

HOUSE BILL 1637

By Johnson

AN ACT to amend Tennessee Code Annotated, Title 4;
Title 7; Title 12 and Title 50, relative to
immigration.

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

SECTION 1. This act shall be known and may be cited as the "Tennessee Workers Protection Act."

SECTION 2. Tennessee Code Annotated, Section 7-68-103(b), is amended by adding the language "or local governmental employee" after the language "An official".

SECTION 3. Tennessee Code Annotated, Section 7-68-104(a), is amended by deleting the subsection and substituting instead the following:

(a) A person residing in this state who believes a local governmental entity, official, or employee has violated § 7-68-103 may file a complaint in chancery court in the county where the applicable local government is located.

SECTION 4. Tennessee Code Annotated, Section 7-68-104(c), is amended by deleting the subsection and substituting instead the following:

(c) If the court finds a violation of § 7-68-103, the court may issue a writ of mandamus against the local governmental entity, official, or employee ordering compliance with § 7-68-103; enjoin the local governmental entity, official, or employee from further interference; or take any action within the jurisdiction of the court to ensure compliance.

SECTION 5. Tennessee Code Annotated, Section 7-68-104(d), is amended by deleting the subsection and substituting instead the following:

(d) A local governmental entity, official, or employee shall have one hundred twenty (120) days from the date of the court's order to comply with the order. If, after one hundred twenty (120) days, the local governmental entity, official, or employee has not complied with the court's order, the court may take any action within the jurisdiction of the court to enforce compliance.

SECTION 6. Tennessee Code Annotated, Title 7, Chapter 68, Part 1, is amended by adding the following language as a new section:

7-68-105. Any state grant made available to a law enforcement agency shall require that the law enforcement agency fully comply with the United States immigration and customs enforcement criminal alien program (CAP), including any detention request for a criminal immigrant. Such a grant shall include a provision that requires the reimbursement of the full amount of the grant by the law enforcement agency if the agency fails to comply with CAP, including any detention request for a criminal immigrant.

SECTION 7. Tennessee Code Annotated, Title 12, Chapter 3, Part 3, is amended by adding the following language as a new section:

12-3-312.

(a) As used in this section:

(1) "Employee" means any individual for whom an employer must complete a Form I-9 pursuant to federal law and regulations, and does not include an independent contractor as defined by 8 U.S.C. § 1324a and its regulations;

(2) "Employer" means any person who is required by federal law and regulations to report, for any purpose, remuneration paid to at least one (1) employee;

(3) "E-Verify program" means the federal electronic work authorization verification service provided by the department of homeland security pursuant to

the federal Basic Pilot Program Extension and Expansion Act of 2003, P.L. 108-156, or any successor program thereto; and

(4) "Local governmental entity" means any governing body, board, commission, committee, or department of a municipality or county.

(b)

(1) In addition to any applicable requirements of §§ 12-3-309 and 50-1-703, a state or local governmental entity may require a person seeking to enter into a contract with the governmental entity to provide work authorization results generated by the E-Verify program, to the extent permitted by federal law, for persons whose services will be utilized in the performance of the proposed contract. If the person seeking the contract is not the employer of the persons whose services will be utilized, then the persons whose services will be utilized shall perform a self-verification using the E-Verify program and provide those results to the person seeking to contract with the governmental entity in order that such person may comply with this subdivision (b)(1).

(2) No state or local governmental entity shall enter into a contract with a person who is posted on the chief procurement office's web site as having a one-year prohibition from contracting with governmental entities pursuant to this section or § 12-3-309.

(c)

(1)

(A) In addition to any requirement of § 50-1-703, no person shall enter into a contract to supply goods or services to a state or local governmental entity without first providing the governmental entity, upon

request by the governmental entity, with the work authorization results generated by the E-Verify program as described in subdivision (b)(1).

(B) If the contract is awarded to the person and additional persons' services will be required in the performance of the contract, the person awarded the contract shall forward the work authorization results generated by the E-Verify program for those additional persons, to the extent permitted by federal law, to the state or local governmental entity prior to utilizing the services of those additional persons in the performance of the contract.

(C) The state or local governmental entity shall immediately notify the chief procurement officer of any violations of this subdivision (c)(1).

(2) If any person fails to comply with subdivision (c)(1), the chief procurement officer shall declare that person to be prohibited from contracting for or submitting a response for any contract to supply goods or services to a state or local governmental entity for a period of one (1) year from the date of the discovery.

(3) Any person who is prevented from contracting for or submitting a response for a contract to supply goods or services to a state or local governmental entity for one (1) year pursuant to subdivision (c)(2) may appeal the imposition of the one-year prohibition by utilizing an appeals process to be established by the chief procurement officer and approved by the procurement commission.

(4) The chief procurement officer shall post applicable identifying information of any persons violating this section on the chief procurement office's web site for the duration of the one-year prohibition period, after the expiration of

any applicable appeals period, or any resolution of final appeal, whichever is later.

(5) The chief procurement officer is authorized to promulgate rules to effectuate this subsection (c). The rules shall be approved by the procurement commission and promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(d) The exemptions in § 12-3-102 shall not apply to this section.

(e) This section applies to all employers in this state, regardless of the number of employees working for the employer.

SECTION 8. Tennessee Code Annotated, Section 12-3-309, is amended by adding the following language as a new subsection:

(f) The chief procurement officer shall post applicable identifying information of any persons violating this section on the chief procurement office's web site for the duration of the one-year prohibition period, after the expiration of any applicable appeals period, or any resolution of final appeal, whichever is later.

SECTION 9. Tennessee Code Annotated, Section 50-1-703(a), is amended by adding the following language as a new subdivision:

(8) In addition to the requirements of this subsection (a), persons shall comply with any additional requirements in §§ 12-3-309 and 12-3-312.

SECTION 10. Tennessee Code Annotated, Section 12-3-102(a), is amended by adding the language "Except as otherwise provided in § 12-3-312," before the word "Procurements".

SECTION 11. For purposes of SECTIONS 1-6 and for rule promulgation, this act shall take effect upon becoming a law, the public welfare requiring it, and shall apply to grants awarded on or after that date. For all other purposes, this act shall take effect January 1, 2017,

the public welfare requiring it, and shall apply to contracts entered into, and information supplied during the procurement process, on or after that date.