

The Florida Senate
HOUSE MESSAGE SUMMARY

Prepared By: The Professional Staff of the Committee on Judiciary

[2020s00664.hms]

BILL: CS/CS/CS/SB 664, 1st Eng.

INTRODUCER: Rules Committee; Commerce and Tourism Committee; Judiciary Committee;
and Senator Lee

SUBJECT: Verification of Employment Eligibility

DATE: March 12, 2020

I. Amendments Contained in Message:

House Amendment 1 – 577843 (body with title)

II. Summary of Amendments Contained in Message:

House Amendment 1 is a delete-all amendment that replaces the Senate bill with the text of its House companion, CS/HB 1265.

Regarding public employers and their contractors and subcontractors, the amendment:

- Requires all contractors and subcontractors to use E-Verify, rather than only those that meet contract-value and employee-number thresholds in the bill;
- Requires compliance by January 1, 2021, rather than July 1, 2021, as in the bill;
- Expressly requires a party to terminate a contract if it has a good faith belief that a party to the contract knowingly employs an unauthorized alien;
- Requires a public employer to “order” a contractor to terminate its contract with a subcontractor if the public employer has a good faith belief that the subcontractor knowingly employs an unauthorized alien or is not using E-Verify; and
- Provides that a termination of contract for a party’s knowing employment of an unauthorized alien is not a breach of contract; however, a contractor whose contract is terminated is liable for additional costs incurred by the public employer due to the termination of contract.

Regarding private employers, the amendment:

- Provides that a private employer is immune from civil *and criminal* liability for employing an unauthorized alien if the employer used E-Verify or an I-9 and E-Verify or the I-9 showed the person to be authorized. In comparison, the bill provides civil immunity and creates a rebuttable presumption that a person has not knowingly employed an unauthorized alien in violation of criminal law.
- Allows an employer who receives a notice from the DEO regarding the employer’s failure to use E-Verify or the I-9 procedure to avoid further consequences by providing an affidavit stating that it has begun complying with these verification requirements, has fired all unauthorized employees, and will not intentionally or knowingly employ an unauthorized alien.

- Removes the bill's authorization of random DEO audits of the employment files of employers who fail to register with E-Verify.
- Removes the bill's requirement that a private employer must provide copies of all records that it maintains for the purpose of verifying employment eligibility to any federal or state agency upon request. (However, the amendment retains a similar provision requiring a private employer to provide these records to the following entities upon request: The Department of Law Enforcement, the Attorney General, the state attorney, or the statewide prosecutor.)
- Removes the bill's express authorization for a person to file a complaint with DEO if the person has evidence of employment of an unauthorized alien.
- Removes the bill's requirement that the DEO request the federal government verify the employment eligibility of any person named in the complaint.
- Removes the bill's authorization of a \$500 fine for failure to verify employment eligibility as required in the bill.
- Removes the bill's authorization for DEO to randomly audit private employers'
- Removes the bill's grant of rulemaking authority to the DEO.

Regarding economic development incentives awarded by the Department of Economic Opportunity, the amendment, like the bill, requires an applicant to prove that it uses E-Verify.

Finally, unlike the bill, the amendment does not include an appropriation for DEO to enforce the requirements for employers to verify the employment eligibility of their employees.