

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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HOUSE BILL 36

Short Title: Public Contracts/Illegal Immigrants. (Public)

Sponsors: Representatives H. Warren, Cleveland, and Folwell (Primary Sponsors).
For a complete list of Sponsors, see Bill Information on the NCGA Web Site.

Referred to: Government, if favorable, Judiciary Subcommittee A.

February 7, 2011

A BILL TO BE ENTITLED

AN ACT PROHIBITING STATE AND LOCAL GOVERNMENT CONTRACTS WITH CONTRACTORS WHO EMPLOY ILLEGAL IMMIGRANTS AND REQUIRING CONTRACTORS TO VERIFY AND CERTIFY THEIR EMPLOYEES' LEGAL STATUS OR AUTHORIZATION TO WORK IN THE UNITED STATES.

The General Assembly of North Carolina enacts:

SECTION 1. Article 8 of Chapter 143 of the General Statutes is amended by adding the following new section to read:

"§ 143-129.1A. Contracts with illegal immigrants prohibited; verification and certification required.

(a) No contract for construction or repair work or for the purchase of apparatus, supplies, materials, or equipment shall be awarded by any agent or employee of the State, any board or governing body of the State or of any institution of the State government, or by any agent, employee, or board or governing body of any political subdivision of the State to any contractor who knowingly employs or contracts with an illegal immigrant to perform work under the contract or who knowingly contracts with a subcontractor who knowingly employs or contracts with an illegal immigrant to perform work under the contract. For purposes of this section, the term 'contractor' means any person, firm, association, or corporation that desires to submit a bid for or enter into a contract with any State department, institution, or agency, or the board or governing body of any political subdivision of the State, to perform construction or repair work or to supply apparatus, supplies, materials, or equipment.

(b) Prior to submitting a bid to or entering into a contract with any State department, institution, or agency, or the board or governing body of any political subdivision of the State, a contractor shall verify the legal status or authorization to work in the United States of each individual employed by the contractor to perform work under the contract in accordance with the terms and conditions of the E-Verify Program administered by the United States Department of Homeland Security pursuant to section 403(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. § 1324a note), P.L. 104-208, as amended. The verification required by this subsection shall be conducted only after the hiring of the individual as an employee to work in the United States in accordance with State and federal law.

(c) A contractor submitting a bid to or entering into a contract with any State department, institution, or agency, or the board or governing body of any political subdivision of the State, shall certify on a form approved by the Secretary of Administration that the contractor has verified, as provided in subsection (b) of this section, the legal status or



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1 authorization to work in the United States of each individual employed by the contractor to
2 perform work under the contract. Any person who submits a certification required by this
3 subsection known to be false shall be guilty of a Class I felony.

4 (d) Every contract entered into under this Article shall contain a provision that:

5 (1) The contractor shall not:

6 a. Knowingly employ or contract with an illegal immigrant to perform
7 work under the contract.

8 b. Enter into a contract with a subcontractor who fails to certify to the
9 contractor that the subcontractor shall not knowingly employ or
10 contract with an illegal immigrant to perform work under the
11 contract.

12 (2) The contractor has verified through participation in the E-Verify Program
13 administered by the United States Department of Homeland Security the
14 legal status or authorization to work in the United States of each individual
15 employed by the contractor to perform work under the contract.

16 (e) A violation of this section shall render the contract void. A contract that is void
17 under this section may continue in effect until an alternative can be arranged when: (i)
18 immediate termination would result in harm to the public health or welfare and (ii) the
19 continuation is approved by the Secretary of Administration after consultation with the affected
20 State department, institution, or agency or the governing body of the political subdivision of the
21 State. Approval of continuation of contracts under this subsection shall be given for the
22 minimum period necessary to protect the public health or welfare.

23 (f) If a contractor is discovered to have knowingly used the services of an illegal
24 immigrant in the performance of a contract under this Article, the contractor shall be prohibited
25 from submitting a bid to or entering into a contract to supply goods or services with any State
26 department, institution, or agency, or any political subdivision of the State for one year from
27 the date the violation was discovered."

28 **SECTION 2.** This act becomes effective October 1, 2011, and applies to all bids
29 submitted and all contracts entered into on or after that date.