

ASSEMBLY, No. 1806

STATE OF NEW JERSEY 219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Assemblyman ERIK PETERSON

District 23 (Hunterdon, Somerset and Warren)

Co-Sponsored by:

Assemblyman DiMaio

SYNOPSIS

Prohibits employment of illegal aliens and requires use of E-Verify program in public contracts.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 **AN ACT** concerning State contracts and illegal aliens and
2 supplementing Title 34 of the Revised Statutes.

3

4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6

7 1. As used in this act:

8 “Contractor” means a person having a public contract for
9 services with a State agency or political subdivision.

10 “Department” means the Department of Labor and Workforce
11 Development.

12 “E-Verify program” means the electronic verification of work
13 authorization program of the Illegal Immigration Reform and
14 Immigration Responsibility Act of 1996, Pub.L.104-208 (8 U.S.C.
15 s.1324a), jointly operated by the United States Department of
16 Homeland Security and the Social Security Administration or its
17 successor program.

18 “Knowingly employ an illegal alien” means those actions
19 described in 8 U.S.C. s.1324a. This term shall be interpreted
20 consistently with 8 U.S.C. s.1324a and any applicable federal rules
21 and regulations.

22 “Illegal alien” means an alien who does not have the legal right
23 or authorization under federal law to work in the United States as
24 described in 8 U.S.C. s.1324a(h)(3).

25 “Public contract for services” means any type of agreement,
26 regardless of what the agreement may be called, between a State
27 agency or political subdivision and a contractor for the procurement
28 of services.

29 “Services” means the furnishing of labor, time, or effort by a
30 contractor or a subcontractor not involving the delivery of a specific
31 end product other than reports that are incidental to the required
32 performance.

33

34 2. No State agency or political subdivision shall enter into or
35 renew a public contract for services with a contractor who
36 knowingly employs or contracts with an illegal alien to perform
37 work under the contract or who knowingly contracts with an illegal
38 alien to perform work under the contract.

39

40 3. a. Each public contract for services shall include a provision
41 that the contractor shall not:

42 (1) knowingly employ or contract with an illegal alien to
43 perform work under the public contract for services; or

44 (2) enter into a contract with a subcontractor that fails to certify
45 to the contractor that the subcontractor shall not knowingly employ
46 or contract with an illegal alien to perform work under the public
47 contract for services.

1 b. Each public contract for services shall contain provisions
2 stating that:

3 (1) the contractor will verify through the E-Verify program that
4 the contractor will not employ any illegal aliens;

5 (2) if the contractor obtains actual knowledge that a
6 subcontractor performing work under the public contract for
7 services knowingly employs or contracts with an illegal alien, the
8 contractor shall be required to:

9 (a) notify the subcontractor and the contracting State agency or
10 political subdivision within three days that the contractor has actual
11 knowledge that the subcontractor is employing or contracting with
12 an illegal alien; and

13 (b) terminate the subcontract with the subcontractor if within
14 three days of receiving the notice required pursuant to subparagraph
15 (a) of this paragraph the subcontractor does not stop employing or
16 contracting with the illegal alien; except that the contractor shall not
17 terminate the contract with the subcontractor if during the three
18 days the subcontractor provides information to establish that the
19 subcontractor has not knowingly employed or contracted with an
20 illegal alien; and

21 (3) the contractor is required to comply with any reasonable
22 request by the department made in the course of an investigation
23 that the department is undertaking pursuant to the authority
24 established pursuant to section 5 of this act.
25

26 4. A State agency or political subdivision shall notify the
27 department if a contractor violates a provision of a public contract
28 for services required pursuant to this act and the State agency or
29 political subdivision terminates the contract for the breach. Based
30 on the notification, the department shall maintain a list that includes
31 the name of the contractor, the State agency or political subdivision
32 that terminated the public contract for services, and the date of the
33 termination. A contractor shall be removed from the list if two
34 years have passed since the date the contract was terminated, or if a
35 court of competent jurisdiction determines that there has not been a
36 violation of the provision of the public contract for services
37 required pursuant to this act. A State agency or political
38 subdivision shall notify the department if a court has made that
39 determination. The list shall be available for public inspection at
40 the department and shall be published on an internet website
41 maintained by the department.
42

43 5. a. The department may investigate whether a contractor is
44 complying with the provisions of a public contract for services
45 required pursuant to this act. The department may conduct on-site
46 inspections where a public contract for services is being performed,
47 request and review documentation that proves the legal status of
48 any person performing work on a public contract for services, or

1 take other reasonable steps that are necessary to determine whether
2 a contractor is complying with the provisions of a public contract
3 for services required pursuant to this act. The department shall
4 receive complaints of suspected violations of a provision of a public
5 contract for services required pursuant to this act and shall have
6 discretion as to determine which complaints are to be investigated.
7 The results of any investigation shall not constitute final agency
8 action.

9 b. The department shall notify a State agency or political
10 subdivision if it suspects that there has been a breach of a provision
11 in a public contract for services required pursuant to this act.

12
13 6. This act shall take effect on the first day of the third month
14 following enactment.

15 16 17 STATEMENT

18
19 This bill provides that no State agency or political subdivision
20 may enter into or renew a public contract for services with a
21 contractor who knowingly employs or contracts with an illegal alien
22 to perform work under the contract or who knowingly contracts
23 with an illegal alien to perform work under the contract.

24 The bill requires each public contract for services to include a
25 provision that the contractor shall not:

26 (1) knowingly employ or contract with an illegal alien to
27 perform work under the public contract for services; or

28 (2) enter into a contract with a subcontractor that fails to certify
29 to the contractor that the subcontractor shall not knowingly employ
30 or contract with an illegal alien to perform work under the public
31 contract for services.

32 The bill requires each public contract for services to include
33 provisions stating that:

34 (1) the contractor will verify through the E-Verify program that
35 the contractor will not employ any illegal aliens;

36 (2) if the contractor obtains actual knowledge that a
37 subcontractor performing work under the public contract for
38 services knowingly employs or contracts with an illegal alien, the
39 contractor shall be required to:

40 (a) notify the subcontractor and the contracting State agency or
41 political subdivision within three days that the contractor has actual
42 knowledge that the subcontractor is employing or contracting with
43 an illegal alien; and

44 (b) terminate the subcontract with the subcontractor if within
45 three days of receiving the notice the subcontractor does not stop
46 employing or contracting with the illegal alien; except that the
47 contractor shall not terminate the contract with the subcontractor if
48 during the three days the subcontractor provides information to

1 establish that the subcontractor has not knowingly employed or
2 contracted with an illegal alien; and

3 (3) the contractor is required to comply with any reasonable
4 request by the department made in the course of an investigation
5 that the department is undertaking pursuant to the authority
6 established pursuant to the bill.

7 The bill provides that a State agency or political subdivision
8 must notify the Department of Labor and Workforce Development
9 if a contractor violates a provision of a public contract for services
10 required pursuant to the bill and the State agency or political
11 subdivision terminates the contract for the breach. Based on the
12 notification, the department shall maintain a list that includes the
13 name of the contractor, the State agency or political subdivision that
14 terminated the public contract for services, and the date of the
15 termination. A contractor shall be removed from the list if two
16 years have passed since the date the contract was terminated, or if a
17 court of competent jurisdiction determines that there has not been a
18 violation of the provision of the public contract for services. A
19 State agency or political subdivision shall notify the department if a
20 court has made that determination. The list shall be available for
21 public inspection at the department and shall be published on an
22 internet website maintained by the department.

23 The bill provides that the department may investigate whether a
24 contractor is complying with the provisions of a public contract for
25 services required pursuant to the bill. The department may conduct
26 on-site inspections where a public contract for services is being
27 performed, request and review documentation that proves the legal
28 status of any person performing work on a public contract for
29 services, or take other reasonable steps that are necessary to
30 determine whether a contractor is complying with the provisions of
31 a public contract for services required pursuant to the bill. The bill
32 requires the department to receive complaints of suspected
33 violations of a provision of a public contract for services and gives
34 the department discretion as to determine which complaints are to
35 be investigated. The results of any investigation do not constitute
36 final agency action.

37 The bill requires the department to notify a State agency or
38 political subdivision if it suspects that there has been a breach of a
39 provision in a public contract for services pursuant to the bill.