

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62 state in exchange for salary, wages, or other remuneration. The  
63 term does not include:

64 1. A public employer;

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

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

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

71 3. An employee leasing company licensed under part XI of  
72 chapter 468 that enters into a written agreement or  
73 understanding with a client company which places the primary  
74 obligation for compliance with this section upon the client  
75 company. In the absence of a written agreement or understanding,  
76 the employee leasing company is responsible for compliance with  
77 this section. Such employee leasing company shall, at all times,  
78 remain an employer as otherwise defined in federal laws or  
79 regulations.

80 (i) "Public employer" means an entity within state,  
81 regional, county, local, or municipal government, whether  
82 executive, judicial, or legislative, or any public school,  
83 community college, or state university that employs persons who  
84 perform labor or services for that employer in exchange for  
85 salary, wages, or other remuneration or that enters or attempts  
86 to enter into a contract with a contractor.

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87 (j) "Subcontractor" means a person or entity that provides  
88 labor, supplies, or services to or for a contractor or another  
89 subcontractor in exchange for salary, wages, or other  
90 remuneration.

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

96 (2) PUBLIC EMPLOYERS, CONTRACTORS, AND SUBCONTRACTORS.—

97 (a) Beginning January 1, 2021, every public employer,  
98 contractor, and subcontractor shall register with and use the E-  
99 Verify system to verify the work authorization status of all  
100 newly hired employees. A public employer, contractor, or  
101 subcontractor may not enter into a contract unless each party to  
102 the contract registers with and uses the E-Verify system.

103 (b)1. If a contractor enters into a contract with a  
104 subcontractor, the subcontractor must provide the contractor  
105 with an affidavit stating that the subcontractor does not  
106 employ, contract with, or subcontract with an unauthorized  
107 alien.

108 2. The contractor shall maintain a copy of such affidavit  
109 for the duration of the contract.

110 (c)1. A public employer, contractor, or subcontractor who  
111 has a good faith belief that a person or entity with which it is

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112 contracting has knowingly violated s. 448.09(1) shall terminate  
113 the contract with the person or entity.

114 2. A public employer that has a good faith belief that a  
115 subcontractor knowingly violated this subsection, but the  
116 contractor otherwise complied with this subsection, shall  
117 promptly notify the contractor and order the contractor to  
118 immediately terminate the contract with the subcontractor.

119 3. A contract terminated under subparagraph 1. or  
120 subparagraph 2. is not a breach of contract and may not be  
121 considered as such.

122 (d) A public employer, contractor, or subcontractor may  
123 file an action with a circuit or county court to challenge a  
124 termination under paragraph (c) no later than 20 calendar days  
125 after the date on which the contract was terminated.

126 (e) If a public employer terminates a contract with a  
127 contractor under paragraph (c), the contractor may not be  
128 awarded a public contract for at least 1 year after the date on  
129 which the contract was terminated.

130 (f) A contractor is liable for any additional costs  
131 incurred by a public employer as a result of the termination of  
132 a contract.

133 (3) PRIVATE EMPLOYERS.—

134 (a) Beginning January 1, 2021, a private employer shall,  
135 after making an offer of employment which has been accepted by a  
136 person, verify such person's employment eligibility. A private

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137 employer is not required to verify the employment eligibility of  
138 a continuing employee hired before January 1, 2021. However, if  
139 a person is a contract employee retained by a private employer,  
140 the private employer must verify the employee's employment  
141 eligibility upon the renewal or extension of his or her  
142 contract.

143 (b) A private employer shall verify a person's employment  
144 eligibility by:

145 1. Using the E-Verify system; or

146 2. Requiring the person to provide the same documentation  
147 that is required by the United States Citizenship and  
148 Immigration Services on its Employment Eligibility Verification  
149 form (Form I-9).

150

151 The private employer must retain a copy of the documentation  
152 provided under this subparagraph for at least 3 years after the  
153 person's initial date of employment.

154 (c) A private employer that complies with this subsection  
155 may not be held civilly or criminally liable under state law for  
156 hiring, continuing to employ, or refusing to hire an  
157 unauthorized alien if the information obtained under paragraph  
158 (b) indicates that the person's work authorization status was  
159 not that of an unauthorized alien.

160 (d) For purposes of this subsection, compliance with  
161 paragraph (b) creates a rebuttable presumption that a private

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162 employer did not knowingly employ an unauthorized alien in  
163 violation of s. 448.09(1).

164 (e) For the purpose of enforcement of this section, the  
165 following persons or entities may request, and a private  
166 employer must provide, copies of any documentation relied upon  
167 by the private employer for the verification of a person's  
168 employment eligibility, including, but not limited to, any  
169 documentation required under paragraph (b):

170 1. The Department of Law Enforcement.

171 2. The Attorney General.

172 3. The state attorney.

173 4. The statewide prosecutor.

174  
175 A person or entity that makes a request under this paragraph  
176 must rely upon the federal government to verify a person's  
177 employment eligibility and may not independently make a final  
178 determination as to whether a person is an unauthorized alien.

179 (f) If a private employer does not comply with paragraph  
180 (b), the department shall require the private employer to  
181 provide an affidavit to the department stating that the private  
182 employer will comply with paragraph (b), the private employer  
183 has terminated the employment of all unauthorized aliens in this  
184 state, and the employer will not intentionally or knowingly  
185 employ an unauthorized alien in this state. If the private  
186 employer does not provide the required affidavit within 30 days

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187 after the department's request, the appropriate licensing agency  
188 shall suspend all applicable licenses held by the private  
189 employer until the private employer provides the department with  
190 the required affidavit. For purposes of this paragraph, the  
191 licenses that are subject to suspension under this paragraph are  
192 all licenses that are held by the private employer specific to  
193 the business location where the unauthorized alien performed  
194 work. If the private employer does not hold a license specific  
195 to the business location where the unauthorized alien performed  
196 work, but a license is necessary to operate the private  
197 employer's business in general, the licenses that are subject to  
198 suspension under this paragraph are all licenses that are held  
199 by the private employer at the private employer's primary place  
200 of business.

201 (g) For any private employer found to have violated  
202 paragraph (f) three times within any 36 month period, the  
203 appropriate licensing agency shall permanently revoke all  
204 licenses that are held by the private employer specific to the  
205 business location where the unauthorized alien performed work.  
206 If the private employer does not hold a license specific to the  
207 business location where the unauthorized alien performed work,  
208 but a license is necessary to operate the private employer's  
209 business in general, the appropriate licensing agency shall  
210 permanently revoke all licenses that are held by the private  
211 employer at the private employer's primary place of business.

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212           (4) CONSTRUCTION.—This section shall be enforced without  
213 regard to race, color, or national origin and shall be construed  
214 in a manner so as to be fully consistent with any applicable  
215 federal laws or regulations.

216           Section 3. This act shall take effect July 1, 2020.

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218           -----

**T I T L E   A M E N D M E N T**

219           Remove everything before the enacting clause and insert:

220                           A bill to be entitled

221           An act relating to the verification of employment  
222           eligibility; amending s. 288.061, F.S.; prohibiting  
223           the approval of certain economic development incentive  
224           applications after a specified date; requiring an  
225           awardee to repay certain moneys within a specified  
226           timeframe under certain circumstances; creating s.  
227           448.095, F.S.; providing definitions; requiring public  
228           employers, contractors, and subcontractors to register  
229           with and use the E-Verify system; prohibiting such  
230           entities from entering into a contract unless each  
231           party to the contract registers with and uses the E-  
232           Verify system; requiring a subcontractor to provide a  
233           contractor with a certain affidavit; requiring a  
234           contractor to maintain a copy of such affidavit;  
235           authorizing the termination of a contract under  
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237 certain conditions; providing that such termination is  
238 not a breach of contract; authorizing a challenge to  
239 such termination; providing certain liability for  
240 contractors if a contract is terminated; requiring  
241 private employers to verify the employment eligibility  
242 of newly hired employees beginning on a specified  
243 date; providing an exception; providing acceptable  
244 methods for verifying employment eligibility;  
245 requiring a private employer to maintain certain  
246 documentation for a specified time period; providing  
247 specified immunity and nonliability for private  
248 employers; creating a rebuttable presumption for  
249 private employers; requiring private employers to  
250 provide copies of certain documentation, upon request,  
251 to specified persons and entities for certain  
252 purposes; prohibiting specified persons and entities  
253 from making a determination as to whether a person is  
254 an unauthorized alien; requiring a specified affidavit  
255 from certain private employers; providing for the  
256 suspension or permanent revocation of certain licenses  
257 under certain circumstances; providing construction;  
258 providing an effective date.

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