



**HOUSE COMMERCE & LABOR COMMITTEE
INTERESTED PARTY TESTIMONY ON H.B. 327**

**Provided on May 7, 2024 by
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Associated General Contractors (AGC) of Ohio**

Chair Johnson, Vice Chair Manchester, Ranking Minority Member McNally, and Representatives on the Commerce & Labor Committee:

AGC of Ohio is a construction association that represents large and small, union and open shop (non-union), commercial building and industrial contractors from across the state. Our members work on both public and private construction projects. They build and renovate hospitals, offices, schools, wastewater treatment plants, warehouses and manufacturing facilities, mixed-use developments, and a host of other vertical structures. AGC members are the nonresidential builders that are impacted by this legislation.

To be clear, AGC of Ohio does not support nor condone the use of undocumented workers in construction, or any industry. We appreciate the intent of the legislation. However, as drafted, the bill simply creates additional regulations, administrative burdens, and uncertainty for those employers who already abide by the law. Those who currently have illegal arrangements will most likely continue to do so even with the E-Verify regulation, similar to what happened in Florida when that state passed its E-Verify requirement. A better solution would be to simply create a mechanism to enforce the laws pertaining to these illegal arrangements between an employer and employee.

Ohio's construction employers are primarily small, closely held businesses. During proponent and sponsor testimony, people have stated that E-Verify is not a financial burden since it's free, and compliance is simple since all employees need to fill out an I-9 form anyway. But that is only part of the story. There is much more to the administration of, and regulations tied to E-Verify.

Employers are expected to perform self-assessments, train the staff using E-Verify, and abide by the numerous federal regulations tied to E-Verify. The complexity is illustrated by the E-Verify User's Manual, which is 80 pages of very small print. And, not only are the current federal E-Verify regulations very involved, based on conversations with some of our members, H.B. 327 contains provisions that



appear to be different – even more stringent – than the federal regulations. Meaning this bill makes complicated regulations even more difficult for employers to manage and remain in compliance.

We've reached out to our union and open shop members that already use E-Verify. The process is easier for larger contractors that have a dedicated Human Resources departments and staff, expensive H.R. software that helps them manage it (one contractor spends \$20,000/month on their software), and administrative personnel to assist. For smaller contractors that don't have dedicated H.R. staff and cannot afford the expensive software, they found the process more burdensome, particularly in the unionized environment where you have a more temporary workforce situations with tradespeople moving from employer to employer and job to job.

Our members have questions about the complaint driven, unclear and excessive enforcement provisions contained in H.B. 327 and the substitute bill. We appreciate the sponsors' attempt to allay the industry's concerns with the sub-bill, and Chair Johnson for sharing the language. However, uncertainty remains about the higher-tier contractor's responsibility for subcontractors' or sub-subcontractors' compliance, contractual obligations, discrepancies between what's required by this bill versus federal requirements, etc. Also, H.B. 327 does not include an opportunity to cure.

Further complicating all of this is the fact that the bill's penalties remain extreme. For our members that primarily do public work, being unable to work on public projects for a year would put a company out of business.

And, the complaint-driven enforcement needs to be better vetted. As we have learned in the past with prevailing wage, if not drafted and regulated appropriately, complaint-driven enforcement is ripe for abuse. It could be a competitor or subcontractor that didn't get the job... or environmental group that doesn't like a development being constructed near a wetland... or a union organizer who thinks there are too many open shop companies on a job... or an open-shop contractor that doesn't like the use of a Project Labor Agreement.

We appreciate the opportunity to share the feedback we have received from our members. AGC of Ohio would welcome the opportunity to work with interested parties and help find a viable solution to address illegal arrangements between an employer and employee, without providing an undue and unnecessary burden on the nonresidential contractors that are good corporate citizens.