

2020664e1

1                   A bill to be entitled  
2           An act relating to the verification of employment  
3           eligibility; amending s. 287.058, F.S.; requiring  
4           written agreements for the procurement of specified  
5           contractual services to include a statement regarding  
6           the requirement that a contractor or subcontractor  
7           register with and use E-Verify; creating s. 287.137,  
8           F.S.; defining terms; requiring public employers and  
9           certain contractors and subcontractors to register  
10          with and use E-Verify by a specified date; prohibiting  
11          public employers, contractors, and subcontractors from  
12          entering into a contract unless each party to the  
13          contract registers with and uses E-Verify; amending s.  
14          288.061, F.S.; prohibiting the approval of certain  
15          economic development incentive applications after a  
16          specified date; requiring an awardee to repay certain  
17          moneys within a specified timeframe under certain  
18          circumstances; creating s. 448.093, F.S.; defining  
19          terms; requiring employers to register with and use an  
20          electronic employment verification system to verify  
21          the employment eligibility of new employees by a  
22          certain date; authorizing employers to use an  
23          alternative system that meets specified criteria to  
24          confirm an employee's identity, subject to certain  
25          requirements; authorizing the Department of Economic  
26          Opportunity to conduct random audits of employment  
27          files of certain employers; requiring the department  
28          to take certain action against a noncompliant  
29          employer; requiring the appropriate licensing agency

2020664e1

30 to suspend a noncompliant employer's license until  
31 certain conditions are met; requiring permanent  
32 revocation of licenses under specified circumstances;  
33 authorizing the imposition of fines for violations of  
34 the act; prohibiting an employer from knowingly  
35 employing an unauthorized alien; providing civil  
36 immunity for an employer registered with and using an  
37 electronic employment verification system; providing  
38 specified immunity and nonliability for an employer  
39 who complies in good faith with the requirements of  
40 the act; creating a rebuttable presumption for certain  
41 employers that the employer did not knowingly employ  
42 an unauthorized alien; authorizing certain persons  
43 with knowledge of a violation to file a complaint with  
44 the department, subject to certain limitations;  
45 providing a penalty for persons who knowingly file  
46 false or frivolous complaints; prescribing procedures  
47 for the disposition of such complaints; requiring the  
48 department to notify the Federal Government of the  
49 identity of an unauthorized alien; requiring employers  
50 to provide copies of certain documentation, upon  
51 request, to specified persons and governmental  
52 entities for certain purposes; prohibiting specified  
53 persons and entities from making a determination as to  
54 whether a person is an unauthorized alien; requiring  
55 the department to define by rule electronic employment  
56 verification systems substantially equivalent to the  
57 E-Verify system; providing requirements for such  
58 rules; authorizing the department to adopt additional

2020664e1

59 rules in administering the act; providing for  
60 construction; providing appropriations and authorizing  
61 positions; providing for severability; providing an  
62 effective date.

63  
64 Be It Enacted by the Legislature of the State of Florida:

65  
66 Section 1. Subsection (1) of section 287.058, Florida  
67 Statutes, is amended to read:

68 287.058 Contract document.—

69 (1) Every procurement of contractual services in excess of  
70 the threshold amount provided in s. 287.017 for CATEGORY TWO,  
71 except for the providing of health and mental health services or  
72 drugs in the examination, diagnosis, or treatment of sick or  
73 injured state employees or the providing of other benefits as  
74 required by chapter 440, shall be evidenced by a written  
75 agreement embodying all provisions and conditions of the  
76 procurement of such services, which shall, where applicable,  
77 include, but not be limited to, a provision:

78 (a) That bills for fees or other compensation for services  
79 or expenses be submitted in detail sufficient for a proper  
80 preaudit and postaudit thereof.

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

84 (c) Allowing unilateral cancellation by the agency for  
85 refusal by the contractor to allow public access to all  
86 documents, papers, letters, or other material made or received  
87 by the contractor in conjunction with the contract, unless the

2020664e1

88 records are exempt from s. 24(a) of Art. I of the State  
89 Constitution and s. 119.07(1).

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

92 (e) Dividing the contract into quantifiable, measurable,  
93 and verifiable units of deliverables that must be received and  
94 accepted in writing by the contract manager before payment. Each  
95 deliverable must be directly related to the scope of work and  
96 specify a performance measure. As used in this paragraph, the  
97 term "performance measure" means the required minimum acceptable  
98 level of service to be performed and criteria for evaluating the  
99 successful completion of each deliverable.

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

102 (g) Specifying that the contract may be renewed for a  
103 period that may not exceed 3 years or the term of the original  
104 contract, whichever is longer, specifying the renewal price for  
105 the contractual service as set forth in the bid, proposal, or  
106 reply, specifying that costs for the renewal may not be charged,  
107 and specifying that renewals are contingent upon satisfactory  
108 performance evaluations by the agency and subject to the  
109 availability of funds. Exceptional purchase contracts pursuant  
110 to s. 287.057(3) (a) and (c) may not be renewed.

111 (h) Specifying the financial consequences that the agency  
112 must apply if the contractor fails to perform in accordance with  
113 the contract.

114 (i) Addressing the property rights of any intellectual  
115 property related to the contract and the specific rights of the  
116 state regarding the intellectual property if the contractor

2020664e1

117 fails to provide the services or is no longer providing  
118 services.

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

123

124 In lieu of a written agreement, the agency may authorize the use  
125 of a purchase order for classes of contractual services if the  
126 provisions of paragraphs (a)-(j) ~~(a)-(i)~~ are included in the  
127 purchase order or solicitation. The purchase order must include,  
128 but need not be limited to, an adequate description of the  
129 services, the contract period, and the method of payment. In  
130 lieu of printing the provisions of paragraphs (a)-(c) and (g) in  
131 the contract document or purchase order, agencies may  
132 incorporate the requirements of paragraphs (a)-(c) and (g) by  
133 reference.

134 Section 2. Section 287.137, Florida Statutes, is created to  
135 read:

136 287.137 Verification of work authorization status; public  
137 employers.-

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

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

143 (b) "Employee" has the same meaning as provided in s.  
144 448.093.

145 (c) "E-Verify" means the Internet-based electronic

2020664e1

146 employment verification system operated by the United States  
147 Department of Homeland Security.

148 (d) "Public employer" means an agency or a subdivision of  
149 the state, regional, county, local, special district, or  
150 municipal government, whether executive, judicial, or  
151 legislative, or any public school, community college, or state  
152 university, which employs persons who perform labor or services  
153 for that employer in exchange for salary, wages, or other  
154 remuneration or enters into, or attempts to enter into, a  
155 contract with a contractor for an amount that will, or is  
156 expected to, exceed the CATEGORY TWO threshold amount provided  
157 in s. 287.017.

158 (e) "Subcontractor" means a person or an entity that has  
159 more than 10 employees in this state and provides labor,  
160 supplies, or services to or for a contractor or another  
161 subcontractor pursuant to a contract that will, or is expected  
162 to, exceed the CATEGORY TWO threshold amount provided in s.  
163 287.017.

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

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

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

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

2020664e1

175 this state may not enter into a contract under this section  
176 unless each party to the contract registers with and uses E-  
177 Verify.

178 Section 3. Present subsection (6) of section 288.061,  
179 Florida Statutes, is renumbered as subsection (7), and a new  
180 subsection (6) is added to that section to read:

181 288.061 Economic development incentive application  
182 process.-

183 (6) Beginning July 1, 2020, the executive director may not  
184 approve an economic development incentive application unless the  
185 application includes proof to the department that the applicant  
186 business will register with and use the E-Verify system, as  
187 defined in s. 287.137, or an alternative electronic employment  
188 verification system approved by the department, to verify the  
189 work authorization status of all newly hired employees. If the  
190 department determines that an awardee is not complying with this  
191 subsection, the department must notify the awardee by certified  
192 mail of the department's determination of noncompliance and the  
193 awardee's right to appeal the determination. Upon a final  
194 determination of noncompliance, the awardee must repay all  
195 moneys received as an economic development incentive to the  
196 department within 30 days after the final determination.

197 Section 4. Section 448.093, Florida Statutes, is created to  
198 read:

199 448.093 Definitions; use of electronic employment  
200 verification system required for private employers; business  
201 licensing enforcement.-

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

203 (a) "Agency" means an agency, a department, a board, or a

2020664e1

204 commission of this state or a county or municipality which  
205 issues a license to operate a business in this state.

206 (b) "Department" means the Department of Economic  
207 Opportunity.

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

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

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

217 (d) "Employee" means an individual whose work is performed  
218 under the direction and supervision of the employer and whose  
219 employer withholds tax pursuant to the Federal Insurance  
220 Contributions Act (FICA) or federal income tax from the  
221 individual's compensation, or whose employer issues an Internal  
222 Revenue Service W-2 form, but not an Internal Revenue Service  
223 Form 1099, to an individual for purposes of documenting  
224 compensation. The term includes all individuals or entities that  
225 do not meet the definition of an independent contractor under  
226 federal laws or regulations to perform a specified portion of  
227 labor or services.

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

231 1. A government employer.

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



2020664e1

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

235 b. A licensed independent contractor, as defined in federal  
236 laws or regulations, to perform a specified portion of labor or  
237 services.

238 3. An employee leasing company licensed pursuant to part XI  
239 of chapter 468 which enters into a written agreement or  
240 understanding with a client company which places the primary  
241 obligation for compliance with this section upon the client  
242 company. In the absence of a written agreement or understanding,  
243 the term includes an employee leasing company.

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

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

253 1. An article of incorporation.

254 2. A certificate of partnership, a partnership  
255 registration, or an article of organization.

256 3. A grant of authority issued pursuant to state or federal  
257 law.

258 4. A transaction privilege tax license.

259 (h) "Unauthorized alien" means a person who is not  
260 authorized under federal law to be employed in the United  
261 States, as described in 8 U.S.C. s. 1324a(h)(3). The term shall

2020664e1

262 be interpreted consistently with that section and any applicable  
263 federal rules or regulations.

264 (2) VERIFICATION OF EMPLOYMENT ELIGIBILITY; FINE FOR  
265 VIOLATION; SUSPENSION OF BUSINESS LICENSE.—

266 (a) An employer shall, after making an offer of employment  
267 which has been accepted by an individual, use an electronic  
268 employment verification system to verify such individual's  
269 employment eligibility. Verification must occur within the  
270 period stipulated by applicable federal rules or regulations.  
271 However, an employer is not required to verify the employment  
272 eligibility of a continuing employee hired before the date of  
273 the employer's registration with an electronic employment  
274 verification system.

275 (b) Employers in this state must use an electronic  
276 employment verification system or otherwise be in compliance  
277 with this section by no later than January 1, 2021.

278 (c) As an alternative to registering with an electronic  
279 employment verification system, an employer may operate a system  
280 that complies with 8 U.S.C. s. 1324a, and must also maintain  
281 complete copies of all records used to establish an employee's  
282 identity and employment authorization for at least 3 years after  
283 the employer receives the records or 1 year after the employee  
284 ceases to provide services to the employer, whichever is later.

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

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

2020664e1

291 (d)1. If an employer does not register with an electronic  
292 employment verification system or otherwise comply with the  
293 requirements of paragraph (c), the department must submit a  
294 notice of violation to the employer, who must then register with  
295 an electronic employment verification system or otherwise comply  
296 with paragraph (c) and provide an affidavit stating such fact to  
297 the department within 30 calendar days after the notice of  
298 violation is mailed. If the employer does not become compliant  
299 and provide the required affidavit within 30 calendar days  
300 following the mailing of the notice of violation, the  
301 appropriate licensing agency must suspend all applicable  
302 licenses held by the employer until the employer becomes  
303 compliant and provides the department with the required  
304 affidavit.

305 2. For any employer found to have violated this subsection  
306 three times within any 36 month period, the appropriate agency  
307 shall permanently revoke all licenses that are held by the  
308 private employer specific to the business location where the  
309 unauthorized alien performed work. If the employer does not hold  
310 a license specific to the business location where the  
311 unauthorized alien performed work, but a license is necessary to  
312 operate the private employer's business in general, the  
313 appropriate licensing agency shall permanently revoke all  
314 licenses that are held by the employer at the employer's primary  
315 place of business.

316 3. For purposes of this paragraph, any licenses that are  
317 subject to suspension or revocation under subparagraph 1. or  
318 subparagraph 2., respectively, are all licenses that are held by  
319 the employer specific to the business location where the

2020664e1

320 unauthorized alien performed work.

321 (e) If the department determines that an employer has not  
322 registered with an electronic employment verification system or  
323 complied with the requirements of paragraph (c), the department  
324 may impose a fine of up to \$500 per violation of this  
325 subsection.

326 (3) EMPLOYMENT OF UNAUTHORIZED ALIENS; IMMUNITY;  
327 COMPLAINTS.—

328 (a) An employer may not knowingly employ an unauthorized  
329 alien.

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

333 1. Hiring of an unauthorized alien if the information  
334 obtained from the electronic employment verification system  
335 indicated that the person's work authorization status was not  
336 that of an unauthorized alien; or

337 2. Refusal to employ a person if the information obtained  
338 from the electronic employment verification system indicated  
339 that the person's work authorization status was that of an  
340 unauthorized alien.

341 (c) An employer who in good faith registers with and uses  
342 an electronic employment verification system is considered to  
343 have complied with the requirements of 8 U.S.C. s. 1324a(b) and  
344 may not be held liable for any damages and is immune from any  
345 legal cause of action brought by any person or entity, including  
346 former employees, for the use of and reliance upon any incorrect  
347 information obtained from the electronic employment verification  
348 system, including any incorrect information obtained as a result

2020664e1

349 of an isolated, sporadic, or accidental technical or procedural  
350 failure, when determining final action on a person's work  
351 authorization status.

352 (d) For purposes of this subsection, compliance with  
353 subsection (2) creates a rebuttable presumption that an employer  
354 did not knowingly employ an unauthorized alien in violation of  
355 s. 448.09.

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

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

362 2. A person who knowingly files a false or frivolous  
363 complaint under this subsection commits a misdemeanor of the  
364 second degree, punishable as provided in s. 775.082 or s.  
365 775.083.

366 (f) Upon receipt of a valid complaint substantiated by  
367 evidence of a violation of paragraph (a), the department must  
368 notify the employer of the complaint and direct the employer to  
369 notify any employees named in the complaint. The department  
370 shall also determine whether the employer is registered with an  
371 electronic employment verification system or otherwise compliant  
372 with the requirements of paragraph (2) (c).

373 (g) The department shall request that the Federal  
374 Government verify, pursuant to 8 U.S.C. s. 1373(c), the  
375 citizenship or immigration status of any employee named in the  
376 complaint, and the department must rely upon such verification.  
377 The department may not independently make a final determination

2020664e1

378 as to whether an employee is an unauthorized alien.

379 (h) Upon finding that an employer has violated paragraph  
380 (a), the department must notify the United States Immigration  
381 and Customs Enforcement Agency of the identity of the  
382 unauthorized alien and, if known, the physical address at which  
383 the unauthorized alien resides.

384 (4) ENFORCEMENT.—

385 (a) For purposes of enforcing this section, the following  
386 persons or entities may request, and an employer must provide,  
387 copies of any documentation relied upon by the employer for the  
388 verification of a person's employment eligibility, including,  
389 but not limited to, any documentation required under this  
390 section.

391 1. The Department of Law Enforcement.

392 2. The Attorney General.

393 3. A state attorney.

394 4. The statewide prosecutor.

395 (b) A person or an entity specified in paragraph (a) that  
396 makes a request pursuant to this subsection must rely upon the  
397 Federal Government to verify a person's employment eligibility  
398 and may not independently make a final determination as to  
399 whether a person is an unauthorized alien.

400 (5) RULEMAKING.—

401 (a) The department shall adopt rules to define an  
402 electronic employment verification system, if any, that is  
403 substantially equivalent to or more effective than the E-Verify  
404 system with respect to identifying unauthorized aliens and those  
405 persons eligible to work in the United States. The rules must  
406 identify the types of databases, methodologies, and evidence of

2020664e1

407 identity and employment eligibility that qualify an electronic  
408 employment verification system as substantially equivalent to or  
409 more effective than the E-Verify system.

410 (b) The department may adopt rules to:

411 1. Specify the manner of notifying licensing agencies,  
412 pursuant to paragraph (2) (d), of violations by employers;

413 2. Govern the administration of fines authorized under  
414 paragraph (2) (e); and

415 3. Provide for procedures for complaints filed pursuant to  
416 subsection (3).

417 (6) CONSTRUCTION.—This section shall be enforced without  
418 regard to race, color, or national origin, and shall be enforced  
419 in a manner that is fully consistent with any applicable federal  
420 laws or regulations.

421 Section 5. For the 2020-2021 fiscal year, the sum of  
422 \$1,612,045 in recurring funds and the sum of \$1,019,600 in  
423 nonrecurring funds from the General Revenue Fund are  
424 appropriated to the Department of Economic Opportunity, and 15  
425 full-time equivalent positions with associated salary rate of  
426 681,500 are authorized, for purposes of implementing this act.

427 Section 6. If any provision of this act or its application  
428 to any person or circumstance is held invalid, the invalidity  
429 does not affect other provisions or applications of the act  
430 which can be given effect without the invalid provision or  
431 application, and to this end the provisions of this act are  
432 severable.

433 Section 7. This act shall take effect July 1, 2020.