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135th General Assembly
Regular Session
2023-2024

Sub. H. B. No. 327

A BILL

To enact sections 4151.01, 4151.02, 4151.03, 1
4151.04, 4151.10, 4151.11, 4151.12, and 4151.13 2
of the Revised Code to require government 3
contractors, private nonresidential contractors, 4
and certain employers to use E-verify. 5

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 4151.01, 4151.02, 4151.03, 6
4151.04, 4151.10, 4151.11, 4151.12, and 4151.13 of the Revised 7
Code be enacted to read as follows: 8

Sec. 4151.01. As used in this section and sections 4151.02 9
to 4151.04 of the Revised Code: 10

(A) "Bidder" means an individual or entity who submits a 11
bid to a state agency or political subdivision to perform work 12
under a public improvement or service contract. 13

(B) "Contractor" means any individual or entity who 14
directs, supervises, or has responsibility for the means, 15
method, and manner of implementing a public improvement or 16
service contract. 17



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(C) "E-verify" means the employment verification program 18
as jointly administered by the United States department of 19
homeland security and the social security administration under 20
section 101(a) (1) of the federal "Immigration Reform and Control 21
Act of 1986," 8 U.S.C. 1324a, or any of its successor programs. 22

(D) "Political subdivision" means any body corporate and 23
politic that is responsible for governmental activities in a 24
geographic area smaller than the state. 25

(E) "Public improvement" has the same meaning as in 26
section 9.75 of the Revised Code. 27

(F) "Services" means labor, time, or effort, by a person 28
or persons, not involving the delivery of a specific end product 29
other than a report. 30

(G) "State agency" means any organized body, office, 31
agency, institution, or other entity established by the laws of 32
the state for the exercise of any function of state government. 33

(H) "State contract" has the same meaning as in section 34
9.242 of the Revised Code. 35

(I) "Subcontractor" means any person who undertakes any 36
part of a public improvement or service under a contract with 37
any person other than the state agency or political subdivision. 38

Sec. 4151.02. (A) Subject to division (B) of this section, 39
each state agency or political subdivision desiring to enter or 40
renew a contract for a public improvement or services on and 41
after the effective date of this section shall include all of 42
the following terms in the contract: 43

(1) A provision requiring the contractor who is awarded 44
the contract and any subcontractor for that public improvement 45

or service to use e-verify to confirm the identity and legal 46
working status of each employee hired by the contractor or 47
subcontractor with respect to both of the following types of 48
employees of the contractor or subcontractor: 49

(a) All individuals hired during the contract term by the 50
contractor or subcontractor to perform duties within this state; 51

(b) All individuals assigned by the contractor or 52
subcontractor to perform work within this state on the contract. 53

(2) A provision that the state agency or political 54
subdivision may cancel the contract if the contractor recklessly 55
fails to use e-verify to verify the identity and legal working 56
status of each individual hired or assigned by the contractor as 57
required by this section. 58

(3) A provision that requires the contractor to include in 59
any contract with a subcontractor a provision under which the 60
contractor may cancel the subcontract if the subcontractor 61
recklessly fails to use e-verify to verify the identity and 62
legal working status of each individual hired or assigned by the 63
subcontractor as required by this section. 64

(B) A contract for a public improvement or services 65
entered into or renewed on and after the effective date of this 66
section may include a provision waiving the requirement in 67
division (A) (1) of this section when both of the following 68
apply: 69

(1) The contractor or subcontractor rehires an employee 70
whose identity and working status the contractor has previously 71
confirmed using e-verify. 72

(2) The contractor or subcontractor is not required to 73
reverify the employee's eligibility to work under section 101(a) 74

(1) of the federal "Immigration Reform and Control Act of 1986," 75
8 U.S.C. 1324a(b), because the circumstances described in 8 CFR 76
274a.2(c)(1)(i) apply. 77

(C) No state agency or political subdivision shall award a 78
a contract for a public improvement or services to a bidder 79
unless the contract contains terms consistent with this section. 80
Any contract entered into in violation of this section is void. 81

(D) Any subcontractor engaged to perform work on a 82
contractor's behalf shall provide the contractor with an 83
affidavit stating that the subcontractor does not employ, 84
contract with, or subcontract with any unauthorized alien as 85
defined in section 101(a)(1) of the federal "Immigration Reform 86
and Control Act of 1986," 8 U.S.C. 1324a. The contractor shall 87
maintain a copy of the affidavit for the duration of the 88
contract. 89

(E) If a state agency or political subdivision cancels a 90
contract in accordance with division (A)(2) of this section, the 91
contractor is liable for all foreseeable economic damages 92
sustained by the agency or political subdivision, including the 93
reasonable costs of soliciting a new bid. If a contractor 94
cancels a subcontract in accordance with division (A)(3) of this 95
section, the subcontractor is liable for all foreseeable 96
economic damages sustained by the contractor. 97

Sec. 4151.03. If a court determines that a party canceled 98
a contract in accordance with the contract provisions required 99
under division (A) of section 4151.02 of the Revised Code, in 100
addition to any damages awarded by the court, the court also 101
shall order the party that recklessly failed to use e-verify as 102
described in division (A)(1) of section 4151.02 of the Revised 103
Code is not eligible to bid for or participate in any state 104

contract for a period of one year. 105

The court shall provide a copy of the order to the 106
director of administrative services. 107

The director shall include the party's name in the list 108
maintained by the director pursuant to division (C) of section 109
4151.13 of the Revised Code. The director shall remove the 110
party's name from the list when the one-year period ends. 111

Sec. 4151.04. (A) The attorney general shall conduct 112
periodic reviews of state agencies and political subdivisions to 113
ensure that state agencies and political subdivisions are 114
including within their public improvement and service contracts 115
provisions required by section 4151.02 of the Revised Code. 116

(B) Each state agency or political subdivision found in 117
violation of division (C) of section 4151.02 of the Revised Code 118
shall be fined five thousand dollars per violation. 119

Sec. 4151.10. As used in this section and sections 4151.11 120
to 4151.13 of the Revised Code: 121

(A) "E-verify" means the employment verification program 122
jointly administered by the United States department of homeland 123
security and the social security administration under section 124
101(a)(1) of the federal "Immigration Reform and Control Act of 125
1986," 8 U.S.C. 1324a, or any of its successor programs. 126

(B) "Employer" means the state, any political subdivision 127
of the state, any employer employing seventy-five or more 128
individuals within the state, and any nonresidential 129
construction contractor employing one or more individuals within 130
the state. 131

(C) "Nonresidential construction contractor" means any 132

individual or contracting company that satisfies both of the 133
following: 134

(1) Has responsibility for the means, method, and manner 135
of construction, improvement, renovation, repair, or maintenance 136
on a nonresidential construction project with respect to one or 137
more trades and who offers, identifies, advertises, or otherwise 138
holds out or represents that the individual or contracting 139
company is permitted or qualified to perform or have 140
responsibility for the means, method, and manner of 141
construction, improvement, renovation, repair, or maintenance 142
with respect to one or more trades on a construction project; 143

(2) Does either of the following: 144

(a) Performs construction, improvement, or renovation on a 145
nonresidential construction project with respect to the 146
individual's or contracting company's trade; 147

(b) Employs tradespersons who perform construction, 148
improvement, or renovation on a nonresidential construction 149
project with respect to the individual's or contracting 150
company's trades. 151

(D) "Nonresidential construction project" means a 152
construction project involving a building or structure subject 153
to Chapter 3781. of the Revised Code and the rules adopted under 154
that chapter, but not any of the following: 155

(1) An industrialized unit, manufactured home, or a 156
residential building as defined in section 3781.06 of the 157
Revised Code; 158

(2) A building or structure that is incidental to the use 159
of the land on which the building or structure is located for 160
agricultural purposes as defined in section 3781.06 of the 161

<u>Revised Code;</u>	162
<u>(3) A mobile home as defined in section 4501.01 of the</u>	163
<u>Revised Code.</u>	164
<u>(E) "State contract" has the same meaning as in section</u>	165
<u>9.242 of the Revised Code.</u>	166
<u>Sec. 4151.11.</u> (A) (1) <u>Every employer shall do both of the</u>	167
<u>following:</u>	168
<u>(a) Except as provided in division (A) (2) of this section,</u>	169
<u>after hiring an employee, verify the employment eligibility of</u>	170
<u>the employee through the e-verify program;</u>	171
<u>(b) Keep a record of the verification for the duration of</u>	172
<u>the employee's employment with the employer or three years,</u>	173
<u>whichever is longer.</u>	174
<u>(2) An employer is not required to comply with division</u>	175
<u>(A) (1) (a) of this section if the employer hires an individual</u>	176
<u>whom the employer has previously employed if both of the</u>	177
<u>following apply:</u>	178
<u>(a) The employer has previously complied with division (A)</u>	179
<u>(1) of this section with respect to that individual.</u>	180
<u>(b) The employer is not required to reverify the</u>	181
<u>employee's eligibility to work under section 101(a) (1) of the</u>	182
<u>federal "Immigration Reform and Control Act of 1986," 8 U.S.C.</u>	183
<u>1324a(b), because the circumstances described in 8 CFR 274a.2(c)</u>	184
<u>(1) (i) apply.</u>	185
<u>(B) (1) Subject to division (B) (2) of this section, a</u>	186
<u>contract for a nonresidential construction project entered into</u>	187
<u>on or after the effective date of this section shall include a</u>	188
<u>provision requiring the nonresidential construction contractor</u>	189

responsible for the project and any subcontractor, regardless of 190
tier, that provides construction services with respect to the 191
contract to use e-verify to confirm the identity and work 192
eligibility of any tradesperson assigned to perform work on the 193
project. 194

(2) A contract for a nonresidential construction project 195
entered into on or after the effective date of this section may 196
include a provision waiving the requirement in division (B) (1) 197
of this section when both of the following apply: 198

(a) The nonresidential construction contractor responsible 199
for the project or a subcontractor rehires a tradesperson whose 200
identity and working status the contractor or subcontractor has 201
previously confirmed using e-verify; 202

(b) The contractor or subcontractor is not required to 203
reverify the tradesperson's eligibility to work under section 204
101(a) (1) of the federal "Immigration Reform and Control Act of 205
1986," 8 U.S.C. 1324a(b), because the circumstances described in 206
8 CFR 274a.2(c) (1) (i) apply. 207

Sec. 4151.12. (A) (1) The attorney general shall prescribe 208
a complaint form for an individual to allege a violation of 209
section 4151.11 of the Revised Code. The attorney general shall 210
not require the complainant to list the complainant's social 211
security number on the complaint form or to have the form 212
notarized. A complainant shall submit the complaint to the 213
attorney general. Except as provided in division (B) of this 214
section, the attorney general shall investigate any violation of 215
section 4151.11 of the Revised Code alleged in a prescribed form 216
submitted to the attorney general. 217

(2) This section does not prohibit an individual from 218

filing an anonymous complaint on a form other than the 219
prescribed complaint form. Except as provided in division (B) of 220
this section, the attorney general may, but is not required to, 221
investigate a violation of section 4151.11 of the Revised Code 222
alleged in form other than a prescribed form. 223

(B) The attorney general shall not investigate a complaint 224
that is based solely on race, color, or national origin. 225

(C) Any local law enforcement officer may assist in 226
investigating a complaint filed under this section. 227

(D) If the attorney general conducts an investigation 228
under this section and determines that reasonable evidence 229
exists that a person violated section 4151.11 of the Revised 230
Code, the attorney general shall bring a civil action for a 231
violation of section 4151.11 of the Revised Code against the 232
person in the court of common pleas of the county where the 233
person is located or does business. 234

Sec. 4151.13. (A) If a court, pursuant to an action 235
brought under section 4151.12 of the Revised Code, determines 236
that a person has violated section 4151.11 of the Revised Code, 237
the court shall order the person to pay five thousand dollars 238
for each violation of section 4151.11 of the Revised Code. 239

(B) (1) If a court, pursuant to an action brought under 240
section 4151.12 of the Revised Code, determines that a person 241
has recklessly violated section 4151.11 of the Revised Code, in 242
addition to the order required under division (A) of this 243
section, the court also shall order that the person is not 244
eligible to bid for or participate in any state contract for a 245
period of one year. The court shall provide a copy of the order 246
to the director of administrative services. 247

(2) After the one-year period described in division (B) (1) 248
of this section has elapsed, a person who has been ordered 249
ineligible under division (B) (1) of this section may be eligible 250
to bid for and participate in state contracts if the person 251
files a sworn affidavit with the director that one year or more 252
has elapsed since the order described in division (B) (1) of this 253
section and that the person has not violated section 4151.11 of 254
the Revised Code during the one-year period. 255

(C) The director shall maintain a list of all persons 256
ineligible to bid for or participate in any state contract for a 257
period of one year under division (B) (1) of this section. The 258
director shall remove a person from the list when the one-year 259
period ends. The director also shall maintain a record of all 260
affidavits filed with the director under division (B) (2) of this 261
section. 262