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LEGISLATIVE ACTION

Senate

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House

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The Committee on Rules (Lee) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Subsection (1) of section 287.058, Florida  
Statutes, is amended to read:

287.058 Contract document.—

(1) Every procurement of contractual services in excess of  
the threshold amount provided in s. 287.017 for CATEGORY TWO,  
except for the providing of health and mental health services or  
drugs in the examination, diagnosis, or treatment of sick or



12 injured state employees or the providing of other benefits as  
13 required by chapter 440, shall be evidenced by a written  
14 agreement embodying all provisions and conditions of the  
15 procurement of such services, which shall, where applicable,  
16 include, but not be limited to, a provision:

17 (a) That bills for fees or other compensation for services  
18 or expenses be submitted in detail sufficient for a proper  
19 preaudit and postaudit thereof.

20 (b) That bills for any travel expenses be submitted in  
21 accordance with s. 112.061. A state agency may establish rates  
22 lower than the maximum provided in s. 112.061.

23 (c) Allowing unilateral cancellation by the agency for  
24 refusal by the contractor to allow public access to all  
25 documents, papers, letters, or other material made or received  
26 by the contractor in conjunction with the contract, unless the  
27 records are exempt from s. 24(a) of Art. I of the State  
28 Constitution and s. 119.07(1).

29 (d) Specifying a scope of work that clearly establishes all  
30 tasks the contractor is required to perform.

31 (e) Dividing the contract into quantifiable, measurable,  
32 and verifiable units of deliverables that must be received and  
33 accepted in writing by the contract manager before payment. Each  
34 deliverable must be directly related to the scope of work and  
35 specify a performance measure. As used in this paragraph, the  
36 term "performance measure" means the required minimum acceptable  
37 level of service to be performed and criteria for evaluating the  
38 successful completion of each deliverable.

39 (f) Specifying the criteria and the final date by which  
40 such criteria must be met for completion of the contract.



41 (g) Specifying that the contract may be renewed for a  
42 period that may not exceed 3 years or the term of the original  
43 contract, whichever is longer, specifying the renewal price for  
44 the contractual service as set forth in the bid, proposal, or  
45 reply, specifying that costs for the renewal may not be charged,  
46 and specifying that renewals are contingent upon satisfactory  
47 performance evaluations by the agency and subject to the  
48 availability of funds. Exceptional purchase contracts pursuant  
49 to s. 287.057(3) (a) and (c) may not be renewed.

50 (h) Specifying the financial consequences that the agency  
51 must apply if the contractor fails to perform in accordance with  
52 the contract.

53 (i) Addressing the property rights of any intellectual  
54 property related to the contract and the specific rights of the  
55 state regarding the intellectual property if the contractor  
56 fails to provide the services or is no longer providing  
57 services.

58 (j) Requiring a contractor or any subcontractor performing  
59 a portion of the contract to register with and use E-Verify to  
60 the extent required by s. 287.137 for all new employees hired in  
61 this state during the term of the contract.

62  
63 In lieu of a written agreement, the agency may authorize the use  
64 of a purchase order for classes of contractual services if the  
65 provisions of paragraphs (a)-(j) ~~(a)-(i)~~ are included in the  
66 purchase order or solicitation. The purchase order must include,  
67 but need not be limited to, an adequate description of the  
68 services, the contract period, and the method of payment. In  
69 lieu of printing the provisions of paragraphs (a)-(c) and (g) in



70 the contract document or purchase order, agencies may  
71 incorporate the requirements of paragraphs (a)-(c) and (g) by  
72 reference.

73 Section 2. Section 287.137, Florida Statutes, is created to  
74 read:

75 287.137 Verification of work authorization status; public  
76 employers.-

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

78 (a) "Contractor" means a person or an entity that has more  
79 than 10 employees in this state and has entered into, or is  
80 attempting to enter into, a contract with a public employer to  
81 provide labor, supplies, or services to such employer.

82 (b) "Employee" has the same meaning as provided in s.  
83 448.093.

84 (c) "E-verify" means the Internet-based electronic  
85 employment verification system operated by the United States  
86 Department of Homeland Security.

87 (d) "Public employer" means an agency or a subdivision of  
88 the state, regional, county, local, special district, or  
89 municipal government, whether executive, judicial, or  
90 legislative, or any public school, community college, or state  
91 university, which employs persons who perform labor or services  
92 for that employer in exchange for salary, wages, or other  
93 remuneration or enters into, or attempts to enter into, a  
94 contract with a contractor for an amount that will, or is  
95 expected to, exceed the CATEGORY TWO threshold amount provided  
96 in s. 287.017.

97 (e) "Subcontractor" means a person or an entity that has  
98 more than 10 employees in this state and provides labor,



99 supplies, or services to or for a contractor or another  
100 subcontractor pursuant to a contract that will, or is expected  
101 to, exceed the CATEGORY TWO threshold amount provided in s.  
102 287.017.

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

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

109 (a) Every public employer, contractor, and subcontractor  
110 shall register with and use E-Verify to verify the work  
111 authorization status of all new employees and identify whether  
112 an employee is an unauthorized alien.

113 (b) A public employer or a contractor or subcontractor in  
114 this state may not enter into a contract under this section  
115 unless each party to the contract registers with and uses E-  
116 Verify.

117 Section 3. Section 448.093, Florida Statutes, is created to  
118 read:

119 448.093 Definitions; use of electronic employment  
120 verification system required for private employers; business  
121 licensing enforcement.-

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

123 (a) "Agency" means an agency, a department, a board, or a  
124 commission of this state or a county or municipality which  
125 issues a license to operate a business in this state.

126 (b) "Department" means the Department of Economic  
127 Opportunity.



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128 (c) "Electronic employment verification system" means:

129 1. An Internet-based system operated by the United States  
130 Department of Homeland Security (E-Verify) which allows  
131 participating employers to electronically verify the employment  
132 eligibility of newly hired employees; or

133 2. A system substantially equivalent to E-Verify which  
134 verifies whether an employee is an unauthorized alien as  
135 certified by an employer, under penalty of perjury, on a form  
136 provided by the department.

137 (d) "Employee" means an individual whose work is performed  
138 under the direction and supervision of the employer and whose  
139 employer withholds tax pursuant to the Federal Insurance  
140 Contributions Act (FICA) or federal income tax from the  
141 individual's compensation, or whose employer issues an Internal  
142 Revenue Service W-2 form, but not an Internal Revenue Service  
143 Form 1099, to an individual for purposes of documenting  
144 compensation. The term includes all individuals or entities that  
145 do not meet the definition of an independent contractor under  
146 federal laws or regulations to perform a specified portion of  
147 labor or services.

148 (e) "Employer" means a person or an entity in this state  
149 which employs an employee. The term does not include any of the  
150 following:

151 1. A government employer.

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

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

155 b. A licensed independent contractor, as defined in federal  
156 laws or regulations, to perform a specified portion of labor or



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157 services.

158 3. An employee leasing company licensed pursuant to part XI  
159 of chapter 468 which enters into a written agreement or  
160 understanding with a client company which places the primary  
161 obligation for compliance with this section upon the client  
162 company. In the absence of a written agreement or understanding,  
163 the term includes an employee leasing company.

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

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

173 1. An article of incorporation.

174 2. A certificate of partnership, a partnership  
175 registration, or an article of organization.

176 3. A grant of authority issued pursuant to state or federal  
177 law.

178 4. A transaction privilege tax license.

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

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



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186       (a) An employer shall, after making an offer of employment  
187 which has been accepted by an individual, use an electronic  
188 employment verification system to verify such individual's  
189 employment eligibility. Verification must occur within the  
190 period stipulated by applicable federal rules or regulations.  
191 However, an employer is not required to verify the employment  
192 eligibility of a continuing employee hired before the date of  
193 the employer's registration with an electronic employment  
194 verification system.

195       (b) Employers having at least 50 employees in this state  
196 must use an electronic employment verification system or  
197 otherwise be in compliance with this section by no later than  
198 January 1, 2021.

199       (c) As an alternative to registering with an electronic  
200 employment verification system, employers having fewer than 50  
201 employees may operate a system that complies with 8 U.S.C. s.  
202 1324a, and must also maintain complete copies of all records  
203 used to establish an employee's identity and employment  
204 authorization for at least 3 years after the employer receives  
205 the records or 1 year after the employee ceases to provide  
206 services to the employer, whichever is later.

207       1. Copies of all records maintained by employers pursuant  
208 to this paragraph or paragraph (b) must be provided to any state  
209 or federal government agency upon request.

210       2. Beginning January 1, 2021, the department may conduct  
211 random audits of employment files of those employers that do not  
212 register with the E-Verify system.

213       (d) If an employer does not register with an electronic  
214 employment verification system or otherwise comply with the





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215 requirements of paragraph (c), the department must submit a  
216 notice of violation to the employer, who must then register with  
217 an electronic employment verification system or otherwise comply  
218 with paragraph (c) and provide an affidavit stating such fact to  
219 the department within 30 calendar days after the notice of  
220 violation is mailed. If the employer does not become compliant  
221 and provide the required affidavit within 30 calendar days  
222 following the mailing of the notice of violation, the  
223 appropriate licensing agency must suspend all applicable  
224 licenses held by the employer until the employer becomes  
225 compliant and provides the department with the required  
226 affidavit.

227 (e) If the department determines that an employer has not  
228 registered with an electronic employment verification system or  
229 complied with the requirements of paragraph (c), the department  
230 may impose a fine of up to \$500 per violation of this  
231 subsection.

232 (3) EMPLOYMENT OF UNAUTHORIZED ALIENS; IMMUNITY;  
233 COMPLAINTS.-

234 (a) An employer may not knowingly employ an unauthorized  
235 alien.

236 (b) An employer registered with and using an electronic  
237 employment verification system may not be held civilly liable in  
238 a cause of action for the employer's:

239 1. Hiring of an unauthorized alien if the information  
240 obtained from the electronic employment verification system  
241 indicated that the person's work authorization status was not  
242 that of an unauthorized alien; or

243 2. Refusal to employ a person if the information obtained



244 from the electronic employment verification system indicated  
245 that the person's work authorization status was that of an  
246 unauthorized alien.

247 (c) An employer who in good faith registers with and uses  
248 an electronic employment verification system is considered to  
249 have complied with the requirements of 8 U.S.C. s. 1324a(b) and  
250 may not be held liable for any damages and is immune from any  
251 legal cause of action brought by any person or entity, including  
252 former employees, for the use of and reliance upon any incorrect  
253 information obtained from the electronic employment verification  
254 system, including any incorrect information obtained as a result  
255 of an isolated, sporadic, or accidental technical or procedural  
256 failure, when determining final action on a person's work  
257 authorization status.

258 (d) For purposes of this subsection, compliance with  
259 subsection (2) creates a rebuttable presumption that an employer  
260 did not knowingly employ an unauthorized alien in violation of  
261 s. 448.09.

262 (e) A person who has a good faith belief that an employer  
263 knowingly employs, or has knowingly employed within the last 90  
264 calendar days, an unauthorized alien may file a complaint with  
265 the department.

266 1. A complaint may not be based on race, color, or national  
267 origin, pursuant to state or federal law.

268 2. A person who knowingly files a false or frivolous  
269 complaint under this subsection commits a misdemeanor of the  
270 second degree, punishable as provided in s. 775.082 or s.  
271 775.083.

272 (f) Upon receipt of a valid complaint substantiated by



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273 evidence of a violation of paragraph (a), the department must  
274 notify the employer of the complaint and direct the employer to  
275 notify any employees named in the complaint. The department  
276 shall also determine whether the employer is registered with an  
277 electronic employment verification system or otherwise compliant  
278 with the requirements of paragraph (2) (c).

279 (g) The department shall request that the Federal  
280 Government verify, pursuant to 8 U.S.C. s. 1373(c), the  
281 citizenship or immigration status of any employee named in the  
282 complaint, and the department must rely upon such verification.  
283 The department may not independently make a final determination  
284 as to whether an employee is an unauthorized alien.

285 (h) Upon finding that an employer has violated paragraph  
286 (a), the department must notify the United States Immigration  
287 and Customs Enforcement Agency of the identity of the  
288 unauthorized alien and, if known, the physical address at which  
289 the unauthorized alien resides.

290 (4) RULEMAKING.—

291 (a) The department shall adopt rules to define an  
292 electronic employment verification system, if any, that is  
293 substantially equivalent to or more effective than the E-Verify  
294 system with respect to identifying unauthorized aliens and those  
295 persons eligible to work in the United States. The rules must  
296 identify the types of databases, methodologies, and evidence of  
297 identity and employment eligibility that qualify an electronic  
298 employment verification system as substantially equivalent to or  
299 more effective than the E-Verify system.

300 (b) The department may adopt rules to:

301 1. Specify the manner of notifying licensing agencies,



302 pursuant to paragraph (2) (d), of violations by employers;  
303 2. Govern the administration of fines authorized under  
304 paragraph (2) (e); and  
305 3. Provide for procedures for complaints filed pursuant to  
306 subsection (3).

307 Section 4. If any provision of this act or its application  
308 to any person or circumstance is held invalid, the invalidity  
309 does not affect other provisions or applications of the act  
310 which can be given effect without the invalid provision or  
311 application, and to this end the provisions of this act are  
312 severable.

313 Section 5. This act shall take effect July 1, 2020.

314  
315 ===== T I T L E A M E N D M E N T =====

316 And the title is amended as follows:

317 Delete everything before the enacting clause  
318 and insert:

319 A bill to be entitled  
320 An act relating to the verification of employment  
321 eligibility; amending s. 287.058, F.S.; requiring  
322 written agreements for the procurement of specified  
323 contractual services to include a statement regarding  
324 the requirement that a contractor or subcontractor  
325 register with and use E-Verify; creating s. 287.137,  
326 F.S.; defining terms; requiring public employers and  
327 certain contractors and subcontractors to register  
328 with and use E-Verify by a specified date; prohibiting  
329 public employers, contractors, and subcontractors from  
330 entering into a contract unless each party to the



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331 contract registers with and uses E-Verify; creating s.  
332 448.093, F.S.; defining terms; requiring employers who  
333 meet specified criteria to register with and use an  
334 electronic employment verification system to verify  
335 the employment eligibility of new employees; requiring  
336 employers who employ more than a specified number of  
337 employees to use an electronic employment verification  
338 system by a certain date; authorizing certain  
339 employers to use an alternative system that meets  
340 specified criteria to confirm an employee's identity,  
341 subject to certain requirements; authorizing the  
342 Department of Economic Opportunity to conduct random  
343 audits of employment files of certain employers;  
344 requiring the department to take certain action  
345 against a noncompliant employer; requiring the  
346 appropriate licensing agency to suspend a noncompliant  
347 employer's license until certain conditions are met;  
348 authorizing the imposition of fines for violations of  
349 the act; prohibiting an employer from knowingly  
350 employing an unauthorized alien; providing civil  
351 immunity for an employer registered with and using an  
352 employment verification system; providing specified  
353 immunity and nonliability for an employer who complies  
354 in good faith with the requirements of the act;  
355 creating a rebuttable presumption for certain  
356 employers that the employer did not knowingly employ  
357 an unauthorized alien; authorizing certain persons  
358 with knowledge of a violation to file a complaint with  
359 the department, subject to certain limitations;



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360 providing a penalty for persons who knowingly file  
361 false or frivolous complaints; prescribing procedures  
362 for the disposition of such complaints; requiring the  
363 department to notify the Federal Government of the  
364 identity of an unauthorized alien; requiring the  
365 department to define by rule employment verification  
366 systems substantially equivalent to the E-Verify  
367 system; providing requirements for such rules;  
368 authorizing the department to adopt additional rules  
369 in administering the act; providing for severability;  
370 providing an effective date.