

As Introduced

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Representatives Wiggam, Swearingen

Cosponsors: Representatives Click, Creech, Cutrona, Edwards, Fowler Arthur, Gross, Hall, Hillyer, John, Johnson, Kick, King, Klopfenstein, Lorenz, Loychik, McClain, Merrin, Miller, K., Miller, M., Patton, Pizzulli, Plummer, Seitz, Stewart, Williams, Young, T.

A BILL

To enact sections 4151.01, 4151.02, 4151.03, 1
4151.10, 4151.11, 4151.12, and 4151.13 of the 2
Revised Code to require government contractors, 3
private nonresidential contractors, and certain 4
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
4151.10, 4151.11, 4151.12, and 4151.13 of the Revised Code be 7
enacted to read as follows: 8

Sec. 4151.01. As used in this section and sections 4151.02 9
to 4151.03 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, and any subcontractor who performs specialized 17
work on the contractor's behalf regardless of the 18
subcontractor's tier. 19

(C) "E-verify" means the employment verification program 20
as jointly administered by the United States department of 21
homeland security and the social security administration under 8 22
U.S.C. 1324a, or any of its successor programs. 23

(D) "Political subdivision" means any body corporate and 24
politic that is responsible for governmental activities in a 25
geographic area smaller than the state. 26

(E) "Public improvement" has the same meaning as in 27
section 9.75 of the Revised Code. 28

(F) "Services" means labor, time, or effort, by a person 29
or persons, not involving the delivery of a specific end product 30
other than a report. 31

(G) "State agency" means any organized body, office, 32
agency, institution, or other entity established by the laws of 33
the state for the exercise of any function of state government. 34

Sec. 4151.02. (A) Each state agency or political 35
subdivision desiring to enter or renew a contract for a public 36
improvement or services on and after the effective date of this 37
section shall include both of the following terms in the 38
contract: 39

(1) A provision requiring the contractor who is awarded 40
the contract to use e-verify to confirm the identity and legal 41
working status of each employee hired by the contractor with 42
respect to both of the following types of employees of the 43
contractor: 44

(a) All individuals hired during the contract term by the contractor to perform duties within this state; 45
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(b) All individuals assigned by the contractor to perform work within this state on the contract. 47
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(2) A provision that the state agency or political subdivision shall cancel the contract if, after awarding the contract, the contractor does not use e-verify to verify the identity and legal working status of each individual hired or assigned by the contractor as required by this section. 49
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(B) No state agency or political subdivision shall award a contract for a public improvement or services to a bidder unless the contract contains terms consistent with division (A) of this section. Any contract entered into in violation of this section is void. 54
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Sec. 4151.03. (A) The attorney general shall conduct periodic reviews of state agencies and political subdivisions to ensure that state agencies and political subdivisions are including within their public improvement and service contracts provisions required by division (A) of section 4151.02 of the Revised Code. 59
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(B) Each state agency or political subdivision found in violation of division (B) of section 4151.02 of the Revised Code shall be fined five thousand dollars per violation. 65
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Sec. 4151.10. As used in this section and sections 4151.11 to 4151.13 of the Revised Code: 68
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(A) "E-verify" means the employment verification program jointly administered by the United States department of homeland security and the social security administration under 8 U.S.C. 1324a, or any of its successor programs. 70
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(B) "Employer" means the state, any political subdivision 74
of the state, any employer employing seventy-five or more 75
individuals within the state, and any nonresidential 76
construction contractor employing one or more individuals within 77
the state. 78

(C) "Nonresidential construction contractor" means any 79
individual or contracting company that satisfies both of the 80
following: 81

(1) Has responsibility for the means, method, and manner 82
of construction, improvement, renovation, repair, or maintenance 83
on a nonresidential construction project with respect to one or 84
more trades and who offers, identifies, advertises, or otherwise 85
holds out or represents that the individual or contracting 86
company is permitted or qualified to perform or have 87
responsibility for the means, method, and manner of 88
construction, improvement, renovation, repair, or maintenance 89
with respect to one or more trades on a construction project; 90

(2) Does either of the following: 91

(a) Performs construction, improvement, or renovation on a 92
nonresidential construction project with respect to the 93
individual's or contracting company's trade; 94

(b) Employs tradespersons who perform construction, 95
improvement, or renovation on a nonresidential construction 96
project with respect to the individual's or contracting 97
company's trades. 98

(D) "Nonresidential construction project" means a 99
construction project involving a building or structure subject 100
to Chapter 3781. of the Revised Code and the rules adopted under 101
that chapter, but not any of the following: 102

(1) An industrialized unit, manufactured home, or a residential building as defined in section 3781.06 of the Revised Code; 103
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(2) A building or structure that is incidental to the use of the land on which the building or structure is located for agricultural purposes as defined in section 3781.06 of the Revised Code; 106
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(3) A mobile home as defined in section 4501.01 of the Revised Code. 110
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(E) "State contract" has the same meaning as in section 9.242 of the Revised Code. 112
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Sec. 4151.11. (A) Every employer shall do both of the following: 114
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(1) After hiring an employee, verify the employment eligibility of the employee through the e-verify program; 116
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(2) Keep a record of the verification for the duration of the employee's employment with the employer or three years, whichever is longer. 118
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(B) A contract for a nonresidential construction project entered into on or after the effective date of this section shall include a provision requiring the nonresidential construction contractor responsible for the project and any subcontractor, regardless of tier, that provides construction services with respect to the contract to use e-verify to confirm the identity and work eligibility of any tradesperson assigned to perform work on the project. 121
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Sec. 4151.12. (A) (1) The attorney general shall prescribe a complaint form for an individual to allege a violation of 129
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section 4151.11 of the Revised Code. The attorney general shall 131
not require the complainant to list the complainant's social 132
security number on the complaint form or to have the form 133
notarized. A complainant shall submit the complaint to the 134
attorney general. Except as provided in division (B) of this 135
section, the attorney general shall investigate any violation of 136
section 4151.11 of the Revised Code alleged in a prescribed form 137
submitted to the attorney general. 138

(2) This section does not prohibit an individual from 139
filing an anonymous complaint on a form other than the 140
prescribed complaint form. Except as provided in division (B) of 141
this section, the attorney general may, but is not required to, 142
investigate a violation of section 4151.11 of the Revised Code 143
alleged in form other than a prescribed form. 144

(B) The attorney general shall not investigate a complaint 145
that is based solely on race, color, or national origin. 146

(C) Any local law enforcement officer may assist in 147
investigating a complaint filed under this section. 148

(D) If the attorney general conducts an investigation 149
under this section and determines that reasonable evidence 150
exists that a person violated section 4151.11 of the Revised 151
Code, the attorney general shall bring a civil action for a 152
violation of section 4151.11 of the Revised Code against the 153
person in the court of common pleas of the county where the 154
person is located or does business. 155

Sec. 4151.13. (A) If a court, pursuant to an action 156
brought under section 4151.12 of the Revised Code, determines 157
that a person has violated section 4151.11 of the Revised Code, 158
the court shall do both of the following: 159

(1) Order the person to pay five thousand dollars for each 160
violation of section 4151.11 of the Revised Code; 161

(2) Order that the person is not eligible to bid for or 162
participate in any state contract for a period of one year. 163

(B) After the one-year period described in division (A) (2) 164
of this section has elapsed, a person who has been ordered 165
ineligible under division (A) (2) of this section may be eligible 166
to bid for and participate in state contracts if the person 167
files a sworn affidavit with the attorney general that one year 168
or more has elapsed since the order described in division (A) (2) 169
of this section and that the person has not violated section 170
4151.11 of the Revised Code during the one-year period. 171

(C) The attorney general shall maintain a list of all 172
persons ineligible to bid for or participate in any state 173
contract for a period of one year under division (A) of this 174
section. The attorney general shall remove a person from the 175
list when the one-year period ends. The attorney general also 176
shall maintain a record of all affidavits filed with the 177
attorney general under division (B) of this section. 178