

**ASSEMBLY, No. 1079**

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**STATE OF NEW JERSEY**

**218th LEGISLATURE**

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PRE-FILED FOR INTRODUCTION IN THE 2018 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.