

Regular Session, 2011

HOUSE BILL NO. 342

BY REPRESENTATIVES EDWARDS, ARMES, BALDONE, HENRY BURNS, BURRELL, CARMODY, CHANDLER, DIXON, DOERGE, DOWNS, ELLINGTON, GISCLAIR, GUILLORY, HARDY, HENRY, HILL, HINES, HOFFMANN, HOWARD, JOHNSON, SAM JONES, KATZ, LANDRY, LEBAS, LIGI, LITTLE, LORUSSO, MCVEA, MONToucET, POPE, RICHARD, RICHARDSON, SMILEY, GARY SMITH, JANE SMITH, TALBOT, TEMPLET, WHITE, WILLIAMS, AND WILLMOTT

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

PUBLIC CONTRACTS: Provides for the verification of citizenship of employees engaged in public contract work

1 AN ACT

2 To enact R.S. 38:2212.10, relative to public contracts; to provide for the verification of  
3 employees engaged in public contract work; to provide for penalties; and to provide  
4 for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. R.S. 38:2212.10 is hereby enacted to read as follows:

7 §2212.10. Verification of employees involved in public contract work

8 A.(1) The legislature finds that when illegal immigrants are living in this  
9 state and are encouraged to reside here through the benefit of employment without  
10 verification of immigration status, the result is that the enforcement of federal  
11 immigration law is impeded and obstructed, the security of the nation's borders is  
12 undermined, and the privileges and immunities of the citizens of Louisiana are  
13 impermissibly restricted.

14 (2) The legislature further finds that it is a compelling public interest of this  
15 state to discourage illegal immigration by requiring employers who do business with  
16 the state of Louisiana to cooperate fully with federal immigration authorities in the  
17 enforcement of federal immigration law.

1           B. For the purposes of this Section, the following terms shall mean:

2           (1) "Legal alien" is a person who is or was lawfully present or permanently  
3           residing legally in the United States and allowed to work at the time of employment  
4           and remains so throughout the duration of that employment.

5           (2) "Status verification system" means the electronic verification of work  
6           authorization program of the Illegal Immigration Reform and Responsibility Act of  
7           1996, 8 U.S.C. 1324(a), and operated by the United States Department of Homeland  
8           Security, known as the "E-Verify" program.

9           C. A private employer shall not bid on or otherwise contract with a public  
10          entity for the physical performance of services within the state of Louisiana unless  
11          the private employer verifies in a sworn affidavit attesting to both of the following:

12          (1) The private employer is registered and participates in a status verification  
13          system to verify that all employees in the state of Louisiana are legal citizens of the  
14          United States or are legal aliens.

15          (2) The private employer shall continue, during the term of the contract, to  
16          utilize a status verification system to verify the legal status of all new employees in  
17          the state of Louisiana.

18          D.(1) Any private employer violating the provisions of this Section shall be  
19          subject to cancellation of any public contract, resulting in ineligibility for any public  
20          contract for a period of not more than three years from the date the violation is  
21          discovered.

22          (2) Any private employer shall be liable for any additional costs incurred by  
23          a public entity, occasioned by the cancellation of a contract or loss of any license or  
24          permit to do business in the state, as provided in this Subsection.

25          (3) Any private employer penalized in accordance with this Section shall  
26          have the right to appeal to the appropriate agency, department, or other public entity  
27          sanctioning the employer or to a court of competent jurisdiction.

28          (4) Any person, contractor, or employer who complies with the provisions  
29          of this Section shall not be civilly or criminally liable under state law for the hiring

1 of an unauthorized alien, as defined by 8 U.S.C. 1324(h)(3), if the information  
2 obtained in accordance with the status verification system indicated that the  
3 employee's federal legal status allowed the employer to hire that employee.

4 (5) Any person, contractor, or employer who complies with the provisions  
5 of this Section shall not be civilly or criminally liable under state law for a refusal  
6 to hire an individual if the information obtained in accordance with the status  
7 verification system indicated that the individual's federal legal status was that of an  
8 unauthorized alien, as defined in 8 U.S.C. 1324(h)(3).

9 E. The provisions of this Section shall apply only to contracts entered into  
10 or bids offered on or after January 1, 2012.

11 F. In the event the status verification system expires and extensions are not  
12 approved by the federal government, the provisions of this Section shall no longer  
13 apply.

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#### DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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Edwards

HB No. 342

**Abstract:** Provides that a private employer shall not bid on or contract with a public entity unless the employer attests to the use of an immigration status verification system.

Proposed law provides for the definition of a "status verification system" as the electronic verification of work authorization program of the Illegal Immigration Reform and Responsibility Act of 1996, 8 U.S.C. 1324(a), and operated by the U.S. Dept. of Homeland Security, known as the "E-Verify" program.

Proposed law provides for the definition of "legal alien" as a person who is or was lawfully present or permanently residing legally in the U.S. and allowed to work at the time of employment and remains so throughout the duration of that employment.

Proposed law provides that a private employer shall not bid on or otherwise contract with a public entity unless the private employer verifies in a sworn affidavit attesting to both of the following:

- (1) The private employer is registered and participates in a status verification system to verify that all employees in the state of La. are legal citizens of the U.S. or are legal aliens.
- (2) The private employer must continue, during the term of the contract, to utilize a status verification system to verify the legal status of all new employees in the state of La.

Proposed law provides that any private employer found to be in violation of the provisions of proposed law shall be subject to cancellation of any public contract, resulting in ineligibility for any public contract for a period of not more than three years from the date the violation is discovered.

Proposed law further provides that the private employer shall be liable for any additional costs incurred by a public entity, occasioned by the cancellation of a contract or loss of any license or permit to do business in the state.

Proposed law provides that a private employer penalized in accordance with proposed law shall have the right to appeal to the appropriate agency, department, or other public entity sanctioning the person or to the court of competent jurisdiction.

Proposed law provides that any person, contractor, or employer who complies with the provisions of this Section shall not be civilly or criminally liable under state law for the hiring of an unauthorized alien, as defined by 8 U.S.C. 1324(h)(3), if the information obtained in accordance with the status verification system indicated that the employee's federal legal status allowed the employer to hire that employee.

Proposed law provides that any person, contractor, or employer who complies with the provisions of this Section shall not be civilly or criminally liable under state law for a refusal to hire an individual if the information obtained in accordance with the status verification system indicated that the individual's federal legal status was that of an unauthorized alien, as defined in 8 U.S.C. 1324(h).

Proposed law applies only to contracts entered into or bids offered on or after Jan. 1, 2012.

Proposed law provides that in the event the status verification system expires and extensions are not approved by the federal government, the provisions of proposed law shall no longer apply.

(Adds R.S. 38:2212.10)

#### Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Transportation, Highways and Public Works to the original bill.

1. Made technical changes.
2. Provided for the definition of "legal alien" as a person who is or was lawfully present or permanently residing legally in the U.S. and allowed to work at the time of employment and remains so throughout the duration of that employment.
3. Immuned employers from civil or criminal liability under certain circumstances.

#### House Floor Amendments to the engrossed bill.

1. Revised proposed law to apply to "all employees" in the state of La., instead of just "new employees".
2. Revised the proposed law to require the continued verification of all "new employees in the state of La."